



HARMONIZATION OF ISLAMIC LAW AND CUSTOMARY LAW BASED ON LOCAL WISDOM: MEDIATION INNOVATION IN RESOLUTION OF GONO GINI PROPERTY DISPUTES IN INDONESIA

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Abstract:

This article aims to analyze the harmonization of Islamic law and customary law based on local wisdom as an innovative foundation for mediation in resolving disputes over marital joint property in Indonesia, with a case study at the Kraksaan Religious Court. The issues examined include the forms of mediation, the implementation procedures, and the legal standing of the deed of settlement in the distribution of joint property following divorce. This research is field research employing a qualitative approach and a case study method. Data were collected through interviews, observation, and documentation studies of case files and relevant statutory regulations. The findings reveal that mediation functions not merely as a procedural dispute resolution mechanism, but also as an integrative forum accommodating the values of justice, deliberation, balance, and expediency. From the perspective of Islamic law, mediation is consistent with the principles of ishlah (reconciliation), justice, and the prohibition against unlawful appropriation of property. From the perspective of customary law, mediation reflects familial values and recognition of marital joint property as the product of shared efforts that must be distributed fairly and proportionally. Settlement agreements embodied in a deed of settlement and reinforced by a court decision provide legal certainty, binding force, and legal protection for the parties. This study confirms that the harmonization of Islamic law and customary law based on local wisdom can strengthen the effectiveness of mediation in resolving marital property disputes in Indonesia.

Keywords: Harmonization of Law, Islamic Law, Customary Law, Local Wisdom, Mediation, Marital Joint Property.

INTRODUCTION

Marriage in the Indonesian legal system cannot be understood solely as a civil relationship between a man and a woman. Marriage also establishes a moral, religious, social, and economic relationship that gives rise to reciprocal rights and obligations between husband and wife (Syafi'i et al., 2023). During the course of a marriage, the parties not only build a household life emotionally and socially, but also organize their economic roles, establish complementary patterns of contribution, and accumulate wealth, known in Indonesian social practice as harta gono gini (joint property). It is at this point that the household truly becomes a socio-economic unit built on shared effort, both in the form of financial contributions and domestic contributions that support the family's survival. When divorce occurs, relationships previously built on this foundation of togetherness often devolve into complex disputes, particularly when it comes to the division of assets acquired during the marriage. These disputes often develop into a continuation of previously unresolved emotional conflicts, so that the division of joint property is no longer simply related to objects or nominal amounts, but also to dignity, a sense of justice, and recognition of each party's contributions during the building of the household (Mashdurohatun, 2020).

In the Indonesian context, marital property disputes do not occur within a single legal framework. Instead, they operate within a landscape of legal pluralism

that brings together state law, Islamic law, and customary law (Nafisyah, 2025). Positive law provides a formal framework for the status of joint property and the mechanisms for its resolution after divorce. The Compilation of Islamic Law, for example, affirms the recognition of joint property acquired during marriage and the tendency for proportional division in the absence of a specific agreement. On the other hand, customary law within the community has long recognized the concept of joint property (*gono gini*) as the result of joint efforts that morally should not be controlled unilaterally. Islamic law itself places justice, protection of property rights, prohibition of unlawful appropriation, and peaceful resolution as primary values in family relationships and *muamalah* (social transactions). Thus, the issue of joint property after divorce is not merely a technical matter of asset division, but rather a question of how Indonesia's pluralistic legal system can work harmoniously to achieve family justice (Hasballah et al., 2021).

Dispute resolution through pure litigation often fails to fully address these complexities. A settlement model based on win-lose logic tends to position ex-husband and wife as opposing parties within a formal evidentiary framework. In family matters, this pattern often creates new problems because a legally valid decision is not necessarily accepted by the parties. A person may feel defeated not only legally but also morally and socially, especially when their contribution during the marriage is deemed insignificant because it cannot be demonstrated through formal evidence. On the other hand, a party with better control over documents, a better understanding of transactions, or a stronger financial standing often has a stronger bargaining position in the evidentiary process. Therefore, resolving joint property disputes requires a mechanism that is not merely legalistic but also able to address the interests, experiences, and sense of justice of the parties. This is where mediation becomes relevant as a dialogical space that brings together the law, ethics, and social experiences of the parties in a more open forum for resolution (Saputra et al., 2024).

