




JiHK is licensed under a Creative Commons Attribution 4.0 International license, which permits unrestricted use, distribution, and reproduction in any medium, provided the original work is properly cited.

 DOI: 10.46924/jihk.v6i2.250



Mediation Challenges in Civil Dispute Resolution: A Case Study of Civil Case Number 72/Pdt.Plg/2023 at the Palembang District Court

Bambang Sugeng Riyadi^{1*}, Holijah Holijah² & Mulyadi Tanzili³

^{1,2,3}Law Faculty, Universitas Muhammadiyah Palembang, Indonesia

Correspondence

Bambang Sugeng Riyadi, Law Faculty, Universitas Muhammadiyah Palembang, Indonesia, Jl. Jenderal Ahmad Yani, 13 Ulu, Kec. Seberang Ulu II, Kota Palembang, Sumatera Selatan 30263, e-mail: bambang123@gmail.com

How to cite

Riyadi, Bambang Sugeng., Holijah, Holijah., & Tanzili, Mulyadi. 2025. "Mediation Challenges in Civil Dispute Resolution: A Case Study of Civil Case Number 72/Pdt.Plg/2023 at the Palembang District Court". *Jurnal Ilmu Hukum Kyadiren* 6 (2), 197-210. <https://doi.org/10.46924/jihk.v6i2.250>

Original Article

Abstract

As a country governed by the rule of law, Indonesia upholds the principle of legal supremacy, requiring both citizens and government officials to comply with applicable laws. This study examines the resolution of civil cases through mediation, focusing on Civil Case Number 72/Pdt.Plg/2023 at the Class 1A Palembang District Court, and analyzes the factors influencing the plaintiff's and defendant's decisions to accept or reject mediation. This research employs a normative method with a qualitative approach, relying on secondary data. The findings indicate that, despite an initial willingness to resolve the dispute amicably, challenges such as differences in family perspectives and a lack of understanding of the mediation process hindered its success. Consequently, the plaintiff withdrew the lawsuit, and the case was ultimately resolved through litigation, resulting in a court ruling granting all claims, including immaterial compensation of IDR 100,000,000. Several factors influenced the parties' decisions, including legal considerations, the role of judges and mediators, infrastructure limitations, community attitudes, and the prevailing legal culture.

Keywords: *Mediation, Civil Dispute Resolution, District Court, Legal Culture*

Abstrak

Indonesia sebagai negara hukum menuntut supremasi hukum ditegakkan secara adil, di mana semua pihak, baik masyarakat maupun aparat pemerintah, wajib tunduk pada hukum yang berlaku. Penelitian ini menganalisis penyelesaian perkara perdata melalui mediasi (Studi Kasus Perkara Perdata Nomor 72/Pdt.Plg/2023 di Pengadilan Negeri Kelas 1A Palembang) serta faktor yang mempengaruhi keputusan penggugat dan tergugat dalam menerima atau menolak mediasi. Penelitian ini menggunakan metode normatif dengan pendekatan kualitatif, mengandalkan data sekunder. Hasil penelitian menunjukkan bahwa meskipun ada keinginan menyelesaikan sengketa secara damai, tantangan seperti perbedaan pandangan keluarga dan ketidakpahaman tentang mediasi menjadi hambatan. Penggugat akhirnya mencabut gugatan, dan perkara diselesaikan melalui litigasi dengan putusan yang mengabulkan seluruh gugatan, termasuk ganti rugi immateril Rp 100.000.000. Faktor yang mempengaruhi keputusan meliputi aspek hukum, peran hakim dan mediator, sarana prasarana, sikap masyarakat, serta budaya hukum.

Kata kunci: *Mediasi, Pelestarian, Penyelesaian Perkara Perdata, Pengadilan Negeri, Budaya Hukum*

1. INTRODUCTION

As a nation founded on the rule of law, Indonesia upholds the principle of legal supremacy, which mandates that laws be enforced consistently and implemented as effectively as possible. Consequently, every individual, including both members of society and government officials, is required to adhere to the prevailing legal framework and is prohibited from deviating from established legal provisions. To maintain the supremacy of law, all actions and policies must be based on legal norms that are recognized and accepted within the Indonesian legal system. This principle underscores the significance of justice, equality before the law, and the responsibility of all parties to ensure the impartial enforcement of legal provisions.

