



Optimizing Mediation for Land Dispute Settlements: A Socio-Legal Analysis from Indonesia

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Abstract

Land disputes are a prevalent legal issue in Indonesia, often arising from conflicting ownership claims among individuals, families, or communities. Mediation has emerged as an alternative dispute resolution mechanism that offers a more efficient, expeditious, and flexible approach compared to litigation. This study aims to examine the key factors influencing the effectiveness of mediation in resolving land disputes in Plaosan Village, Wonosari District, Malang Regency, as well as the challenges faced by the disputing parties. Employing a normative juridical research method with a descriptive-analytical approach, this study integrates both primary and secondary data collection techniques. The findings highlight that the success of mediation is significantly influenced by public awareness, the competence of mediators, and the legal framework supporting mediation practices. Strengthening regulatory mechanisms and enhancing public understanding of mediation are crucial in optimizing its role as a viable solution for land disputes in rural communities.

Keywords: Mediation, Land Disputes, Alternative Dispute Resolution, Legal Framework, Rural Communities

I. Introduction

Land disputes in Indonesia, including in Plaosan Village, Wonosari Sub-district, Malang District, often result from different ownership claims involving individuals, families or communities with different interests in land status. Factors such as overlapping certificates, lack of clear documentation, and inheritance conflicts are often the main triggers. Resolving disputes through litigation in the courts is often time-consuming, costly and can damage social relations in the community. Formal court processes often do not consider the social and emotional aspects involved in land disputes. As an alternative, mediation offers a more efficient and effective solution in dispute resolution. The mediation process involves a neutral third party (mediator) to help the parties reach an agreement without going to court. The mediator's role is to facilitate communication, identify the parties' main interests, and encourage mutually beneficial solutions. The advantages of mediation include lower costs, faster resolution times, and flexibility in finding

solutions that are favorable to all parties. In addition, mediation can maintain and even improve social relationships between the disputants, due to its more cooperative approach.¹

In Plaosan Village, mediation is an appropriate option given the strong social relations between residents and the potential of local wisdom that can be utilized in resolving disputes. This approach is in line with the tradition of deliberation for consensus that has long been part of Indonesian society. The role of local values in land dispute resolution can serve as a model for civil mediation in various national agrarian cases. This approach emphasizes the importance of deliberation involving all parties to reach a mutual agreement, so that community loyalty and obedience to the agreed results can be maintained. In addition, resolving cases through mediation that prioritizes the concept of deliberation for consensus brings more legal certainty, justice and benefits to the results of the agreement.² The National Land Agency (BPN) also functions as a mediator in resolving land disputes, in accordance with Regulation of the Minister of Agrarian and Spatial Planning/Head of BPN Number 21 of 2020 concerning Handling and Settlement of Land Cases.³

Although mediation can be an alternative to land dispute resolution, its effectiveness still faces various obstacles. Several studies have revealed that the success rate of mediation in courts is still low, due to the lack of public understanding of the mediation process, the low quality of mediators, and the lack of support from relevant institutions. Therefore, it is necessary to improve the quality of mediators, conduct more intensive socialization on the benefits of mediation, and strengthen supporting regulations to increase the effectiveness of mediation in land dispute resolution, especially in rural areas such as Plaosan Village.

This study highlights the role of mediation in resolving land disputes in rural Indonesia, specifically in Plaosan Village, Malang District, by integrating local wisdom and social cohesion into the dispute resolution process. Unlike previous studies that primarily focus on formal litigation or general mediation practices, this research emphasizes the unique application of traditional deliberation for consensus (*musyawarah mufakat*) as a culturally embedded mediation approach. Furthermore, it examines the role of the National Land Agency (BPN) as a mediator under the framework of Ministerial Regulation No. 21 of 2020. By identifying key challenges—such as low public awareness, mediator quality, and institutional support—this study provides practical recommendations to enhance mediation effectiveness, particularly in rural agrarian communities. This approach offers a model for integrating legal certainty, social harmony, and local wisdom in land dispute resolution.

II. Research Problems

Based on the background above, the problems in this study are: (1) What are the factors that influence the effectiveness of mediation in land disputes in Plaosan Village; (2) What are the challenges to the implementation of mediation for the disputing parties in Plaosan Village.

