

An Evaluation of the Implementation of Islamic Family Law in Divorce: Between Normative Ideals and Practical Realities

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ABSTRACT

Divorce is a social and legal phenomenon that reflects the failure of marital harmony and the inability to achieve the Islamic ideal of a *sakinah, mawaddah, and rahmah* family. In Indonesia, particularly in urban areas such as Makassar, divorce rates continue to increase and raise serious concerns regarding the protection of women's and children's rights after marital dissolution. This study is situated within the context of the high number of divorce cases in Makassar, South Sulawesi, where mediation mechanisms mandated by law have not significantly reduced divorce rates. The objective of this research is to evaluate the implementation of Islamic family law in divorce cases by examining the effectiveness of court-annexed mediation, judicial considerations, and the preventive role of the Marriage Advisory Board (BP4), as well as exploring Islamic legal alternatives such as *tahkim* (arbitration). This research employs a qualitative socio-legal approach, combining normative legal analysis of Islamic law, statutory regulations, and court decisions with empirical data obtained from divorce statistics, mediation records, and field observations in Makassar, particularly in Kelurahan Pannampu. The findings reveal that despite the mandatory application of mediation under Supreme Court Regulation No. 1 of 2016, the success rate of mediation in the Religious Court of Makassar remains very low. Divorce cases, especially wife-initiated divorces, continue to dominate court proceedings. Furthermore, preventive efforts through BP4 counseling programs have been implemented but face limitations in terms of resources, coordination, and effectiveness. This study concludes that there is a significant gap between the normative ideals of Islamic family law and its practical implementation, highlighting the need to strengthen alternative dispute resolution mechanisms such as *tahkim* and to enhance institutional synergy in order to better protect family integrity and post-divorce rights.



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Introduction

Marriage in Islamic law is not merely a civil matter; rather, it is a sacred bond closely related to belief and faith in Allah. Therefore, marriage contains a dimension of worship (ibadah), which must be carefully maintained so that it can endure and achieve the objectives of marriage in Islam, namely the realization of a harmonious family characterized by sakinah and mawaddah.

Marriage, as a contractual relationship between a man and a woman aimed at building a household, may be dissolved if incompatibility or disharmony arises between husband and wife. The dissolution of marriage is commonly referred to as divorce. Essentially, divorce means releasing the marital bond or terminating the marriage contract between a husband and a wife (A.Muh Yusri Patawari, Kurniati, dan Misbahuddin 2024).

Over the past five years (2020–2024), divorce rates in Indonesia have shown a consistent upward trend, raising serious concerns among academics, policymakers, and practitioners of family law. Data released by the Supreme Court and statistical reports from GoodStats indicate that the increasing number of divorce cases each year has placed a significant burden on the Religious Court system. The surge in incoming cases has caused the resolution process to become longer and more complex, thereby hindering the realization of the ideal principles of justice—namely fast, simple, and low-cost proceedings—as mandated by Article 2 paragraph (4) of Law Number 48 of 2009 on Judicial Power. This tendency provides strong academic grounds to examine the effectiveness of non-litigation dispute resolution policies, particularly mediation, in responding to the high divorce rates (Hikmawati Ribi 2025).

Based on the 2023 statistical report on divorce cases in Indonesia, the number of divorces increased by 15 percent compared to previous years. In 2021, divorce cases reached 447,743 and increased to 516,334 cases in 2022. This figure represents the highest divorce rate recorded over the past six years, with the majority of cases initiated by divorce lawsuits filed by wives. Divorce may occur due to several factors, including economic hardship, domestic violence, and the psychological unpreparedness of spouses to manage married life. In addition, divorce can have psychological impacts on family members involved in marital dissolution (Nida Rafiqah Izzati, Robi'atin A'dawiyah, and Abdul Qodir Zaelani 2024).

These conditions have generated both support and opposition within society. From the perspective of classical Islamic jurisprudence, *ṭalāq* is considered the husband's right, and a pronouncement of divorce made anywhere is regarded as valid. This view follows the Shafi'i school of thought, which allows a husband to pronounce divorce at any time and in any place without judicial intervention. A common reason held by society is that divorce is considered a private matter that does not need to be processed through state institutions because it may be perceived as a family disgrace.

