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Blood Relations, Broken Rights: Mediation as a Socio-Legal Mechanism in Heirs' Land Ownership and Control Disputes in Indonesia

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Abstract

Inheritance-related land disputes in Indonesia remain a persistent legal and social issue due to the country's pluralistic legal system, which integrates statutory law, customary (*adat*) law, and Islamic inheritance principles. This study examines the role of mediation as an alternative dispute resolution mechanism in resolving conflicts over heirs' land ownership and control rights. It emphasizes mediation as both a procedural legal instrument and a socio-legal approach that accommodates family values and local wisdom in dispute settlement. Using doctrinal and socio-legal methods, the study analyzes Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution and Supreme Court Regulation (PERMA) No. 1 of 2016 on Court-Annexed Mediation, alongside their application in inheritance land disputes. Findings indicate that conflicts among heirs arise from unclear inheritance distribution, overlapping claims, and tensions

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between formal legal norms and customary practices, often escalating into litigation with prolonged uncertainty and weakened family relations. The study finds that mediation provides a flexible, efficient, and restorative alternative to adversarial litigation. It enables parties to reach mutually agreed settlements that ensure legal certainty and preserve social harmony, reflecting Indonesian dispute resolution values. Challenges remain regarding mediator competence, enforcement of agreements, and varying acceptance across legal traditions. This study contributes to Indonesian legal scholarship by offering a socio-legal analysis of mediation in inheritance land disputes and its role in harmonizing state, customary, and Islamic laws. For a global audience, it provides insights into how legal pluralism shapes dispute resolution in non-Western contexts, offering lessons for comparative studies of alternative dispute resolution and hybrid legal systems.

KEYWORDS *Mediation; Indonesian Inheritance Law; Land Disputes; Adat Law; Alternative Dispute Resolution*

Introduction

Inheritance-related land disputes are a persistent challenge in Indonesia, reflecting the intersection of legal, social, and familial dynamics.[1] Land remains a central asset in Indonesian society, symbolizing wealth, social status, and intergenerational continuity.[2] Conflicts over heirs' land ownership and control often escalate into prolonged disputes, straining family relationships and undermining social cohesion. Such disputes are not merely legal matters; they carry deep emotional and cultural significance, making resolution through traditional litigation inadequate or unsatisfactory.[3]

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[1] Furziah Furziah. "Pengaruh Dinamika Sosial-Ekonomi Terhadap Resolusi Konflik Pembagian Warisan: Tantangan dan Solusi." *Islamitsch Familierecht Journal* 4, no. 2 (2023): 100-117; Berliana Aisyah, Rosi Auliya Rosyada, and Bayu Dwi Widdy Jatmiko. "Kontroversi Hukum dalam Perebutan Tahta Pakualaman Terhadap Dampak Sosial dan Kepastian Hukum di Masyarakat." *Esensi Hukum* 5, no. 2 (2023): 132-152; Suwarti Suwarti, Decha Khunmay, and Stepan Abannokovya. "Conflicts occurring due to the application of different legal inheritance systems in Indonesia." *Legality: Jurnal Ilmiah Hukum* 30, no. 2 (2022): 214-227; Abdul Qodir Zaelani, et al. "An Implementation of the Joint Inheritance Division of Ethnic Groups in Lampung, Indonesia." *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 7, no. 3 (2023): 1373-1396.

[2] Bagus Wiryomartono, *Traditions and Transformations of Habitation in Indonesia*. (Singapore: Springer Singapore, 2020).

[3] *See* Ward Berenschot, "Resolving land conflicts in Indonesia." *Bijdragen tot de taal-, land-en volkenkunde/Journal of the Humanities and Social Sciences of Southeast Asia* 176, no. 4 (2020): 561-574. For broader cases, *see also* Fida Nabilah Taufiq,

Indonesia's pluralistic legal system complicates inheritance land disputes further. Statutory law, customary (*adat*) practices, and Islamic inheritance principles coexist, often creating overlapping or conflicting claims.[4] While statutory regulations provide formal rules, adat norms and religious principles govern local expectations and familial obligations. The tension between these legal sources frequently exacerbates disputes, leading to prolonged litigation, inconsistent rulings, and social discord within families.[5]

Alternative dispute resolution, particularly mediation, has emerged as a promising mechanism to manage these complex conflicts. Mediation offers a participatory, interest-based approach that aligns legal requirements with social and cultural realities. [6]Unlike adversarial litigation, mediation allows heirs to negotiate outcomes collaboratively, potentially restoring family harmony while ensuring legal recognition of ownership and control rights. Despite its potential, the adoption and effectiveness of mediation in inheritance land disputes remain uneven across Indonesia, influenced by mediator competence, legal awareness, and acceptance of mediated outcomes.

In this context, the existence of land is valuable and very important in the lives of Indonesian people because it is used as a place where people live and land also provides a livelihood for them. Land has a function as the center of social, economic,[7] and political life, a source of livelihood which is

Mohammad Hamidi Masykur, and Supriyadi Supriyadi. "Challenges Arising from Article 22 (2) of Ministerial Regulation ATR/BPN No. 6/2018 on Complete Systematic Land Registration (PTSL) Pertaining to Insufficient or Missing Evidence of Community Land Ownership." *Unnes Law Journal* 9, no. 2 (2023): 419-440; Fergi Firosa Akbar, "Judge Decision Analysis on Civil Cases Against Counterfeiting Land Deed Decision Number 350 K/Pdt/2017 Mataram District Court." *Indonesian Journal of Environmental Law and Sustainable Development* 1, no. 1 (2022): 69-92.

4 Siti Futriyah, Rahayu Mardikaningsih, and Nelud Darajaatul Aliyah. "Legal Pluralism and the Role of Traditional Mediation in the Settlement of Inheritance Disputes in Multicultural Societies." *Journal of Social Science Studies* 3, no. 1 (2023): 249-258. *See also* Keebet von Benda-Beckmann, "Trajectories of legal entanglement examples from Indonesia, Nepal, and Thailand." *Legal Pluralism and Critical Social Analysis* 54, no. 1 (2022): 13-30.

