

## **Judicial Role Conflict in Civil Dispute Resolution in Indonesia: Judges as Adjudicators and Mediators at the Religious Court of Curup**

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**Abstract:** The expansion of judicial functions through court-annexed mediation has led judges to serve not only as adjudicators but also as mediators in the resolution of civil disputes. This situation gives rise to potential role conflicts that have implications for the principles of judicial impartiality and independence. This study aims to analyze the forms and dynamics of judges' role conflicts in practice, as well as their implications for the implementation of court-annexed mediation in Indonesia. This study employs an empirical legal approach through a case study at the Curup Religious Court, utilizing case file analysis and interviews with judge-mediators. The findings reveal that role conflict is a tangible phenomenon experienced by judges, particularly when performing mediation functions and subsequently adjudicating the same case. Nevertheless, this conflict does not directly undermine judicial impartiality, as it is addressed through the

internalization of professional ethics and a commitment to independence. However, these findings also reveal that the effectiveness of judicial mediation remains highly dependent on the individual integrity of judges and is not yet fully supported by an optimal institutional design. This study contributes theoretically by positioning judges' role conflict as an inherent characteristic managed within a hybrid dispute resolution system, and by emphasizing the importance of an approach that considers the interaction between norms, structures, and actors in the development of court-annexed mediation in Indonesia as part of a global issue.

**Keywords:** Role Conflict; Judge; Mediator; Adjudicator; Religious Court.

**Abstrak:** Perluasan fungsi peradilan melalui *court-annexed mediation* telah mendorong hakim tidak hanya berperan sebagai adjudikator, tetapi juga sebagai mediator dalam penyelesaian sengketa perdata. Kondisi ini menimbulkan potensi konflik peran yang berimplikasi pada prinsip imparialitas dan independensi peradilan. Penelitian ini bertujuan untuk menganalisis bentuk dan dinamika konflik peran hakim dalam praktik, serta implikasinya terhadap pelaksanaan mediasi peradilan di Indonesia. Penelitian ini menggunakan pendekatan yuridis empiris dengan studi kasus di Pengadilan Agama Curup, melalui analisis data perkara dan wawancara dengan hakim mediator. Hasil penelitian menunjukkan bahwa konflik peran merupakan fenomena nyata yang dirasakan hakim, khususnya ketika menjalankan fungsi mediasi dan kemudian mengadili perkara yang sama. Meskipun

demikian, konflik tersebut tidak secara langsung mengganggu imparialitas hakim, karena diatasi melalui internalisasi etika profesi dan komitmen terhadap independensi. Namun, temuan ini juga mengungkap bahwa efektivitas mediasi peradilan masih sangat bergantung pada integritas individu hakim dan belum sepenuhnya didukung oleh desain kelembagaan yang optimal. Penelitian ini berkontribusi secara teoretis dengan menempatkan konflik peran hakim sebagai karakter inheren yang dikelola dalam sistem penyelesaian sengketa hibrid, serta menegaskan pentingnya pendekatan yang mempertimbangkan interaksi antara norma, struktur, dan aktor dalam pengembangan *court-annexed mediation* di Indonesia sebagai bagian dari isu global.

**Keywords:** Konflik Peran; Hakim; Mediator; Ajudikator; Pengadilan Agama.

## Introduction

In recent decades, judicial systems in various countries have undergone significant transformations in their dispute resolution mechanisms, one of which has been the development of court-annexed mediation—that is, mediation integrated into the judicial process. This mechanism is viewed as a tool to reduce case backlogs, expedite dispute resolution, and promote more participatory and agreement-oriented resolutions among the parties.<sup>1</sup> Within this framework, the court no longer functions solely as an adjudicative institution that issues rulings, but also as a space for facilitating dispute resolution through non-adjudicative approaches.<sup>2</sup> This change indirectly expands the role of

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<sup>1</sup> Ana Gurieli, "Institutions of Court Settlement and Judicial/Court-Annexed Mediation as Part of the Unified System of Justice," *Law and World* 6, no. 15 (2020): 12–18, <https://doi.org/10.36475/6.2.2>.

<sup>2</sup> Peter Grajzl et al., "Does Court-Annexed Mediation Facilitate Case Disposition? Evidence from Civil and Commercial Lawsuits," *International Review of Law and Economics* 85 (March 2026): 106307, <https://doi.org/10.1016/j.irle.2025.106307>.

judges, who in certain practices act not only as adjudicators but also as mediators in the dispute resolution process.<sup>3</sup>

This expansion of functions has sparked academic discourse regarding the potential for role conflict within the judicial profession. As adjudicators, judges are required to maintain independence and impartiality in examining and adjudicating cases.<sup>4</sup> However, when judges also act as mediators, they are required to facilitate communication among the parties, help them find common ground, and encourage the achievement of a peaceful settlement.<sup>5</sup> The differing nature of these two functions raises questions regarding the boundaries of a judge's role in the modern judicial system, particularly concerning how to uphold the principle of judicial neutrality when a judge is actively involved in the mediation process. Therefore, the phenomenon of judges acting as mediators has become a significant issue in the study of civil procedure law and socio-legal research on judicial practices.<sup>6</sup>

In Indonesia, the integration of mediation into the judicial process is a policy institutionally promoted to enhance the effectiveness of case resolution. In principle, every civil case filed in court must first undergo a mediation stage before proceeding to the main trial.<sup>7</sup> In practice, such mediation may be conducted by either a judge-mediator or a non-judge mediator who has obtained certification. The presence of non-judge mediators is intended to expand options for the parties and reduce the

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<sup>3</sup> Lenka Dušková and Jan Holas, "The Role of Judges at the Pre-Mediation Stage of Court-Annexed Mediation: A Case Study of the Situation in the Czech Republic," *Hungarian Journal of Legal Studies*, *Hungarian Journal of Legal Studies* 63, no. 4 (2023), <https://doi.org/10.1556/2052.2023.00403>.

