

The Role of Mediators in the Resolution of Joint Property Disputes: A Meta-Analysis and Systematic Review

Oman Sudrajat ^{1*}

¹ UIN Sultan Maulana Hasanuddin Banten, Indonesia

*Email Korespondensi: omansudrajat.alwafa@gmail.com

Abstract	<i>Joint property disputes following divorce are among the most complex and emotionally charged issues in family law. Mediation has emerged as a preferred alternative dispute resolution (ADR) method, particularly in Muslim-majority societies, where legal processes are often shaped by both state law and Islamic principles. This study aims to systematically evaluate the role of mediators in resolving joint property disputes by conducting a meta-analysis and systematic review based on the PRISMA 2020 methodology. Twenty peer-reviewed studies published between 2018 and 2024 were analyzed from databases such as Scopus, ScienceDirect, PubMed, and Mendeley. The findings indicate that effective mediation is characterized by mediator neutrality, cultural and religious competence, gender sensitivity, and a clear understanding of both legal and ethical frameworks. Mediators who integrate Islamic values such as justice (‘adl), reconciliation (islāh), and public benefit (maslahah) were more successful in achieving durable and equitable outcomes. However, the study also identifies critical challenges, including inconsistent training standards, gender bias, and institutional gaps in supporting mediation practices. This review concludes that mediation, when professionally implemented and ethically grounded, offers a powerful and contextually relevant tool for promoting fair and sustainable resolutions to joint property disputes in post-divorce settings.</i>
Keywords	<i>mediation, joint property, family law</i>

Introduction

Disputes over joint property after divorce are among the most frequent and emotionally charged issues faced by family courts, especially in religious or civil law jurisdictions. In Indonesia, for instance, joint property (harta bersama) is often contested when couples separate, leading to prolonged litigation, strained relationships, and high legal costs (Rachmawati & Siregar, 2022). This situation becomes even more complicated when children, extended family, or inherited assets are involved. Although the law provides formal procedures for asset division, these processes often fail to resolve the underlying emotional and interpersonal conflicts that accompany divorce.

To address these issues, mediation has been introduced and promoted as an alternative dispute resolution (ADR) method. Mediation is intended to provide a less adversarial, more collaborative approach to conflict resolution. It involves the presence of a neutral third party—the mediator—who helps the disputing parties communicate, negotiate, and reach a mutually acceptable agreement. In Indonesia, this mechanism is formally recognized through Supreme Court Regulation (Perma) No. 1 of 2016, which mandates that mediation be attempted before proceeding to litigation in civil and family cases (Supreme Court of Indonesia, 2016). The goal is not only to reduce the burden on the courts but also to encourage solutions that are peaceful, fair, and long-lasting.

From an Islamic perspective, the principle of reconciliation (*islāh*) is highly encouraged in cases of familial conflict, including disputes over wealth. The Qur'an and Hadith emphasize the values of justice (*‘adl*), compassion (*rahmah*), and mutual agreement (*tarādī*). Mediation reflects these values, especially when facilitated by individuals who understand both the legal framework and the religious principles involved. In fact, the practice of mediation in Islamic legal history has long been part of conflict resolution mechanisms, particularly in matters of family and inheritance (Alim & Wahyuni, 2021).

Despite its recognized potential, the actual role and effectiveness of mediators in resolving joint property disputes is still under-researched. Existing studies are often fragmented, case-based, or limited to normative discussions without empirical data. Furthermore, little is known about what makes a mediation successful or unsuccessful in this specific context. Factors such as the mediator's training, gender sensitivity, legal understanding, communication skills, and religious competence may all influence the outcome, yet these dimensions have rarely been systematically reviewed.

This study seeks to fill that gap by conducting a systematic review and meta-analysis of the role of mediators in resolving disputes over joint property after divorce. The review applies the PRISMA 2020 methodology (Preferred Reporting Items for Systematic Reviews and Meta-Analyses) to gather, screen, and synthesize academic research from reputable databases such as Scopus, PubMed, Mendeley, and ScienceDirect. The purpose is to answer three key questions: How do mediators function in the settlement of joint property disputes, What factors contribute to the success or failure of mediation in these cases, and How can Islamic values and modern legal principles be integrated into mediation practices.

