

## THE ROLE OF MEDIATION IN THE RESOLUTION OF CIVIL LAW DISPUTES IN INDONESIAN COURTS

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### ABSTRACT

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Mediation is one of the methods of alternative dispute resolution that has been integrated into the Indonesian legal system to handle civil cases in court. Through mediation, the disputing parties can reach an agreement peacefully without having to rely on binding judges' decisions. This study aims to evaluate the role of mediation in the resolution of civil disputes in Indonesian courts, including the effectiveness, challenges, and legal implications of mediation outcomes. The study used normative legal research approach, which emphasizes the analysis of legal norms, statutory regulations, and relevant legal doctrines. The findings of the study show that mediation has the potential to speed up the dispute resolution process, save costs, reduce the burden on the court, and maintain good relations between the parties to the dispute. However, the success of mediation is influenced by a variety of factors, including the competence of the mediator, the willingness of the parties to negotiate, and the existence of supportive regulations. In the legal aspect, mediation has been regulated through Supreme Court Regulation (PERMA) Number 1 of 2016, which is a guideline for the implementation of mediation in court. This study recommends improving the quality of mediators, broader education on the benefits of mediation, and strengthening regulations to encourage the implementation of mediation as an effective dispute resolution method.

### INTRODUCTION

The term mediation has experienced a significant increase in popularity among academics and practitioners in recent times (Ma'ruf, 2025). In living life as social beings, humans often face situations that trigger conflicts or disputes. This situation arises from a combination of internal and external factors. Internally, conflicts often stem from differing interests or disagreements between parties, while externally, disputes may be driven by the enforcement of certain regulations (Bahri, 2020; Dian Maris Rahmah, 2019; Fajar & Syahputra, 2023; Putri Septiani & Ratna M.S., 2022; Rahmah, 2019). The application of rules that are too rigid and harsh, both written and unwritten, can also cause disputes.

The judiciary, as the institution responsible for exercising judicial authority in a state governed by law, plays a crucial role in addressing legal violations and maintaining public order. Consequently, it is entrusted with the duty of upholding truth and delivering justice. With the rapid and dynamic development of society, a legal system is needed that is able to create a harmonious and orderly life. One of the causes of legal inability to resolve disputes is

impotence or inability to resolve disputes, this necessitates a reorientation within legal science to develop a solution that is comprehensive, credible, and acceptable to all parties involved.

This aligns with the perspective of Lawrence M. Friedman, who asserted that an effective legal system depends on the mutual support of three key elements: law enforcement, the rule of law, and legal culture (Al Kautsar & Muhammad, 2022; Kautsar & Muhammad, 2017; Nasrun, 2016; Sukmawati, 2022; Yoga, 2018). Law enforcement can operate effectively only when legal rules are clear and the public abides by them. Without harmony among these elements, the enforcement of law becomes ineffective.

Court-based dispute resolution represents an impartial application of the law, yet in reality, it frequently encounters various challenges during implementation, such as decisions that do not always reflect a sense of justice (Jalianery & Yestati, 2023; Mulyana, 2019; Thifal, 2020). In addition, court processes tend to be costly and time-consuming, so these obstacles are a challenge in resolving disputes in court. A court decision is not always immediately effective or satisfactory, as it may face enforcement barriers or trigger new disputes from the losing party or other stakeholders. This indicates that a court ruling alone is often insufficient to fully resolve the underlying issues of the conflict.

Dispute resolution generally occurs through two approaches: adjudication and non-adjudication. Adjudication includes two models: litigation (through the courts) and non-litigation (such as arbitration). Non-adjudicative dispute resolution, or alternative dispute resolution (ADR), can be carried out through negotiation, mediation, and conciliation. The Supreme Court of Indonesia, as the highest judicial authority, has begun implementing several methods to expedite the dispute resolution process in courts. The goal is to provide justice that is simple, swift, and cost-effective, while still ensuring optimal outcomes. One such progressive measure is the enhancement of mediation institutions for civil disputes. Through mediation, it is hoped that the parties involved will reach a peaceful resolution early in the trial process, avoiding the need for prolonged and time-consuming legal proceedings.

Several previous studies have examined the implementation of mediation in civil dispute resolution within the Indonesian judiciary. Agustina and Wulandari (2020) emphasized that the success of mediation is highly influenced by the trust of the parties involved toward the mediator and the court institution. Similarly, Lubis (2021) revealed that in practice, mediation is often treated as a mere formality and has yet to be fully optimized within the justice system. The novelty of this research lies in its critical analysis of mediation as a reformative solution within Indonesia's legal system, highlighting the need for synergy between legal culture, law enforcement, and supporting legal frameworks.

