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JUDICIAL RECONCILIATION IN FAMILY DISPUTES: THE ROLE OF THE JUDGE AS MUSLIH IN AL-MAWARDI'S THOUGHT

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ABSTRAK

This study examines the role of the judge as a muslih (peacemaker) in divorce proceedings within the legal theory of Imam al-Māwardī. The research investigates how al-Māwardī conceptualizes the judiciary not merely as a body of adjudication but as a moral institution tasked with restoring social harmony through ishlāḥ (reconciliation). Drawing from al-Aḥkām al-Sulṭāniyyah and other classical juridical texts, the paper explores the philosophical and legal foundations of judicial reconciliation in Islamic legal thought. The findings reveal that al-Māwardī's model emphasizes ethical jurisprudence rooted in Qur'anic directives and Prophetic teachings, where justice manifests as both a legal ruling and a relational restoration of rights and societal balance. The study also situates this doctrine in the context of modern Islamic courts, highlighting parallels with mediation processes institutionalized in contemporary family law systems, particularly in Indonesia. However, while the normative legal framework aligns with al-Māwardī's approach, its implementation often remains procedural rather than substantive. The research concludes that revitalizing al-Māwardī's vision requires strengthening the moral and reconciliatory competencies of judges so that the judiciary may function as both arbiter and harmonizer in the pursuit of justice.

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Pendahuluan

Marriage in Islam is widely regarded as a sacred covenant that unites not only two individuals but also two moral commitments grounded in responsibility, compassion, and accountability before God. It is established as a civil-contractual arrangement ('aqd) while also carrying social and ethical expectations aimed at sustaining mutual care, dignity, and stability within family life (Banoo, 2024). In theory, marriage is intended to cultivate a lifelong companionship built on protection, respect, and emotional security. Yet in contemporary Muslim societies—including Indonesia—the lived realities of marital relations do not always reflect these ideals. Conflicts, breakdowns in communication, psychological fatigue, and economic pressures often culminate in dissolution rather than constructive resolution. The consequence of this reality is visible in the steady escalation of divorce rates, which reveals a structural weakening of the marital institution in both its symbolic and functional dimensions (Sharma, 2024).

Indonesia—despite having the largest Muslim population in the world and a historically strong culture of family bonds—has seen a continuous rise in divorce filings in Religious Courts over the past decade. Reports from the Directorate General of the Religious Courts indicate that in 2022 alone, more than 516,000 divorce cases were registered nationwide, marking one of the highest numbers in Southeast Asia (Januari, 2023). This figure corresponds to an average of over 1,400 new divorce petitions being processed per day. What makes this trend particularly striking is that the majority of these cases are initiated by wives, frequently on grounds of persistent discord, abandonment, economic instability, and domestic disharmony (Anekwe, 2024). The escalation in divorce statistics is not merely a legal phenomenon but also an indicator of deeper cracks in interpersonal dynamics and familial resilience.

Although Indonesia's religious judicial system obliges mediation as a preliminary stage in divorce proceedings, in practice this mechanism seldom produces lasting reconciliation. Numerous scholars have observed that mediation tends to be treated as a procedural checkpoint rather than a substantive restorative process (Maryam & Irianto, 2023). Couples often participate in mediation with predetermined intentions, regarding it as a compulsory administrative formality they must endure before their case can proceed to final adjudication. Consequently, mediation fails to function as an institution of interpersonal repair, emotional recalibration, or relational dialogue. Instead of serving as a meaningful effort to reconstruct trust and resolve grievances, it often becomes a brief procedural interlude with little transformative potential.

The inadequacy of contemporary mediation raises a foundational question: to what extent does the Religious Court system fulfill the Islamic legal vision of dispute resolution in family matters? In classical Islamic jurisprudence, the judge (qāḍī) was understood not merely as a legal technician bound to procedural regularities, but as a moral agent tasked with preventing harm by attempting reconciliation before adjudication. This notion is anchored in the broader doctrine of islāḥ—reform, reconciliation, and restoration—which forms an ethical precondition to judicial authority. Unlike modern procedural mediation, islāḥ is not merely a technique but a judicial ethic and duty intrinsic to the judge's office (Safrudin, 2024).