5 Damianus Krismantoro, "Pengakuan Hak Masyarakat Adat Atas Tanah Ulayat: Analisis Hubungan Antara Hukum Nasional dan Hukum Adat." *AKSELERASI: Jurnal Ilmiah Nasional* 4.2 (2022): 21-32; M. Sofyan Pulungan, "Menelaah Masa Lalu, Menata Masa Depan: Sejarah Hukum Tanah Ulayat dan Model Penanganan Konflik Sosialnya." *Undang: Jurnal Hukum* 6, no. 1 (2023): 235-267.

6 Deborah R. Hensler, "In search of "good" mediation: Rhetoric, practice, and empiricism." In *Handbook of Justice Research in Law*. (Boston, MA: Springer US, 2000), pp. 231-268.

7 Teddy Chandra, "Non-Litigation Process Land Dispute Settlement for Legal Certainty." *Substantive Justice International Journal of Law* 2, no. 2 (2019): 177–194.

closely related to community identity.[8] This land is a primary human need, both directly to meet daily life, such as for agriculture and settlement, as well as as a base for various economic and development activities, such as trade, industry, agriculture, gardens, and education, as well as the development of infrastructure and other facilities.[9]

Land on the other hand also always triggers disputes from time to time[10] increasing both in quality and quantity.[11] This land dispute has become a classic issue in Indonesia so it needs to be resolved quickly and precisely.[12] Over time, land will surely run out with every piece of land owned or inhabited due to the increasing population of Indonesia.[13] It could be that over time our land is used up for all to use and there will be no more empty or abandoned land.[14] Therefore, a legal regulation or legal code is needed, namely rules of social life that are regulatory and coercive to ensure order in society.

The high value of land can be seen from any perspective, including sociology, anthropology, psychology, politics, military, and economics.[15] Land is one of the natural resources that is important for the survival of mankind, the relationship between humans and land is not just a place to live, but more than that, land provides resources for the survival of mankind. The importance of land for humans is so important that it often causes land problems/disputes.[16] The emergence of land rights disputes can

[8] Temesgen Solomon Wabelo, "Approaches To Rural Land Dispute Resolution Mechanisms in the Ethiopian Rural Land Legislations: Regional States Based Analysis." *Law, Environment and Development Journal* 16, no. 2 (2020): 95–110.

[9] Elza Syarief, *Menuntaskan Sengketa Tanah Melalui Pengadilan Khusus Pertanahan*. (Jakarta: Kepustakaan Populer Gramedia, 2017).

[10] Iswantoro Iswantoro. "Strategy and Management of Dispute Resolution, Land Conflicts at the Land Office of Sleman Regency." *Journal of Human Rights, Culture and Legal System* 1, no. 1 (2021): 1–18

[11] Mila Hayati, Suhaimi, and Sulaiman. "The Role of the Regional Office of the National Land Agency Aceh Province in Settlement Land Disputes." *International Journal of Multicultural and Multireligious Understanding* 8, no. 6 (2021): 557–566.

[12] Sunarno Sunarno. "Development of Land Conflict Settlement Model Based on Indigenous Knowledge of the Local Communities in Indonesia." *Indonesian Comparative Law Review* 1, no. 2 (2019): 122–135.

[13] Rofi Wahanisa, Arif Hidayat, R. Benny Riyanto, and Bayu Dwi Anggono. "Problems of Disputes/Conflicts Over Land Acquisition Towards Development for Public Interest in Indonesia." *International Journal of Criminology and Sociology* 10, no. 24 (2021): 320–325

[14] Sri Wahyuni, and Gisca Pandu Ramanda. "Penerapan Itikad Baik Para Pihak Kepada Penyelesaian Sengketa Tanah di Desa Segara Makmur." *J-Abdi: Jurnal Pengabdian Kepada Masyarakat* 2, no. 9 (2023): 6461–6468.

[15] Syarief, *Menuntaskan Sengketa Tanah Melalui Pengadilan Khusus Pertanahan*.

[16] Saidina Irhamna, "Penyelesaian Sengketa Pertanahan Melalui Mediasi Oleh Kantor Pertanahan Lombok Barat." *Thesis*. (Mataram: Universitas Mataram, 2020).

occur due to a lawsuit from a person or legal entity containing a lawsuit due to legal actions that harm other parties.[17]

The problem of land disputes in Indonesia is not something new and is still ongoing today. Initially, land disputes only occurred between certain individuals, but now land disputes have spread to various sectors of community life, including forestry, infrastructure, mining, and even fish ponds/coastal areas. Legal disputes arise from complaints submitted by certain parties, both individuals and legal entities, containing complaints and demands related to land status, priority use, or land ownership, with the hope of obtaining administrative resolution by applicable regulations.[18] Unequal land ownership/control and disparities in agricultural land use are factors causing land disputes.[19]

Land disputes ultimately impact all aspects of life starting from the economic, social, and environmental aspects.[20] So far, land dispute resolution can be done through court or outside court. People who choose to resolve cases through court can now take advantage of e-litigation or electronic courts. This is as regulated in Supreme Court Regulation Number 1 of 2019 so that people can obtain true justice based on the principles of fast, simple, and light.[21] Apart from that, electronic courts should be more effective by the basic principles to make justice accessible to all levels of society, but since it was implemented, e-litigation has become less popular with the public.[22]

Administrative Court generally have incomplete and suboptimal results. This is because resolving civil disputes in general courts requires a long process and is not as simple as expected with several stages and procedures starting from the preparation stage, filing and registering a lawsuit, as well as the trial stage which can sometimes take more than one

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[17] Edward Karumiana Mwaigombe, and Frataline Kashaga. "The Role of Informal Land Dispute Settlement Mechanisms on Family Land Ownership in Tanzania: A Case Study of Mbeya District, Mbeya Region." *International Journal of Social Science Research and Review* 4, no. 2 (2021): 1–12.

