

The Role of Judges in Preventing Divorce Due to Domestic Violence: An Islamic Law Perspective (A Case Study at the South Jakarta Religious Court)

Alyatul Himmah, Universitas Darunnajah
Muhamad Arief Al Hakim, Universitas Darunnajah
Hendro Risbiyantoro, Universitas Darunnajah

*(Corresponding author) e-mail; muhariefhakim96@darunnajah.ac.id

Article Info	Abstract
<p>Article history: Received: June 12, 2025 Revised: August 16, 2025 Accepted: September 15, 2025</p> <p>Keywords: Divorce prevention, Domestic violence, Islamic law, Judicial role, Maqāsid al-sharī'ah,</p>	<p>The escalating prevalence of divorce cases attributable to domestic violence (KDRT) in Indonesia underscores the critical need for effective judicial intervention. This study examines the multifaceted role of judges at the South Jakarta Religious Court in preventing divorce resulting from domestic violence, evaluates the alignment of judicial practices with Islamic legal principles, and identifies the mechanisms employed in resolving such cases. Employing a qualitative case study methodology, primary data were gathered through in-depth interviews with a mediator judge and direct observations of mediation and court proceedings, complemented by secondary data from Islamic jurisprudence literature and official court documentation. The findings reveal that judges function as both law enforcers and mediators, systematically identifying domestic violence through evidentiary assessment and witness testimonies, and facilitating mediation using caucus techniques that allow victims to communicate without coercion. This judicial role aligns with the Islamic principles of justice (al-'adl) and the protection of life (hifz al-nafs) within the maqāsid al-sharī'ah framework. Although complete reconciliation remains rare, partial mediation outcomes demonstrate significant value in reducing future conflict.</p>
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A. Introduction

Domestic violence (KDRT) remains one of the most pervasive social problems confronting Indonesian families, with direct implications for the stability of marital institutions. Indonesia's Central Bureau of Statistics (BPS) recorded 394,608 divorce cases nationally in 2024, of which 308,956 (78.3%) were wife-initiated (cerai gugat), strongly suggesting that a significant proportion of women seek legal dissolution of marriage as a response to spousal abuse and household conflict (BPS, 2024). The National Commission on Violence Against Women (Komnas Perempuan) reported 330,097 cases of gender-based violence in its 2024 annual record, with domestic violence constituting the single largest category (Komnas Perempuan, 2024). Data from the South Jakarta Religious Court further corroborate this trend, documenting 4,509 cases in 2022, 4,129 in 2023, and 3,869 in 2024, with domestic violence identified as a leading contributing factor. These statistics demonstrate that domestic violence is not merely an isolated interpersonal issue but a systemic challenge that threatens the integrity of the family unit an institution that Islam regards as the fundamental building block of society (Ramadhita et al., 2023; Jones & Aftab, 2023).

Existing scholarship has examined various dimensions of divorce and domestic violence within Islamic legal contexts. Ramadhita et al. (2023) investigated gender inequality and judicial discretion in Muslim divorce proceedings in Indonesia, highlighting how inconsistent interpretations

of *nusyuz* affect women's access to justice. Jones and Aftab (2023) argued for domestic violence screening and exemption from compulsory mediation in Indonesian Religious Courts, revealing tensions between mandatory mediation and victim safety. Tirtawening et al. (2023) explored the effectiveness of divorce mediation in the South Jakarta Religious Court, finding settlement rates averaging below 5%. Aibak (2023) analyzed the implementation of *maqāsid al-sharī'ah* in reforming case management for violence against women. Despite this growing body of literature, a critical gap persists: few studies have systematically integrated the empirical judicial practices of identifying, mediating, and adjudicating KDRT-related divorce cases with the theoretical framework of Islamic jurisprudence specifically the principles of *al-'adl* (justice), *hifz al-nafs* (protection of life), and *islah* (reconciliation) within a single Religious Court context.