Within this classical conception, Imam al-Māwardī presents one of the most systematic and enduring accounts of the judiciary in Islam. In his al-Aḥkām al-Sulṭāniyyah, he articulates a judicial philosophy that integrates legal rigor with moral stewardship. The judge, according to al-Māwardī, is entrusted with safeguarding the stability of society by preventing the escalation of disputes and by promoting reconciliation wherever possible (A. H. A. Al-Māwardī, 2006). This construction implies that the judicial process is not exhausted by the issuance of verdicts; rather, true judicial excellence lies in forestalling the need for separation and rupture. Marriage disputes, in this framework, are not treated as isolated contractual failures but as social fractures whose resolution implies the possibility of relational repair. Thus, al-Māwardī identifies the judge not merely as qāḍī (adjudicator) but as muslih—a reformer committed to restoring equilibrium and restoring broken relationships through principled conciliation (A. al-Ḥasan Al-Māwardī, 1986).

The tension between this classical judicial ideal and its contemporary court practice generates the underlying legal-theoretical gap that motivates this research. Several contemporary studies highlight the persistence of formalism in the administration of Islamic family law, where dispute resolution is approached primarily as a matter of legal validity and enforceability rather than relational sustainability (Nasution, 2017). Procedural mediation, stripped of substantive moral engagement, cannot adequately embody the judicial ethos envisioned within the Islamic intellectual tradition. The judge's role collapses into a narrowly defined legal function, while the broader social duty of upholding family stability becomes peripheral.

This normative gap invites a reconsideration of al-Māwardī's theory of judicial responsibility. His model positions the judiciary not as a neutral arbiter detached from social outcomes but as an architect of social repair. In marriage disputes, the muslih paradigm requires the judge to assess not only factual claims or contractual breaches but also the relational possibilities of emotional reconciliation. Rather than viewing divorce as an inevitable endpoint of conflict, the classical framework treats it as a last resort, preceded by structured efforts toward reformative engagement. From this perspective, the court is not simply the site of legal dissolution but the frontline institution of social preservation.

In addition to its classical grounding, examining this paradigm has contemporary relevance for institutional reform. The modern Religious Court system in Indonesia is often constrained by caseload pressures, bureaucratic timelines, and textual proceduralism. These constraints make it difficult for judges to operationalize their conciliatory function in a sustained or substantive manner. Yet the persistence of high divorce rates suggests that procedural legality alone is insufficient for addressing marital collapse. Revisiting the role of the judge through al-Māwardī's conceptual lens enables a deeper reflection on the judiciary not as an executor of dissolution but as a moral custodian authorized to intervene in relational breakdowns with the intention of repair.

Therefore, this study seeks to explore and systematize Imam al-Māwardī's conceptualization of the judge as muslih within family dispute adjudication and to assess its normative relevance for the contemporary Religious Court system in Indonesia. It employs a normative-doctrinal legal methodology, analyzing primary classical texts alongside selected modern judicial scholarship. The objective is not to document courtroom procedure empirically but to recover the conceptual foundation of judicial responsibility in Islamic legal thought. By restoring attention to the ethical dimension of islāḥ, this study aims to offer a theoretical contribution to the discourse on family law adjudication that extends beyond administrative formalism and reconnects judicial practice to its formative intellectual heritage.

Ultimately, this research argues that the increasing rates of divorce and the procedural emptiness of mediation reflect a divergence between the classical Islamic conception of justice and its operationalization in modern courts. Through reexamining al-Māwardī's theory, it becomes possible to re-envision the judiciary not as a mechanism for marital finality but as a forum for structured reconciliation. This reconceptualization does not merely preserve the traditional authority of the court but deepens its humanistic and ethical function as envisioned in classical Islamic judicial philosophy.

Method

This study employs a normative legal approach with a library research design, focusing on the examination and interpretation of authoritative scriptural and juridical texts relevant to the role of judges in resolving marital disputes in religious courts. The primary legal sources consist of al-Aḥkām al-Sulṭāniyyah by Imām al-Māwardī, which serves as the principal reference for conceptualizing the judge as a muslih (reconciler), and al-Mustasfā by Imām al-Ghazālī, which reinforces the theoretical foundations from the perspective of uṣūl al-fiqh (principles of Islamic legal theory) (Safrudin, 2024; Sari et al., 2025). In addition, this research incorporates positive legal instruments, specifically Law Number 3 of 2006 on the Religious Courts and the Supreme Court Regulation (Perma) Number 1 of 2016 concerning Court-Annexed Mediation Procedures, as the statutory basis governing reconciliation-oriented judicial practices in Indonesia.