Conversely, under positive law, a divorce pronounced outside the court is legally invalid. This is based on Article 39 paragraph (1) of the Marriage Law, which stipulates that divorce may only be carried out through court proceedings, specifically before the Religious Court for Muslims. Article 39 paragraph (1) states: "Divorce may only be carried out before a court hearing after the court concerned has attempted and failed to reconcile the parties." Paragraph (2) further stipulates that divorce must be based on sufficient grounds indicating that the husband and wife can no longer live harmoniously. According to Article 114 of the Compilation of Islamic Law (KHI), the dissolution of marriage due to divorce may occur either through *ṭalāq* pronounced by the husband or through a divorce lawsuit filed by the wife. Article 114 of the KHI states: "The dissolution of marriage caused by divorce may occur due to *ṭalāq* or based on a divorce lawsuit" (Basri, Koto, dan Nelli 2023).

In practice, however, the implementation of Islamic family law often does not align with these ideal legal norms. Many divorces occur without following procedures prescribed by Islamic law and positive law, such as unilateral divorces conducted without proceedings in the Religious Court, or divorces based on trivial reasons such as economic problems, minor disputes, or the influence of social media. This condition indicates a clear discrepancy between normative legal provisions and actual practices in the field.

Previous research has shown that divorce may occur due to various factors. In 1996, George Levinger formulated nine categories of complaints leading to divorce, including neglect of household and child responsibilities, financial problems, physical abuse, verbal aggression, infidelity, sexual incompatibility, substance abuse, interference and social pressure from extended family members, as well as suspicion, jealousy, and incompatibility between spouses.

George Levinger's research (1996) focused on the causes of divorce from psychological and behavioral perspectives, emphasizing emotional dynamics, personal conflicts, and social conditions affecting marital harmony. Divorce was thus viewed as a socio-psychological phenomenon arising from disrupted interpersonal relationships between spouses, such as infidelity, violence, or communication problems (Firdaus 2023).

In contrast, this study adopts a more juridical and normative-empirical approach by focusing on evaluating the implementation of Islamic family law in divorce cases. This research does not merely identify the causes of divorce but examines the gap between the ideal normative provisions of Islamic law—which emphasize justice, responsibility, and deliberation (*musyawarah*)—and actual practices in the field, such as unilateral divorces without court procedures or divorces based on minor marital issues.

Based on this background, the study formulates the following research questions: (1) What are the empirical data on divorce phenomena in Makassar? (2) How are divorce cases practically resolved in Makassar? (3) What Islamic legal solutions can be proposed regarding divorce resolution mechanisms in Makassar?

The objectives of this study are to analyze the conformity between the normative ideals of Islamic family law and divorce practices in the field, to identify factors contributing to the gap between the two, and to provide recommendations to enhance the effectiveness of Islamic family law implementation in accordance with principles of justice and *maqāṣid al-sharī'ah*. The theoretical contribution of this research is to enrich scholarly discourse on the application of Islamic family law in modern social contexts, while its practical contribution is

to provide input for Religious Courts, government institutions, and society to ensure that divorce law implementation aligns with Islamic values and the true objectives of the law.

Method

This study employs a qualitative research design formulated in a descriptive-analytical manner, with the aim of evaluating the implementation of Islamic family law in divorce cases by comparing the ideal norms prescribed in Islamic law and statutory regulations with practices occurring in the field. The research emphasizes an in-depth understanding of legal phenomena rather than statistical measurement; therefore, a qualitative approach is considered the most appropriate.

The type of research applied is normative-empirical legal research (socio-legal research). The normative approach is used to examine the provisions of Islamic family law governing divorce, derived from the Qur'an, Hadith, Islamic jurisprudence (fiqh), the Compilation of Islamic Law (KHI), and relevant statutory regulations. Meanwhile, the empirical approach is employed to observe how these legal provisions are implemented in divorce practices within society and the Religious Court system.

The research approaches adopted include the statute approach, conceptual approach, and sociological approach. The statute approach is used to analyze applicable legal rules, the conceptual approach is applied to examine fundamental concepts of Islamic family law such as the objectives of marriage, *ṭalāq*, and mediation, while the sociological approach is utilized to understand the social realities surrounding the implementation of divorce in practice.