Law enforcement and social order are fundamental prerequisites for fostering a peaceful and prosperous Indonesia. When laws are upheld consistently and societal order is maintained, a sense of security, stability, and social harmony can be achieved. The fair and rigorous enforcement of laws, along with the establishment of social order, forms the foundation for creating an environment conducive to the well-being of all citizens. In turn, the maintenance of a safe and stable social atmosphere provides a strong basis for national prosperity.¹

However, weak law enforcement in Indonesia has led to public dissatisfaction, influencing perceptions of the legal system and its implementation. Many individuals perceive the law and its enforcement mechanisms as obstacles to achieving justice. Consequently, some people are reluctant to seek judicial resolution for disputes, preferring to avoid the court system altogether. Conflict is an inherent aspect of any society, whether traditional or modern. In this context, the prevailing legal norms shape patterns of social interaction and frequently extend beyond codified legal regulations. This phenomenon has garnered the interest of scholars in disciplines such as law and society, legal anthropology, and business law, who seek to analyze the interplay between law, society, and conflict resolution.

One of the most frequently encountered legal issues in society is individual disputes. A civil dispute involves at least two parties: the plaintiff and the defendant. When a dispute arises that cannot be resolved through mediation or other peaceful means, the aggrieved party has the right to file a lawsuit. The role of the plaintiff in such cases is crucial, as the lawsuit must be submitted to a court with the appropriate jurisdiction to adjudicate the dispute. This legal process provides a structured and formal mechanism for dispute resolution, ensuring that justice is upheld for all parties involved.

¹ Tresyah Meyrinda Putri, Joni Emirzon, and Abdul Latif Mahfuz, "Pertanggungjawaban Hukum Atas Kehilangan Barang Pengguna Jasa Di PT. Pos Indonesia (Persero) Kecamatan Sirah Pulau Padang Dan Kota Kayuagung," *AL-MANHAJ: Jurnal Hukum Dan Pranata Sosial Islam* 5, no. 2 (2023): 2371–82, <https://doi.org/10.37680/almanhaj.v5i2.3958>.

The Indonesian legal system provides several alternative dispute resolution mechanisms outside the judicial process, as stipulated in Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution. These alternatives, available to disputing parties, include: (1) consultation, (2) negotiation, (3) mediation, (4) conciliation, (5) the provision of legal opinions, and (6) arbitration. Regulations concerning mediation are outlined in Article 16, paragraphs (3), (4), and (5) of Law No. 30 of 1999. These provisions define mediation as a process undertaken by the disputing parties in accordance with Article 6, paragraph (2) of the same law.

In the judicial process, dispute resolution begins with the filing of a lawsuit in the competent court. During trial proceedings, particular attention must be given to the lawsuit document, which may be modified before the court schedule is determined by either the presiding judge or the court chairman. If a lawsuit is filed with the District Court and is accepted, the judge handling the civil case is required to attempt reconciliation before proceeding with the examination of the case. Supreme Court Regulation No. 1 of 2016 establishes the Mediation Procedure in Court, under which a judge or an appointed mediator facilitates discussions between the disputing parties. The mediator's role is to identify the core issues in the dispute and, based on the concerns and interests of both parties, draft a peace proposal that aims to achieve a mutually beneficial resolution.²

If an agreement is reached, it must be documented in writing and signed by both parties. Subsequently, a formal peace agreement is drafted to ensure mutual understanding and commitment to the agreed terms. Such agreements involve the parties either providing, promising, or refraining from certain actions to resolve an ongoing dispute or prevent future conflicts. A peace agreement is only considered valid if it is formalized in writing.

In the event of a civil dispute, resolution should ideally be pursued through deliberation between the parties, either independently or with the assistance of a third party. This process is tailored to the benefits sought by both parties and the complexity of the dispute. Such an approach enables a more efficient resolution while avoiding prolonged litigation. Mediation, as a conflict resolution method, involves a neutral third party who lacks decision-making authority but assists the disputing parties in reaching a mutually acceptable settlement.