The secondary legal materials include both classical and contemporary fiqh literature addressing the role of the qāḍī, the ethic of iṣlāḥ, and the jurisprudential mechanisms of dispute settlement in Islam, as well as academic books, peer-reviewed journal articles, theses, and dissertations relevant to Islamic judicial mediation. These materials serve as comparative and analytical reinforcements in articulating how al-Māwardī's classical judicial paradigm resonates with or diverges from current implementation in Indonesian religious courts (A'la Al-Maududi, 1966).

Data collection was conducted exclusively through documentary research, which involves systematically tracing, reading, classifying, and critically reviewing written sources, including fiqh manuscripts, legal codifications, judicial regulations, and academic literature. This process aims to extract doctrinal propositions, conceptual formulations, and normative principles surrounding the role of judges as mediators of social and moral harmony in family disputes.

The data were analyzed using a qualitative content analysis method, which enables the interpretation of textual materials to identify latent meanings, patterns, and normative frameworks embedded within the sources. The analysis is descriptive-comparative in nature: it compares al-Māwardī's normative judicial theory with contemporary judicial practice in Indonesian religious courts, highlighting both continuities and contextual adaptations.

To ensure the credibility and academic rigor of the findings, the study employs triangulation techniques, covering sources, theories, and data. Source triangulation is achieved by consulting multiple authoritative texts across different schools of Islamic jurisprudence and academic traditions. Theory triangulation is implemented by integrating perspectives from Islamic legal theory and modern mediation theory. Meanwhile, data triangulation involves cross-verification between religious manuscripts, statutory materials, and secondary literature. Through this triangulated approach, the study secures a high degree of methodological reliability, conceptual validity, and doctrinal soundness.

RESULT AND DISCUSSION

The Classical Framework of the Judge as Muslih in Imam al-Māwardī's Thought

The conceptualization of the judge as muslih in classical Islamic jurisprudence finds one of its most authoritative articulations in the works of Imam al-Māwardī, particularly in al-Aḥkām al-Sulṭāniyyah. In his legal-political theory, the judiciary (qaḍā') is not a merely procedural institution for dispute settlement but a moral instrument to preserve social order, cohesion, and reconciliation among disputing parties. Al-Māwardī presents a vision of justice that exceeds the positivistic boundaries of adjudication. For him, adjudication is only one of the judge's functions; the deeper and more dignified task is ishlāḥ—the restoration of harmony through conciliation and ethical guidance (Mohamed, 2025). This foundational orientation places muslihiyyah (the role of a reconciler) at the heart of Islamic legal philosophy.

The term muslih derives from the Arabic root ṣ-l-ḥ, which denotes goodness, reconciliation, rectification, and social repair. In Qur'anic discourse, ṣulḥ is positioned as a divine imperative for the reparation of ruptured relationships—whether they occur between individuals, families, or broader communities. The Qur'an explicitly commands: "fa-aṣliḥū baina akhawaikum" (reconcile between your brothers), establishing peace as a normative ideal embedded in divine law (Qur'an 49:10). Another verse, Qur'an 4:35, prescribes arbitration through wise and morally trustworthy figures if marital conflict threatens dissolution, thereby offering a legal-theological precedent for reconciliation as an intrinsic duty in family disputes (Agustina & Ismah, 2024). Al-Māwardī adopts this Qur'anic template and embeds it within the architecture of judicial responsibility, transforming the judge into a moral agent of repair rather than a mechanical interpreter of legal texts.

The socio-political context of al-Māwardī's thought is important for understanding why ishlāḥ is so central to the judiciary. He wrote in the twilight of Abbasid institutional decline, when the caliphate was losing real political authority to military warlords and provincial governors. The judiciary became one of the last remaining institutions where the symbolic sovereignty of Islamic law could be preserved. As a Qāḍī al-Quḍāt (Chief Judge), al-Māwardī understood that law without reconciliation risked degenerating into coercive authoritarianism; while reconciliation without law would collapse into moral sentimentality (Archer et al., 2021). Thus, his integration of formal adjudication and ishlāḥ was not merely doctrinal but a calibrated response to the crisis of governance and moral fragmentation in his time. The judge, in his model, was a guardian of both legal order and social harmony.