By analyzing both qualitative and quantitative studies published over the last five years, this review aims to provide an evidence-based evaluation of mediation as a tool for justice and reconciliation in post-divorce asset disputes. The findings are expected to guide improvements in mediator training, judicial policy, and community education—especially in Muslim-majority countries where religious and legal norms often intersect.

Research methods

This study builds on two theoretical foundations: the theory of alternative dispute resolution (ADR) and the principles of Islamic legal ethics. ADR, particularly mediation, is increasingly recognized as an effective and less adversarial method for resolving family law disputes, especially those involving the division of joint property following divorce. Mediation promotes constructive communication and allows both parties to reach a voluntary and mutually acceptable agreement, often reducing hostility and emotional stress. Scholars argue that interest-based negotiation, which is the foundation of effective mediation, tends to produce more sustainable outcomes than traditional adversarial

litigation (Fisher & Ury, 2020). This is especially true in family disputes, where long-term relationships and emotional dynamics must be carefully managed.

In the context of Islamic legal thought, mediation reflects the values of reconciliation (*islāh*), mutual consent (*tarāḍī*), and justice (*‘adl*), which are fundamental to family conflict resolution. The Qur'an itself encourages the use of mediators in marital disputes (Qur'an 4:35), and the concept of mediation aligns with the broader objectives of Islamic law (*maqāṣid al-sharī'ah*), including the protection of wealth (*ḥifẓ al-māl*) and social harmony. Recent studies emphasize that a well-trained mediator, who is knowledgeable in both Islamic law and state legal procedures, can help disputing parties find solutions that are not only legally binding but also ethically and spiritually satisfying (Yusuf & Hasanah, 2023). Mediation, in this sense, is not only a procedural tool but also a moral practice rooted in Islamic values and restorative justice.

To investigate the role of mediators in joint property disputes, this study employs a systematic review and meta-analysis based on the PRISMA 2020 framework. The PRISMA methodology (Preferred Reporting Items for Systematic Reviews and Meta-Analyses) ensures transparency, rigor, and reproducibility in identifying, selecting, and synthesizing academic studies. The review focuses on peer-reviewed literature published between 2018 and 2024 and sourced from scholarly databases such as Scopus, PubMed, ScienceDirect, and Mendeley. The selection process followed the four core stages of PRISMA: identification, screening, eligibility, and inclusion. Initially, a large pool of studies was identified, which was then refined by removing duplicates and filtering articles that did not meet the study's scope. Only those studies that specifically addressed the use of mediation in joint property or marital asset disputes were included. Articles that dealt only with custody, inheritance, or non-ADR methods were excluded. After a careful review of abstracts and full texts, twenty studies were selected for final analysis.

Each of the selected studies was examined for key variables, including the type of mediation applied (court-annexed or religious-based), the qualifications and role of the mediator, the outcomes of the mediation process (such as full or partial agreement), and the contextual factors affecting mediation success. The data were analyzed thematically, with qualitative findings synthesized to identify recurring patterns, while any available quantitative data were subjected to basic meta-analytical techniques to determine trends in mediation outcomes. By integrating both doctrinal and empirical research, this review aims to provide a comprehensive understanding of how mediators operate in joint property disputes, the effectiveness of their intervention, and the extent to which mediation aligns with both Islamic legal ideals and contemporary dispute resolution standards.

Results and Discussion

This systematic review analyzed twenty peer-reviewed studies published between 2018 and 2024 that examined the role of mediators in resolving joint property disputes after divorce. The studies were sourced from various regions, including Indonesia, Malaysia, Pakistan, and Middle Eastern countries, where both Islamic and civil legal systems intersect. Using the PRISMA methodology, the selection process involved four steps: identification, screening, eligibility, and inclusion. After excluding irrelevant or low-quality studies, a final group of twenty articles was found to meet all criteria and was included in the review. These studies offered a mix of empirical research, case studies, legal analyses, and qualitative interviews.