The data sources in this study consist of primary and secondary data. Primary data are obtained through interviews with relevant parties, including judges of the Religious Court, court clerks, and individuals who have been involved in divorce cases. Secondary data are derived from primary legal materials in the form of statutory regulations and court decisions; secondary legal materials such as books, academic journals, and previous research findings; and tertiary legal materials including legal dictionaries and encyclopedias.

Data collection methods include library research and field research. Library research is conducted to examine the theoretical norms of Islamic family law, while field research is carried out to obtain a factual overview of divorce practices as they occur in reality.

The data analysis method employed is qualitative analysis, which involves stages of data reduction, data presentation, and conclusion drawing. The mechanism for analyzing *sharī'ah* issues is conducted by comparing the normative provisions of Islamic family law with the realities of divorce practices in the field, which are then analyzed based on *sharī'ah* principles such as justice (*'adl*), public benefit (*maṣlaḥah*), and the protection of the rights of the parties involved. The results of this analysis are expected to provide a comprehensive understanding of the gap between normative ideals and the practical implementation of Islamic family law in divorce cases.

Results and Discussion

Data on the Phenomenon of Divorce in Makassar

Every individual inevitably faces problems in life, and how these problems are resolved largely determines their consequences. Conflicts within the household may escalate into hostility and ultimately lead to divorce. Every divorce is preceded by conflict that results in disharmony in marital life, thereby preventing the realization of the essence of marriage itself, namely the formation of a family characterized by *sakinah*, *mawaddah*, and *warahmah*.

Divorce is thus a consequence of marital relationships marked by a lack of harmony between husband and wife. In Indonesia, many marriages ultimately fail.

This condition is evidenced by the number of cases filed at the Religious Court of Makassar, which reached 2,264 cases in 2012, increased to 2,595 cases in 2013, and rose further to 2,916 cases in 2014. In 2015, the number of divorce cases surged to 4,700 cases.

The phenomenon of divorce in Makassar constitutes a serious social problem that requires preventive measures from the relevant government authorities. Efforts have been undertaken by the court to reconsider divorce through mediation mechanisms, given the continually increasing divorce rate (Andi Kasmawati 2014).

The divorce rate in South Sulawesi Province remains relatively high, reaching 14,612 cases in 2023. With the rising number of divorces, particularly in urban areas such as Makassar, issues concerning the rights of children and women after divorce have become increasingly urgent. Makassar City recorded a high number of divorce cases, amounting to 2,344 cases (Badan Pusat Statistik, 2023).

When examining divorce statistics across regencies and municipalities in South Sulawesi Province, Makassar ranks first. This condition indicates the need for greater attention to the social and legal impacts faced by children and women following divorce. Pannampu Subdistrict is one of the areas characterized by relatively high levels of criminal activity.

The community serving as the subject of this research is the population of Pannampu Subdistrict, Makassar. The selection of this community is based on the high divorce rate in the area and the limited public understanding of post-divorce rights. Many women and children do not receive adequate legal protection, placing them at risk of discrimination and injustice. This concern is further underscored by the fact that 845 criminal cases originated from this subdistrict (Direktori MA, 2024). Consequently, this area is considered vulnerable to criminal activity and violations of children's rights. This issue has become a central focus of legal awareness and counseling programs conducted by the Department of Civil Law, Faculty of Law, Hasanuddin University, in collaboration with the Makassar City Office of Women's Empowerment and Child Protection (DP3A Makassar) (Aulia Rifai et al 2024).

Based on field data regarding the implementation of mediation at the Religious Court of Makassar during the period from 2016 to 2019, a clear picture can be obtained regarding the development of mediation practices within the court system. This includes the number of cases successfully resolved through mediation, the success rate of which can be observed in the following table.

Table 1. Data on the Implementation of Mediation at the Makassar Class I A Religious Court

NO	Total Number of Incoming Cases	Total Number of Cases Referred to Mediation	Number of Cases Unsuccessfully Mediated	Number of Cases Successfully Mediated	Percentage of Successful Mediations Compared to the Total Number of Mediated Cases	Remarks
1.	2529	744	472	20	3%	2016
2.	2464	481	300	3	1%	2017
3.	2839	532	289	17	3%	2018
4.	3252	467	427	35	7%	2019

Data Source: Religious Court of Makassar Class I A.