Crucially, al-Māwardī's juridical philosophy is anchored in the ontological nature of disputes. For him, conflict is not only a legal transgression but a disruption of social balance. It often stems from spiritual and emotional displacement rather than purely contractual breach. This is especially clear in his treatment of family disputes. Whereas property and commercial litigation are dealt with by establishing rights and obligations, marriage disputes—according to al-Māwardī—require pastoral sensitivity, empathy, and moral repair. The judge must therefore descend from his strictly judicial posture to a mediatory role, encouraging forgiveness, negotiation, and compromise (Sambikakki, 2020). This is consistent with the Prophetic model of dispute resolution, which frequently emphasized reconciliation over judgment. The hadith—"Reconciliation among Muslims is permissible unless it

legalizes what is forbidden or forbids what is lawful"—codifies reconciliation not as an extra-legal courtesy but as a legitimate legal pathway.

Under al-Māwardī's framework, ishlāḥ also functions as a preventive mechanism. A wise judge intervenes before conflict hardens into irreversible hostility. This proactive dimension of judicial responsibility stands in contrast to modern procedural systems that consider the court as a final destination after all negotiations fail. In the classical model, negotiation precedes litigation not as a procedural step but as a moral priority (Aoláin, 2009). The judge must first attempt to "heal" the conflict before ruling on it. Adjudication is the last measure when peace cannot be restored. Thus, the legitimacy of a ruling depends not only on its textual conformity to doctrine but on whether it has sincerely explored restorative justice.

Al-Māwardī's understanding of judicial office also rests on a moral anthropology of human beings. He views individuals not as atomized legal actors but as members of a moral community whose dignity must be preserved. The judge as muslih safeguards not only rights but social dignity. He is tasked with preventing humiliation, vengeance, animosity, and the rupture of trust (Baroroh & Aziz, 2019). Justice is not only the restoration of balance in terms of law but also the restoration of interpersonal goodwill. In this sense, the practice of ishlāḥ is not incidental to law; it is the spirit that animates the law.

Furthermore, al-Māwardī frames the judge's authority as fiduciary rather than coercive. Authority is a divine trust (amānah), exercised not to dominate disputants but to guide them toward ethical resolutions. The judicial office mirrors the Prophetic responsibility of "mending relations among people," transforming legal jurisdiction into moral stewardship. This is why classical jurists after al-Māwardī—such as Ibn Farḥūn and al-Khasshāf—continued to treat reconciliation as the apex of judicial virtue. A deeper implication of al-Māwardī's doctrine is that legalism alone is insufficient. A purely textualistic reading of law cannot account for the psychological and relational complexities of marriage disputes. Marital breakdown is rarely caused by a single legal violation; it emerges from patterns of emotional neglect, moral dissonance, or interpersonal disintegration (A. H. A. Al-Māwardī, 2006). The duty of the judge is not simply to identify fault but to "repair the moral fabric" of the relationship wherever possible. If reconciliation succeeds, the law has not merely been applied—it has been fulfilled.

This vision of the judiciary establishes a philosophical distinction between litigation justice and relational justice. Litigation justice determines the victor of a dispute; relational justice restores social equilibrium. In al-Māwardī's jurisprudence, the second has priority. Litigation without reconciliation is a truncated form of justice. This explains why ishlāḥ appears not as an accessory to judicial conduct but as an epistemic pillar of classical Islamic judicial thought (Hakim, 2020). Within this larger framework, the role of the judge in family disputes occupies a particularly distinguished place. Because the family is seen as the nucleus of moral society, any rupture within it threatens broader communal harmony. The protection of marriage is therefore not merely a private concern but a public good. The judge must intervene as a social physician, diagnosing not only the legal symptoms but the relational illness. Ishlāḥ becomes a curative method rather than a procedural pause. What emerges from al-Māwardī's thought is a theory of judicial ethics that integrates the inner and outer dimensions of legal responsibility. The judge

is simultaneously a jurist, a reformer, a counselor, and a guardian of moral order. His task is not to separate disputants through a definitive ruling, but to reunite them whenever reconciliation remains possible. In this synthesis of law and ethics lies the enduring relevance of al-Māwardī's doctrine, which continues to offer a profound corrective to minimalist legalism in contemporary legal practice.