From an Islamic legal perspective, mediation has a strong normative foundation. The principle of *ishlah* (reconciliation) teaches the importance of peaceful means in resolving disputes. The principle of justice demands that dispute resolution not lead to the deprivation of rights and not place one party in an oppressed position. Islamic teachings also prohibit the wrongful appropriation of another's property, so any post-divorce asset distribution mechanism must carefully distinguish between assets acquired by marriage, gifts, inheritances, and assets truly formed through joint efforts during the marriage. Thus, mediation in marital property disputes can be understood as an actualization of the spirit of deliberation, moral responsibility, and respect for legitimate property rights. These values justify the belief that peace is not a sign of weakness, but rather an effort to uphold justice through wiser and more proportionate means (Burhanuddin et al., 2026).

From a customary law perspective, peaceful resolution is strongly linked to the culture of deliberation that has long existed in Indonesian society. Before mediation was formally integrated into the judicial process, communities were familiar with the practice of resolving disputes through traditional leaders, village heads, or other figures respected by the parties. This tradition demonstrates that peaceful resolution has become a part of Indonesian local wisdom. In the context of modern justice, mediation can be understood as a form of institutionalization of peaceful methods that have long existed within local communities. The difference lies in the fact that court mediation takes place within a more structured procedural framework, is

institutionally supervised, and the results can be formally confirmed through a decision or a peace deed. This integration of formal procedures and a family spirit makes mediation highly relevant in family disputes, particularly post-divorce joint property disputes (Tarmizi, 2024).

This article is based on field research on mediation practices in resolving joint property disputes at the Kraksaan Religious Court. However, unlike empirical papers that focus solely on describing local practices, this article positions the Kraksaan Religious Court as a case study to explore a broader issue: how harmonization of Islamic law and customary law based on local wisdom can provide an innovative foundation for mediation in resolving joint property disputes in Indonesia. The study focuses on three main issues. First, how is the harmonization of Islamic law and customary law constructed in joint property disputes? Second, how do the forms and procedures of mediation at the Kraksaan Religious Court reflect this harmonization? Third, what is the role of the peace deed in the distribution of joint property after a divorce? Within this framework, the article not only captures the mediation procedure but also assesses its legal, sociological, and cultural significance within the Indonesian family law system.

The urgency of this study lies in the need to view mediation not merely as a procedural obligation in procedural law, but also as a dispute resolution model capable of bridging legal pluralism in Indonesia. Until now, discussions about marital property have often stopped at the normative level: who is entitled to what, how to prove it, and how the judge should decide. However, in practice, family dispute resolution is greatly influenced by the quality of communication, transparency of information, balance of bargaining power, and the mediator's ability to facilitate a fair process. By highlighting mediation as a space for harmonizing Islamic law, customary law, and positive law, this article seeks to demonstrate that family justice is not only established in the decision-making process but also constructed through a dialogical process that respects the lived experiences of the parties and the social values inherent in Indonesian society.

RESEARCH METHODS

This article is based on field research using a case study model and a qualitative approach. The research focused on the Kraksaan Religious Court, specifically during the period when data on mediation practices in post-divorce marital property disputes were collected. A qualitative approach was chosen because this research was not aimed at statistically measuring symptoms, but rather at understanding the processes, reasons, considerations, and experiences of the actors involved in dispute resolution through mediation. With this design, the research focuses on the interaction between legal norms, institutional practices, and social values that underlie the achievement or failure of peace. Within the framework of this article, the case study of the Kraksaan Religious Court is not positioned simply as a local description, but rather as an analytical window into how the harmonization of Islamic law and customary law based on local wisdom works in family dispute resolution in Indonesia (Faisar Ananda Arfa, 2010).

The primary data sources for this study were obtained through interviews with the leadership and staff of the Kraksaan Religious Court who were involved in or familiar with the mediation process, including the chief justice, deputy chief justice, court clerk, secretary, and mediator judge. Secondary data sources included case

documents, institutional profiles, laws and regulations, Islamic legal literature, customary law literature, and literature on mediation and community property. Case documents are important because they demonstrate how the parties' claims were formulated, how the disputed objects were mapped, how points of contention were identified, and how the mediation results were then strengthened in a legally binding manner. By combining data from informants, institutional observations, and case documentation, this study strives to maintain both descriptive depth and analytical clarity (Misno, 2019).