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- 1 Lahmuddin Zuhri, "Peran Nilai Lokal Dalam Penyelesaian Sengketa Pertanahan (Sebuah Analisis Model Mediasi Perdata)," *Bilancia* 1, no. 1 (2016): 14–36.
 - 2 Randy Atma R Massi, "Penyelesaian Sengketa Jalur Mediasi sebagai Perwujudan Kembalinya Hukum Berbasis Kearifan Lokal," *Bilancia* 15, no. 2 (2021): 281–306, <https://doi.org/https://doi.org/10.24239/blc.v15i2.817>.
 - 3 Nabilla Nastiti Dewi dan Herma Setiasih, "Penyelesaian Sengketa Tanah Melalui Mediasi Berdasarkan Peraturan Menteri ATR / BPN Nomor 21 Tahun 2020 (Studi Kasus Di Kantor Pertanahan Kota Surabaya)," *Dekrit* 14, no. 1 (2024): 67–86, <https://doi.org/https://doi.org/10.55499/dekrit.v14n1.256>.

III. Research Methods

This research uses normative juridical research, which is research conducted with an approach to legal norms, which examines the law as rules that are accepted and apply in society.⁴ This research uses normative juridical research, which is research conducted with an approach to legal norms, which examines the law as rules that are accepted and apply in society.⁵ This research method is analyzed descriptively analytically, using data collection techniques through Library Research. The descriptive approach aims to describe phenomena or events accurately and in detail, while the analytical approach aims to analyze and explain phenomena by describing and compiling the collected data into smaller and measurable parts. In the preparation of this paper, data is obtained through secondary and primary data sources.

IV. Result And Discussion

1. Factors Affecting the Effectiveness of Mediation in Land Disputes in Plaosan Village

Land disputes in Indonesia, including in Plaosan Village, Wonosari Subdistrict, Malang District, often arise due to differences in land ownership claims. Dispute resolution through litigation in court is often time-consuming and costly, and can damage social relations in the community. Mediation, as a form of Alternative Dispute Resolution (ADR), offers a more efficient and effective solution than traditional litigation. The success of mediation in resolving land disputes is influenced by various factors. These factors include legal substance, legal structure, legal culture, facilities and infrastructure, and public legal awareness. Adequate facilities and infrastructure, such as a comfortable mediation room and good accessibility, can support an effective mediation process. In addition, public legal awareness plays an important role in determining the success of mediation. People who have a high understanding and awareness of the law tend to be more open to resolving disputes through mediation. A legal culture that supports peaceful and participatory dispute resolution can increase the effectiveness of mediation. Land disputes in Indonesia, including in Plaosan Village, Wonosari Subdistrict, Malang District, often arise due to differences in land ownership claims. Dispute resolution through litigation in court is often time-consuming and costly, and can damage social relations in the community. Mediation, as a form of Alternative Dispute Resolution (ADR), offers a more efficient and effective solution than traditional litigation. The success of mediation in resolving land disputes is influenced by various factors. These factors include legal substance, legal structure, legal culture, facilities and infrastructure, and public legal awareness. Adequate facilities and infrastructure, such as a comfortable mediation room and good accessibility, can support an effective mediation process. In addition, public legal awareness plays an important role in determining the success of mediation. People who have a high understanding and awareness of the law tend to be more open to resolving disputes through mediation.⁶ A legal culture that supports peaceful and participatory dispute resolution can increase the effectiveness of mediation.

The close social relations between residents in Plaosan Village as well as the potential of local wisdom can be supporting factors in the implementation of mediation. However, challenges such as a lack of goodwill and the absence of disputing parties can hinder the success of mediation. According to the research, inhibiting factors in the mediation process include the absence of one of the parties and the selfishness of the parties.⁷ To overcome these challenges,

⁴ Muh. Rizal Ramli, Kairuddin Karim, dan Muhammad Akbar Fhad Syahril, "Polemik Sengketa Hak Atas Tanah," *Jurnal Litigasi Amsir* 9, no. 1 (14 November 2021): 18-26, <https://journalstih.amsir.ac.id/index.php/julia/article/view/53>.

⁵ Muh. Rizal Ramli, Kairuddin Karim, dan Muhammad Akbar Fhad Syahril, "Polemik Sengketa Hak Atas Tanah," *Jurnal Litigasi Amsir* 9, no. 1 (14 November 2021): 18-26, <https://journalstih.amsir.ac.id/index.php/julia/article/view/53>.

⁶ Ashadi, Ma'ruf Hafidz & Sufirman Rahman "Efektivitas Penyelesaian Sengketa Pertanahan Melalui Mediasi Pada Kantor Pertanahan Kota Makassar," *Journal of Lex Generalis (JLS)* 2, no. 9 (2021): 2590-2602.