[18] Suhadi Manan, *Penyelesaian Sengketa Hak Atas Tanah Melalui Pengadilan Tata Usaha Negara*. (Jember: Media Cipta Perkasa, 2020).

[19] Emmanuel Yenkong Sobseh, and Willibroad Dze Ngwa. "Land Tenure Insecurity And Land Conflicts In The Bamenda Grassfields of Cameroon: Puzzling Evidence From Bali Nyonga/Bawock Land Conflict." *International Journal of Advenced Research (IJAR)* 9, no. 1 (2021): 867–876.

[20] Manan, *Penyelesaian Sengketa Hak Atas Tanah Melalui Pengadilan Tata Usaha Negara*.

[21] Dian Latifiani, Yusriadi Yusriadi, Agus Sarono, Ahmad Habib Al Fikry, and Mohammad Nur Cholis. "Reconstruction of E-Court Legal Culture in Civil Law Enforcement." *Journal of Indonesian Legal Studies* 7, no. 2 (2022): 409–448.

[22] Fadhilah Rizky, Aftriani Putri, Ikhda Fitria, and Dian Latifiani. "Hambatan Pembuktian dalam Pelaksanaan E-Litigasi Guna Mendukung Pembaharuan Hukum di Era Revolusi Industri 4.0." *Jurnal Hukum Prioris* 8, no. 2 (2020): 152–177.

year to complete.[23] This is caused by overlapping decisions that have been determined by each judicial body, the difficulty of executing decisions of judicial bodies that have permanent legal force, and the lack of clarity regarding which laws and regulations are competent to resolve land cases in Indonesia. As a result, injustice arises, legal uncertainty, land grabbing, disruption to the rate of economic growth and development due to investors being reluctant to invest their capital in Indonesia, and social and political conflicts arising.[24] Therefore, resolving disputes outside the court, such as mediation, is always the best choice to find a win-win solution for both parties.[25]

Mediation can be interpreted as a dispute resolution process in which the disputing parties receive assistance from a neutral third party, who acts as a facilitator.[26] Decisions in mediation are based on an agreement between the parties involved in the dispute. Mediation can be used to resolve land disputes, where the third party is usually from the National Land Agency (BPN), and the decision resulting from this mediation has the same legal force as an ordinary decision because it is agreed to by both parties.[27]

One example of a land dispute that was attempted to be resolved through mediation at the Jepara Regency Land Office is the case as contained in the Minutes of Mediation Number 17.3/BA/VII/2022 concerning a land boundary dispute located in Sengonbugel Village RRT 006 RW 003 Mayong District Jepara Regency between Saripah with Sugeng. The main issue in dispute is that Saripah, as the complainant, requested that the western boundary, which is written as the Relief Road, which is approximately 1.5 m^2 wide, be widened further to 3 m^2. The mediation was carried out 4 times at the Jepara Regency Defense Office with the result that they agreed to provide access to a 1.5 m2 wide road to the back/to the south (as a road so it cannot be used as property by anyone).

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[23] Dian Latifiani, and Mitha Ratnasari. "The Small Claim Court To Realize the Fast and Simple Principle in Civil Disputes Resolution." *South East Asia Journal of Contemporary Business, Economics and Law* 18, no. 4 (2019): 7-12.

[24] Mudjiono Mudjiono. "Alternatif Penyelesaian Sengketa Pertanahan Di Indonesia Melalui Revitalisasi Fungsi Badan Peradilan." *Jurnal Hukum IUS QUIA IUSTUM* 14, no. 3 (2017): 458–473.

[25] Manjur Hossain Patoari, "Legal and Administrative Challenges of Alternative Dispute Resolution (ADR) as a Peaceful Means of Resolving the Land Dispute in the Rural Areas of Bangladesh." *Beijing Law Review* 11, no. 1 (2020): 415–428.

[26] Juniaty D. Aritonang, "Land Conflict Resolution: Case Study In Sarirejo Village." *Indonesian Journal of Social Science Research* 2, no. 2 (2021): 119–127.

[27] Nur Asmah, Yaswirman, Kurnia Warman, and Mardenis. "Fair Mediation as an Alternative for Settlement of Customary Land Disputes for Oil Palm Plantation Businesses in West Pasaman." *International Journal of Entrepreneurship* 25, no. 6 (2021): 1–11.

The second case, Mediation Minutes Number: 01/ SP/33.20.MP.01.02/V/2022, a land dispute which was attempted to be resolved through mediation at the Jepara Regency Land Office, was a boundary dispute over Ownership Certificate Number: 799/ Potroyudan registered in the name of Nurul Amaliyatul Khasanah with waqf certificate Number: 20/ Potroyudan registered in the name of the Muslimat NU Bina Bhakti Wanita Education Foundation, located in Potroyudan Village, Jepara District, Jepara Regency. The main problem was that Nurul Amaliyatul was the complainant regarding the installation of paving on the western part of his land which was carried out by Farida as Chair of the NU Education Foundation. The complainant also objected to the fact that the southern part of his land was recognized as a public road because in SHM No: 799/ Potroyudan there was no picture of the road. Mediation was carried out 3 times by the Jepara Regency Land Office by reaching an agreement through mediation with a field check by BPN Jepara, there was an error in SHM No: 799/ Potroyudan and the complainant then agreed by handing over the SHM for data correction and it was issued widely for public roads voluntarily without any compensation.