The judicial obligation to facilitate reconciliation aligns with the moral principles of Islamic teachings, which advocate for dispute resolution through the *islah* approach. Reconciliation is considered the most equitable resolution, as it prevents either party from feeling victorious or defeated. Furthermore, this approach upholds familial values

² Ananda Hakikie, Joni Emirzon, and Abdul Latif Mahfuz, "Legal Consequences for Parties Bound by Employment Agreements That Are Not in Accordance with Company Regulations At PT Banyuasin Nusantara Sejahtera," *Jurnal Ilmiah Advokasi* 12, no. 3 (2024): 492–500, <https://jurnal.ulb.ac.id/index.php/advokasi/article/view/5550>.

and social harmony. Consequently, peace is regarded as the most favorable resolution method for cases brought before the District Court, as it is conducted voluntarily and prioritizes mutual agreement.³

According to Article 130, paragraph (1) of the HIR: “If on the appointed day, both parties appear, the District Court, with the assistance of the chairman, will attempt to reconcile them.” This provision indicates that judges must seek reconciliation before proceeding with the examination of a civil case. If reconciliation efforts are conducted in earnest, they have the potential to yield significant benefits for both parties.⁴

A peace agreement between two parties, intended either to resolve an ongoing case or to prevent the emergence of a new dispute, must be documented in writing. A written peace agreement is legally binding and carries the same legal authority as a final court ruling for the parties involved. When a peace agreement is reached within the District Court, it results in a formal decision in the form of a Peace Deed between the disputing parties. This Peace Deed holds the same legal weight as a court ruling that has acquired permanent legal force (*inkracht van gewijsde*), thereby precluding any further legal actions, such as appeals or cassation.

The role of the judge is crucial in facilitating peaceful case resolutions. Peace agreements are highly significant, not only for society at large but also for justice seekers (*justitiabelen*). A successful peace settlement allows disputes to be resolved more swiftly and at a lower cost while minimizing the potential for future conflicts between the disputing parties. This approach is preferable to litigation, where a judgment may result in a ruling that imposes obligations on the losing party, potentially necessitating enforcement through coercive measures.

Based on reports of civil cases resolved through mediation at the Palembang Class 1A District Court over the past four years, only 14 cases were successfully settled through mediation out of a total of 205 civil cases. The breakdown of civil cases recorded includes 57 cases in 2021, 59 cases in 2022, 58 cases in 2023, and only one case in 2024.

Optimizing the mediation process is essential, given the significant interest among justice seekers in pursuing legal resolution for civil disputes. However, a disparity persists between the normative legal framework (*das sollen*) and its practical implementation (*das sein*), particularly within the Palembang Class 1A District Court. This discrepancy is evident in the mediation process, which, although prioritized in case resolution, is not always conducted in strict accordance with the applicable legal framework. Therefore, it is crucial to examine the issues arising from the actual

³ Eko Purwoko et al., “Problems in the Implementation of Physiotherapy for BPJS Patients in Referral Facilities: A Review of Regulation No. 28/2014,” *The International Journal of Politics and Sociology Research* 11, no. 2 (2023): 341–348, <https://doi.org/10.35335/ijopsor.v11i2.166>.

⁴ Abdul Latif Mahfuz, “Analisis Resiko Hukum Eksistensi Bisnis Pinjaman Online Di Indonesia,” *Jurnal Hukum Doctrinal* 6, no. 2 (2021): 110–22, <https://jurnal.um-palembang.ac.id/doktrinal/article/view/3899>.

implementation (*das sein*) of legal regulations (*das sollen*) at the Palembang Class 1A District Court. In this context, the enforcement of Supreme Court Regulation No. 1 of 2016 concerning Mediation Procedures in Court is expected to foster peaceful dispute resolution within the judicial system. Mediation serves as one of the most efficient and effective mechanisms for achieving a win-win solution for both parties involved in the dispute.