The Contemporary Relevance of Muslihiyyah in the Indonesian Religious Court System

The classical doctrine of the judge as muslih articulated by Imam al-Māwardī does not remain confined to medieval jurisprudence; it finds substantial resonance within the institutional design of the modern Indonesian Religious Courts (Pengadilan Agama). Although the legal environment has shifted from a theocratic caliphal structure to a constitutional nation-state governed by statutory law, the philosophical underpinnings of ishlāḥ—as reconciliation, moral repair, and the preservation of social harmony—remain structurally embedded in contemporary judicial practice (Ach Rois & Galuh Widitya Qomaro, 2023). This indicates a continuity of legal spirit across different epistemic paradigms: whereas al-Māwardī derived the judge's authority from the caliph as the guardian of divine law, modern Indonesian judges derive their mandate from the Constitution and statutory law, yet their moral orientation toward reconciliation is fundamentally similar.

The first point of continuity is reflected in the statutory obligation imposed on judges to explore reconciliation before issuing a ruling. The Indonesian Religious Court system explicitly requires mediation as a compulsory judicial step in family disputes, especially divorce petitions. This is formalized in Supreme Court Regulation (PERMA) No. 1 of 2016 on Mediation Procedures, which mandates that "the judge shall first endeavor to reconcile the disputing parties through mediation before proceeding to adjudication." This is not a procedural ornament but a doctrinal inheritance from the Islamic legal tradition that views judicial intervention as a relational restoration exercise rather than a mere legal determination (Permadi, 2023). In this sense, the modern state has institutionalized what classical jurists like al-Māwardī conceptualized as qadha' ma'a al-ishlāḥ (adjudication alongside conciliation).

A second point of continuity lies in the recognition that marriage disputes are not purely contractual in nature but inherently moral and relational. Indonesian legal philosophy on family law adopts the view that the family is a social institution underpinning public morality, echoing al-Māwardī's classical assumption that familial breakdown threatens social order. The Marriage Law No. 1 of 1974, alongside the Compilation of Islamic Law (KHI), emphasizes the preservation of family integrity (keutuhan rumah tangga) as a central judicial objective (Amar et al., 2024). This aligns directly with al-Māwardī's proposition that the judge must not rush toward termination of a marriage when reconciliation remains possible.

However, beyond these structural continuities, the contemporary Indonesian context also reveals points of tension and partial implementation. While modern regulation legislates reconciliation, its practice frequently suffers from procedural minimalism. Judges often conduct mediation in a formulaic tone, perceiving it as a legal requirement rather than a substantive moral duty. The difference here is not legal but attitudinal: where classical qāḍīs were morally trained theologian-jurists schooled in ethical

persuasion and communal leadership, modern judges tend to operate within a bureaucratic logic of caseload efficiency (Ach Rois & Galuh Widitya Qomaro, 2023). Thus, the philosophical depth of muslihiyyah sometimes becomes diluted into administrative compliance.

A major challenge arises from the enormous caseload of Indonesian Religious Courts. With more than half a million divorce petitions annually, judges face structural time pressure that inhibits deep engagement with reconciliation. In al-Māwardī's era, the judicial model presumed moral proximity between judge and disputant, allowing personal counsel and pastoral intervention. In contemporary settings, the volume of litigants replaces pastoral contact with case turnover. This bureaucratization risks reducing ishlāḥ into a perfunctory stage rather than the heart of judicial engagement. The very logic of efficiency—a hallmark of modern court systems—can obstruct substantive reconciliation, which requires time, empathy, and dialogical patience (Dimyati, 2016). A second difficulty stems from the professional formation of judges. Whereas classical jurists were philosophers of law and moral interpreters of society, modern judicial training in Indonesia is heavily procedural and statutory in orientation. Mediation is often taught as a legal technique rather than as a framework of moral custodianship. Thus, while PERMA No. 1/2016 codifies mediation, the conceptual weight of ishlāḥ as spiritual repair rarely receives systematic integration into judicial methodology. The ethical grammar of reconciliation—so strongly emphasized by al-Māwardī—is sometimes overshadowed by the technical grammar of judicial procedure.