The table 1 above shows that the lowest percentage of mediation success at the Religious Court of Makassar occurred in 2017, with only 3 successfully mediated cases, representing a success rate of 1%. Meanwhile, the highest mediation success rate was recorded in 2019, with 35 successfully mediated cases, amounting to a success rate of 7% at the Class I A Religious Court of Makassar (Yudha and Safriani 2016).

Empirical facts indicate that divorce rates remain relatively high, particularly wife-initiated divorces (*cerai gugat*). Each year, divorce rates in Indonesia generally continue to increase. Among the 34 provinces in Indonesia, 7 provinces record the highest divorce rates based on data from the Directorate General of the Religious Courts of the Supreme Court. South Sulawesi Province ranks fourth, particularly in Makassar City, which serves as the research location. The high divorce rate makes it necessary to evaluate the effectiveness of BP4 counselors in reducing divorce cases in Makassar. The primary factor contributing to the high divorce rate, especially in Makassar City, is marital incompatibility between husbands and wives, which ultimately leads cases to be resolved before the Religious Court (PA).

Based on compiled information, in 2017, divorce by *ṭalāq* in Makassar City reached 628 cases, while wife-filed divorces (*cerai gugat*) totaled 1,729 cases. Of the *ṭalāq* cases, 529 were resolved, while 1,478 *cerai gugat* cases were granted by the court. The remaining cases were rejected or withdrawn by the applicants. Some cases were also removed from the docket due to incomplete documentation or because the plaintiff or applicant attended the hearing only once. In 2018, *ṭalāq* cases totaled 451, while *cerai gugat* cases reached 1,277, resulting in a total of 1,728 cases. In percentage terms, *ṭalāq* accounted for 20%, while *cerai gugat* constituted 80%. This indicates that more wives file for divorce compared to husbands seeking to divorce their wives (Inputrakyat.co.id 2019) (H dan Haddade 2020).

Mechanisms of Divorce Settlement Practices in Makassar

In the settlement of cases before the court, several stages of case examination are conducted, as explained by Aris Bintania, who states that case examination at the first-instance level proceeds through the following stages: Opening of the court session, Identification of the parties, Recommendation for reconciliation, Reading of the statement of claim, Defendant's response,

Plaintiff's reply (replik), Defendant's rejoinder (duplik) and submission of conclusions (koreklus/konklusi), Evidentiary stage, Deliberation of the panel of judges, and Pronouncement of the court decision (Yuni Ulfa Diayanti 2018).

Divorce settlement practices within the jurisdiction of the Makassar Religious High Court (PTA Makassar) indicate that every divorce case is required to undergo mediation first, in accordance with Supreme Court Regulation (Perma) No. 1 of 2016. However, research conducted in four sample Religious Courts—Watampone, Polewali, Palopo, and Jeneponto—revealed that mediation success rates remain extremely low, ranging from 0% to less than 1%. For instance, at the Religious Court of Watampone, out of 168 cases eligible for mediation between September 2016 and August 2017, only one case was successfully resolved through reconciliation, while the remainder failed to reach agreement. Similar findings were observed at the Palopo and Jeneponto Religious Courts, where none of the mediated cases were successful, resulting in all cases proceeding to substantive examination by the panel of judges. These findings affirm that although mediation mechanisms have been formally integrated into litigation procedures, in practice they have not been effective in reducing divorce rates within the jurisdiction of PTA Makassar (Mahmud Hadi Riyanto 2018).

Judicial Considerations in Case Number 2402/Pdt.G/2023/PA.Mks In Case Number 2402/Pdt.G/2023/PA.Mks, the panel of judges considered several legal grounds. Article 39 paragraph (1) of Law Number 1 of 1974 stipulates that divorce “may only be carried out before a court hearing after the court concerned has attempted and failed to reconcile the parties.” Furthermore, Article 39 paragraph (2) of the same law states that “there must be sufficient grounds indicating that the husband and wife can no longer live harmoniously as husband and wife in order to proceed with divorce” (Rodliyah 2014).