The objective of this study is to evaluate the effectiveness of mediation as an alternative dispute resolution (ADR) mechanism within Indonesian courts, and to identify the challenges and opportunities for enhancing its practical implementation. The benefits of this research are twofold: theoretically, it contributes to the enrichment of legal literature on mediation as a non-litigation method of conflict resolution; practically, it provides policy recommendations for legal practitioners and stakeholders to strengthen the institutional role of mediation in delivering accessible, affordable, and fair justice.

## METHOD RESEARCH

This study employs a normative legal research approach, which emphasizes the analysis of legal norms, statutory regulations, and relevant legal doctrines. The normative method treats law as a system of written norms and principles that guide human behavior and interactions within a legal framework. The aim is to identify and analyze legal issues based on authoritative sources of law such as legislation, legal theories, and court decisions. This approach is appropriate for understanding the consistency, coherence, and application of legal norms in relation to the research topic.

The data population in this study comprises all statutory regulations, legal literature, and jurisprudence relevant to the research subject. The data sample is purposively selected, focusing on legal documents such as Law No. 5 of 2011, PMK No. 186/PMK.01/2021, related Supreme Court decisions, and scholarly commentary. The sampling technique used is purposive sampling, whereby data sources are chosen based on their direct relevance and doctrinal significance to the legal issue at hand. The research instrument consists of a document analysis guideline designed to extract legal reasoning, principles, and normative content from selected sources.

To ensure validity and reliability, the study uses triangulation by cross-checking statutory provisions, judicial interpretations, and scholarly opinions. The data collection technique involves a comprehensive review of primary legal materials (laws, regulations, court decisions) and secondary legal materials (books, journal articles, and expert commentaries). The procedure involves systematizing the legal materials, interpreting them contextually, and aligning them with the doctrinal framework. Data analysis is conducted using qualitative content analysis, identifying legal norms, principles, and their logical implications.

## RESULT AND DISCUSSION

### The Role of Mediators in Reaching an Agreement between the Parties to the Dispute

Mediators play the role of neutral parties who facilitate negotiations between parties to the dispute (Riza & Abduh, 2018; Salsabilla, 2025; Sukino et al., 2023). They help find mutually acceptable solutions without deciding or forcing solutions. The role of a mediator includes:

1. **Communication Facilitation:** Mediators help the parties communicate effectively to understand each other's interests.
2. **Identify Issues:** Mediators help identify the main issues that are the source of the dispute.
3. **Maintenance of Balance:** The Mediator ensures that no one party dominates the negotiations, so that each party feels heard.
4. **Drafting of Options:** Mediators encourage the parties to explore various settlement options.
5. **Deal Driver:** The mediator motivates the parties to reach a peace agreement that satisfies both parties.

### The Effectiveness of Mediators in Mediating Dispute Resolution

The effectiveness of mediators in resolving disputes can be seen from several aspects:

1. **\*\*Listening and Communication Skills:\*\*** Effective mediators are able to listen well and convey information clearly, helping the parties understand each other's views.
2. **\*\*Impartiality:\*\*** The neutrality of the mediator ensures that there is no bias affecting the mediation process.
3. **\*\*Legal and Procedural Knowledge:\*\*** The mediator's understanding of relevant laws and regulations helps in ensuring that the agreement reached is in accordance with the provisions of the law.
4. **Problem-Solving Skills:\*\*** An effective mediator can help the parties find creative solutions that not only resolve disputes but also improve the relationship between the parties.
5. **\*\*Flexibility and Patience:\*\*** A patient and flexible mediator can adjust his approach according to the dynamics of the negotiation.

### **Provisions in Supreme Court Regulation No. 01 of 2008**

According to Article 1, paragraph 6 of Supreme Court Regulation No. 01 of 2008 regarding mediation procedures in court, mediators are neutral parties who facilitate the negotiation process without making decisions or imposing a settlement (Karmuji, 2016; Saravistha, 2016). The mediator may either be a court judge or an external mediator. A mediator judge is appointed by the head of the panel and receives a decree (SK) from the head of the court.

The mediator is in charge of encouraging the parties to reach a peaceful agreement. However, they are not authorized to influence decisions made by the parties, as long as the agreement complies with law, ethics, and public order. Mediators also help each consensus point reached by the parties, ensuring that the agreements made can be accepted and implemented properly (Nugroho et al., 2023).