⁷ Wella Ayu Hilari, "Penyelesaian Sengketa Tanah dengan Cara Mediasi pada Kantor Pertanahan Kabupaten Lampung Tengah" (Universitas Lampung, 2019).

efforts are needed to improve the quality of mediators, for example by providing specialized training in mediation techniques and an in-depth understanding of land law. In addition, strengthening the socialization of the benefits of mediation to the community can increase participation and awareness of the importance of peaceful dispute resolution. The lack of public understanding about mediation can also be an obstacle in the process of resolving land disputes.⁸ Some of the factors that influence the success of mediation in land disputes in Plaosan Village include:

a) Public Trust in the Mediator

Public trust in the mediator in resolving land disputes greatly influences the success of the mediation process in Plaosan Village. If the mediator is perceived as fair and neutral, the parties to the dispute tend to be more open and cooperative during the mediation. Conversely, if the mediator is perceived as partial or incompetent, trust in the mediation process will decline, which may hinder the achievement of an amicable resolution of the dispute. Mediation is the settlement of disputes through negotiation with the assistance of a neutral third party (mediator) in order to find a form of settlement that the parties can agree upon. The neutrality of the mediator is a major factor in ensuring that the mediation process is fair, transparent and effective. By being neutral, the mediator can create a conducive environment for disputants to express their interests without fear of partiality. This neutrality also ensures that any resulting solution is truly based on mutual agreement, not due to pressure or intervention from certain parties.⁹ In addition, the neutral attitude of a mediator increases the parties' trust in the mediation process, making them more cooperative in seeking a mutually beneficial and sustainable settlement. In addition, the neutral position of the mediator is very important in handling mediation problem solving. A mediator who is impartial to only one of the parties can help the disputing parties reach a fair and sustainable agreement.

An effective mediation process consists of three main stages: pre-mediation, the conduct of the mediation, and the final stage of the mediation, each of which plays an important role in determining the success of the dispute resolution. In the pre-mediation stage, the mediator is tasked with building trust and creating a safe atmosphere for the disputants to be more open to dialogue. In addition, the mediator also gathers information about the conflict, including identifying the needs, interests and positions of each party, and setting up a framework that supports constructive communication.¹⁰ This stage is a very important foundation, as it not only helps to ease initial tensions, but also provides clarity on the mediation procedure, so that disputants can understand the purpose of the process and are better prepared to actively participate in finding a joint solution. With the right approach at the pre-mediation stage, the mediator can create a supportive environment to build trust between the disputants, so that the mediation can take place effectively and productively.

In addition, a mediator must be objective and impartial in handling land disputes so that the mediation process can run fairly and transparently. The mediator's objectivity allows each party to the dispute to feel heard and treated equally, thereby increasing trust in the dispute resolution mechanism. By being neutral, the mediator can help the parties focus on finding a mutually beneficial solution without any pressure or favoritism that could lead to dissatisfaction.¹¹ A fair and neutral mediator plays an important role in creating a conducive atmosphere for the parties to the dispute, so that they can communicate openly and find the best solution. By maintaining balance and impartiality, the mediator can facilitate a transparent

⁸ Wawan Susilo, "Problematisa Upaya Penyelesaian Sengketa Tanah Secara Mediasi Oleh Kantor Kementerian Agraria dan Tata Ruang/Badan Pertanahan Nasional Kabupaten Probolinggo," *IUS: Jurnal Ilmiah Fakultas Hukum* 7, no. 1 (12 Januari 2021): 75–83, <https://doi.org/10.51747/ius.v7i1.666>.

⁹ Irawati Juwita Tarochi Boboy, Budi Santoso, "Penyelesaian Sengketa Pertanahan melalui Mediasi Berdasarkan Teori Dean G. Pruitt dan Jeffrey Z. Rubin," *Notarius*, 13, no. 2 (2020): 803–919, <https://doi.org/https://doi.org/10.14710/nts.v13i2.31168>.

¹⁰ Juwita Tarochi Boboy, Budi Santoso.