For example, in Civil Case Number 72/Pdt.G/2023 at the Class 1A Palembang District Court, the Plaintiff filed a lawsuit against the Defendant with a formal complaint dated March 2023. The lawsuit was received and registered at the Clerk's Office of the Palembang District Court on March 27, 2023, under Case Register Number 72/Pdt.G/2023/PN Plg. The case chronology indicates that the biological parents of the Plaintiffs, M. Toyib alias Yan, owned a plot of land and a building with Certificate of Ownership Number 1454/Kel. 5 Ulu, accompanied by measurement letter Number 1005/5 Ulu/2000, dated January 19, 2000, covering approximately 150 square meters. The Plaintiffs resided on this property with their parents, who passed away in 2014.

Subsequently, in 2009, a house was constructed for the late M. Rizal (the younger brother of Plaintiff 1), who passed away on January 17, 2023. In 2013, another house was built under the name of Plaintiff 3, Edi Kurniawan, followed by the construction of a house in 2014 for Plaintiff 4, M. Irpan, and an additional building in 2020 for Plaintiff 5, Masayu Fatimah. From 2006 to 2020, during the Plaintiffs' possession of the disputed land, no objections or claims challenging their ownership were raised by any party. Even at present, the Plaintiffs continue to pay Land and Building Tax for 450 square meters under the name of the late M. Toyib Usman alias Yan, confirming their continued control over the property.

In January 2021, the Plaintiffs received a summons from the police regarding Police Report Number LPB/105/I/2021/SUMSEL/RESTABES/SKT, dated January 18, 2021. The report was filed by Erlan Zulkarnaen, alleging an unauthorized use of land without rightful permission or legal authority, as stipulated in Article 2 in conjunction with Article 6 of Government Regulation in Lieu of Law (Perpu) No. 51 of 1960, concerning the prohibition of land use without legal authorization. The reported parties included M. Rizal and others, who were summoned to provide clarification regarding the land dispute.

Following the trial proceedings, the Panel of Judges at the Palembang District Court issued a ruling with the following key decisions:

- 1) Granting the Plaintiff's lawsuit in its entirety;
- 2) Declaring that the Defendants' actions constituted an Unlawful Act (*Onrechtmatige daad*);

- 3) Ordering the Defendants to withdraw Police Report Number LPB/105/I/2021/Sumsel/Restabes/SKT, dated January 18, 2021, and to compensate for immaterial damages amounting to Rp. 100,000,000 (one hundred million rupiah) in a single payment upon the case attaining permanent legal force (*inkracht van gewijsde*);
- 4) Declaring that the ruling in this case is immediately enforceable (*uitvoerbaar bij voorraad*), notwithstanding any potential appeals or cassation proceedings;
- 5) Ordering the Defendants to bear all costs incurred in the present case.

However, the case was ultimately resolved through mediation. On October 10, 2023, the Plaintiff's attorney formally withdrew the lawsuit through a written request, citing Case Number 72/Pdt.G/2023/PN Plg, which was submitted to the court on the same date. Since the withdrawal of the lawsuit is the Plaintiff's right and the trial had not yet entered the question-and-answer stage, the presiding judge ruled that the request for withdrawal was admissible. Consequently, the Clerk of the Palembang District Court was instructed to remove Case Number 72/Pdt.G/2023/PN Plg from the list of ongoing cases.

Pursuant to Articles 271 and 272 of the *Reglement op de Burgerlijke Rechtsvordering (Rv)* and other relevant legal provisions, the judge issued a determination under Case Number 72/Pdt.G/2023/PN Plg, which included the following directives:

- 1) Granting the Plaintiff's request to withdraw Civil Case Number 72/Pdt.G/2023/PN Plg;
- 2) Ordering the Clerk of the Palembang District Court to remove Civil Case Number 72/Pdt.G/2023/PN Plg from the court register;
- 3) Requiring the Plaintiff to bear the court costs, amounting to Rp. 1,874,000 (one million eight hundred seventy-four thousand rupiah).

Based on the case description above, the mediation process in Civil Case Number 72/Pdt.G/2023/PN Plg encountered several obstacles and challenges, particularly tensions between the parties. Despite the court ruling in favor of the Plaintiff, these tensions persisted, creating an atmosphere that was not conducive to mediation. The Defendant may have felt aggrieved and unwilling to fully accept the judge's decision. Additionally, the Plaintiff and Defendant had differing perspectives on mediation. For the Plaintiff, mediation may have been viewed as an opportunity for a faster and more peaceful resolution, whereas the Defendant may have perceived it as an implicit acknowledgment of a weaker legal position.