The third case, a land dispute that was attempted to be resolved through mediation at the Jepara Regency Land Office, was a dispute between heirs regarding Ownership and Control of SHM Land Number: 2985/Bondo registered in the name of Sugito Marjan located in Bondo Village, Bangsri District, Jepara Regency. Based on the Mediation Request Letter, one of the heirs through his attorney on June 22 2022 submitted a request for mediation to the Jepara Regency Land Office regarding the Application for Transfer of Certificate of Rights over SHM Number 2985 covering an area of 7850 m^2 in Bondo Village, Bangsri District, Jepara Regency. The chronology of this inheritance dispute begins with the distribution of inheritance assets to 4 heirs of Sugito Marjan, namely Tiyas Murti, Muji Astuti, Jatmiko, and Nuryanto.

One of the heirs, namely Jatmiko, as the mediation applicant, intended to register an application for the transfer of certificate rights over the land which was his share, but due to an unresolved sale and purchase dispute between Tyas Murti and Muji Astuti's share, the latter was bought by Ratriyo and his wife Sukiswati. Sukiswati and the children were uncooperative in the process, unwilling to provide consent, personal data, and signatures for the process of transferring rights to the certificate. Negotiation and mediation efforts with family members (other heirs) had been carried out previously but Sukiswati was still unwilling to respond. Therefore, the next step taken was to use a mediator from the Jepara Regency Land Office.

The problem that later emerged after the decision through the mediation results was that inheritance and transfer of rights/change of name could not be carried out because it was hampered by the process of buying and selling inherited land between heirs which was previously carried out without the consent of all the heirs. The sale and purchase carried out by Tyas Murti with Muji Astuti's share and the final purchase by Ratriyo and his wife Sukiswati was carried out orally and was not known to all the heirs and other family members even though they were still related. In fact, according to the provisions, an heir must ask for approval from the other heirs if he wants to sell his inheritance land which has not yet broken the certificate because the other heirs also have rights to the land. This is as regulated in Article 1471 of the Civil Code. When an heir wants to sell the inherited land, initially there has been an agreement between the seller of the inherited land and the buyer, so all the other heirs who are listed as legal heirs must be present to give approval. If the sale and purchase of land does not have the consent of all the heirs, then the land sale and purchase agreement is null and void. With the cancellation of the sale and purchase of inherited land, the sale and purchase is deemed to have never existed, and each party is returned to its original state before the "sale and purchase" event occurs, where the ownership rights to the land remain with their respective heirs.

Current scholarship on inheritance land conflicts has largely focused on either statutory or customary law, with limited integrated socio-legal analyses that consider the practical application of mediation. Few studies examine how mediation can harmonize state law, adat traditions, and Islamic inheritance principles in real-world dispute resolution. This gap limits understanding of mediation’s potential to resolve not only legal claims but also the social and relational dimensions of inheritance disputes.

This study addresses these gaps by providing a comprehensive socio-legal analysis of mediation in Indonesian inheritance land disputes. It examines the legal framework, identifies challenges in implementation, and explores how mediation can restore social harmony while ensuring legal certainty. By doing so, it contributes both to Indonesian legal scholarship and to the global discourse on alternative dispute resolution in pluralistic legal contexts, offering comparative insights for jurisdictions facing similar socio-legal complexities.

Based on the phenomenon of disputes between heirs regarding Ownership and Control of SHM Land Number: 2985/Bondo which were resolved through mediation at the Jepara Regency Land Office, even though there has been a mediation decision agreed upon by both parties, in fact, there are problems in the process of resolving rights for registration of Title

Certificates. on the inherited land. The problem of buying and selling without the knowledge of all the heirs and carried out privately means that there is no sale and purchase deed from a notary as a condition for splitting and registering land rights so that the process cannot continue. Based on these problems, researchers are interested in conducting more in-depth research related to the disputes mediated by the Jepara Regency Land Office.

This research uses a qualitative research approach and empirical juridical research. Qualitative research was chosen with the consideration that the problems discussed in this research were to describe, and explain the implementation of mediation as an effort to resolve disputes over ownership and control of heirs' land and the strategy of the Jepara Regency Land Office to support the successful implementation of mediation of disputes over ownership and control of heirs' land. Empirical juridical research is research carried out by identifying laws (law in the book) and looking at the effectiveness of law implementation in society.[28]

The type of data in this research consists of primary data and secondary data. Moleong states that primary data sources are defined as sources of research data obtained by researchers directly without being at the research location or through certain intermediary media.[29] Primary data sources are the main data sources, namely informants. The informants for this research consisted of (1) Yuli Fitrianto, SH. as Head of the Control and Dispute Handling section of the Jepara Regency Land Office; (2) Faizal Widi Hartanto, S.ST., M.H. as Coordinator of the Jepara Regency Land Control Substance Group; and (3) Mar'atun Azizah, SH. The legal representative of the heirs "Is Abdul Ghofur & Partners". Secondary data sources are sources of research data obtained by researchers indirectly through intermediary media. Secondary data sources used in this research are books, scientific journals, and documents regarding efforts to resolve disputes over ownership and control of heirs' land through mediation. Tertiary data is supporting data that can provide clues to primary and secondary data. The tertiary data used comes from the Black Law Dictionary and Merriam-Webster Dictionary.