¹¹ Dewi dan Setiasih, "Penyelesaian Sengketa Tanah Melalui Mediasi Berdasarkan Peraturan Menteri ATR / BPN Nomor 21 Tahun 2020 (Studi Kasus Di Kantor Pertanahan Kota Surabaya)."

negotiation process, encourage compromise, and ensure that each party obtains a fair and favorable outcome (win-win solution). In addition, the mediator's neutrality also contributes to maintaining trust in the mediation process, thereby preventing further conflict and ensuring effective and sustainable dispute resolution.¹² Therefore, public trust in a fair and neutral mediator determines the success of land dispute resolution through mediation. A mediator who can maintain objectivity and fairness will encourage the participation and openness of the disputing parties, so that the chances of reaching a satisfactory agreement for all parties are higher.

b) Knowledge of Land Law

Limited knowledge of land law among rural communities, such as in Plaosan Village, is often the main cause of ignorance regarding land rights, ownership status and applicable legal procedures. This lack of understanding often leads to prolonged conflicts, as the disputing parties do not have sufficient access or information to resolve the issue legally. In this case, the role of a mediator with in-depth knowledge of land law is crucial. Not only in helping the disputing parties understand their rights and obligations, but also in ensuring that the mediation process runs in accordance with applicable legal principles. A comprehensive understanding of land regulations enables the mediator to provide clear and objective guidance, so that the parties can make informed decisions based on the relevant legal aspects. In addition, mediators who are competent in the field of land law can prevent misunderstandings or potential violations of the law in the agreements reached, so that the results of mediation are more effective, fair, and have legal certainty for all parties involved.

Community mediators have a significant advantage in that they not only have a deep understanding of the formal laws governing land disputes, but also understand the social dynamics, cultural values and norms prevailing in the local community.¹³ This combination of legal expertise and social insight enables them to bridge the gap between the written rules and accepted practices within the community, so that the resulting solutions are not only legally valid, but also acceptable and effectively implemented by all parties. In addition, because community mediators come from the same neighborhood as the disputants, they tend to be more trusted, able to establish more open communication, and facilitate more flexible and interest-oriented negotiations.¹⁴ They were able to provide counseling on relevant local wisdom as a tool to resolve disputes, as well as explain the role of community mediators in Indonesian positive law. In this case, the mediator acts as a bridge between the formal law and the local wisdom of the community, ensuring that dispute resolution is not only in line with applicable regulations, but also takes into account local social and cultural values. With an inclusive approach, the mediator can help the parties find a solution that is not only legally valid, but also socially acceptable, thus creating a sustainable settlement and avoiding potential future conflicts. In addition, through effective communication and a deep understanding of community dynamics, mediators are able to ease tensions and build trust, so that the mediation process can take place more peacefully, transparently and fairly for all parties involved.¹⁵ Thus, the presence of competent mediators is a key element in creating harmony amidst the complexity of land conflicts in rural areas.

The National Land Agency also plays an important role as a mediator in land dispute resolution, especially as it has a deep understanding of agrarian regulations and the land administration system. As the institution responsible for land data management, the National Land Agency can help communities understand their rights and obligations regarding land ownership, including providing explanations on legal documents that are often the source of disputes. Through an educative approach, the National Land not only functions as a facilitator in

¹² Dewi dan Setiasih.

¹³ Muhammad Zainuddin, Lewis Grindulu, M. Hotibul Islam, "Peran Mediator Komunitas dalam Upaya Penyelesaian Sengketa Pertanahan melalui Pendekatan Kearifan Lokal di Desa Dasan Tapen, Lombok Barat," *Jurnal Risalah Kenotariatan* 4, no. 1 (2023): 424-30, <https://doi.org/https://doi.org/10.29303/risalahkenotariatan.v4i1.122>.

¹⁴ Lewis Grindulu, M. Hotibul Islam.

¹⁵ Lewis Grindulu, M. Hotibul Islam.

the mediation process, but also as a link between formal law and the understanding of ordinary people. The presence of mediators from the National Land Agency who are well-versed in land law is essential to provide guidance to rural communities, helping them understand their rights thoroughly. This not only accelerates the peaceful and fair resolution of disputes, but also contributes to increased legal awareness in the community.¹⁶ With increased community understanding of land rights, potential future conflicts can be minimized, creating a more harmonious social order and reducing the burden on the judicial system related to land disputes.

c) Active Participation of Disputing Parties

The active participation of the parties involved in the land dispute was crucial to the success of the mediation in Plaosan Village. The willingness of both parties to compromise and resolve the dispute amicably is a key factor in determining the effectiveness of mediation. When the parties have goodwill and openness to discussion, the mediation process can run more smoothly, with a greater chance of reaching a fair and mutually beneficial agreement. This cooperative attitude also helps to reduce tension, build trust, and encourage organized communication, so that the resulting solution is not only temporary, but can also be implemented on an ongoing basis. Conversely, if either party is rigid or reluctant to negotiate, the mediation can be hampered and risks leading to an impasse, which in turn prolongs the dispute resolution process. An unwillingness to open up or dialogue can hinder the mediation process and slow down dispute resolution. When one party is reluctant to speak or express their views, the communication necessary to find a solution is hindered. In the absence of constructive discussion, misunderstandings and tensions between parties can grow, exacerbating the situation. The mediation process, which should run smoothly, is hampered because the parties involved cannot understand each other's positions. As a result, quick and effective dispute resolution becomes increasingly difficult to achieve.