<sup>4</sup> Yuri A. Tsvetkov, "The Independence of the Judges in the Governance of the Judicial System," *Russian Journal of Legal Studies (Moscow)* 6, no. 1 (2019): 73–88, <https://doi.org/10.17816/RJLS18472>.

<sup>5</sup> Ana Gurieli, "Judge as a Mediator," *Law and World* 5, no. 11 (2019): 45–56.

<sup>6</sup> Dely Bunga Saravistha, "Peran Ganda Hakim Sebagai Mediator Bagi Penyelesaian Perkara Perdata Di Pengadilan Terkait Kode Etik Profesi," *Jurnal Ilmiah Raad Kertha* 3, no. 1 (2020): 27–31, <https://doi.org/10.47532/v0pydx06>.

<sup>7</sup> Ibnu Akbar Maliki et al., "The Mediation Existence and Opportunities of State Administrative Court in Supreme Court Regulation," *As-Siyasi: Journal of Constitutional Law* 4, no. 1 (2024): 1–18, <https://doi.org/10.24042/as-siyasi.v4i1.21667>.

burden on judges in performing mediation functions.<sup>8</sup> However, in practice across various courts, judges remain the primary actors in the conduct of mediation.<sup>9</sup>

This phenomenon is also evident in the practices at the Curup Religious Court. Case intake data up to March 2026 indicates that the total number of cases filed reached 177, with divorce lawsuits being the most dominant type, amounting to 122 cases.<sup>10</sup> The high number of cases underscores the importance of the mediation mechanism as a tool to facilitate faster and more efficient dispute resolution. However, from the perspective of mediation practitioners, judges still dominate the role of mediator. Of the total ten available mediators, only four are non-judge mediators, while the rest are judges.<sup>11</sup> This situation indicates that, in practice, judges not only perform adjudicative functions but also actively carry out mediation functions in the case resolution process.

This dominance of judges as mediators warrants further examination, particularly in the context of potential role conflicts that may arise between adjudicative and mediation functions. On one hand, the involvement of judges as mediators can enhance the effectiveness of dispute resolution because judges possess a deep understanding of the legal aspects of the case.<sup>12</sup> However, on the other hand, this dual role also raises questions regarding how to maintain professional distance between the process of facilitating an agreement and the decision-making process, which must be based on the principles of independence and

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<sup>8</sup> Yahya Abdul Habib and Dadang Supriyatna, "The Role of Mediators in Assisting in Settlement Civil Cases in Court," *International Journal of Business, Law, and Education* 5, no. 2 (2024): 1788–98, <https://doi.org/10.56442/ijble.v5i2.739>.

<sup>9</sup> Anton Afrizal Candra, "The Role of Judge Mediator and Non-Judge Mediator in Heirs Dispute Resolution at Religious Court Pekanbaru," *Proceeding of The 3rd Internasional Conference on Islamic Law in Indonesia* (Samarinda), 2018.

<sup>10</sup> Badan Peradilan Agama Mahkamah Agung RI, "Bank Data Perkara Peradilan Agama," Kinsatker Badilag, 2026, [https://kinsatker.badilag.net/Dash\\_page\\_perkaraditerima/perkara\\_persatker\\_detail/308021](https://kinsatker.badilag.net/Dash_page_perkaraditerima/perkara_persatker_detail/308021).

<sup>11</sup> Pengadilan Agama Curup, "Daftar Mediator Pengadilan Agama Curup Kelas 1B," *PA-Curup.Go.Id*, 2025, <https://www.pa-curup.go.id/pacurupnew/layanan-hukum/mediasi/daftar-mediator>.

<sup>12</sup> Ibnu Akbar Maliki and Lisna Mualifah, "Persepsi Pelaku Perceraian Terhadap Cerai Di Luar Pengadilan Agama," *El-Izdiwaj: Indonesian Journal of Civil and Islamic Family Law* 3, no. 2 (2022), <https://dx.doi.org/10.24042/el-izdiwaj.v3i2.14089>.

impartiality.<sup>13</sup> In this context, the practice of court-based mediation is not merely a procedural matter but is also closely tied to the dynamics of the judge's role within the modern judicial system.

Although court-based mediation has been the focus of various legal studies, research specifically highlighting the conflict of the judge's role as both adjudicator and mediator remains relatively limited and tends to develop along several main trends. First, a number of studies position court-based mediation as a policy instrument to enhance the effectiveness of dispute resolution and reduce case backlogs in courts, as done by Majid<sup>14</sup>, Setyowati<sup>15</sup>, and Turatmiyah.<sup>16</sup> Second, studies by Huda<sup>17</sup> and Sukaenah<sup>18</sup> place greater emphasis on normative and institutional aspects, particularly regarding the regulatory framework for court-based mediation, the roles of judicial and non-judicial mediators, and the implementation of mediation procedures within the civil justice system. Third, there are also studies that highlight the practical dimensions of court-based mediation, particularly regarding factors influencing mediation success, such as mediator competence, case

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<sup>13</sup> Lilik Mufidah, "Problematika Penunjukan Hakim Pemeriksa Perkara Sebagai Mediator Pada Sidang Keliling (Studi Kasus Pengadilan Agama Banjarnegara Kelas IA)" (Skripsi, Institut Agama Islam Negeri Purwokerto, 2020), <https://repository.uinsaizu.ac.id/9258>.

<sup>14</sup> Saiful Majid et al., "Effectiveness of Dispute Resolution in Religious Courts Through Mediation by Non-Judge Mediators Within Banten," *Jurnal Hukum Dan Peradilan* 13, no. 2 (2024): 251–74, <https://doi.org/10.25216/jhp.13.2.2024.251-274>.