This study addresses this lacuna by pursuing three interrelated objectives. First, it analyzes the specific roles performed by judges at the South Jakarta Religious Court in identifying, handling, and preventing divorce caused by domestic violence, encompassing their functions as law enforcers, mediators, protectors, and educators. Second, it evaluates the extent to which these judicial roles align with fundamental Islamic legal concepts, including substantive justice (*al-'adl*), the *maqāsid al-sharī'ah* framework particularly *hifz al-nafs* and the principle of *keluarga sakinah*. Third, it maps the procedural mechanisms employed in resolving KDRT-related divorce cases. The novelty of this research lies in its integrative approach that bridges the empirical-procedural dimension of judicial practice with the normative-theological dimension of Islamic law.

The central argument of this study posits that the role of judges in Religious Courts extends beyond mere formal-legal adjudication to encompass a morally grounded, multi-dimensional intervention that is both consistent with and mandated by Islamic legal principles. The article is structured as follows: following this introduction, the method section details the research design and data collection procedures; the results section presents the empirical findings organized around the three research objectives; the discussion section interprets these findings in light of existing literature and Islamic legal theory; and the conclusion synthesizes the key contributions and recommendations.

B. Methods

This study employs a qualitative research approach with a case study design, selected for its capacity to generate an in-depth, contextualized understanding of complex social phenomena within their real-life settings (Creswell & Creswell, 2018; Yin, 2018). The case study method is particularly appropriate for investigating the multifaceted role of judges in preventing divorce due to domestic violence, as it enables the exploration of judicial behavior, institutional processes, and legal-cultural dynamics that cannot be captured through quantitative measurement alone (Merriam & Tisdell, 2016).

The research was conducted at the South Jakarta Religious Court (Pengadilan Agama Jakarta Selatan), selected based on its status as one of the largest Religious Courts in the Jakarta metropolitan area, its substantial caseload of divorce petitions involving domestic violence allegations, and the availability of experienced mediator judges willing to participate as key informants. The primary informant was Dr. Yayuk Afyanah, S.Ag., M.A., a senior mediator judge with extensive experience in handling KDRT-related divorce cases. The selection followed a purposive sampling strategy targeting judges whose specialized mediation role provided the richest data relevant to the research questions (Patton, 2015).

Data collection involved three complementary techniques. First, in-depth semi-structured interviews were conducted with the key informant, covering topics including the identification process for domestic violence, mediation strategies and techniques, challenges encountered, and the integration of Islamic values in judicial practice. Second, direct non-participant observation was carried out during mediation sessions and court proceedings related to KDRT cases. Third, documentary analysis was performed on court records, official statistics, relevant legislation including Law No. 23 of 2004 on the Elimination of Domestic Violence, Supreme Court Regulation No. 1 of 2016 on Court Mediation Procedures, and the Compilation of Islamic Law, as well as secondary academic literature.

Data analysis followed the interactive model proposed by Miles, Huberman, and Saldaña (2014), comprising three concurrent activities: data condensation, data display, and conclusion

drawing/verification. Trustworthiness was ensured through credibility (data triangulation across interviews, observations, and documents), transferability (thick descriptions of the research context), dependability (systematic documentation of the research process), and confirmability (researcher reflexivity and an audit trail) (Lincoln & Guba, 1985; Creswell & Creswell, 2018).

C. Result

The findings reveal that judges at the South Jakarta Religious Court perform a multi-dimensional role in preventing divorce caused by domestic violence, encompassing four interrelated functions: identification, mediation, legal protection, and preventive education.

Identification of Domestic Violence

Prior to commencing formal proceedings, judges systematically identify the presence of domestic violence elements within divorce petitions. This identification process involves direct questioning of the disputing parties, in-depth fact-finding, and verification of submitted evidence. According to the informant, Judge Dr. Yayuk Afyanah, the identification process covers all forms of domestic violence as defined by Law No. 23 of 2004, including physical, psychological, sexual violence, and household neglect. Evidentiary requirements include *visum et repertum*, medical records, psychological counseling reports, electronic evidence (threatening messages, video recordings), and testimonies from expert witnesses or community witnesses. However, significant challenges persist: the private nature of domestic violence makes evidence collection difficult; economic dependence inhibits reporting; social stigma and cultural normalization of violence discourage victims from speaking out; and limited access to legal aid compounds these barriers.