The review found that mediators played a significant role in reducing conflict and improving cooperation between ex-spouses during the division of marital property. Many of the studies emphasized that mediation was more successful when conducted by professionals trained not only in law, but also in communication and cultural sensitivity. In Indonesia, for example, mediators who had a background in both Islamic jurisprudence and counseling were reported to have a higher success rate in helping disputants reach peaceful agreements (Hasan & Fitriani, 2022). The ability to communicate in non-judgmental, empathetic, and culturally appropriate ways allowed mediators to bridge misunderstandings and de-escalate emotionally charged disputes.

A recurring theme in the literature was the importance of neutrality and trust in the mediation process. Several studies highlighted that disputants are more likely to participate fully and honestly in mediation when they perceive the mediator as impartial and trustworthy. However, the review also uncovered challenges. In some cases, especially in rural or conservative communities, mediators were seen as representatives of religious authority or the court, which led to power imbalances or reluctance from one party—often women—to speak freely. This raised concerns about gender bias and the importance of ensuring that mediators are trained in gender-sensitive approaches to conflict resolution (Ahmad & Zainuddin, 2023).

Another important finding relates to the integration of religious values into mediation. In Muslim-majority societies, when mediators incorporate Islamic ethical principles such as justice (*‘adl*), mercy (*rahmah*), and mutual agreement (*tarāḍī*), disputants tend to respond more positively. This is because such principles are perceived not only as religiously valid but also as morally binding. One study in Malaysia demonstrated that Islamic-oriented mediation helped disputants see asset division not as a competition, but as a process of fulfilling obligations and protecting the family’s dignity (Saleh & Ibrahim, 2021). In these cases, religious values functioned as both a moral guide and a tool for psychological healing.

The review also revealed differences in the effectiveness of court-annexed mediation versus private or community-based mediation. Court-annexed mediation often suffered from bureaucratic limitations, time constraints, and insufficient training of mediators. In contrast, community-based mediators, particularly those affiliated with religious or social organizations, tended to have more flexible approaches and deeper connections with the disputing parties. However, the lack of standard procedures in community settings sometimes led to inconsistent or non-binding outcomes (Latifah & Rohman, 2020).

Furthermore, a few quantitative studies included in the meta-analysis provided statistical insights into mediation success rates. On average, joint property disputes resolved through mediation had a 60–75% success rate, defined as achieving full or partial agreement without court adjudication. Factors that increased success included early mediation (before litigation escalated), mediator neutrality, and prior relationship history between the parties. However, unresolved emotional trauma, poor legal awareness, and lack of female empowerment were found to reduce mediation effectiveness (Putri et al., 2023).

Overall, the review demonstrates that mediation—when properly implemented—can be a powerful tool in resolving post-divorce property disputes in ways that are fair,

efficient, and aligned with both legal and religious values. However, to achieve this potential, mediators must be equipped not only with legal knowledge but also with skills in emotional intelligence, cultural literacy, and ethical reasoning rooted in both human rights and Islamic principles.

In addition to identifying key success factors, the review also brought attention to the barriers and limitations faced by mediators in handling joint property disputes. One common barrier was the lack of standardized training and certification for mediators, especially in religious courts and informal community settings. Several studies noted that while court regulations may mandate mediation, they often do not specify comprehensive training standards, particularly on issues like trauma sensitivity, negotiation techniques, or the intersection of legal and religious values (Rahmawati & Kurniawan, 2022). As a result, some mediators were found to lack the competence to deal with complex financial disagreements or emotionally charged interactions, which reduced the overall effectiveness of the mediation process.

Another significant limitation involved cultural and societal norms that discourage open negotiation, especially when one party—usually the woman—is economically or socially disadvantaged. In many cases, ex-wives entering mediation feel pressured to accept unequal divisions of property to avoid community stigma or further conflict. Some studies also pointed to the persistence of patriarchal interpretations of Islamic law, where the husband's economic role is overemphasized, and the wife's contribution to the marriage (such as unpaid domestic labor) is undervalued in the division of assets (Huda & Salim, 2021). This not only undermines the fairness of outcomes but also discourages women from fully engaging in the mediation process.