Data collection was conducted through three main techniques. First, observations of the environment and work processes at the Kraksaan Religious Court to understand the institutional context in which mediation is conducted. Second, in-depth interviews were conducted to obtain explanations about the form of mediation, the stages involved, the obstacles encountered, and the views of court officials regarding fairness in the division of joint property. Third, documentation of case files, notes, and other supporting documents relevant to the joint property dispute was conducted. The collected data were analyzed descriptively and qualitatively through the stages of data reduction, data presentation, and conclusion drawing. The validity of the findings was maintained by comparing statements between informants and matching them with available documents. Through this method, the article seeks to demonstrate the complete relationship between mediation norms, procedures, and practices in resolving joint property disputes (Sugiyono, 2021).

RESULTS AND DISCUSSION

Legal Pluralism and the Construction of Gono Gini Property

The term "gano gini" (joint property) originates from customary law, particularly in Javanese society, to refer to assets acquired during a marriage. In its prevailing social context, this term implies that household income should not be assessed solely on the basis of who formally earns the income or in whose name an asset is registered. Joint property is understood as the result of a household's shared responsibility, formed through the division of roles between husband and wife during marriage. This perspective is important because it demonstrates customary law's high sensitivity to the social realities of the household. Within it, domestic work, managing family needs, raising children, and supporting one's spouse are seen as contributing to the shared well-being of the household. Therefore, when a divorce occurs, society considers it appropriate for such assets to be divided equitably. This perspective differs from individualistic assumptions that assess ownership solely on the basis of formal documents or economic activity in the public sphere (Novianti, 2025).

In classical Islamic legal literature, the term "joint property" is not explicitly recognized, as it has developed in Indonesian customary law. Fiqh emphasizes the separation of personal ownership between husband and wife, the protection of the dowry as the wife's right, and the recognition of each party's inherited property. However, the absence of an explicit term does not preclude Islamic law from recognizing assets formed through joint contributions within the household. Through the concepts of cooperation, fairness in transactions, and the protection of legitimate property rights, Islamic law allows for the recognition of joint ventures as long as they do not conflict with basic sharia principles. In the context of modern households, contributions to the formation of family wealth are not always directly financial. Domestic work, household management, and support for the couple's economic

activities can be viewed as part of the process of building shared prosperity. This demonstrates that Islamic law actually provides a strong ethical foundation for the recognition of joint property, although its technical formulation emerged through the development of family law in Indonesia (Umar et al., 2023).

The Compilation of Islamic Law plays a crucial role in bridging the doctrine of Islamic jurisprudence with the social realities of Indonesian society. By recognizing joint property as assets acquired during marriage, the Compilation of Islamic Law provides protection for those who contribute sociologically but are not always formally represented in the transaction. In domestic practice, this often occurs when a wife manages the household, supports her husband's business, or participates in the workforce but is not listed as the owner in the asset documents (Subairi, 2024). Recognition of joint property is important not only from a legal perspective but also from a substantive justice perspective. It prevents the narrowing of family contributions to only those who can provide proof of transactions. In the context of divorce disputes, this recognition helps judges and mediators distinguish between joint assets, inherited property, gifts, and inheritances. Thus, the construction of joint property in Indonesian Islamic family law is truly the result of socio-juridical *ijtihad* that seeks to align Islamic values with the social realities of Indonesian society (Hasanuddin, 2025).

Customary law has long recognized the logic of separating assets brought into marriage from assets acquired during marriage. Assets brought before marriage or acquired through inheritance or gifts tend to be understood as personal assets, while assets acquired during the marriage through the efforts of one or both parties are understood as joint assets. In customary law, what is assessed is not only who works in the market or office, but also who maintains the continuity of the household so that economic production can continue. Therefore, customary law is closely aligned with the idea that the proceeds of a marriage should not be monopolized by the party who feels most economically dominant. In post-divorce disputes, this view often presents as a moral demand for a fair and equitable distribution. However, this moral view still requires proof in a court of law, especially when there are differences regarding the status of the disputed object (Syafi, 2022).

From this, it can be seen that the differences in starting points between Islamic law and customary law should not be read as contradictions. Instead, they converge on the central idea of justice in the distribution of marital assets. Islamic law emphasizes the protection of property rights and the prohibition of wrongful appropriation, while customary law emphasizes social propriety and the balance of family relationships. The point of convergence between the two is evident in the recognition that assets genuinely acquired during the marriage through joint efforts deserve to be divided fairly, while personal assets, inheritances, and gifts must be separated to protect the rights of the original owner. This harmony demonstrates that legal pluralism in marital property disputes is not a source of chaos, but rather a source of normative wealth that can be reconciled through appropriate resolution mechanisms. Mediation is one of the most potential avenues for bringing these two horizons together, as it allows for juridical, moral, and social arguments to coexist (Fakhrurozi & Syahrudin, 2022).