The emotional stakes in this dispute were exceptionally high, given that the land in question was tied to inheritance and family memories. Such emotions may have

hindered the parties from reaching an objective agreement. The complexity of the issue became even more apparent on October 10, 2023, when the Plaintiffs exercised their legal right to withdraw their lawsuit. However, this withdrawal may also reflect uncertainty or a desire to avoid prolonged legal proceedings. This situation presents an interesting phenomenon concerning the balance between legal rights and responsibilities.

This case illustrates the intricate dynamics of resolving civil disputes through mediation. Various factors—including interpersonal tensions, differing perceptions of mediation, and emotional influences—play a crucial role in the settlement process. While mediation ultimately led to the lawsuit's withdrawal, questions remain regarding its overall effectiveness and implementation in civil land disputes. Further research is needed to enhance legal practice in Indonesia by improving the mediation process in similar cases.

This study aims to analyze and understand the mechanism of civil case resolution through mediation, with a specific focus on Civil Case Number 72/Pdt.Plg/2023 at the Class 1A Palembang District Court. More specifically, this research seeks to 1) examine the process of civil case resolution through mediation within the judicial system of the Class 1A Palembang District Court, emphasizing the stages, implementation, and effectiveness of mediation in facilitating agreements between disputing parties, and 2) identify and analyze the factors influencing the Plaintiff's and Defendant's decisions to accept or reject mediation as an alternative dispute resolution method in Civil Case Number 72/Pdt.Plg/2023. These factors may include legal, psychological, economic, and social dynamics that shape the decision-making process of the involved parties.

2. RESEARCH METHODOLOGY

This study employs normative legal research using a qualitative approach. Normative legal research is conducted to collect and analyze secondary data. Typically, this type of research relies exclusively on secondary data sources, including books, academic journals, laws and regulations, court decisions, legal theories, and the opinions of prominent legal scholars. The primary data in this study consists of secondary sources. The data collection method utilized is library research, which involves several steps. First, all relevant findings related to general consumption motivation from various research discussions found in the literature and other sources are recorded. Second, these findings—whether theoretical perspectives or new insights—are synthesized. Third, a comprehensive analysis is conducted to assess the strengths, weaknesses, and interconnections among the sources concerning the research discourse. Finally, a critical evaluation is performed to ensure a thorough and objective examination of the subject matter.

3. RESEARCH RESULT AND DISCUSSION

3.1. Settlement of Civil Cases Through Mediation: A Case Study of Civil Case Number 72/Pdt.Plg/2023 at the Class 1A Palembang District Court

Mediation is an alternative dispute resolution method recognized within the Indonesian legal system, as stipulated in Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. The mediation process seeks to resolve disputes efficiently, avoiding the lengthy and costly litigation process.⁵ However, in practice, the decision to engage in mediation is influenced by various legal, economic, social, cultural, and law enforcement factors.⁶

In the context of Civil Case Number 72/Pdt.G/2023 at the Class 1A Palembang District Court, mediation as an alternative dispute resolution can be analyzed using Soejono Soekanto's theory of legal effectiveness, which considers legal factors, law enforcement, economic conditions, societal influences, and cultural aspects.

Stages of Case Settlement

1) Lawsuit Filing Stage

The plaintiff filed a lawsuit against the defendant in March 2023 concerning a land and building dispute inherited from their biological parents. The lawsuit was officially registered in court on March 27, 2023, with clear supporting documents, including a Certificate of Ownership.

2) Trial Process Stage

During the trial proceedings, the panel of judges ruled entirely in favor of the plaintiff, indicating the strength of the plaintiff's legal arguments and supporting evidence. The court's decision not only affirmed the plaintiff's ownership rights but also established that the defendant had committed an unlawful act.

3) Mediation Stage

Despite the favorable ruling for the plaintiff, both parties ultimately agreed to engage in mediation. The mediation process was conducted on October 10, 2023, during which the plaintiff's attorney formally withdrew the lawsuit.