Mediation as a Divorce Prevention Mechanism.

Mediation constitutes a mandatory procedural step in all divorce proceedings at the Religious Court, including those involving domestic violence, as stipulated by Supreme Court Regulation (PERMA) No. 1 of 2016. The judge functions as a neutral mediator seeking to reconcile the parties. Among the mediation techniques employed, the caucus technique is particularly significant in KDRT cases: it allows the mediator to speak separately with each party without the other's presence, enabling victims to disclose their fears, trauma, and specific details of violence without pressure from the perpetrator. Notwithstanding these efforts, the overall success rate of mediation in achieving complete reconciliation remains low, attributable to high emotional intensity, dishonesty among parties, deep-seated victim trauma, and external pressures. Nevertheless, mediation frequently achieves partial success by facilitating agreements on post-divorce entitlements including *nafkah iddah*, *mut'ah*, child maintenance, and custody arrangements thereby reducing potential future conflicts.

Legal Protection and Preventive Education

Beyond mediation, judges actively provide legal protection to domestic violence victims through the issuance of temporary protection orders prohibiting perpetrators from approaching victims, facilitation of access to counseling services, and provision of legal advice regarding victims' rights. Additionally, judges perform a preventive-educational role by imparting religious values during proceedings, reminding couples that marriage is an act of worship (*ibadah*) and that the spousal relationship should be founded on mutual respect and partnership rather than hierarchical domination.

The analysis demonstrates that these judicial practices exhibit substantial congruence with four foundational principles of Islamic law. The principle of justice (*al-'adl*), as commanded in Surah An-Nisa [4:58], is reflected in the judges' meticulous evidence identification and delivery of equitable rulings. The preservation of human life (*hifz al-nafs*), one of the five essential objectives of *maqāsid al-sharī'ah*, manifests in the judicial issuance of temporary protection orders, aligning with Surah Al-Maidah [5:32]. The principle of reconciliation (*islah*) is embodied in mandatory mediation, consistent with the prophetic tradition characterizing divorce as the most despised of permissible acts. Finally,

the educational function enhances parties' understanding of their marital rights and obligations under Islamic teachings.

The procedural mechanism follows a systematic sequence: registration and summoning, mandatory mediation, trial and evidentiary proceedings, and judgment with appellate remedies. This mechanism is designed to ensure fairness and access to justice while maintaining commitment to both positive law and Islamic legal principles.

D. Discussion

The findings of this study reveal that judges at the South Jakarta Religious Court perform a comprehensive, proactive role in addressing divorce cases involving domestic violence a role that transcends the conventional boundaries of formal-legal adjudication. The multi-dimensional judicial role identified encompassing identification, mediation, protection, and education addresses a significant gap in existing literature, which has predominantly examined these functions in isolation. While Ramadhita et al. (2023) focused primarily on judicial discretion in determining competence, and Jones and Aftab (2023) concentrated on domestic violence screening mechanisms, the present study demonstrates how these discrete functions operate as an integrated system within daily judicial practice.

The finding that mediation success rates for complete reconciliation remain low aligns with the empirical evidence presented by Tirtawening et al. (2023), who documented average settlement rates below 5% at the South Jakarta Religious Court between 2017 and 2022. However, the present study advances this understanding by distinguishing between total and partial mediation success—a distinction largely absent from existing assessments. The partial success achieved through post-divorce entitlement agreements represents a substantively important outcome that existing mediation effectiveness metrics fail to capture. This finding supports the argument by Syukur and Bagshaw (2020) that mediation evaluation frameworks in Indonesian Religious Courts require reconceptualization beyond binary success/failure measures. The caucus technique's effectiveness in KDRT cases provides empirical support for the international consensus that specialized mediation approaches are necessary when domestic violence is present (Kelly & Johnson, 2008; Wilson-Evered & Zeleznikow, 2021).