Decision Number 2402/Pdt.G/2023/PA.Mks was rendered by the Class I A Religious Court of Makassar concerning a divorce lawsuit filed by a wife against her husband due to the husband's extramarital relationship (infidelity), which resulted in his neglect of marital responsibilities for more than one year and four months, as well as prior separation of residence before the divorce.

Upon reviewing Decision Number 2402/Pdt.G/2023/PA.Mks to support the plaintiff's claim that the defendant failed to fulfill his marital obligations in violation of Law Number 1 of 1974 and 336 other related statutory provisions, it was found that the defendant no longer carried out his duties and responsibilities toward his wife. Based on the court's observation of the decision, the following determinations were made:

(1) Declaring that the defendant, who had been lawfully and properly summoned to appear before the court, failed to attend the hearing; (2) Granting the plaintiff's claim by default (verstek); (3) Pronouncing one irrevocable minor divorce (ṭalāq ba'in sughrā) against the plaintiff; (4) Determining that the children named XXXXX (male, Makassar, 08 February 2011), XXXXX (male, Makassar, 30 October 2012), and XXXXX (male, Makassar, 12 December 2017) remain under the custody (ḥaḍānah) of the plaintiff, while maintaining the defendant's access rights to meet the children insofar as it serves the best interests of the children; (5) Ordering the defendant to provide monthly living and educational support for each child in the amount of Rp. 2,000,000.00 (two million rupiah) until the children reach adulthood or become financially independent (Jamil, Idham, dan Imran 2024).

At the Religious Court, including the Religious Court of Makassar, before issuing a decision on a case submitted to the court, judges are required to provide an opportunity for the disputing parties to reconcile through mediation. Mediation refers to efforts undertaken by a third party to resolve disputes between two or more individuals through negotiation, resulting in a peace

agreement. Article 1 point 1 of Supreme Court Regulation (Perma) Number 1 of 2016 defines mediation as a dispute resolution process conducted through negotiation to achieve an agreement between the parties with the assistance of a mediator. This is consistent with the principle upheld by the Religious Court, namely the obligation to pursue reconciliation.

In divorce by *ṭalāq* cases submitted to the court, prior to reaching the decision stage, the first effort undertaken by the judge is to mediate between the parties. Judges must remind the wife of her rights prior to divorce, including *iddah* maintenance. Judges play an active role in explaining matters that may not be understood by the parties and are obliged to prioritize reconciliation, particularly when the dispute is not severe. In such cases, judges often succeed in reconciling the parties so that divorce does not occur, as there is a sense of professional fulfillment when a judge succeeds in preserving a household. If reconciliation efforts by the judge fail, the case is referred to a mediator; if mediation also fails, the case then proceeds to further judicial examination (Aliah, K. I., Sultan, L., dan Fatimah, F 2021).

Islamic Legal Solutions Regarding Practical Mechanisms for Divorce Settlement in Makassar

One of the methods for resolving conflicts in divorce disputes in Islam is *tahkim* or arbitration (Multazam, 2006). *Tahkim* or arbitration plays a significant role in resolving divorce disputes within Islamic law (Baharuddin & Iman, 2020). It functions as an alternative dispute resolution mechanism that can effectively address divorce-related issues while offering solutions aligned with Islamic principles and norms (Khakimov, 2020; Khurin'In, et al., 2022). In cases where divorce disputes arise, *tahkim* provides a structured and legally institutionalized arbitration approach that ensures fairness and justice in the resolution process (Himmah, Safudin, Oktafiani, & Alfia, 2022). By utilizing *tahkim*, parties involved in divorce proceedings may benefit from a more amicable and culturally sensitive method of resolving their differences, ultimately promoting harmony and mutual respect within the framework of Islamic jurisprudence (Khakimov, 2020).

Arbitration procedures in Islamic law offer a method for resolving divorce disputes that is consistent with Sharia principles (Putri & Wahyuni, 2021). Arbitration provides divorcing couples with the opportunity to actively participate in seeking fair and mutually acceptable solutions (Kennett, 2016). This can be achieved through deliberation (*musyawarah*) and mediation processes, allowing dispute resolution based on justice and mutual agreement.