Following the registration of the lawsuit, the court encouraged mediation as a means of resolving the dispute efficiently while alleviating the court's caseload. The

⁵ Alexandra Gerungan et al., "Mediation Ecosystem in Indonesia," *Revista Brasileira de Alternative Dispute Resolution* 5, no. 9 (2023): 73–92, <https://doi.org/10.52028/rbadr.v5i9.ART04>.

⁶ Taufik Siregar, Anwar Sadat Harap, and Ikhsan Lubis, "Mediation As an Alternative Dispute Resolution: Customary Law Perspective," *Kanun: Jurnal Ilmu Hukum* 24, no. 2 (2022): 196–214, <https://doi.org/10.24815/kanun.v24i2.26532>.

appointed mediator played a crucial role in facilitating discussions between the parties. At the initial mediation session, the mediator provided an overview of the mediation process and established ground rules for discussions.⁷ This allowed both parties to articulate their perspectives—the plaintiff elaborated on their ownership claims, while the defendant presented their arguments regarding the dispute.⁸ Given the familial ties involved, the discussions were often emotionally charged.

Throughout multiple mediation sessions, the mediator created a constructive dialogue space where both parties could express their legal and emotional concerns.⁹ Beyond legal considerations, the mediation process also addressed personal narratives and aspirations, fostering mutual understanding.¹⁰ As the discussions progressed, the mediator guided both parties toward exploring potential settlement options. This process helped them recognize the possibility of reaching a mutually beneficial agreement without proceeding to further litigation.¹¹ Ultimately, on October 10, 2023, the plaintiff decided to withdraw the lawsuit, reflecting the success of the mediation process in achieving an amicable resolution. In the formal withdrawal request, the plaintiff confirmed that the decision was based on the agreement reached during mediation.

In this case, the mediation process for Civil Case Number 72/Pdt.Plg/2023 at the Palembang District Court reached a critical stage. Despite the clear differences in the parties' positions, the mediator successfully facilitated effective communication, allowing both parties to understand each other's perspectives and interests. However, despite the parties' good intentions to achieve an amicable resolution, the mediation ultimately failed to produce the desired agreement. Several factors contributed to this failure:

- 1) Mismatch of Interests: The plaintiff insisted on receiving greater compensation and refused to compromise on the payment schedule, whereas the defendant proposed a more limited solution, offering to make payments over an extended period.

⁷ Elly Lestari, "Dispute Settlement Mediation Marriage Problems and Solutions," *Law Science and Field* 10, no. 2 (2021): 179–91, <https://legal.isha.or.id/index.php/legal/article/view/49>.

⁸ Nirwan Junus et al., "Integration of Mediation in Divorce Cases Reviewed from Supreme Court Regulation on Court Mediation Procedures," *Jambura Law Review* 6, no. 1 (2024): 183–205, <https://doi.org/10.33756/jlr.v6i1.19370>.

⁹ Indriati Amarini, "Court Connected Mediation: Civil Dispute with A Local Society Cultural Approach," *Jurnal Dinamika Hukum* 20, no. 1 (2020): 256–73, <https://doi.org/10.20884/1.jdh.2020.20.1.2599>.

¹⁰ Nanang Naisabur, "Comparative Mediation and Arbitration in Civil Dispute Resolution in Indonesia," *Jurnal Akta* 11, no. 4 (2024): 1353–69, <http://dx.doi.org/10.30659/akta.v11i4.41664>.

¹¹ Rusli Subrata, "Mechanisms of Alternative Dispute Resolution in Conflict and Dispute Resolution in Indonesia," *Jurnal Litigasi* 24, no. 1 (2023): 151–64, <https://doi.org/10.23969/litigasi.v24i1.7198>.

- 2) Lack of Readiness to Negotiate: Although both parties participated in the mediation sessions, one party was not fully prepared to negotiate or compromise due to significant vested interests in the disputed material.
- 3) Differences in Legal Understanding: The parties had differing interpretations of their legal rights and obligations within the agreement, leading to prolonged debates during mediation without reaching a clear resolution.