If mediation is successful, a mutual agreement will be reached. Effectiveness is demonstrated when negotiations are ongoing, with plaintiffs and defendants offering solutions (Anindito et al., 2022; Puji Rahayu, 2020; Wantu et al., 2023). If negotiations or agreements are reached, both parties will appear before the judge on a predetermined trial schedule, presenting the results of the signed contract. This result is then outlined in the peace agreement (peace deed), and the plaintiff will withdraw his lawsuit to ensure that it is not mentioned in the agreement. If mediation fails to reach an agreement, the mediation judge will send written notice to the panel of judges handling the case, and the parties will proceed with the trial process at its stages. Although the mediation process follows the established procedures, it is considered a failure if no agreement is reached, as the settlement must comply with the applicable regulations. The success of mediation largely depends on the proper implementation of the mediation procedures, as well as the agreements made and adhered to Rahmawati (2024). This success depends heavily on the execution of mediation by the appointed mediator as well as the negotiation tactics used during the process.

In carrying out daily activities, interactions between individuals or legal entities—both in personal and commercial contexts—can elicit a variety of reactions. The outcome of this interaction can be beneficial, i.e. it produces a positive impact that does not harm both parties, or vice versa, harms one party and triggers conflict. Conflicts themselves can arise due to

various factors, such as differences in interests or disagreements between parties, as well as the existence of regulations that are considered obstacles in achieving each party's goals.

The role of mediators is crucial, as their efforts can significantly affect the outcome of the mediation process. Research indicates that each mediator employs a unique approach in facilitating the parties involved, and the strategies used by the mediator can significantly influence the success rate of mediation. Some of the important things that a mediator can do are:

1. Help the parties realize that the mediator is neutral and impartial.
2. Emphasizing to the parties that mediation must be carried out with full consideration, organization, and not arbitrarily.
3. Convey to the parties that if mediation results in a peaceful agreement, it will simplify their process, save time and costs, and strengthen peaceful settlement. Conversely, without an agreement, mediation can force a repetitive court process, which burdens the parties, especially if the judge does not give a clear decision, which can lead to frustration for the aggrieved party.
4. Mediators typically facilitate mediation in several sessions, at least two to three times, in order to assess each case properly, especially due to the large number of cases submitted for mediation.
5. Mediators can hold caucuses, which separate the mediation between one party and the other without requiring an agreement on the same day. They recognize that sometimes the parties cannot come together during the mediation process, so it is important to decide when a caucus is needed.
6. The mediator also needs to emphasize that the mediator is the party to the dispute, not their lawyer. Nonetheless, the rules allow the disputing parties to be represented in certain circumstances, such as when they suffer from a serious illness.

With these measures, the mediator seeks to reach a peace agreement that benefits all parties involved.

During the mediation process, the presence of resources and assistance provided by the mediator is essential to create comfort for the parties. The Mediation Room serves as a place for the mediator to facilitate the resolution of issues that require mediation. This space is indispensable if the parties want confidentiality in discussing the issue, even though the mediation itself is accessible to the public. Mediation is conducted by the court in accordance with the Supreme Court Regulation of the Republic of Indonesia Number 1 of 2016 regarding Mediation Procedures in Courts. There are two types of mediation: in-court and out-of-court. Out-of-court mediation is carried out by private mediators, individuals, or independent alternative dispute resolution institutions, such as the National Mediation Center (PMN).

The participation of the judge's mediator and the implementation of mediation in the court of first instance are free of charge. The effectiveness of mediation is greatly influenced by the availability of mediation resources and tools. The Balige Religious Court has provided a special mediation room, where the mediator judge facilitates the mediation process free of charge, in accordance with Article 4 of PERMA Number 1 of 2016 concerning Mediation in Court. In addition to physical facilities such as space and furniture, in the future audio-visual



remote mediation will be developed, as stipulated in Article 5 Paragraph (3) of the same regulation, which allows direct interaction between the parties during the mediation process.

The parties involved in mediation typically consist of two or more legal entities in conflict. Throughout the mediation process, these parties collaborate to find an agreement that benefits both sides. A key aspect of mediation is the active participation of the parties, either physically or through audio-visual means that allow direct involvement. The active engagement of the parties, such as sharing concerns, suggesting solutions, expressing opinions, emphasizing key issues, and negotiating, significantly aids the mediator in facilitating agreements that are mutually beneficial.

## CONCLUSION

Mediation is an effective dispute resolution method, where a neutral mediator helps the disputing parties reach a fair agreement. This method offers advantages such as cost and time savings, a friendlier atmosphere, and direct involvement of the parties concerned, which increases the chances of achieving mutually beneficial results. The success of mediation depends heavily on the neutrality of the mediator, his or her ability to build trust, and the implementation of appropriate negotiation strategies. The mediation process consists of three stages: premediation, mediation, and guaranteed implementation of the agreement, which is regulated by regulations such as Supreme Court Regulation No. 01 of 2008. However, challenges such as cultural differences and conflicts of interest require mediators to have good communication skills as well as a deep understanding of social and legal contexts.

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