Local wisdom and Mediation Innovation

One of the values that unites Islamic law and customary law in dispute resolution is local wisdom. In the Indonesian context, local wisdom is not merely understood as a cultural tradition, but rather as a way for communities to create social order through deliberation, family ties, and respect for trusted figures. In many communities, family disputes are resolved first through traditional figures, religious leaders, village heads, or extended families before being brought to a more formal forum. This tradition demonstrates that a culture of peace is not something external to the Indonesian social system but rather an inherent part of how communities resolve conflicts. In the context of marital property disputes, the presence of local wisdom is crucial because the issues faced by the parties extend beyond objects and nominal amounts to self-respect, family relationships, and the sustainability of social relations after divorce (Massi, 2021).

Mediation in court can be understood as a form of institutional transformation of the spirit of deliberation that has long existed in society. It is not simply an administrative procedure required by procedural law, but a mechanism that connects local peaceful traditions with the modern need for legal certainty. The innovation of mediation in this context lies in its ability to integrate formal state approaches with local values that emphasize peace and family. In family matters, such innovation is crucial because disputes cannot be fully resolved through formal-legal logic alone. The parties need space to explain the history of asset acquisition, express feelings of aggrieved, and seek a resolution that respects each other's dignity. Thus, mediation is a more adaptive, dialogical, and contextual mechanism than an adjudicative approach that is purely oriented toward evidence and decisions (Hermanto et al., 2021).

From an Islamic legal perspective, mediation embodies the spirit of *ishlah* (reconciliation) and deliberation. Peace is positioned as a way to end hostilities and restore damaged relationships, as long as it does not violate the principles of justice and the protection of property rights. From a customary law perspective, mediation reflects a culture of kinship, propriety, and social balance. When these two perspectives are brought together in a court of law, mediation becomes a concrete space for harmonization. It not only recognizes the validity of formal law but also respects the values inherent in society (Massi, 2021). In other words, mediation is not merely a means of efficient resolution of cases, but an instrument for reconstructing justice that integrates state law, Islamic law, and customary law in a more humane resolution process. It is at this point that mediation deserves to be called an innovation in family dispute resolution based on local wisdom in Indonesia (Awaludin, 2021).

Forms and Procedures of Mediation at the Kraksaan Religious Court

The research findings indicate that mediation in the Kraksaan Religious Court is positioned as a resolution mechanism that is encouraged from the moment the case is handled by the court. In the joint property disputes that were the focus of the research, the issue of asset division arose as a result of divorce. When the marital relationship could no longer be maintained, the dispute then shifted to debates over the house, land, vehicles, furniture, or business proceeds accumulated during the marriage. It was at this stage that the panel of judges offered mediation as a way to spare the parties from a lengthy and tedious evidentiary process. The form of mediation used was judicial mediation, integrated into the court process. This form differs from informal negotiations outside the courtroom because it involves the

appointment of a mediator, deadlines, mandatory attendance by the parties, and the possibility of formal confirmation of the mediation results in a settlement agreement. Nevertheless, the atmosphere maintained remains dialogical and does not resemble a confrontational trial. The mediator does not act as a second judge determining right or wrong, but rather as a communication facilitator who helps the parties find mutually acceptable common ground (Ulum, 2024).

The first stage in the mediation procedure is the preparation phase. At this stage, the mediator sets the meeting agenda, sets the time and location, confirms who needs to attend, and explains the mediator's role to the parties. This initial explanation is important because misunderstandings often arise regarding the mediator's role in family disputes. Some parties assume the mediator will decide who is entitled to certain assets, when in fact, the mediator's role is to facilitate the parties' finding a mutually agreed-upon solution. It is also during the preparation phase that the mediator begins to build trust. In family matters, this initial trust is crucial, as without it, parties tend to attend only for formalities and not truly explore the possibility of amicable settlement. Good preparation helps create a calmer atmosphere and reduces the likelihood of the forum devolving into an arena of mutual attacks from the outset (Pujiana & Fathoni, 2021).