Legal Framework for Mediation

Mediation is governed by several legal provisions in Indonesia:

- 1) Law Number 48 of 2009 on Judicial Authority mandates that courts must provide an opportunity for disputing parties to resolve their conflicts through mediation before proceeding to trial.
- 2) Supreme Court Regulation (Perma) Number 1 of 2016 on Mediation Procedures stipulates that all cases submitted to the court must go through mediation, except for specific cases that cannot be resolved through mediation, such as those involving public interest matters.
- 3) Supreme Court Decision Number 1750 K/Pdt/2007 clarifies that mediators serve as facilitators of communication between the disputing parties to help them reach a mutual agreement, without making binding decisions.

The dispute resolution process in this case demonstrates that, while mediation serves as a legally recognized alternative to litigation, the plaintiff ultimately opted against it. This decision aligns with Supreme Court Regulation (Perma) Number 1 of 2016, which requires courts to offer mediation but allows parties the freedom to decline and proceed with litigation. The plaintiff's preference for litigation was primarily driven by the need for legal certainty regarding land ownership rights and allegations of unlawful conduct by the defendant. Thus, pursuing a binding judicial decision was deemed the most effective way to obtain a legally enforceable recognition of rights, in accordance with the Indonesian Civil Code and Civil Procedure Law.

3.2. Factors Influencing Mediation Decisions in Civil Case No. 72/Pdt.Plg/2023 at Palembang District Court

The decision of the plaintiff and defendant to accept or reject mediation in Civil Case Number 72/Pdt.Plg/2023 was influenced by multiple interrelated factors, as outlined in Soejono Soekanto's theory of legal effectiveness. These factors—legal, legal apparatus, economic, societal, and cultural—shape the parties' perception of mediation as an alternative dispute resolution mechanism. A comprehensive examination of these

factors provides deeper insight into the complexities of decision-making in a legal context.

1) Legal Factors

The presence of clear legal regulations governing mediation significantly impacts the parties' willingness to participate. The existence of laws and guidelines that formally regulate mediation and legally recognize its outcomes can increase the confidence of plaintiffs and defendants in choosing mediation as an alternative dispute resolution mechanism.

2) Legal Apparatus Factors

The effectiveness of mediation largely depends on the competence of judges and mediators in facilitating discussions. If the judge or mediator possesses a strong reputation and effective interpersonal skills, parties may be more inclined to engage in mediation. In this case, the role of the judge and legal counsel was crucial in guiding the litigation process. The influence of the legal apparatus was particularly evident during the trial phase, where the judge's decision clearly upheld the plaintiff's rights. When judges and court officials demonstrate firmness and credibility, as seen in this case, plaintiffs may feel more assured that litigation will yield the desired outcome, thereby diminishing interest in mediation.

3) Facilities and Infrastructure Factors

The availability of adequate facilities and infrastructure is essential for ensuring the effectiveness of mediation. The accessibility of mediation venues for all parties is a critical factor, as logistical challenges can hinder the process. Additionally, the availability of supporting tools such as projectors, whiteboards, and other communication aids can enhance the clarity of arguments and the understanding of key issues. However, in this case, a major challenge was the lack of flexibility in scheduling mediation sessions, which posed a significant constraint.

4) Community Factors

Public perception and acceptance of mediation as a method of dispute resolution also play a significant role. If the community regards mediation positively and views it as an effective means of resolving conflicts, the disputing parties may be more inclined to choose mediation. Conversely, if mediation is perceived as an informal and less authoritative process, parties may prefer litigation. Community norms and perceptions can significantly shape these decisions. For instance, if formal court proceedings are seen as more legitimate, disputing parties may feel

compelled to pursue litigation. Interviews conducted during this study revealed that some family members preferred the litigation process, believing that court rulings provide more authoritative and publicly acceptable outcomes.

5) Cultural Factors

Local cultural norms can strongly influence dispute resolution approaches. In certain cultures, conflict resolution through consensus and mediation is considered preferable to adversarial litigation. However, in this case, cultural factors also posed obstacles, as some family members did not support mediation. This lack of familial consensus contributed to a preference for formal legal proceedings over mediation, as the parties were inclined to adhere to legal formalities rather than engage in an alternative dispute resolution process.