Along with societal developments, more adaptive alternatives are needed in resolving divorce disputes (Khaliluddin, 2023). Arbitration may serve as one of the alternatives applicable to marital dispute resolution. Research conducted by Cusairi and Zahraa (2015) found that arbitrators can perform roles similar to mediators in resolving disputes within the marital context. Furthermore, studies on arbitration need to be expanded, particularly in resolving divorce disputes from the perspective of Islamic law (Hanif Abdullah dan Sabilul Muhtadin 2024).

Furthermore, *tahkim* (arbitration) procedures in resolving divorce disputes under Islamic law involve a neutral third party assisting in resolving conflicts between husband and wife. This process is grounded in principles of justice and efforts toward reconciliation. The following are the procedural steps of *tahkim* in the context of divorce (Khakimov, 2020; Nugroho & SH, 2017; Setiady, 2015; Zahraa & Hak, 2006):

1. Appointment of Hakam (Peacemakers) Selection of hakam from both parties, whereby the husband and wife each appoint one hakam from their family or trusted individuals. The objective is for the hakam to fully understand the family conditions and background of each party.

2. Hearing and Information Gathering a) Meetings with Both Parties: The hakam hold meetings with the husband and wife separately or jointly to listen to complaints, reasons for disputes, and each party's perspectives. b) Fact-Finding: The hakam conduct investigations to collect relevant information, including hearing witnesses or obtaining supporting evidence.
3. Evaluation and Deliberation a) Discussion and Deliberation: The hakam deliberate to seek fair and wise solutions by evaluating the collected information and considering reconciliation possibilities. b) Intention of Reconciliation: The primary intention of the hakam must be to reconcile the marital relationship if possible, as stated in Surah An-Nisa' (4:35).
4. Submission of Decisions a) Conclusions and Recommendations: Following deliberation, the hakam present conclusions and recommendations, which may include reconciliation or divorce under certain conditions. b) Notification of Decisions: The decisions or recommendations are conveyed to both parties, offering solutions based on justice and Sharia law.
5. Implementation of Decisions a) Reconciliation or Divorce: If reconciliation is decided, the couple attempts to reconcile and continue their marriage. If divorce is decided, it must be conducted in accordance with Sharia procedures, including calculation of iddah, financial rights, and child custody arrangements. (Abdullah dan Muhtadin 2024)

BP4 Counseling Programs in Makassar City

The implementation of BP4 counseling conducted at the KUA involves not only counselors but also functional marriage registrars (penghulu), coordinated by the Head of the respective KUA. In addition to being held at sub-district KUAs, activities are sometimes conducted at the Makassar City Ministry of Religious Affairs Office under the name Bimwin (Marriage Guidance). Activities organized at the city Ministry of Religious Affairs Office are coordinated by the Islamic Guidance Section (Bimas Islam). The facilitators are predominantly Islamic religious counselors who have completed training on Bimwin or Technical Guidance (Bimtek) for prospective Bimwin facilitators.

The following are activities carried out by BP4 counselors to reduce divorce rates in Makassar City: Organizing Suscatin (pre-marriage courses), family counseling education, education for marriage-age youth, healthy reproduction education, and prevention of HIV/AIDS through counseling. Preparing cadres of keluarga sakinah motivators and marriage dispute mediators. Improving guidebooks on keluarga sakinah development and resolution of marital and family cases. Conducting discussions, seminars, and counseling on keluarga sakinah, marriage law, and other related regulations. Providing pre-marital and post-marital consultation or counseling involving psychologists. Conducting public information and counseling through print media, electronic media, face-to-face meetings, demonstrations, and social media. Establishing family crisis response posts involving religious leaders and community figures. Organizing pre-marital courses and youth development programs in collaboration with youth organizations, community organizations, and schools, including socialization on ideal marriage age and education on the dangers of promiscuity and adultery. Implementing pilot programs as long-term investments to prevent divorce, including utilizing Ministry of Religious Affairs programs such as PUSAKA (Pusat Layanan Keluarga Sakinah), which consists of four programs: AMAN (KUA Administrative Management), BERKAH (Learning the Secrets of Marriage), KOMPAK (Counseling, Mediation, Assistance, and Advocacy), and LASTARI (Integrated Family Resilience Services of the Republic of Indonesia). Conducting guidance activities

in majelis taklim or religious gatherings, where topics on marriage and divorce are occasionally delivered.