The second stage is a joint meeting. In this stage, the mediator opens the forum, explains the rules, and gives each party the opportunity to present their side of the case. The aggrieved party typically lists assets considered joint property and the reasons why a particular division is considered fair. The other party then responds by refuting, correcting, or explaining the origins of the disputed assets. From this forum, the mediator captures not only factual data but also the emotions surrounding the dispute, such as feelings of betrayal, perceived superiority, or suspicions that the other party is hiding assets. In family disputes, the mediator's ability to manage emotions and maintain a controlled conversation is crucial. Without these skills, a joint forum can easily devolve into a space of blame, stifling the possibility of compromise.

The third stage is a caucus, or separate meeting. Based on research findings, this stage is considered crucial because not all information can be disclosed openly to the other party. In family cases, sensitive issues often arise, such as the source of funds for asset purchases, interference from extended family members, certain psychological pressures, or concerns regarding control of the residence and the interests of children. Caucuses provide a space for mediators to explore the parties' deepest concerns, map the minimum threshold for willingness to compromise, and identify points of genuine agreement. Through these separate meetings, mediators can also assess whether strong objections raised in the joint forum are actually principled objections or simply bargaining strategies. In emotionally charged disputes, caucuses are a crucial tool for de-escalating tensions and helping mediators more accurately map out the conflict (Hermanto et al., 2021).

Once the parties' data and interests are more clearly defined, mediation enters the stage of formulating settlement options. At this stage, the mediator does not impose a single formula, but rather helps the parties examine several realistic options. In joint property disputes, settlement options may include physically dividing the asset, selling the asset and dividing the proceeds, transferring rights to one party with certain compensation, or postponing the division for agreed reasons. Realistic options depend largely on the nature of the disputed object. A home, for example, cannot always be physically divided. A vehicle may be more easily transferred to one party

or sold. Land related to the extended family requires special care. Therefore, effective mediation involves not only discussing justice in the abstract but also assessing the technical feasibility of its implementation. This demonstrates that mediation combines normative and pragmatic dimensions (Pujiana & Fathoni, 2021).

The final stage is the formulation of an agreement and closing. If a meeting point is reached, the mediator helps draft a written peace agreement. This agreement must be detailed enough to avoid ambiguity regarding the identities of the parties, the list of objects, their respective shares, the method of submission, the deadline, and the consequences if one party fails to comply with the terms of the agreement. The mediator then reports the success of the mediation to the panel of judges examining the case. From a procedural legal perspective, this is the moment when the peace dialogue transforms into a legally binding document. The success of mediation, therefore, does not stop at mutual understanding or forgiveness, but is translated into a formula that can be implemented and protected by law. In practice at the Kraksaan Religious Court, this procedure demonstrates that mediation serves as a bridge between social dialogue and formal legal certainty (Ulum, 2024).

The practice of mediation at the Kraksaan Religious Court demonstrates several advantages. Mediation shortens the psychological distance between the parties because they are given the opportunity to speak and be heard. Mediation also opens up the possibility of a more flexible resolution than a judge's decision, which tends to be tied to the petition and formal evidence. Furthermore, mediation helps the court reduce the backlog of cases and allows for better post-divorce relationships, something that is especially important if the parties still have to deal with child custody or financial matters that have not yet been fully separated. However, this research also shows that mediation is not always easy to implement. Disputes over marital property we're often overshadowed by information imbalances and unequal bargaining power. One party may have more control over the documents, a better understanding of the transaction, or be more economically powerful. In situations like these, the mediator must actively maintain balance so that the peace process does not become a legitimization of one party's dominance. Another obstacle is the high emotional tensions post-divorce. When marital wounds have not yet healed, discussions about property can easily turn into an arena for venting anger. Therefore, the success of mediation depends heavily on the mediator's skill in reading the situation, managing emotions, and distinguishing between the parties' substantive interests and superficial attitudes (Ulum, 2024).

From the perspective of legal harmonization, the mediation procedure at the Kraksaan Religious Court reflects the transformation of local and religious values into a modern judicial framework. From an Islamic legal perspective, the procedure embodies the spirit of *tahkim* and *ishlah*, namely the resolution of disputes through a neutral party who helps the parties reach a settlement. From a customary law perspective, the procedure reflects the transformation of the value of deliberation into a state institution. Thus, court mediation can be understood as a meeting point between the tradition of peaceful resolution within the community and the modern need for procedural certainty and legal protection. This is why mediation deserves to be positioned as an innovation in resolving marital property disputes based on local wisdom in Indonesia (Sayyaf, 2023).