<sup>15</sup> Ro'fah Setyowati et al., "Effectiveness of Mediation in the Dispute Resolution of Islamic Economics in Indonesian Religious Courts," *Journal of Islamic Law Studies* 2, no. 3 (2021), <https://scholarhub.ui.ac.id/jils/vol2/iss3/7>.

<sup>16</sup> Sri Turatmiyah et al., "The Ineffectiveness of Mediation in Divorce Disputes: A Case Study in the Palembang Religious Court," *Asy-Syir'ah: Jurnal Ilmu Syari'ah Dan Hukum* 56, no. 2 (2022): 351–77, <https://doi.org/10.14421/ajish.v56i2.1232>.

<sup>17</sup> Afiful Huda and Wulan Permata Sari, "The Position and Role of the Supreme Court in Fostering Religious Courts as Part of the National Legal System: (Review of PERMA Number 5 of 2019)," *VRISPRAAK: International Journal of Law* 9, no. 1 (2025): 43–57, <https://doi.org/10.59689/vris.v9i1.1151>.

<sup>18</sup> Sukaenah Sukaenah et al., "The Effectiveness of Indonesia Supreme Court Regulation Number 1 Year 2016 Concerning Mediation of Marriage Disputes," *International Journal of Contemporary Islamic Law and Society* 2, no. 1 (2020): 63–80, <https://doi.org/10.24239/ijcils.Vol2.Iss1.15>.

characteristics, and the parties' attitudes during negotiations. These studies were conducted by Rendi<sup>19</sup>, Latifiani<sup>20</sup>, and Latifah.<sup>21</sup>

However, most of these studies have not specifically examined the issue of role conflict that arises when judges perform dual functions as adjudicators and mediators within a single dispute resolution system. Therefore, this study offers a novel approach by placing judicial mediation practices within the framework of judicial role conflict analysis, examining how adjudication and mediation functions are carried out simultaneously by judges in the resolution of civil cases, as well as how these dynamics are reflected in practices within the religious court system, specifically at the Curup Religious Court as an empirical case study.

Based on this background, this study aims to analyze the role conflict of judges as adjudicators and mediators in the resolution of civil cases in Indonesia, using a case study of mediation practices at the Curup Religious Court. This study is expected to provide an overview of how judges' dual roles are carried out in judicial practice and their implications for the principles of neutrality and the effectiveness of dispute resolution within the religious court system.

This is a field study employing a qualitative approach aimed at exploring and understanding the subjective experiences of judges who perform dual roles at the Curup Religious Court. This study utilizes two types of data sources: primary data obtained directly from informants through in-depth interviews, specifically the judges of the Curup Religious Court. This data was collected through in-depth interviews designed to explore the judges' experiences and perceptions regarding

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<sup>19</sup> Muhammad Rendi, "Determining Factors of Mediator's Success in Metro Religious Courts," *Jurnal Multidisiplin Sahombu* 1, no. 02 (2022): 47-51, <https://doi.org/10.58471/jms.v1i02.111>.

<sup>20</sup> Dian Latifiani, "Contributing Factors of Mediation Failure in the Tribunal in Divorce Cases," *South East Asia Journal of Contemporary Business, Economics and Law* 15, no. 4 (2018).

<sup>21</sup> Latifah et al., "The Importance of Mediation in Settlements of Divorce Cases in Religious Courts," *UNIRA Law Journal* 2, no. 1 (2023), <http://36.88.105.228/index.php/lawjournal/article/view/2077>.

the dual roles they perform.<sup>22</sup> Secondary data consists of supporting documentation in the form of official records intended to reinforce the findings derived from primary data. This study was conducted at the Curup Religious Court, Rejang Lebong Regency, Bengkulu Province, Indonesia. The data collection techniques used in this study include interviews, observation, and documentation.

The data analysis process begins with data reduction, where data obtained from interviews is simplified by grouping, sorting, and selecting relevant data in accordance with the research focus. This is followed by data presentation, where the reduced data is then presented in the form of narratives, tables, charts, or diagrams to illustrate the relationships between themes and emerging phenomena, and concludes with drawing conclusions, where the researcher interprets the data to extract the essential meaning of the phenomena under study. These conclusions are then verified by cross-checking with informants or using triangulation techniques to ensure the validity and credibility of the findings.

## Discussion

### **Court-Annexed Mediation and the Expanding Role of Judges in Indonesia**

In the evolution of the modern judicial system, dispute resolution mechanisms no longer rely exclusively on formal, judgment-based adjudication processes. One significant development in this context is the emergence of court-annexed mediation, which is mediation integrated into the judicial system as part of the case resolution process.<sup>23</sup> Unlike mediation conducted outside the court, court-annexed mediation has institutional characteristics because it is carried out within a procedural framework determined by the court. The primary objectives of this mechanism are to enhance the efficiency of dispute resolution, reduce the caseload in courts, and promote the achievement of solutions that are more participatory and oriented toward mutual agreement among the

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<sup>22</sup> Sugiyono, *Metode Penelitian Pendidikan Pendekatan Kuantitatif, Kualitatif, Dan R&D* (Alfabeta, 2014).