The mediation process plays an important role in easing tensions between disputants, as it provides a space for them to listen and understand each other. It also promotes effective communication, making it possible to reach an agreement that is more easily accepted by all parties. Unlike litigation, which tends to be time-consuming and costly, mediation offers a faster and more efficient solution. As it does not involve complex court proceedings, it also allows for the resolution of disputes in a more amicable manner and reduces emotional distress. Therefore, mediation is often considered a better alternative in resolving disputes, especially when the parties involved still want to maintain good relations in the future. This approach not only resolves disputes more quickly, but also maintains good relations between disputing parties and strengthens public confidence in the land administration system.¹⁷

In addition, the role of the mediator in mediation is crucial to ensure that the conversation proceeds in an organized manner. As a neutral party, the mediator leads the discussion by maintaining a balance between the parties involved, so that no one feels overlooked. The mediator is also responsible for ensuring compliance with applicable legal regulations, keeping the process in line with legitimate procedures. One of the main tasks of the mediator is to encourage the parties to express their problems and interests openly, without fear or anxiety of negative repercussions. In this way, the mediator helps the parties reach a mutually acceptable solution, which meets the needs of both parties, and facilitates reaching a fair agreement. This suggests that the active participation and openness of the parties involved is crucial to reaching

¹⁶ Endang Hadrian, "Mediator BPN dalam Penyelesaian Sengketa Tanah," *HukumOnline.com*, 2023, https://www.hukumonline.com/berita/a/mediator-bpn-dalam-penyelesaian-sengketa-tanah-lt657c1f0587764/?utm_source=.

¹⁷ Dora Kusumastuti & Josef Purwadi Amanda Destiyana, "Penyelesaian Sengketa Tanah Melalui Mediasi di Kantor Pertanahan Kabupaten Karanganyar," *Paugeran Law Review*, 2021.

a fair and peaceful agreement.¹⁸ Thus, the active participation and openness of the disputing parties in the mediation process is essential to achieve an effective and peaceful settlement.

d) Local Traditions and Social Values

Local traditions and social values play a very important role in resolving land disputes in villages such as Plaosan Village. Social values such as gotong royong, deliberation, and a sense of kinship that have become part of the local culture play an important role in resolving conflicts. In this context, gotong royong encourages people to work together to find solutions, while deliberation opens up space for open discussions that respect the opinions of each party. A strong sense of kinship also strengthens social ties, making it easier to reach a peaceful and effective resolution without causing divisions. A land dispute resolution approach that adopts the perspective of local traditions in Plaosan Village, Wonosari Subdistrict, Malang District, can maintain community unity. This approach emphasizes the importance of harmony and balance in society, which is achieved through customary mechanisms that respect local values.

The people of Plaosan Village have a method of resolving land disputes that is in accordance with their long-standing customs and cultural heritage. This method is based on the principles of kinship and mutual respect, where the parties involved in the dispute sit together to find a fair solution. The dispute resolution process involves respected community leaders or village elders, who function as arbiters and mediators. In addition, the people of Plaosan Village prioritize deliberation for consensus, so that the decision taken is more acceptable to all parties involved. By prioritizing these cultural values, the settlement of land disputes can be done peacefully, without going through long and complicated legal channels. This shows that the use of local traditions in land dispute resolution can be a more effective alternative to formal mechanisms that may not be fully understood or accepted by local communities.¹⁹ This approach allows disputes to be resolved in a way that is closer to and more easily understood by the community. It can also overcome the limitations of formal mechanisms that are often considered complicated or less relevant to local values.²⁰ Thus, the incorporation of local traditions and social values in land dispute resolution in villages like Plaosan not only makes it easier to reach an agreement, but also strengthens social ties and maintains harmony within the community. This approach is in line with the traditions and values respected by the community, making the resulting solutions more acceptable and sustainable.