Nevertheless, the potential for reintegration of the classical doctrine remains strong. The theological foundation underlying al-Māwardī's model is still embraced by Indonesian Muslim society, which means judicial reconciliation resonates culturally rather than foreignly imposed. When judges draw on Islamic ethical discourse as part of mediation, disputants often feel religiously and emotionally acknowledged, opening the door for deeper resolution. This demonstrates that the spirit of muslihiyyah retains its social legitimacy in Indonesia, and the legal framework merely needs to be re-animated by purposive judicial interpretation (Alfa Thoriqotur Rizqi, 2022).

Another important dimension is the alignment between classical muslihiyyah and contemporary developments in restorative justice theory. Modern legal philosophy increasingly critiques adversarial litigation as confrontational and socially corrosive. The restorative justice paradigm—widely adopted in mediation theory— privileges healing, reintegration, and relational accountability. In this sense, al-Māwardī's ishlāḥ is not antiquated but anticipatory of modern legal ethics. Where Western jurisprudence is only now rediscovering reconciliation as a legal philosophy, Islamic law had already embedded it a millennium ago (Miftahussurur & Fikri, 2024). Thus, the Indonesian Religious Court system stands at a unique epistemic intersection: it can harmonize classical Islamic legal wisdom with global restorative justice frameworks.

The significance of ishlāḥ also becomes more pronounced when considering gender reality in Indonesian divorce petitions. The majority of cases today are initiated by wives, and sociological research shows that many of these filings result not from legal incompatibility but from emotional abandonment, domestic disharmony, or failure of mutual respect. In such cases, rigid adjudication cannot address the relational wounds that precipitated the conflict. A judge operating under the spirit of muslihiyyah is

better equipped to address the human element of dispute, assisting parties in exploring non-litigious repair. This suggests that the contemporary relevance of al-Māwardī's thought is not merely doctrinal but anthropological: it offers a legal anthropology of conflict that sees disputants as moral subjects rather than as competing legal actors. When the court recognizes the emotional and spiritual substrata of marital collapse, reconciliation becomes more than a procedural checkpoint—it becomes a lived legal ethic (Abdullah, 2017).

To maximize this integration within Indonesia's judicial practice, three conditions are necessary. First, mediation must be restored as a substantive ethical engagement rather than a ten-minute procedural formality. Second, judicial training must reconnect doctrinal knowledge with classical Islamic adab al-qaḍā'—the ethics of judging—which historically cultivated judges as pastoral protectors of communal harmony. Third, institutional reforms must guarantee time and psychological space for judges to mediate meaningfully. Without these supporting conditions, ishlāḥ risks remaining a moral artifact within a structurally adversarial system.

In sum, the Indonesian Religious Court system already contains the legal infrastructure for muslihiyyah, but its spiritual grammar requires revitalization. Al-Māwardī's classical model demonstrates that reconciliation is not a preliminary stage of litigation but the apex of jurisprudence. When mediation is conducted not as a bureaucratic ritual but as a morally informed judicial vocation, the modern judge reenacts the classical function of qāḍī al-muslih: a guardian of familial stability, a custodian of harmony, and a restorer of human dignity.

Conclusion

The study demonstrates that Imam al-Māwardī's conceptualization of the judge as a muslih (peacemaker) remains a vital intellectual legacy in the discourse of Islamic jurisprudence and contemporary family law. Through his magnum opus al-Aḥkām al-Sulṭāniyyah, al-Māwardī articulated a vision of the judiciary that transcends mere legal formalism. For him, the judge's role is not limited to adjudicating disputes based on textual evidence but extends to nurturing social harmony through ishlāḥ (reconciliation). This framework situates justice as both a legal and ethical enterprise—rooted in divine revelation and aimed at maintaining societal cohesion.

Within al-Māwardī's classical framework, ishlāḥ is deeply anchored in the normative foundation of the Qur'an and Sunnah. Verses such as QS al-Ḥujurāt [49]:10 and QS an-Nisā' [4]:35 clearly establish reconciliation as a divine imperative for preserving unity among believers and preventing moral decay. Similarly, the hadith of the Prophet ﷺ, "al-ṣulḥ jā'izun baina al-muslimīn illā ṣulḥan aḥalla ḥarāman aw ḥarrama ḥalālan" (reconciliation is permissible among Muslims unless it legitimizes what is unlawful or prohibits what is lawful), underscores that ishlāḥ is not merely tolerated but encouraged as an essential mechanism of justice. Thus, al-Māwardī's vision integrates the spiritual, moral, and social dimensions of justice, illustrating how the judiciary serves as both an instrument of law and a custodian of communal peace.