<sup>23</sup> Muhammad Drs Nasrul et al., "Court-Annexed Mediation in Malaysia: Prospect and Challenges," *Proceeding of the 4th International Islamic Business Management Conference* (Malaysia), 2022.

parties.<sup>24</sup> In global practice, the integration of mediation into the judicial system also reflects a paradigm shift from the court as an adjudicative body to an institution functioning as a dispute resolution hub (dispute resolution hub).<sup>25</sup>

In line with this global trend, Indonesia has also adopted mediation mechanisms within the judicial system as an integral part of the civil case resolution process. Court-based mediation is positioned as a mandatory stage that must be completed before a case is further examined through the adjudication process. This policy fundamentally aims to expedite case resolution, reduce case backlogs, and provide parties with the opportunity to reach a more flexible settlement compared to a court ruling that is win-lose in nature.<sup>26</sup> Thus, mediation is not merely positioned as an alternative but as an integral part of civil procedural law in Indonesia. This integration reflects the recognition that effective dispute resolution does not necessarily have to culminate in a judicial ruling but can be achieved through an agreement between the parties facilitated by a mediator.<sup>27</sup>

Within the institutional framework, the implementation of mediation in Indonesian courts involves two categories of mediators: judges serving as mediators and certified non-judge mediators. The presence of non-judge mediators is intended to expand access to more professional and participatory dispute resolution, while simultaneously reducing the burden on judges in performing mediation functions. Non-judge mediators are generally viewed as having a more flexible and communicative approach, as they are not directly bound by adjudicative

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<sup>24</sup> Rhem Rick N. Corpuz et al., "Assessing The Efficacy of Court-Annexed Mediation in Dispute Resolution Within Angeles City," *EPRA International Journal of Multidisciplinary Research (IJMR)* 9, no. 11 (2023), <https://doi.org/10.36713/epra2013>.

<sup>25</sup> Hamis T. Hamisi, "Court-Annexed Mediation In Tanzania: Successes, Challenges And Prospects," *International Journal of Innovative Research and Advanced Studies (IJIRAS)* 9, no. 11 (2022).

<sup>26</sup> Endang Hadrian, "Optimizing the Implementation of Mediation to Overcome Civil Case Backlog in Indonesia," *South East Asia Journal of Contemporary Business, Economics and Law* 20, no. 5 (2019).

<sup>27</sup> Benny Riyanto et al., "The Repositioning Mediation Court Model in Civil Dispute Resolution with Justice," *IOP Conference Series: Earth and Environmental Science* 175, no. 1 (2018): 012183, <https://doi.org/10.1088/1755-1315/175/1/012183>.

functions.<sup>28</sup> Conversely, judge mediators have an advantage in understanding the legal aspects of a case, but they also carry the formal and authoritative character inherent in judicial functions.<sup>29</sup> These differing characteristics indicate that, conceptually, there is a division of roles intended to create a balance in the implementation of court-based mediation.

However, in practice, judges remain the dominant actors in the implementation of mediation in many courts. This situation stems from the limited number of non-judge mediators, as well as institutional preferences that still place judges at the center of the entire case resolution process. Consequently, judges not only perform the adjudicative function as the party examining and deciding cases but also perform the mediation function as facilitators in the negotiation process between the parties.<sup>30</sup> This phenomenon reflects the expansion of the judge's role in the modern judicial system, which is no longer limited to the function of a decision maker but also encompasses the role of a problem solver and facilitator of dispute resolution.

This expansion of roles aligns with the concept of the multi-door courthouse that has emerged in legal studies, where courts provide various dispute resolution mechanisms within a single institution. Within this framework, judges are expected not only to focus on rendering judgments but also to be able to promote peaceful dispute resolution through mediation.<sup>31</sup> This situation gives rise to what the literature refers to as the hybrid judicial function, namely the combination of adjudicative

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<sup>28</sup> Mardalena Hanifah and Meidana Pascadinianti, "Function of Non-Judge Mediators in Divorce Settlement Through Religious Courts," *Unnes Law Journal* 9, no. 2 (2023): 377–418, <https://doi.org/10.15294/ulj.v9i2.37200>.

<sup>29</sup> M. Akmal Marzuqin et al., "The Judge Mediator in Contemporary Divorce Cases in Indonesian Religious Courts," *USRATY: Journal of Islamic Family Law* 3, no. 2 (2025): 199–211, <https://doi.org/10.30983/usraty.v3i2.10222>.

<sup>30</sup> Hasmawati Hasmawati and Muhammad Akbar Fhad Syahril, "The Effectiveness of Mediation Process to Press Divorce Rates," *Amsir Law Journal* 1, no. 2 (2020): 78–84, <https://doi.org/10.36746/alj.v1i2.26>.

<sup>31</sup> Michal Malacka, "Multi-Door Courthouse Established Through the European Mediation Directive?," *International and Comparative Law Review* 16, no. 1 (2017): 127–42, <https://doi.org/10.1515/iclr-2016-0009>.

and non-adjudicative functions within a single institutional role.<sup>32</sup> While this concept offers flexibility and efficiency in dispute resolution, it also raises fundamental questions regarding the boundaries of a judge's role within the judicial system.

Conceptually, adjudicative and mediation functions have fundamentally different characteristics. Adjudication positions the judge as a neutral and passive party who decides cases based on the facts and law presented by the parties. In this function, the principles of independence and impartiality serve as the primary foundations that must be upheld.<sup>33</sup> Conversely, mediation requires the active role of the mediator in facilitating communication, exploring the parties' interests, and assisting them in reaching an agreement. The mediator is not merely neutral but actively engages in the dynamics of the parties' interactions, and within certain limits may even offer suggestions or settlement options.<sup>34</sup> These differing characteristics indicate that combining these two functions into a single role—that of a judge serving as both adjudicator and mediator—has the potential to create normative and practical tensions.

This potential tension is then formulated in the concept of judicial role conflict, which, in the context of this study, is described as a condition where a judge faces demands from different roles that are potentially conflicting. In the context of court-annexed mediation, role conflict may arise when a judge acting as a mediator obtains informal or sensitive information from the parties that should not be used in the adjudication process. Furthermore, a judge's involvement in the mediation process can also influence the parties' perceptions of the judge's neutrality, particularly if mediation fails and the case proceeds to the trial phase. In

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<sup>32</sup> Rohmad Agus Solihin and Imron Fauzi, "Community, Court, and Conciliation: Designing a Hybrid Mediation Model for Islamic Divorce Adjudication," *Asy-Syir'ah: Jurnal Ilmu Syari'ah Dan Hukum* 59, no. 2 (2025): 214–30, <https://doi.org/10.14421/ajish.v59i2.1619>.