e) Role of Village Government

The Plaosan village government, particularly the village head and village officials, also play an important role in land dispute mediation. They act as a liaison between the disputants and the mediator, facilitating effective communication and helping to reach a fair settlement. Plaosan's village head acts as a leader and protector in land dispute resolution, ensuring that the mediation process runs smoothly and that all parties feel supported. As a respected figure in the community, the village head has the authority to lead the mediation process wisely and fairly. He ensures that each party can express their views without fear or favoritism. In addition, the village head also functions as a mediator who facilitates discussions, creating an atmosphere conducive to reaching an agreement. In his role, he not only listens to each party's grievances, but also provides solutions that prioritize the principles of fairness and balance. With his caring and

¹⁸ Didik Irawansah, Jufrin, dan Sukirman, "Penggunaan Mediasi Penyelesaian Sengketa Perdata Pertanahan Oleh Pemerintah Desa," *SEWAGATI: Jurnal Pengabdian kepada Masyarakat* 2, no. 2 (14 Juli 2023): 75–89, <https://doi.org/10.61461/sjpm.v2i2.28>.

¹⁹ Stefanus Don Rede Elroswit.E.Teresa Gae Soro, Bernadio Marsico Oematan, Mariani Indriani Jesika Jawa, Claudia Hironima Letik, Michael A.Siki, Servasius S. Sunardi, "Penyelesaian Sengketa Tanah Adat Dalam Perspektif Kearifan Lokal Pada Masyarakat Ngadhu-Bhaga, Kabupaten Ngada-NTT," *Socius* 1, no. December (2023): 327–35, <https://doi.org/https://doi.org/10.5281/zenodo.10410478>.

²⁰ Elroswit.E.Teresa Gae Soro, Bernadio Marsico Oematan, Mariani Indriani Jesika Jawa, Claudia Hironima Letik, Michael A.Siki, Servasius S. Sunardi.

tactful approach, the village head helps to ensure that land disputes can be resolved amicably and in accordance with local customary values.²¹

The village head plays a key role as a mediator in the resolution of land disputes in the village, given his position of respect among all residents. As a leader who is close to the community, he has a deep understanding of the social and cultural dynamics prevailing in his village. In mediation, the village head usually refers to local customs and traditions that are respected by the local community, as a basis for finding mutually acceptable solutions. These customs often prioritize the principles of deliberation and consensus, which enable agreements to be reached without involving lengthy legal processes.²² The village head also ensures that all parties involved in the dispute are given equal opportunity to express their opinions openly and honestly. In addition, he or she plays a balancing role, keeping the mediation process from being skewed in favor of one party, so that all parties feel valued and heard. The village head helped to maintain social harmony and strengthen the bonds between residents in resolving the land dispute peacefully. In addition, the village head also plays a role in educating the community about the importance of maintaining harmony and respecting agreed land boundaries. With a humanist approach and based on local wisdom, village heads can resolve disputes without the need to involve formal legal processes that are often time-consuming and costly.²³

The village government, through the village head and his/her officials, can invite the disputing parties to mediate at the village office as an initial step in dispute resolution. In this mediation process, the village head and dusun head act as mediators who facilitate conversations and discussions between the two parties. They ensure that each party is given the opportunity to express their opinions and interests clearly and without pressure. The mediation process also involved witnesses from other village officials whose job was to maintain transparency and ensure fairness at every step. With these witnesses present, the village head and village officials can minimize the potential for further conflict and ensure that the solution reached is acceptable to all parties.²⁴ Thus, the active role of village government in land dispute mediation not only contributes to a fair settlement, but also strengthens community unity and maintains harmony within the community. Their involvement ensures that the mediation process conforms to local norms and values, making the outcome more acceptable to the community.

2. Challenges to the Implementation of Mediation for Disputing Parties in Plaosan Village

Land disputes are one of the most common problems in Indonesia. The complexity of this issue is not only influenced by legal factors, but also by social, economic and cultural aspects. Mediation is considered as one of the methods that can provide a peaceful and fair solution for the parties involved, as this process emphasizes open communication and mutual understanding. In mediation, both parties are given the opportunity to express their feelings and interests without external pressure. This allows for a shared understanding that becomes the basis for finding a mutually beneficial solution. The process also provides space for disputants to find a middle ground that is not only fair, but also accountable. By prioritizing agreements based on deliberation, mediation often results in more sustainable settlements and maintains good relations between the disputing parties.²⁵ However, the implementation of mediation in land disputes does not always run smoothly and faces various challenges that affect its effectiveness.