Despite these challenges, the review found encouraging signs of innovation and reform in several jurisdictions. Some courts have begun integrating multidisciplinary teams in mediation sessions, including legal experts, psychologists, and religious scholars. This approach enhances the depth and fairness of the discussion and helps ensure that both parties feel heard and respected. Additionally, Islamic NGOs and women's advocacy groups have played an important role in developing community-based mediation models that are grounded in both sharia and human rights perspectives. These initiatives often include pre-mediation education sessions and post-mediation support, which significantly increase the likelihood of lasting agreements and reduce the chances of re-litigation (Karim & Nurhasanah, 2023).

Moreover, studies emphasized that successful mediation does not merely involve dividing property fairly—it also requires restoring dignity, rebuilding communication, and acknowledging the emotional history between the parties. In this regard, mediation aligns closely with the principles of restorative justice in Islamic law. Mediators who were trained to incorporate Islamic values such as *sabr* (patience), *shūrā* (consultation), and *'adl* (equity) were often more successful in achieving outcomes that satisfied both parties, not only legally but also emotionally and spiritually. This suggests that mediation, when enriched with cultural and religious literacy, can transcend technical legal resolutions and provide a deeper form of justice (Fauzi & Aminah, 2022).

In summary, the studies reviewed in this systematic analysis highlight that the role of mediators in joint property disputes is far more than administrative. Mediators act as communicators, ethical facilitators, and cultural navigators. Their success depends not

only on their legal knowledge but also on their empathy, neutrality, and ability to work within the socio-religious context of each case. The integration of Islamic ethics, gender sensitivity, and structured training emerges as the central formula for effective mediation in Muslim-majority family law systems.

In addition to the practical functions of mediators, the studies also shed light on the broader policy implications of their role in joint property disputes. The recurring recommendation across multiple sources was the institutionalization of standardized training and accreditation for mediators, especially in religious courts. While current court regulations in some countries require mediation, they often fail to define clear expectations for mediator qualifications or mediation ethics. A uniform framework that combines legal, psychological, and religious competence is necessary to ensure consistency and professionalism in mediation outcomes (Munirah & Abdullah, 2020).

Equally important is the role of legal and religious institutions in reinforcing public trust in mediation as a legitimate path to justice. In many cases, parties—particularly women—feel more confident when mediation sessions are perceived as both procedurally fair and religiously acceptable. This is especially true in Muslim-majority societies, where disputants may prioritize compliance with Islamic values. Several studies found that public campaigns, community education, and inclusion of religious scholars in policy discussions improved the public's perception of mediation and increased voluntary participation (Rohman & Afifah, 2021).

There is also a growing recognition that digital platforms could enhance access to mediation services, especially in remote or underserved areas. While this area remains underexplored, early pilot studies suggest that virtual mediation—when managed securely and ethically—can reduce logistical barriers and emotional tension, allowing disputants to communicate more calmly and on neutral ground (Suryani & Effendi, 2023). However, the effectiveness of online mediation still depends heavily on the mediator's skill in managing digital communication, ensuring confidentiality, and maintaining a neutral space, especially when gender and power imbalances are present.

Lastly, the findings suggest that future research must go beyond descriptive or normative analysis. There is a pressing need for longitudinal studies that measure the long-term impact of mediated agreements on the financial stability, emotional well-being, and social relationships of divorced individuals. Few studies currently follow up with disputants after mediation, making it difficult to assess whether the outcomes are truly sustainable. Additionally, more comparative research is needed between sharia-based and secular legal systems to identify best practices that can be adapted across jurisdictions (Yunita & Prasetya, 2024).

Taken together, these insights confirm that the role of the mediator is central not only in resolving individual disputes but also in shaping broader legal culture. A well-supported mediation system that aligns with both Islamic ethical standards and modern legal frameworks has the potential to transform the experience of divorce and property division into one that is restorative rather than adversarial.

In integrating the various findings across the reviewed studies, it becomes evident that mediation in joint property disputes is both a legal mechanism and a moral practice, deeply shaped by cultural, religious, and institutional contexts. The studies consistently illustrate that mediation is most effective not simply when the mediator has technical

knowledge, but when they also possess cultural sensitivity, emotional intelligence, and the ability to apply Islamic ethical reasoning. These characteristics enable the mediator to navigate the delicate psychological and spiritual dimensions of post-divorce conflict, especially when financial matters intertwine with issues of dignity, trust, and historical resentment.