<sup>33</sup> Aloysius Wisnubroto et al., "The Active Judge System in the Adversary Model: Prospects for Its Application in Indonesia," *International Journal of Science and Environment (IJSE)* 5, no. 4 (2025): 46–54, <https://doi.org/10.51601/ijse.v5i4.239>.

<sup>34</sup> Nirwan Junus et al., "Integration of Mediation in Divorce Cases Reviewed from Supreme Court Regulation on Court Mediation Procedures," *Jambura Law Review* 6, no. 1 (2024): 183–205, <https://doi.org/10.33756/jlr.v6i1.19370>.

such situations, the boundary between the role of a facilitator of agreement and that of a decision-maker becomes increasingly blurred.

Thus, the integration of mediation into the judicial system carries implications not only for procedural aspects but also for the dynamics of the judge's role in performing judicial functions. Expanding the judge's role as a mediator, on the one hand, can enhance the effectiveness of dispute resolution, but on the other hand, it also opens the door to issues regarding the independence, impartiality, and integrity of the judicial process. Therefore, a study of court-annexed mediation cannot be separated from an analysis of how the judge's role is constructed and carried out in practice, as well as how the judicial system responds to potential conflicts arising from this dual role.

### Mediation Practices at the Religious Court of Curup

Praktik mediasi di Pengadilan Agama Curup tidak dapat dilepaskan dari karakteristik dan volume perkara yang ditangani oleh pengadilan tersebut. Data hingga bulan Maret 2026 menunjukkan bahwa jumlah perkara yang diterima mencapai 177 perkara, dengan dominasi perkara cerai gugat sebanyak 122 perkara. Berikut ini adalah tabel penerimaan perkara di Pengadilan Agama Curup.

Table 1. Summary of Cases Filed in 2026 in the Jurisdiction of the Curup Religious Court

No	Type of Case	Number of Cases
1	Permission for Polygamy	0
2	Guardianship	3
3	Child's Paternity	7
4	Marriage Validation	10
5	Marriage Dispensation	9
6	Adhol Guardian	0
7	P3HP/Determination of Heirs	4
8	Hibah/Gift	0
9	Inheritance	2
10	Annulment of Marriage	1
11	Divorce by Repudiation	18
12	Divorce by Litigation	122

13	Joint Property	0
14	Custody of Children	1
15	Child Support by Mother due to Father's Inability	0
16	Revocation of Parental Authority	0
17	Islamic Finance	0
18	Others	0
Total		177

Source: Performance of the Religious Courts Agency's Work Units (Kinerja Satuan Kerja Badan Peradilan Agama).<sup>35</sup>

The high proportion of divorce cases indicates that the disputes handled by the Curup Religious Court largely concern family relationships that are personal and emotional in nature. Unlike civil disputes in general, which are oriented toward economic interests, divorce cases often involve complex psychological, social, and even cultural aspects, thus requiring a resolution approach that is not solely based on legal rulings.<sup>36</sup>

In this context, mediation holds a highly strategic position as a mechanism enabling the parties to resolve disputes peacefully while considering each party's interests in a more flexible manner. Normatively, mediation is expected to reduce conflict escalation and foster constructive dialogue between the parties.<sup>37</sup> However, in practice, the high volume of divorce cases can also pose a unique challenge to the effectiveness of mediation, given that conflicts that have reached the litigation stage are generally already at a high level of tension.<sup>38</sup> Therefore, the urgency of mediation at the Curup Religious Court lies not

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<sup>35</sup> Badan Peradilan Agama Mahkamah Agung RI, "Bank Data Perkara Peradilan Agama."

<sup>36</sup> Ibnu Akbar Maliki et al., "Rekonsepsi Amicable Divorce (Cerai-Damai) Berbasis Paradigma Mubadalah: Upaya Mewujudkan Keadilan Gender dalam Hukum Perceraian Indonesia," *Syakhshiyah Jurnal Hukum Keluarga Islam* 5, no. 2 (2025): 191-216, <https://doi.org/10.32332/n3tg7n90>.

<sup>37</sup> Alfian Muhammadiyah et al., "Transformative Court-Annexed Mediation in Divorce Cases: A Legal System Perspective on the 100% Settlement Rate at the Tondano Religious Court," *Antmind Review: Journal of Sharia and Legal Ethics* 2, no. 2 (2025): 118-30.

<sup>38</sup> Zavira Aulia and Mia Mia, "Implications of Implementing Mediation as a Means of Divorce Case Settlement," *Jurnal Ilmiah Advokasi* 12, no. 1 (2024): 139-44, <https://doi.org/10.36987/jiad.v12i1.5653>.

only in efforts to reduce the caseload but also in its ability to address the complex and sensitive nature of the disputes.

The implementation of mediation at the Curup Religious Court is supported by the presence of mediators comprising two categories: judge mediators and non-judge mediators. The following is the composition of mediators at the Curup Religious Court.

Table 2. Mediators at the Curup Religious Court Class IB

No	Name	Certificate Number	Remarks
1	Waluyo, S.Ag., M.H.I.	30/BLD/MA-RI/Mediator/2023	Judge Mediator
2	Tibyani, S.Ag., M.H.	38/Bld/MA RI/2014	Judge Mediator
3	Dra. Nurmalis M	-	Judge Mediator
4	Ayu Mulya, S.HI., M.H.	No.506/Bld/MA-RI/Mediator/2019	Judge Mediator
5	Endah Tiara Furi, S.H.I., M.H.	413/Bld/MA-RI/Mediator/2019	Judge Mediator
6	Pinta Zumrotul Izzah, S.H.I.,M.H.	1423/Bld/MA-RI/Mediator/2019	Judge Mediator
7	Zelpyanti, S.H., CPM	1094/A/A/MEDIASI-XXXVI/PPI/XII/2022	Non-Judge Mediator
8	M. Mahdi Rizki Saputra, S.H., CPM	2032/A/MEDIASI-LX/IPPI/VI/2022	Non-Judge Mediator
9	Rio Agustian, S.H., CPM	2037/A/MEDIASI-LX/IPPI/VI/2022	Non-Judge Mediator
10	Wina Purnamasari, S.H.,M.H., CPM	2040/A/MEDIASI-LX/IPPI/VI/2022	Non-Judge Mediator