One of the main obstacles in the implementation of mediation of land disputes is the lack of understanding of the mediation process itself. Many parties still consider mediation as a formal

²¹ I Komang Darman & Ponsa Liana, "Peran Kepala Desa dalam Menyelesaikan Sengketa Tanah Pada Masyarakat di Desa Mampai Kecamatan Kapuas Murung Kabupaten Kapuas," *Satya Dharma: Jurnal Ilmu Hukum* 7, no. 1 (2024): 220–35, <https://ejournal.iahntp.ac.id/index.php/satya-dharma/article/view/918>.

²² Liana.

²³ Liana.

²⁴ Taufiqurrahman et al., "Peran Pemerintah Desa Dalam Menyelesaikan Sengketa Kepemilikan Batas Tanah Sawah Di Desa Kaowa Kec. Lambitu," *NALAR: Journal Of Law and Sharia* 1, no. 3 (31 Desember 2023): 233–42, <https://ejurnal.sarauinstitute.org/index.php/nalar/article/view/52>.

²⁵ M.S. Rifai, "Efektivitas Mediasi dalam Penyelesaian Sengketa Tanah di Indonesia: Tantangan dan Solusi," *Jurnal Hukum dan Keadilan* 10, no. 2 (2020): 142.

procedure that must be followed before bringing a case to court, whereas mediation should be the first and main step to resolve disputes amicably. This ignorance often makes them less open to actively participating in the mediation process. Low trust in the mediator, either due to lack of experience or perceived impartiality, is also often a significant barrier. In addition, some parties may feel that the outcome of the mediation will not be balanced or fair, given that they do not fully understand how the agreement was reached. As a result, the mediation process may stall or fail, and the dispute may eventually proceed to a more lengthy and costly litigation route.²⁶ In addition, power imbalances between the parties, such as differences in access to legal resources and information, can also affect the success of mediation.

Other challenges come from institutional and regulatory aspects. In Indonesia, mediation has been regulated in Supreme Court Regulation (PERMA) No. 1 Year 2016, which requires mediation as part of the litigation process. However, the implementation of this regulation in the field still faces obstacles, such as the lack of competent mediators and adequate mediation facilities. In addition, a lack of coordination between relevant institutions, such as the National Land Agency (BPN) and the judiciary, often hinders effective dispute resolution efforts. Faced with these challenges, collaboration is needed to improve the effectiveness of mediation in land dispute resolution. This includes increasing the capacity of mediators, socializing the benefits of mediation to the public, and strengthening regulations that support the implementation of mediation. With the right approach, mediation has great potential to be a fair and effective solution in resolving land disputes in Indonesia. Challenges in the implementation of land dispute mediation in Plaosan Village are as follows:

a) Lack of public understanding and awareness

The lack of public understanding and awareness of mediation is one of the main obstacles in resolving land disputes in Plaosan Village. Many parties do not understand the purpose and benefits of mediation as an alternative dispute resolution (ADR) method. As a result, mediation is often seen only as a formal procedure that must be followed before taking a case to court. This limited understanding causes the parties involved to not take the mediation process seriously, such as not attending mediation meetings, being reluctant to negotiate openly, or even rejecting the agreement reached.

This condition is further exacerbated by the lack of continuous public education efforts on the importance of mediation, which is one of the main factors causing this problem. Many people are not fully aware of the benefits of mediation, especially in terms of time efficiency and much lower costs compared to litigation in court. Mediation offers faster and more flexible settlements, without having to go through complicated and lengthy legal procedures. Unfortunately, the lack of sufficient information on how mediation works means that people tend to opt for formal legal channels, which are often more complex and time-consuming. In addition, most people are still more familiar with the court process, so they feel safer by following familiar procedures. This ignorance is also exacerbated by the lack of socialization and education on the importance of mediation as an alternative dispute resolution. As a result, many disputes that could have been resolved peacefully and efficiently through mediation instead drag on through the more expensive and time-consuming legal process.²⁷

Lack of awareness is also influenced by negative views on mediation, such as the notion that mediation cannot produce legally binding solutions. Many people are of the opinion that since mediation is voluntary, the outcome will not have the legal force of a judgment issued by a court. In addition, some parties are hesitant because they believe that the mediator does not have enough authority to resolve the dispute in a final manner, so they prefer the more formal and

²⁶ N. Susanti, "Analisis Kegagalan Mediasi dalam Sengketa Tanah: Perspektif Hukum dan Sosial," *Jurnal Resolusi Konflik* 15, no. 1 (2021).