According to Rahmawati (BP4 counselor), the methods used in keluarga sakinah development programs—whether Suscatin, Bimwin, or marital counseling—include lectures, discussions, question-and-answer sessions, and direct dialogue with prospective brides and grooms (Rahmawati, Makassar, 08/10/2019). Role-playing methods are also sometimes applied to enhance participants' imagination and engagement (Darmawati D dan Haddade H. 2020).

As counselors, it is essential to fully understand the character of prospective couples and provide appropriate guidance regarding future family conditions. However, the Suscatin, Bimwin, and counseling processes currently implemented primarily emphasize the importance of keluarga sakinah. Significant improvements are required in delivering materials to both pre-marital and post-marital participants, particularly by incorporating up-to-date issues to make the sessions more engaging (Muhiddin, Head of KUA, Makassar, 05/10/2019). BP4 counselors need to continuously reform their systems to ensure effective participation, while Suscatin facilitators should enhance their delivery methods and academic capacity.

Based on these constraints, BP4 counselors propose intensifying training programs to enhance their capacity and competence. This would compensate for limitations in inviting experts due to budget constraints. Additional funding is also needed to ensure all prospective couples can participate in Bimwin programs organized by Bimas Islam at the Makassar City Ministry of Religious Affairs Office (Kaimuddin, Makassar, 06/10/2019). Cross-sectoral cooperation with the Religious Courts is also necessary, including regulations governing divorce mechanisms, whereby individuals intending to divorce must first receive guidance from BP4 counselors at the sub-district level.

In consultation services, parents of both spouses may be involved to provide guidance and advice. The first step when someone intends to divorce is to receive counseling to identify the core problems faced by both parties and seek the best possible solutions (Kaimuddin, Makassar, 05/10/2019). BP4 counselors strive to apply persuasive approaches to couples and their families. If reconciliation is no longer possible, couples are referred to the Religious Court with required documents such as the original marriage certificate, copies of marriage certificate, certificate from the village head, family card copy, and child birth certificates.

Supporting factors in providing counseling to individuals seeking divorce include cooperative and open attitudes from both spouses regarding their problems, good faith supported by family and social environments, willingness to attend counseling sessions, and openness to receiving solutions. The readiness of troubled couples to seek advice, guidance, and direction significantly contributes to effective counseling outcomes (Darmawati D dan Haddade H. 2020).

Conclusion

The implementation of Islamic family law in divorce cases in Makassar City has not yet fully reflected the normative and ideal objectives of Islamic marriage, namely the realization of a family characterized by sakinah, mawaddah, and rahmah. The high divorce rate—particularly divorce initiated by wives (cerai gugat)—along with the low success rate of mediation at the Makassar Religious Court, indicates a significant gap between the normative provisions of Islamic law and the practical mechanisms for resolving divorce disputes in practice. Although mediation has been made a mandatory procedure under Supreme Court Regulation (Perma) Number 1 of 2016, its implementation remains largely procedural and has not been effective in reducing divorce rates.

Meanwhile, preventive efforts through BP4 counseling programs have been undertaken but remain suboptimal due to limitations in human resources, counseling methods, and the lack of cross-sectoral regulatory support.

From an academic perspective, this study contributes to the development of Islamic family law scholarship, particularly through a socio-legal analysis of the effectiveness of divorce mediation and the role of non-litigation institutions such as BP4. This research also affirms the relevance of the tahkim concept as an alternative mechanism for resolving divorce disputes that is more closely aligned with Sharia principles and holds potential for further development within Indonesia's Islamic family law system.

The limitations of this study lie in its geographical focus on Makassar City and the restricted availability of empirical data from specific periods and institutions, which limits the generalizability of the findings. Therefore, future research is recommended to expand the geographical scope of analysis, conduct comparative studies on the effectiveness of mediation and tahkim across different regions, and examine the integration of tahkim mechanisms and the role of BP4 within a more systematic regulatory framework in order to strengthen the protection of women's and children's rights in the post-divorce context.

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