Source: Case Tracking Information System of the Curup Religious Court (Sistem Informasi Penelusuran Perkara Pengadilan Agama Curup).<sup>39</sup>

Based on available data, there are ten registered mediators, comprising six judge-mediators and four non-judge mediators. Quantitatively, this composition indicates that judges still dominate the role of mediator in the dispute resolution process at this court. This situation reflects that, although normatively there is room for non-judge

<sup>39</sup> Pengadilan Agama Curup, “Daftar Mediator Pengadilan Agama Curup Kelas 1B.”

mediators to participate, in practice this role has not yet been fully optimized.

The dominance of judge-mediators in mediation practice can be understood from several perspectives. On one hand, judges possess institutional legitimacy and a deep understanding of the legal aspects of cases, making them considered capable of effectively facilitating the mediation process. On the other hand, the limited number of non-judge mediators also indicates obstacles in developing a more professional and independent mediation mechanism. Consequently, the implementation of mediation remains heavily reliant on the judge's role, who simultaneously bears the primary responsibility in the adjudication process. This situation indirectly reinforces the tendency toward judges assuming dual roles in dispute resolution, where judges function not only as decision-makers but also as facilitators in negotiations between the parties.

Normatively, the conduct of mediation in court has a fairly clear procedural framework based on PERMA No. 1 of 2016 on Mediation, ranging from the appointment of a mediator to the negotiation stages between the parties.<sup>40</sup> However, mediation practices at the Curup Religious Court indicate that implementation on the ground does not fully proceed in a linear manner as stipulated in formal regulations. In practice, mediation is often influenced by the dynamics of the parties, the nature of the case, and the approach used by the mediator.

In divorce cases, which dominate the caseload, the mediation process generally faces a situation where the relationship between the parties has already suffered a significant breakdown. This results in a relatively narrow scope for compromise, meaning mediation does not always lead to a peaceful settlement. Nevertheless, mediators continue to perform a facilitative role by encouraging dialogue and attempting to identify potential common ground, whether in the form of reconciliation or agreements regarding specific aspects such as child custody or the

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<sup>40</sup> Rahma Pramudya Nawangsari and Citra Widyasari S, "Evolution of SEMA 2002 to PERMA 2016: Mediation and Its Function in Family Problem Solving," *Al-Hurriyah: Jurnal Hukum Islam* 10, no. 1 (2025): 34–54, <https://doi.org/10.30983/al-hurriyah.v10i1.9248>.

division of responsibilities.<sup>41</sup> In this context, mediation is understood not only as a means to achieve full reconciliation but also as a space to narrow the scope of the conflict and clarify the parties' positions before the case proceeds to the adjudication stage.

Furthermore, mediation practice also demonstrates variations in the approaches used by mediators, particularly judicial mediators. In some cases, the mediator does not merely act as a passive facilitator but also takes a more active role in guiding the course of negotiations. This approach may involve providing advice, emphasizing certain values, or making persuasive efforts to encourage the parties to reach an agreement.<sup>42</sup> These variations in approach demonstrate that mediation practice in the field is contextual and highly dependent on the mediator's style and experience in handling cases.

In practice at the Curup Religious Court, judges not only perform adjudicative functions but also actively serve as mediators in the dispute resolution process. This role places judges in a position distinct from their traditional function as the party examining and deciding cases based on applicable law. As a mediator, the judge is required to facilitate communication between the parties, foster a conducive atmosphere for dialogue, and assist them in finding a mutually acceptable solution.

In fulfilling this role, the judge often employs an approach that is not merely legalistic but also considers social, psychological, and even religious values relevant to the nature of the case within the religious court system. This approach is evident in the judge's efforts to provide counsel, remind the parties of the consequences of divorce, and encourage the creation of an agreement that is not only legally valid but also morally and socially acceptable.<sup>43</sup> Thus, the judge, in their capacity as a mediator, is no longer in a passive position but becomes a fairly active actor in shaping the direction of dispute resolution.

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<sup>41</sup> Wawancara dengan Pinta Zumrotul Izzah, S.H.I., M.H. selaku Hakim Mediator di Pengadilan Agama Curup

<sup>42</sup> Wawancara dengan Ayu Mulya, S.H.I., M.H. selaku Hakim Mediator di Pengadilan Agama Curup

<sup>43</sup> Wawancara dengan Endah Tiara Furi, S.H.I., M.H. selaku Hakim Mediator di Pengadilan Agama Curup

However, the judge's active involvement in the mediation process also indicates a significant expansion of their role. Judges do not merely act as interpreters and enforcers of the law but also as facilitators directly engaged in the dynamics of the parties' interactions. This situation demonstrates that, in practice, the boundary between adjudicative and mediation functions is becoming increasingly flexible, and in some situations, tends to overlap.

### **Judicial Role Conflict in Civil Dispute Resolution**

The role of judges in Indonesia's court-annexed mediation system is no longer limited to adjudication but also includes facilitation through mediation.<sup>44</sup> While this expanded role contributes to the effectiveness of dispute resolution, it also creates opportunities for judicial role conflict. Based on interviews with judges at the Curup Religious Court, this phenomenon of role conflict is not merely conceptual but is directly experienced in daily practice.