Moreover, the systematic review reveals that the intersection of Islamic legal principles and modern dispute resolution models presents both challenges and opportunities. On one hand, there are tensions between formal legal procedures and traditional expectations surrounding wealth, gender roles, and marital responsibilities. On the other hand, the shared values between Islamic law and mediation principles—such as mutual consent, justice, and harm reduction—provide a strong foundation for developing a contextually relevant and ethically sound mediation framework. When properly implemented, mediation not only offers a pathway to legal resolution but also contributes to emotional closure and social reconciliation (Fathurrahman & Lestari, 2023).

The findings also demonstrate the importance of institutional support and judicial commitment in strengthening the quality and consistency of mediation services. Courts that actively promote mediation through specialized units, training programs, and collaborations with civil society tend to produce more favorable outcomes. These institutional initiatives, particularly when coupled with gender equity training and Islamic literacy, ensure that the process is not only efficient but also fair and empowering for all parties involved. Unfortunately, in regions where mediation remains under-resourced or poorly monitored, the risk of coercion, bias, and procedural shortcuts remains high (Rahman & Azizah, 2021).

Taken together, these results suggest that mediation, when thoughtfully designed and professionally delivered, can serve as a powerful tool for resolving disputes over joint property in a manner that upholds both legal justice and Islamic ethical integrity. The approach must be holistic: combining legal reform, professional development for mediators, community awareness, and religious engagement. By embedding Islamic values such as *'adl* (justice), *islāh* (reconciliation), and *maslahah* (public benefit) into structured mediation models, stakeholders can bridge the gap between doctrine and practice, and ensure that the process benefits not only the legal system but also the well-being of individuals and families. This comprehensive view affirms the central thesis of this study: that the effectiveness of mediation in joint property disputes is best understood through an interdisciplinary and context-sensitive lens, one that honors the complexity of human relationships and the dual demands of law and morality.

Conclusion

This systematic review and meta-analysis has explored the role of mediators in resolving joint property disputes following divorce, focusing on research published between 2018 and 2024. Drawing on a diverse set of empirical and doctrinal studies from Muslim-majority and mixed legal contexts, the findings show that mediation is not only a legally recognized process but also a deeply ethical and context-sensitive practice. When guided by trained professionals who possess a balanced understanding of law, psychology, and Islamic ethics, mediation has proven to be a highly effective alternative to adversarial litigation in family law.

The review revealed that mediators act as more than neutral facilitators; they serve as communicators, cultural interpreters, and ethical navigators who bridge emotional, legal, and religious gaps between disputing parties. Their success, however, depends heavily on factors such as professional training, gender sensitivity, cultural literacy, and the ability to foster trust. Integrating values such as 'adl (justice), islāh (reconciliation), and maslahah (public benefit) into mediation practices has shown to enhance not only the outcomes of dispute resolution but also the dignity and emotional recovery of the parties involved. Despite these strengths, challenges remain. These include inconsistent mediator qualifications, lack of post-mediation follow-up, and the influence of gender bias and social pressure—particularly against women in patriarchal settings. The review also identified a lack of long-term evaluations of mediation outcomes, pointing to the need for more robust, longitudinal studies.

Based on these findings, this study recommends a multi-dimensional approach to strengthening mediation in joint property disputes. Legal institutions should invest in standardized, interdisciplinary mediator training programs that include Islamic jurisprudence, conflict psychology, and communication ethics. Courts must also ensure the procedural fairness of mediation through oversight mechanisms and equitable access, especially for vulnerable groups. Furthermore, the integration of community-based and faith-informed mediation initiatives could help broaden public trust and enhance the cultural legitimacy of mediated agreements. In conclusion, mediation—when implemented with professionalism and rooted in ethical and religious values—offers a promising pathway for resolving joint property disputes in a way that promotes justice, emotional healing, and long-term social harmony. It aligns well with the objectives of both modern legal systems and the higher purposes of Islamic law, making it a relevant and necessary tool in the evolving landscape of family dispute resolution.

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