The data collection techniques that will be used in this research are observation, interviews, and documentation. Data analysis always involves three processes that are interconnected with each other, namely (1) The process of describing (describing) which states the main characteristics in

[28] Soerjono Soekanto, and Sri Mamudji. *Penelitian Hukum Normatif Suatu Tinjauan Singkat*. (Jakarta: Rajawali Press, 2013).
[29] Lexy J. Moleong, *Metodologi Penelitian Kualitatif*. (Bandung: Remaja Rosdakarya, 2016).

the social context, social actors and social processes; (2) The process of classifying (classifying) which groups into classes in the form of certain categories so that they are easy to analyze; and (3) The process of linking or connecting (connecting) which connects classes in the form of categories into a concept that is produced in the classification process to find a pattern or framework of reasoning regarding the phenomenon being studied.[30] One model of qualitative data analysis techniques is interactive analysis techniques. This technique consists of four components, namely data condensation, data display, drawing, and verifying conclusions. Qualitative data analysis is carried out interactively and continues continuously until the data is saturated.[31]

Implementation of Mediation as an Effort to Settle Disputes on Ownership and Control of Land of Heirs

In essence, this land dispute is a difference of interest in the land sector between individuals and individuals, individuals,[32] natural persons who are legal entities; legal entities with legal entities and so on. To obtain legal certainty as mandated in the UUPA, the land case can be given a response or resolution to those concerned (community and government).[33] Land disputes are one of the most difficult problems to fix and must be handled carefully.[34] Cases of land disputes that fall into the serious category can give rise to social, political, and security problems.[35]

Before being mediated by the Jepara Regency Land Office, the dispute regarding the heir case had gone through various resolution efforts but was unsuccessful. The first attempt that was made by both parties to the dispute

[30] Ian Dey, *Qualitative Data Analysis: A User Friendly Guide for Social Scientists*. (London: Routledge, 2003)

[31] Matthew B. Miles, A. Michael Huberman, and Johnny Saldana. *Qualitative Data Analysis, A Methods Sourcebook, Edition 3*. (USA: SAGE Publications, 2014).

[32] Mathijs van Leeuwen, Gillian Mathys, Lotje de Vries, and Gemma van der Haar. "From Resolving Land Disputes to Agrarian Justice–Dealing With the Structural Crisis of Plantation Agriculture in Eastern DR Congo." *Journal of Peasant Studies* 49, no. 2 (2022): 309–334.

[33] Tika Puspa Lestari, Ilwan, and RR. Cahyowati. "Authority of the Village Head in Efforts to Settle Land Disputes Based on Law Number 6 Year 2014." *International Journal of Scientific Research and Management* 7, no. 5 (2019): 41–48.

[34] R S. Manurung, "The Process Of Reviewing The Sale And Purchase Of Legal Aspects of High Heritage Land Disputes (Analysis Of Decision Number: 11/Pdt. G/2015/Pn. Bsk)." *International Journal of Educational Research & Social* 1, no. 1 (2022): 140–146.

[35] Putu Diva Sukmawati, "Hukum Agraria Dalam Penyelesaian Sengketa Tanah Di Indonesia." *Jurnal Ilmu Hukum Sui Generis* 2, no. 2 (2022): 89–95.

was a family discussion involving all family members but there was no agreement. Therefore, one of the heirs, Sujatmiko, asked for help from a lawyer to help resolve the dispute. Attorney Abdul Ghofur & Partners, who became Sujatmiko's attorney, then facilitated mediation to resolve the dispute case by (1) cross-checking the whereabouts of the SHM and it turned out that it was controlled by Ratrio's heirs, and even giving it to notary without the consent of the other heirs; (2) meeting Sujatmiko with Ratriyo's wife as parties to the dispute; and (3) making telephone communications with Tiyas Murti's heirs who are in Jakarta so that information is obtained that the sale and purchase with him has not been completed.

Mediation efforts carried out by Attorney Abdul Ghofur & Partners ultimately failed to reach an agreement and SHM is still controlled by Ratrio's heirs or his wife. Therefore, Attorney Abdul Ghofur & Partners then directed his client, Sujatmiko, to ask for help from a mediator from the Jepara Regency Land Office as a final step to resolve the dispute without going through legal/court channels. Based on this direction, Sujatmiko agreed and authorized Attorney Abdul Ghofur & Partners to submit a request for mediation assistance at the Jepara Regency Land Office.

Attorney Abdul Ghofur & Partners gave directions to resolve the dispute through mediation from the Jepara Regency Land Office with the consideration that it had become part of the procedure to seek a resolution after many steps taken had been unsuccessful. Mediation was carried out 3 times at the Jepara Regency Land Office. Carrying out mediation on the heir dispute is very difficult because Sukiswati remains adamant about not being cooperative as long as the sale and purchase issue is not resolved. In this case, the Land Office has conducted mediation up to 3 times which was attended by the heirs including Sujatmiko and Sukiswati as parties to the dispute. The medical process takes a long time, the first being carried out in June 2022 and the last on November 9, 2022.

1. Mediation I (Clarification) from the Head of the Jepara Regency Land Office dated 27 June 2022 Number: MP.01.02/682-33.20/VI/2022.
2. Mediation II from the Head of the Jepara Regency Land Office dated 07 October 2022 Number: MP.01.02/990-33.20/X/2022.
3. Mediation III from the Head of the Jepara Regency Land Office dated 04 November 2022 Number: MP.01.02/1031-33.20/XI/2022.

Based on a documentation study of the implementation of mediation held by the Jepara District Land Office regarding cases of their disputes, it is known that the results of the mediation after 3 (three) meetings were determined as follows:

1. That the heirs agree to inherit property rights number 2985/Bondo.

2. That after inheritance is carried out, ownership rights number 2985/Bondo will be split.
3. The next stage will be the transfer of rights/change of name to the entitled parties in accordance with the agreement that has been approved by the heirs (Mediation Minutes Document at the Jepara Regency Land Office, 2022).

Mediation is defined as intervention from a third party to resolve a dispute without regard to whether the two parties to the dispute ask for help or not. People who act as mediators such as Village/District Heads, Heads of Government, Judges, and so on.[36] The results of the mediation at the Jepara Regency Land Office are the basis for the parties concerned, especially the heirs, to end the dispute and implement all the results of the mediation. The heirs do not dispute the results of the mediation decision and are willing to agree, so it can be interpreted that all the heirs are bound to agree with families to resolve land issues through deliberation. Then the result of the agreement was that Sukiswati and her children, who were Ratriyo's heirs, were willing to hand over their certificates to take care of changing the names of the inheritance, then splitting and changing the names to each party for the land that was part of it.