Generally, the judges acknowledge that fulfilling dual roles as both adjudicator and mediator is an inseparable professional requirement within the current judicial system. The high caseload that must be handled daily, whether in the form of trials or mediation, intensifies this dual role. Judge Endah Tiara Furi, one of the judge-mediators, stated that *"every day there are always case files coming in, whether for adjudication or mediation,"* indicating that both functions are carried out simultaneously in the judges' daily routines.<sup>45</sup> This situation confirms that dual roles are not an incidental occurrence but have become an inherent part of judicial practice.

In this context, judges also acknowledge experiencing subjective dilemmas or role conflicts when shifting from the role of mediator to that of adjudicator, or vice versa. One judge-mediator, Ms. Ayu Mulya, noted that *"sometimes I also feel a conflict when performing these alternating*

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<sup>44</sup> Jelyna Basri et al., "The Legal Validity of Mediation in Marriage Annulment Cases Without the Respondent's Presence Under Supreme Court Regulation No. 1 of 2016," *Sakina: Journal of Family Studies* 9, no. 3 (2025): 343–55, <https://doi.org/10.18860/jfs.v9i3.18261>.

<sup>45</sup> Interview with Endah Tiara Furi, S.H.I., M.H., Mediator Judge at the Curup Religious Court

roles.” She also stated that “sometimes I also feel a conflict when performing these alternating roles.”<sup>46</sup> A similar statement was made by Ms. Pinta Zumrotul Izzah, who explicitly stated that “*for me personally, there certainly is*” a dilemma in carrying out these roles.<sup>47</sup> This acknowledgment demonstrates that role conflict is not merely a theoretical assumption but a reality experienced by judges in practice.

Nevertheless, the perceived role conflict is not always viewed as an obstacle that disrupts a judge’s primary function in adjudicating cases. Judges consistently assert that independence and neutrality can still be maintained even while fulfilling dual roles. Ms. Ayu Mulya stated that “*there is no difficulty in maintaining independence when adjudicating cases, because independence is already an absolute requirement.*”<sup>48</sup> This statement indicates a strong professional commitment to upholding the integrity of the adjudicative role, while also reflecting that the role conflict that arises is more internal or personal in nature, rather than having a direct impact on the quality of rulings.

From a broader perspective, the role conflict experienced by judges can be understood as a consequence of the differing nature of the adjudicative and mediation functions. The adjudicative function requires judges to be neutral, objective, and focused on the application of the law, whereas the mediation function demands more active involvement in facilitating communication and encouraging the parties to reach an agreement. This difference creates a space for tension when both functions are performed by the same individual in a closely related context. In practice at the Curup Religious Court, this tension is increasingly felt due to the high caseload and limited available resources.

Additionally, the heavy workload also serves as a factor that exacerbates the potential for role conflict. Judges acknowledge that the number of cases handled often exceeds ideal capacity, resulting in significant time pressure and workload. Ms. Endah Tiara Furi noted that

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<sup>46</sup> Interview with Ayu Mulya, S.H.I., M.H., Mediator Judge at the Curup Religious Court

<sup>47</sup> Interview with Pinta Zumrotul Izzah, Mediator Judge at the Curup Religious Court

<sup>48</sup> Interview with Ayu Mulya, S.H.I., M.H., Mediator Judge at the Curup Religious Court

“the number of cases we handle does indeed often exceed the ideal capacity of a judge. This time pressure and volume are the primary sources of the dilemma”.<sup>49</sup> This situation indicates that role conflict is not only related to normative aspects but is also influenced by structural factors within the judicial system.

On the other hand, judges also demonstrated strategies for managing these role conflicts. One of the primary approaches employed is reaffirming the principle of independence as a foundational value in the judicial profession. Independence is not merely understood as a normative obligation but also as a personal commitment that must be upheld in every situation. Additionally, the training provided to judges as mediators is considered helpful in performing mediation functions professionally. Judges stated that they feel competent in performing the role of mediator and are able to help the parties reach an optimal agreement.

Furthermore, judges also view mediation as having positive value in dispute resolution, both in terms of effectiveness and the sustainability of outcomes. Mediation is seen as providing greater space for the parties to communicate and reach a more satisfactory agreement compared to a court ruling. In some cases, mediation is even considered more effective in comprehensively resolving disputes, although it does not always significantly reduce the caseload. This perspective indicates that judges do not merely conduct mediation as a procedural obligation but also as part of a substantive effort to resolve disputes.

Nevertheless, the existence of role conflict remains an aspect that cannot be ignored. Although judges claim to be able to maintain their independence, experiences of dilemmas and role conflicts indicate that the integration of adjudicative and mediation functions within a single role is not entirely free from tension. In this context, role conflict can be understood as a phenomenon that does not necessarily need to be eliminated, but must be professionally managed within the framework of the existing judicial system. In other words, the court-annexed mediation

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<sup>49</sup> Interview with Endah Tiara Furi, S.H.I., M.H., Mediator Judge at the Curup Religious Court

system in Indonesia depends not only on institutional design but also on the individual capacity of judges to navigate this dual role.

Thus, the findings of this study indicate that the role conflict of judges as adjudicators and mediators is a tangible phenomenon in dispute resolution practices at the Curup Religious Court. This conflict arises as a consequence of the expanded role of judges in the modern judicial system, which demands a balance between adjudicative and facilitative functions. Although this conflict does not directly undermine a judge's independence in adjudicating cases, its existence nonetheless indicates complex dynamics in the implementation of court-annexed mediation. Therefore, understanding this role conflict is crucial as part of the evaluation of the implementation of court-annexed mediation within Indonesia's judicial system.

### **Implications of Judicial Role Conflict for Court-Annexed Mediation in Indonesia**

Findings regarding the conflict between the judge's roles as adjudicator and mediator in religious court practice in Indonesia, particularly at the Curup Religious Court, have significant implications for the understanding and evaluation of the court-annexed mediation system. This conflict not only reflects the internal dynamics of the judicial profession but also reveals the interconnection between institutional design, structural burdens, and the ethical values underpinning judicial practice. In this context, the implications that emerge can be seen in terms of impartiality, reliance on individual integrity, structural limitations, and the direction of judicial mediation policy development in Indonesia.