The alignment of judicial practices with Islamic legal principles contributes to the emerging body of scholarship applying the *maqāsid al-sharī'ah* framework to contemporary family law challenges. The finding that temporary protection orders embody the principle of *hifz al-nafs* extends the theoretical analysis offered by Aibak (2023), who argued for *maqāsid*-based reform in case management of violence against women, by providing empirical evidence of how this principle operates in actual judicial practice. Similarly, the integration of *islah* through mediation confirms the analysis by Rohman (2023), who examined the relationship between the classical Islamic concept of *sulh* and modern court-annexed mediation in Indonesia. This study demonstrates that while the Religious Court's mediation practices do not fully replicate the classical *sulh* model, they embody its fundamental spirit of prioritizing amicable resolution within a framework of justice.

Theoretically, this study contributes to the discourse on judicial activism within Islamic legal systems by demonstrating that the judge's role encompasses not merely the application of positive law but also the realization of Islamic moral-spiritual values. The educational function performed by judges represents what Kamali (2022) describes as the moral dimension of *maqāsid* implementation. This finding challenges the conventional view of Religious Court judges as passive adjudicators and supports a more nuanced understanding of their role as agents of social transformation, consistent with the judicial *ijtihād* tradition documented by Taufiq et al. (2021). The study also extends the analysis of Dzuhayatin (2020) on gender dynamics in Islamic institutions by showing how individual judicial agency can mitigate structural gender inequalities.

From a practical standpoint, the findings suggest several avenues for enhancing judicial effectiveness. The documented challenges in evidence identification point to the need for standardized domestic violence screening protocols, as recommended by Jones and Aftab (2023). The low complete reconciliation rate, coupled with significant partial mediation success, indicates that policy evaluation

should incorporate multiple outcome measures. Furthermore, the preventive-educational role could be strengthened through systematic pre-marital counseling programs and post-mediation referral networks integrating psychologists, social workers, and religious educators (Maula et al., 2022).

This study acknowledges several limitations. The reliance on a single informant, while providing depth, limits the range of judicial perspectives captured. Future studies could employ multi-site, multi-informant designs to enable cross-court comparisons. The qualitative case study design does not permit statistical generalization. Additionally, research incorporating victim voice, informed by feminist methodologies (Fotaki & Pullen, 2023), represents a particularly important direction for future inquiry.

E. Conclusion

This study concludes that the role of judges at the South Jakarta Religious Court in preventing divorce due to domestic violence is comprehensive, proactive, and substantively aligned with Islamic legal principles. Judges function not only as formal adjudicators but as mediators, protectors, and educators, performing four interrelated functions: systematic identification of domestic violence through rigorous evidentiary processes; mandatory mediation employing specialized techniques such as caucus; legal protection through temporary protection orders and counseling access; and preventive education grounded in Islamic values of mutual respect and partnership.

The alignment of these practices with the principles of al-‘adl (justice), hifz al-nafs (protection of life within the maqāsīd al-sharī‘ah framework), islah (reconciliation), and keluarga sakinah (harmonious family) demonstrates meaningful integration of positive law with Islamic moral-spiritual imperatives. While complete reconciliation remains infrequent, the partial mediation success in securing post-divorce entitlements represents a valuable but often overlooked outcome that warrants recognition in policy evaluation frameworks.

The study recommends the implementation of standardized domestic violence screening protocols, the reconceptualization of mediation effectiveness metrics to include partial outcomes, the establishment of integrated support networks combining legal, psychological, and religious expertise, and the careful integration of digital court technologies that preserve the human dimensions of conflict resolution. These recommendations, grounded in both empirical evidence and Islamic legal theory, aim to enhance the capacity of Religious Courts to protect victims while upholding the sanctity of the family institution as envisioned in Islamic law.

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