The implementation of mediation took place starting from the lower level, namely from the family through deliberation, continued through mediation assistance from a lawyer/legal representative for one of the heirs, and finally using a mediator from the Jepara Regency Land Office. The results of this research are in line with the legal system theory of Lawrence M. Friedman which states that the legal system includes 3 (three) elements, namely legal structure, legal substance, and legal culture.[37] The correlation between the legal system theory put forward by Lawrence M. Friedman and this research is that the implementation of mediation as an effort to resolve disputes between heirs regarding ownership and control of land by the Jepara Regency Land Office can be effective if supported by the legal structure, legal substance, and legal culture as the form of the legal system.

Legal structure factors relate to law enforcement officials.[38] Law enforcers, in this case, came from the Jepara Regency Land Office as mediators in resolving their disputes and legal representatives who assisted in the dispute resolution process. Structural officials at the Jepara Regency

[36] Manan, *Penyelesaian Sengketa Hak Atas Tanah Melalui Pengadilan Tata Usaha Negara*.
[37] Lawrence M. Friedman, *The Legal System: A Social Science Perspective*. (London: Russell Sage Foundation, 1975).
[38] Soerjono Soekanto, *Faktor-Faktor Yang Mempengaruhi Penegakan Hukum*. (Jakarta: Raja Grafindo Persada, 2013).

Land Office who were appointed as mediators were able to prepare materials and procedures to carry out the mediation process by the circumstances of the dispute so that the mediator in carrying out his duties could master the substance of the problem, rectify the problem, provide suggestions and remind the parties to the dispute to comply with the results of the mediation. In this case, the mediator is neutral and cooperative towards both parties so that they succeed in finding a win-win solution.

The legal substance factor includes the content of legal norms along with their formulation and procedures for enforcing them which apply to law implementers and justice seekers.[39] The Indonesian government has a set of statutory regulations as a basis for resolving land disputes, including the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 21 of 2020 concerning Handling and Settlement of Land Cases. Apart from that, there is Law No. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, which can be used to resolve land disputes, with 3 stages of the mediation process, namely the preparation stage, the mediation meeting stage, and the post-mediation stage. These statutory provisions have been able to support the effectiveness of mediation as an effort to resolve disputes between heirs regarding land ownership and control by the Jepara Regency Land Office.

Legal culture factors, values, and attitudes are part of the life of the community where the legal system is implemented.[40] This legal culture factor influences the effectiveness of mediation as an effort to resolve their disputes due to two things, namely first, differences in understanding of the rules, which causes differences in responding to these problems. "Differences in public perception of the provisions of statutory regulations will result in law enforcement being different between certain community groups and other community groups. Or in other words: cultural pluralism will result in pluralism in law enforcement".[41]

Second, differences in legal culture are seen from the perspective of internal legal culture and external legal culture. Friedman stated that internal legal culture is the legal culture of community members who carry out specific legal tasks, such as police, prosecutors, and judges in carrying out their duties, while external legal culture is the legal culture of society in

[39] Soekanto, *Faktor-Faktor Yang Mempengaruhi Penegakan Hukum*
[40] Soekanto.
[41] Rizky, et.al. "Hambatan Pembuktian dalam Pelaksanaan E-Litigasi Guna Mendukung Pembaharuan Hukum di Era Revolusi Industri 4.0."

general, for example, what the community's attitudes and knowledge are about tax provisions, divorce, and so on.[42]

The distribution of land by parents to their children has become the culture of Javanese society and the results of the distribution often give rise to disputes later because there is a buying and selling process and the certificate is not immediately issued. In this research, the legal culture factor becomes an obstacle in implementing mediation in resolving their disputes at the Jepara Regency Land Office due to the low level of knowledge and awareness among heirs regarding mediation and the process of breaking up title certificates. Apart from that, the heirs have an attitude that tends to be less caring and do not know properly about the mechanism of the process of buying and selling inherited land, so they carry out buying and selling under their hands so that in the end disputes arise which hinder the process of resolving the certificate of title to the inherited land.

The level of knowledge and awareness that is still low among heirs regarding mediation and the process of breaking up a certificate of rights indicates an external culture. The legal culture of traditional societies is an external legal culture that tends to be conservative in nature and will certainly prioritize traditional methods compared to more modern methods because basically, traditional societies that are strong in traditional culture will prefer to maintain the customs and traditions that have been in effect for a long time. However, it does not rule out the possibility that some traditional societies are open to this modernization.[43]

Mediation was carried out 3 times, attended by all the heirs, legal representatives, and the mediator (Jepara Regency Land Office) with the result of the mediation being that the heirs agreed to inherit property rights number 2985/Bondo; after inheritance was carried out, the ownership rights will be split; and the next stage is the transfer of rights or change of name to the entitled parties by the agreement approved by the heirs.

This research found that the results of the peace agreement were only stated in the form of Minutes of Mediation Implementation which contained the agreement and follow-up to the mediation which was signed by the Head of the Dispute Control and Handling Section of the Jepara Regency Land Office and the mediation participants. The form of the mediation minutes is by the provisions of Article 44 paragraph (8) of the ATR BPN Ministerial Regulation Number 21 of 2021, which states that "The results of the Mediation are stated in the minutes of the Mediation Implementation which contains the agreement and follow-up to the

[42] Rizky, et.al.
[43] Rizky, et.al.

Mediation signed by the official/team leader Settlement/Mediator". The results of this research are also in line with Pratiwi's findings that the final stage of implementing mediation is the preparation of minutes.[44]

Even though an agreement has been reached for mediation, there are accompanying legal problems, namely the gap between mediation practices at the Land Office and the statutory provisions governing the handling and resolution of land cases. In this case, the Jepara Regency Land Office did not provide a peace deed and did not register it with the Jepara Regency District Court. In fact, by the provisions of Article 44 paragraph (5) of the Minister of ATR/Head of BPN Regulation Number 21 of 2020 "In the event of Mediation, a peace agreement is reached which is stated in a deed of peace and registered by the parties in the District Court in the jurisdiction of the location of the land which is the object of the Case to obtain a decision peace".