One of the main implications relates to the issue of judicial impartiality and the integrity of the judicial process. Based on empirical findings, judges acknowledge the existence of dilemmas or role conflicts when they perform the function of mediator and subsequently as adjudicator in the same case. Nevertheless, they consistently assert that independence can still be maintained and does not face significant disruption. This situation highlights a distinction between actual impartiality and perceived impartiality. In practice, judges may still be able to maintain objectivity in adjudicating cases; however, their prior

involvement in the mediation process has the potential to create a perception of bias, both from the parties involved and from an external perspective.<sup>50</sup> Thus, role conflict does not necessarily lead to a breach of impartiality, but it does raise questions regarding transparency and trust in the judicial process.

The second implication relates to the high dependence of the court-annexed mediation system on the integrity and professionalism of individual judges. Research findings indicate that the role conflicts that arise are not addressed through systematic structural mechanisms, but rather through the judges' personal commitment to maintaining independence and neutrality. Independence is understood not only as a normative obligation but also as an ethical principle that must be internalized in every action.<sup>51</sup> In this context, the success of judicial mediation implementation depends heavily on individual judges' capacity to manage these role tensions.<sup>52</sup> The implication of this condition is that the system tends to be individual-dependent, where the quality of the process is not entirely determined by institutional design, but by the personal qualities of those implementing it. This indicates that although a regulatory framework is in place, its implementation remains heavily influenced by human factors that are not always consistent.

Furthermore, role conflict also reflects structural limitations in the administration of judicial mediation. The heavy caseload handled by judges, as evidenced by the predominance of divorce cases and the continuously increasing number of cases, creates time pressures and an unbalanced distribution of work. Under such conditions, judges are not only required to resolve cases through rulings but also to facilitate

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<sup>50</sup> Sherenika Putri, "Peran Hakim Dalam Menjamin Keseimbangan Hak Dan Kewajiban Para Pihak Dalam Proses Persidangan Perdata," *Sriwijaya Journal of Private Law*, October 20, 2025, 155–64, <https://doi.org/10.28946/sjpl.v2i2.5255>.

<sup>51</sup> Ibnu Akbar Maliki et al., "A Gender-Based Maqashid Sharia Study of Penghulu in Indonesia (A Study of Jasser Auda's Views)," *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat* 23, no. 1 (2023), <https://doi.org/10.19109/nurani.v23i1.16447>.

<sup>52</sup> Ijud Tajudin, "Regulation and Implementation of Indonesian Judicial Independence," *Opción* 35, no. 19 (2019).

resolutions through mediation within a relatively limited timeframe.<sup>53</sup> Additionally, the limited number of non-judge mediators reinforces the judges' dominance in performing mediation functions, making dual roles difficult to avoid. In other words, role conflict is not merely the result of individual choice but also a consequence of a system design that has not yet fully succeeded in optimally distributing mediation functions. This implication suggests that the effectiveness of court-annexed mediation cannot be separated from the structural conditions surrounding it.

The next implication relates to the direction of policy development for court-annexed mediation in Indonesia. Findings regarding role conflict indicate that the integration of adjudication and mediation functions within a single actor has consequences that require more systematic consideration. One implication that can be drawn is the need to strengthen institutional design capable of reducing reliance on judges' dual roles.<sup>54</sup> This can be achieved, for example, by optimizing the role of non-judge mediators, increasing the number and capacity of mediators, and establishing a more proportional case distribution system. Additionally, separating the roles of mediator and adjudicator in specific contexts may also be considered as part of efforts to maintain the integrity of the judicial process. However, these steps should be understood as part of the system development process, not as a correction for existing failures.

The conflict of roles between judges as adjudicators and mediators can be understood as a phenomenon with multidimensional implications for the implementation of court-annexed mediation in Indonesia. This conflict is not only related to individual aspects but also reflects broader structural and institutional conditions. Although it does not directly undermine a judge's independence in adjudicating cases, its existence still indicates room for improvement in the design and implementation of the court-annexed mediation system. Therefore, understanding the

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<sup>53</sup> Jefri Pratama et al., "Career Development Challenges in the Judicial System of Indonesia: A Case Study of Judges and Registrars," *Society* 12, no. 2 (2024): 1035–50, <https://doi.org/10.33019/society.v12i2.779>.

<sup>54</sup> Muhammadiyah et al., "Transformative Court-Annexed Mediation in Divorce Cases."

implications of this role conflict is crucial as a foundation for evaluating and developing more effective, adaptive, and sustainable judicial mediation practices in the future.

## Conclusion

This study demonstrates that the dual role of judges as adjudicators and mediators within the framework of court-annexed mediation in Indonesia inherently gives rise to judicial role conflict, which, in the context of the Curup Religious Court, has proven to be not merely a theoretical construct but an empirical reality directly experienced by judges in the form of dilemmas when shifting between facilitative and adjudicative functions. Nevertheless, this conflict does not significantly undermine judicial impartiality in practice, as judges continue to rely on professional ethics and a commitment to independence as the primary foundation for performing their duties. On the other hand, the persistence of this conflict reveals structural conditions in which the effectiveness of court-annexed mediation remains heavily dependent on the individual integrity of judges and is not yet fully supported by an optimal institutional design.

Within this framework, this study makes a theoretical contribution by positioning the judge's role conflict as an inherent, managed conflict within hybrid dispute resolution systems, particularly those integrating mediation into formal judicial proceedings. Furthermore, these findings confirm that the sustainability and effectiveness of court-annexed mediation are determined not only by legal norms but also by the dynamic interaction between institutional structures, practical burdens, and the adaptive capacity of judicial actors, thereby enriching the global discourse on the multifunctional role of judges in modern judicial systems.

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