Position of the Peace Deed and Legal Protection

One of the most important findings of this study is that mediation outcomes do not stop at verbal agreements. The agreements reached are formalized in a written agreement or settlement deed, which is then submitted to the panel of judges for confirmation. This stage is crucial because without a clear written formulation, mediation risks producing a false settlement that is easily disputed. By formalizing the mediation results, the parties gain certainty regarding what must be surrendered, when the surrender will occur, and how each party will fulfill its obligations. The settlement deed also serves as evidence that the settlement reached was not the result of coercion, but rather the result of mutual agreement between the parties with the assistance of the mediator. At this point, mediation is no longer merely an ethical forum but has transformed into a mechanism that produces concrete legal certainty (Firmansyah, 2017).

In the case under review, considerations regarding the division of joint assets were influenced by the idea that assets acquired during a marriage are, in principle, the result of joint efforts. This logic aligns with the tendency for a relatively equal division as long as there is no other agreement and no evidence that a particular object is personal property. However, an equal division should not be applied arbitrarily. To be fair, the mediator and judge must first separate assets that are truly joint assets from those that are inherited, gifted, or inherited. In other words, there are two layers of issues in a marital property dispute: first, asset classification; second, distribution after that classification is agreed upon. This research shows that a good peace agreement is born when the parties have a relatively similar picture of the object of the dispute. Conversely, if the list of assets is unclear or one party intentionally withholds information, the mediation process will easily reach a dead end. Transparency of information and honesty between the parties are therefore both ethical and technical requirements for a successful peace settlement (Pujiana & Fathoni, 2021).

From a customary law perspective, a relatively equal division is also seen as consistent with a sense of justice. Joint property is seen as the result of a household's collective efforts; therefore, it would be inappropriate for all assets to be controlled by one party simply because they feel most productive in the public sphere. In many communities, caregiving, home management, and support for a partner's work are seen as tangible contributions that must be taken into account. This perspective enriches legal considerations, as family justice cannot always be measured solely by pay slips or transfer receipts. Mediation allows such values to be expressed without having to be fully translated into the language of proof. Thus, mediation forums provide a space for substantive justice that is more sensitive to the social structure of the household (Fakhrurozi & Syahrudin, 2022).

The power of a peace agreement lies in its ability to combine two dimensions simultaneously. First, the autonomy of the parties, as the agreement is formulated based on their own will. Second, the authority of the state, as the agreement is reinforced by a court decision. This combination makes the mediation outcome more binding than a traditional out-of-court settlement agreement. For the parties, this provides assurance that the hard-won compromise will not be easily reneged on. For the court, this mechanism demonstrates that the judiciary serves not only to resolve disputes but also to facilitate legally binding peace settlements. Court confirmation is also crucial for enforcement, as in joint property disputes, the most sensitive stage often arises when the agreement must be implemented. With a peace agreement

reinforced by a court decision, the parties have a clear basis to demand implementation of the agreement (Firmansyah, 2017).

Within the framework of Islamic law, the results of mediation outlined in a peace agreement can be considered valid as long as they do not conflict with the principles of justice, consent, and the protection of legitimate property rights. Peace agreements should not be used to justify the unlawful seizure of property, but are highly recommended when they serve as a means of ending hostilities and restoring rights to those entitled to them. Meanwhile, within the framework of customary law, the validity of a peace agreement reflects the state's respect for deliberation as a means of resolving family conflicts. The state does not override local values, but rather provides a legal framework that makes the results of deliberation accountable and enforceable. In other words, a peace agreement represents the intersection of peace ethics, social values, and legal formalities. It is binding not only because it is supported by state authority, but also because it arises from the will of the parties themselves (Nafisyah, 2025).

The Relevance of Mediation for Family Justice in Indonesia

The primary value of mediation in marital property disputes lies in its ability to shift the resolution orientation from mere competition to restoring balance. Divorce does indeed end the marital relationship, but it doesn't necessarily erase all the social connections established during the marriage. There are still children to care for, extended family interactions, and emotional scars that are difficult to separate. Resolutions that rely entirely on one party winning often create new wounds. Mediation, on the other hand, offers the possibility of preventing divorce from degenerating into permanent hostility. In this context, mediation can be viewed as an instrument of family justice, not just an instrument of efficiency. It provides space for the parties to move beyond simply defeating each other and restructuring their relationship in a more rational and dignified manner after the divorce (Ferdiansyah et al., 2025).