Based on the researcher's analysis, the resolution of the heir dispute has gone through a dispute process or stages according to Laura Nader and Herry F. Todd,[45] namely (1) pre-conflict stage or complaint stage, Sujatmiko's heirs have actually been complaining for a long time that other heirs should break the certificate. (2) Conflict stage, Sujatmiko's heirs continue to try to mediate before legal counsel; (3) Post dispute stage, this case then becomes a public issue until mediation is carried out at the Jepara Regency Land Office to resolve the problem. This is done deliberately and actively with the intention that there will be action regarding the desired demands.[46] Post-dispute is a situation where the conflict is expressed publicly or involves a third party.[47]

Efforts to resolve disputes over ownership and control of land between heirs are by the theory of dispute resolution according to Dean G Pruitt and Jeffrey Z. Rubin. In this theory, it is stated that there are 5 (five) types of dispute resolution, namely: Ontending, namely trying to implement a solution that is preferred by one party over the other party; Yielding (giving in), namely lowering one's aspirations and being willing to accept a lack of what is desired; Problem-solving (problem-solving), namely looking for

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44 Ratna Sari Pratiwi, Nanik Sutarni, and Muhammad Fauzan Hidayat. "Pelaksanaan Mediasi Oleh Kantor Agraria Tata Ruang/Badan Pertanahan Nasional Kabupaten Boyolali Dalam Penyelesaian Sengketa Waris." *Jurnal Bedah Hukum* 5, no. 2 (2021): 125–137.

45 Sofian. *Perbedaan Konflik dan Sengketa*. (Jakarta: Pustaka Media, 2018).

46 Chittto Cumbhadrika, "Penerapan Penyelesaian Wanprestasi Melalui Gugatan Sederhana (Studi Kasus Putusan Nomor: 8/PDT.G.S/2020/PN.Yyk.)." *IBLAM Law Review* 1, no. 2 (2021): 169–181.

47 Ya'kub Aiyup Kadir, "Penyelesaian Konflik Berbasis Desa di Indonesia (Studi Kasus di Desa Yosorejo, Jawa Tengah)." *PADJADJARAN Jurnal Ilmu Hukum (Journal of Law)* 4, no. 1 (2017): 161–180.

alternatives that satisfy both parties; With drawing (withdrawing), namely choosing to leave the dispute situation, both physically and psychologically; and In action (silent), namely not doing anything.[48]

The *Ontending* (competing) step is trying to implement a solution that is preferred by one party over the other party. In this case, mediation was carried out at the Law Office by lawyer Sujatmiko to find the best alternative solution for the heirs but failed to find a solution. Second, is problem-solving, namely looking for alternatives that satisfy both parties. In this case, mediation was carried out at the Jepara Regency Land Office. Efforts *withdrawing*, and In action (silent), namely not doing anything. This effort was made by the family of the late Ratriyo to withdraw and provide his personal data for the inheritance process and certificate breaking according to the agreement agreed upon by the heirs after the mediation process was agreed.

Strategy of the Jepara Regency Land Office to Support the Successful Implementation of Mediation

Land dispute cases require special handling strategies from the National Land Agency and the Land Office. There are many overlapping laws and regulations, different perspectives and interpretations of law enforcers regarding laws and regulations, and inconsistencies in law enforcers in enforcing land-related rules.[49] The emergence of land rights disputes can occur because of a lawsuit from a person or legal entity which contains a lawsuit due to legal actions that harm the plaintiff's land rights, while material claims can take the form of demands for legal certainty regarding who has the rights to the land, the status of the land, the evidence that is the basis for granting rights, and so on.[50]

The results of this research indicate that in the process of implementing mediation, obstacles were encountered, namely that not all heirs were present at the mediation held by the Jepara Regency Land Office. The heirs who could not attend the reason were because they did not have

[48] Juwita Tarochi Boboy Oboy, Budi Santoso, and Irawati Irawati. "Penyelesaian Sengketa Pertanahan Melalui Mediasi Berdasarkan Teori Dean G.Pruitt dan Jeffrey Z.Rubin." *Notarius* 13, no. 2 (2020): 803–818.

[49] Yuni Sugiarto, and Otom Mustomi. "Settlement of Land Procurement Disputes at the State Administrative Court." *Budapest International Research and Critics Institute-Journal (BIRCI-Journal)* 4, no. 4 (2021): 10227–1036.

[50] Irsan Irsan, Kurnia Warman, and Jean Elvardi. "Dispute Resolution of Land That Has Certified Rights in Bungo District Office." *International Journal of Multicultural and Multireligious Understanding* 7, no. 1 (2020): 398–403.

time to attend because the distance was too far (domiciles in Jakarta and Kudus). Another obstacle that also accompanies the mediation process is the heirs' work attachment to their place of work so they cannot get permission to attend the mediation process. Apart from that, the heirs are also ignorant about land law, so there is a fear that if they give the certificate to be broken up and change the name, they will no longer have rights to the inherited land.

Of the obstacles in the mediation process for their disputes, the Jepara Regency Land Office has an important role in providing understanding, efforts, and strategies so that the implementation of mediation is successful, in the sense that it is agreed by the parties to the dispute as an effort to resolve the dispute. In this case, the Jepara Regency Land Office has a role to mediate land disputes in Jepara Regency, so that land disputes and conflicts do not occur again. The Land Office as a mediator tries to prevent the dispute from proceeding to the realm of law or court because it will take longer, more money, energy, and thought for the disputing parties and other heirs. After the mediation process has ended and the mediation results have been determined for immediate action by the parties, the Jepara Regency Land Office still has the responsibility to ensure that the mediation results are actually carried out.