From a structural standpoint, al-Māwardī's thought reflects the political realities of the Abbasid Caliphate, where the judge (qāḍī) was seen as the moral extension of the caliph's authority in upholding

divine justice. However, this framework transcends its historical setting. When reinterpreted in modern contexts—particularly within Indonesia's Religious Courts system—the idea of the judge as a muslih finds renewed relevance. Indonesian legal instruments, including Law No. 7 of 1989 (as amended by Law No. 3 of 2006), the Compilation of Islamic Law (KHI), and the Supreme Court Regulation No. 1 of 2016 on Mediation Procedures, all institutionalize reconciliation as the first procedural step before adjudication. These provisions resonate strongly with al-Māwardī's spirit of ishlāḥ, evidencing the continuity between classical fiqh and modern Islamic legal practice.

Nevertheless, the study also highlights a critical gap between normative ideals and practical implementation. Although the regulatory framework mandates reconciliation, many judges in Indonesia's Religious Courts treat mediation as a procedural formality rather than a substantive moral act. High caseloads, limited training in mediation, and the absence of psychosocial support structures often hinder the effective realization of ishlāḥ. This disjunction suggests that the revival of al-Māwardī's philosophy must go beyond textual incorporation—it requires the internalization of ishlāḥ as a judicial ethic. In this sense, the judge must embody dual competencies: juridical precision and moral sensitivity.

Al-Māwardī's thought thus offers a corrective lens to contemporary judicial practice. It invites modern legal systems to revisit the essence of justice—not as the mere execution of law, but as the restoration of balance (ta'dīl) and harmony (taswiyah). In cases of divorce, where emotional, social, and spiritual dimensions intertwine, the role of the judge as a muslih becomes particularly indispensable. Rather than being a neutral arbiter of rights, the judge serves as a reconciler of hearts, embodying the prophetic principle of mercy in the administration of justice. In synthesizing al-Māwardī's classical insights with modern judicial realities, this research concludes that ishlāḥ should be repositioned as the ethical heart of Islamic legal systems. Strengthening judges' capacity in mediation, integrating counseling approaches, and reorienting legal education toward moral jurisprudence can help transform the judiciary from a reactive institution into a proactive agent of social harmony. Ultimately, al-Māwardī's framework envisions a judicial ethos that harmonizes law, morality, and spirituality—where the pursuit of justice becomes synonymous with the pursuit of peace.

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Ketentuan-ketentuan Lain:

- **Format Tulisan**

Artikel diketik dalam format satu koma lima (1,5) spasi pada ukuran kertas A4, Font ukuran 10, **Cambria**., untuk **Arabic** menggunakan Font 16 **Sakkala Majjala**; Isi Tulisan (Pendahuluan sampai Penutup) rata kiri kanan (justify), dengan kalimat paragraf pertama menjorok ke dalam **1 (satu cm)**. Artikel ditulis sebanyak 15- 25 halaman (termasuk daftar pustaka);

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Contoh kutipan:

- Apabila kutipan berasal dari satu sumber: (Dedi Purwana, 2015:131), (Gurry & Yulk, 2006:72), (Case, et.al., 2012, 10) atau (Agus Wibowo, dkk., 2015).
- Apabila kutipan berasal dari dua sumber dengan penulis yang berbeda: (Bush, 2009:163; Choleman, 2010: 254).

Contoh dalam daftar pustaka:

- Eliade, Mircea (ed.). (1995). *The Encyclopedia of Religion*, Vol. 8, New York: Simon dan Schuster.
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- **Pengutipan Ayat Alquran dan Hadis.**

Ayat yang dikutip menyertakan keterangan ayat dalam kurung, dengan menyebutkan nama surah, nomor surah, dan nomor ayat, seperti (QS al-Mu'min [40]:43). Hadis yang dikutip menyebutkan nama perawi (seperti HR al-Bukhari dan Muslim) ditambah referensi versi cetak kitab hadis yang dikutip. Hadis harus dirujuk dari kitab-kitab hadis terstandar (*kutub tis'ah*).

- **Pedoman Transliterasi.**

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