Family justice demands that the law be sensitive to the fact that contributions within a household are multifaceted. Often, the party who does not appear economically dominant bears the reproductive and care work that enables the other party to produce. If the law only values contributions documented in monetary terms, substantive justice is difficult to achieve. Mediation provides a space to uncover the dimensions of these contributions. The parties can explain the history of asset acquisition, their respective roles during the marriage, and the moral rationale behind their demands. With the help of a mediator, initially conflicting narratives can be reframed to form the basis for a more humane compromise. In this context, mediation not only facilitates the division of assets but also restores recognition to previously overlooked contributions (Rahmawaty, 2015).

However, the idealization of mediation needs to be balanced with caution. Not all cases are suitable for peaceful resolution, and not all peace agreements are automatically just. If one party is in a very weak position, intimidated, or simply does not understand their rights, a peace agreement can actually open the door to new injustices. Therefore, the quality of mediation depends heavily on the good faith of the parties and the mediator's courage in maintaining a fair process. Courts also need to ensure that any agreements to be strengthened are truly voluntary and do not conflict with law or decency. With such oversight, mediation can continue to function as a

means of peace without sacrificing protection for vulnerable parties. This finding is important to emphasize that the harmonization of Islamic law and customary law in mediation must always be interpreted in conjunction with the principles of legal protection and procedural justice (Ra'd & Yassir, 2026).

The experience at the Kraksaan Religious Court also demonstrates the educational value of mediation. Through this process, the parties learn that joint property disputes don't always have to end in mutual condemnation before a judge. They understand that the law provides space for developing their own solutions as long as they do not violate applicable provisions. This educational value is crucial for society, as many family disputes worsen due to ignorance of procedures and basic rights. When mediation is conducted professionally, the court not only resolves cases but also fosters a more dialogical, mature, and justice-oriented legal culture. In the long term, this educational function can contribute to strengthening family law literacy and preventing similar disputes in the future (Ulum, 2024).

Going forward, the relevance of mediation in family disputes will grow as the complexity of modern household assets increases. Joint assets are no longer limited to houses, land, or vehicles, but can include savings, micro-businesses, receivables, and various forms of movable assets of significant value. This complexity requires mediators not only to understand the psychology of family conflict but also to carefully read transaction documents, the chronology of asset acquisition, and the possibility of disguising ownership. Therefore, strengthening the capacity of mediators, improving the legal literacy of the parties, and ensuring orderly ownership administration are crucial agendas to ensure mediation truly produces a fair and enforceable agreement. More broadly, the experience at the Kraksaan Religious Court demonstrates that mediation is worthy of consideration as a model for strengthening the resolution of joint property disputes in Indonesia, particularly because it accommodates legal pluralism and local values prevalent in society.

CONCLUSION

Based on the research findings, it can be confirmed that mediation is a strategic instrument in resolving post-divorce marital property disputes at the Kraksaan Religious Court. The form of mediation implemented is judicial mediation, integrated into the litigation process and implemented through preparation, joint meetings, caucuses, formulation of settlement options, and drafting of a settlement deed. In practice, mediation functions not only as a procedural dispute resolution mechanism but also as an integrative platform that reconciles the values of Islamic law, customary law, and positive law. From an Islamic legal perspective, this practice aligns with the principles of *ishlah* (reconciliation), deliberation, justice, protection of property rights, and the prohibition of illegal possession of property. From a customary law perspective, mediation is relevant because marital property disputes are understood as disputes over the proceeds of joint ventures, which must be shared fairly and proportionally.

Another important finding is that the success of mediation is determined not only by the existence of rules, but also by the mediator's ability to maintain a balance of bargaining power, transparency of information regarding the disputed issue, and the parties' willingness to act in good faith. The results of mediation, outlined in a peace agreement and confirmed by a court decision, provide legal certainty, binding force, and legal protection for the parties. Therefore, mediation in joint property

disputes is not merely an administrative step before proceeding to the main case examination, but rather a mechanism that enables the intersection of Islamic law, customary law, and positive law in a more substantive, efficient, and equitable form of resolution. More broadly, the case study at the Kraksaan Religious Court confirms that harmonizing Islamic law and customary law based on local wisdom can provide an innovative foundation for strengthening mediation in the resolution of joint property disputes in Indonesia.

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