²⁷ M.A. Siregar, "Edukasi Publik sebagai Upaya Meningkatkan Kesadaran dalam Penyelesaian Sengketa melalui Mediasi," *Jurnal Hukum dan Pembangunan* 30, no. 2 (2020).

definitive legal route.²⁸ This suggests the need for a more strategic approach to improving people's legal literacy, including through public campaigns, training, and the provision of easily accessible information on the procedures and benefits of mediation. By improving the public's understanding of the process and benefits of mediation, this method could become a mainstream option in land dispute resolution. Proper education on how mediation works can help people see that mediation is not only faster and cheaper, but can also lead to fair and mutually beneficial solutions. Thus, mediation will become a more effective tool in creating peaceful, fair and sustainable dispute resolution, without having to go through a lengthy and conflict-ridden litigation process.²⁹

b) Land-related legal uncertainty

Legal uncertainty regarding land ownership is one of the main causes of disputes and hinders the success of mediation as an alternative solution. Land ownership disputes often arise from unclear or overlapping ownership documents, leading to confusion between the parties involved. In addition, the emergence of multiple titles or conflicting claims to the same land further exacerbates the situation, making mediation more difficult to implement. When documents or proof of ownership are unclear, disputants tend to feel that their rights are being overlooked, which decreases trust in the mediation process. As a result, although mediation can offer a more peaceful and efficient settlement, this legal uncertainty often prevents a fair agreement from being reached.³⁰ In Plaosan Village, some land is still recorded under Letter C, and landowners have not updated their ownership names in the name of heirs. This has led to overlapping ownership documents due to uncertainty over the rightful owner. This problem not only involves the disputing parties, but also often involves state institutions such as the National Land Agency (BPN), which is responsible for issuing land certificates. Data discrepancies in legal documents, such as land maps or certificates of title, make it difficult for parties to reach an agreement, despite facilitation.

In mediation, this legal uncertainty often leads to deadlock as each party generally feels it has a legitimate legal basis for the land in dispute. In addition, the mediation process often requires valid documents and the authority of a third party, such as the BPN, to verify the status of the land, which can be time-consuming and add to the complexity of dispute resolution.³¹ This situation suggests that successful mediation in land disputes requires not only effective negotiation, but also improvements in the land administration system that are more transparent and accurate. Strengthening electronic data and better structuring of land regulations will help create clear legal certainty, so that the mediation process can run smoothly. Without clear legal certainty and an organized administrative system, mediation risks becoming an ineffective process, and may even prolong the resolution of disputes that could otherwise be resolved quickly and amicably.³²

V. Conclusion

The effectiveness of mediation in resolving land disputes in Plaosan Village is influenced by various factors, such as trust in the mediator, understanding of the law, local traditions, and

²⁸ D. Kusuma, "Persepsi Masyarakat terhadap Mediasi sebagai Alternatif Penyelesaian Sengketa di Indonesia," *Jurnal Resolusi Konflik* 12, no. 1 (2021).

²⁹ A. Fauziyah, R., & Setiawan, "Analisis Efektivitas Mediasi dalam Sengketa Tanah: Perspektif Kesadaran Hukum Masyarakat," *Jurnal Sosial dan Hukum* 8, no. 3 (2019).

³⁰ U. Santoso, "Masalah Sertifikat Ganda dalam Sengketa Tanah dan Solusi Hukum di Indonesia," *Jurnal Hukum Agraria dan Pertanahan* 15, no. 2 (2021).

³¹ F. Pratama, H. A., & Rahman, "Ketidakpastian Hukum dalam Penyelesaian Sengketa Tanah melalui Mediasi di Indonesia," *Jurnal Resolusi Konflik* 10, no. 3 (2019).

³² A. Yulianto, "Implementasi Sistem Informasi Pertanahan dalam Mengurangi Konflik Tanah di Indonesia," *Jurnal Hukum dan Pembangunan* 28, no. 4 (2020).

active participation of the parties involved. With an approach that combines local wisdom, the role of the village government, and increased community awareness, mediation can be an effective and fair solution in maintaining social harmony in rural communities.

The implementation of land dispute mediation in Plaosan Village faces major challenges, such as a lack of public understanding of mediation and legal uncertainty regarding land ownership. To improve the effectiveness of mediation, it is necessary to increase public awareness, improve the competence of mediators, and improve a clearer and more integrated land administration system.

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