The results of this research found that the strategy of the Jepara Regency Land Office to support the successful implementation of the mediation results of their disputes regarding land ownership and control is (1) Ensuring that their disputes can be resolved through mediation by the Jepara Regency Land Office and do not continue through litigation/court; (2) The Head of Disputes at the Land Office communicates with legal counsel to monitor developments while the mediation process is still ongoing; (3) declare readiness to assist if necessary after the mediation results are agreed; (4) confirm/communicate with the disputing parties to ensure that the results of the mediation have been implemented.

The first strategy implemented by the Jepara Regency Land Office is to ensure that their disputes can be resolved through mediation by the Jepara Regency Land Office and do not continue through litigation/court. This strategy is the main thing that is instilled in the mediator's thinking so that it is hoped that the dispute will be resolved without having to involve the courts which are known to tend to take a long time, large costs, or other things that are needed. These results are in line with previous findings that resolving civil disputes in general courts requires a long process and is not as simple as expected with several stages and procedures starting from the

preparation stage, filing and registering a lawsuit, as well as the trial stage which can sometimes be completed in more than one year.[51]

The current strategy for resolving dispute cases can also be to choose to resolve cases through court by utilizing e-litigation or electronic courts. This is as regulated in Supreme Court Regulation Number 1 of 2019 so that people can obtain true justice based on the principles of fast, simple, and light.[52] Settlement of disputes through court is not recommended by the Jepara Regency Land Office and prioritizes resolution through mediation. This is because even though electronic courts should be more effective by the basic principles to make justice accessible to all levels of society since e-litigation has been implemented it has become less popular with the public.[53]

The second strategy is that the Head of Disputes at the Land Office communicates with legal counsel to monitor developments while the mediation process is still ongoing. Communication between legal counsel and the Jepara Regency Land Office is classified as very effective in supporting the success of the mediation process online (via social media), by telephone, or by short message. After the first mediation, the Jepara Regency Land Office continued to coordinate with legal authorities so that there would be no dispute afterward.

The third strategy is to express readiness to assist if necessary after the mediation results are agreed upon. Meanwhile, the fourth strategy is to confirm/communicate with the disputing parties to ensure that the results of the mediation have been implemented. Direct confirmation with the heirs was also carried out by the Jepara Regency Land Office as a strategy implemented after the mediation was implemented.

The strategy of the Jepara Regency Land Office is to support the successful implementation of the results of mediation of their disputes regarding ownership and control of land according to the theory of legal certainty which is protection against arbitrary actions, the community expects legal certainty, because the existence of legal certainty can also mean that provisions and decisions Judges must be based on clear, consistent, orderly and consequential rules and free from influence by subjectivity.[54] In this theory, legal certainty is in the formulation of legal norms and principles that do not conflict with one another, both in the

[51] Latifiani, and Ratnasari. "The Small Claim Court To Realize the Fast and Simple Principle in Civil Disputes Resolution."
[52] Latifiani, et.al "Reconstruction of E-Court Legal Culture in Civil Law Enforcement."
[53] Rizky, et.al., "Hambatan Pembuktian dalam Pelaksanaan E-Litigasi Guna Mendukung Pembaharuan Hukum di Era Revolusi Industri 4.0."
[54] Hari Agus Santoso, "Perspektif Keadilan Hukum Teori Gustav Radbruch Dalam Putusan PKPU "PTB." *Jurnal Jatiswara* 36, no. 3 (2021): 1–12.

articles of the law as a whole and about other articles that are outside the law. Second, legal certainty also applies in implementing the legal norms and principles of the law.

Efforts from the Jepara Regency Land Office have been able to provide legal certainty that the results of the mediation will be implemented by the parties. Therefore, the legal certainty that is intended to be realized in resolving this dispute includes certainty of ownership status of certified land and certainty of rights to use certified land. According to the theory of legal certainty from Utrecht[55] legal certainty contains two meanings, namely (1) the existence of general rules so that individuals (heirs) know what actions they may or may not carry out about the implementation of mediation, the mechanism for the process of breaking certificates of inheritance rights to land. and the process of buying and selling inherited land by legislation; and (2) legal security for individuals (heirs) from government arbitrariness because with the existence of general regulations, individuals can know what the State may impose or do on individuals.

Conclusion

This study demonstrates that mediation, as a socio-legal mechanism, effectively resolves conflicts arising from heirs' land ownership and control, reflecting the intricate interplay of "*blood relations*" and property rights in Indonesian families. The three mediation sessions conducted by the Jepara Regency Land Office, involving all heirs, legal representatives, and mediators, resulted in a peace agreement, the division of property rights, and formal name changes for inheritance documentation. However, the agreements remained recorded only in the mediation minutes rather than formalized as legally binding peace deeds under Article 44(5) of Minister of ATR/Head of BPN Regulation No. 21 of 2020, highlighting a legal gap that may undermine the durability of settlements and the protection of heirs' rights.

The study also highlights the strategic role of the Jepara Regency Land Office in ensuring successful mediation, including active monitoring, communication with legal counsel, post-mediation assistance, and confirmation of agreement implementation. These findings underscore mediation's potential to reconcile legal norms with familial relationships, preventing disputes from escalating into adversarial litigation. For future

[55] Riduan Syahrani, *Rangkuman Intisari Ilmu Hukum*. (Bandung: Citra Aditya Bakti, 2009).

research, studies could assess long-term outcomes of mediated inheritance disputes across Indonesia and explore mechanisms to formalize agreements more effectively. Practically, it is recommended that mediation outcomes be converted into registered peace deeds to secure enforceable resolutions, safeguard heirs' rights, and preserve family harmony, directly addressing the "*broken rights*" identified in inheritance conflicts.

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