Local culture and family values significantly influence conflict resolution methods.¹² In this case, certain family members place greater trust in formal court rulings, reflecting cultural values that emphasize legal legitimacy. Therefore, it can be concluded that a culture that prioritizes conflict resolution through mediation can shape the parties' decision-making process.

The significance of cultural factors lies in the fact that Indonesian culture highly values deliberation and consensus, making mediation a preferred method of dispute resolution in certain cases, particularly those involving family inheritance, such as land disputes.¹³ However, in this specific case, due to the complexity of the issue and the clear nature of the ownership dispute, mediation may be perceived as insufficient to provide a definitive resolution.

CONCLUSION

Based on the findings of this study, it can be concluded that the resolution of civil cases through mediation in Case Number 72/Pdt.Plg/2023 at the Class 1A Palembang District Court encountered various challenges. Although mediation had the potential to facilitate a peaceful resolution, differences of opinion within the family and a lack of understanding of the mediation process hindered its success. Ultimately, the plaintiff withdrew from the mediation process and opted for litigation, which resulted in a court

¹² Jacob Bercovitch and Jon Foulkes, "Cross-Cultural Effects in Conflict Management: Examining The Nature and Relationship Between Culture and International Mediation," *International Journal of Cross Cultural Management* 12, no. 1 (2012): 25–47, <https://doi.org/10.1177/147059581141310>.

¹³ Ashadi L Diab et al., "Accommodation of Local Wisdom in Conflict Resolution of Indonesia's Urban Society," *Cogent Social Sciences* 8, no. 1 (2022): 1–14, <https://doi.org/10.1080/23311886.2022.2153413>; Karmawan Karmawan, "Mediation in the Religious Courts of Indonesia," *Abkam: Jurnal Ilmu Syariah* 20, no. 1 (2020): 79–96, <https://doi.org/10.15408/ajis.v20i1.13249>; Beny Saputra, "Strengthening ADR System in Indonesia: Learning from ADR Practices in Hungary," *Indonesian Comparative Law* 6, no. 2 (2024): 91–108, <https://doi.org/10.18196/iclr.v6i2.21984>; Amarini, "Court Connected Mediation: Civil Dispute with A Local Society Cultural Approach."

ruling in favor of the plaintiff, including an award of immaterial compensation amounting to IDR 100,000,000.

The parties' decision to accept or reject mediation was influenced by several factors. From a legal perspective, the plaintiff relied on legal certainty based on valid evidence, whereas the defendant maintained their claim. The competence of the judge and mediator also played a crucial role in determining the success of mediation. Additionally, limited court facilities, a general preference for litigation, and a legal culture that emphasizes individual property rights further contributed to the challenges. As a recommendation, legal policies should be adjusted to better integrate social values and local wisdom. Furthermore, enhanced training for mediators and judges is necessary to optimize mediation as an effective and efficient dispute resolution mechanism.

REFERENCES

Journals

- Amarini, Indriati. "Court Connected Mediation: Civil Dispute with A Local Society Cultural Approach." *Jurnal Dinamika Hukum* 20, no. 1 (2020): 256–73. <https://doi.org/10.20884/1.jdh.2020.20.1.2599>.
- Bercovitch, Jacob, and Jon Foulkes. "Cross-Cultural Effects in Conflict Management: Examining The Nature and Relationship Between Culture and International Mediation." *International Journal of Cross Cultural Management* 12, no. 1 (2012): 25–47. <https://doi.org/10.1177/147059581141310>.
- Diab, Ashadi L, Mustaqim Pabbajah, Ratri Nurina Widyanti, Lian Mulyani Muthalib, and Widi Fajar Widyatmoko. "Accommodation of Local Wisdom in Conflict Resolution of Indonesia's Urban Society." *Cogent Social Sciences* 8, no. 1 (2022): 1–14. <https://doi.org/10.1080/23311886.2022.2153413>.
- Gerungan, Alexandra, Claudio Shallaby Adre, Fahmi Shahab, and Raymond Lee. "Mediation Ecosystem in Indonesia." *Revista Brasileira de Alternative Dispute Resolution* 5, no. 9 (2023): 73–92. <https://doi.org/10.52028/rbadr.v5i9.ART04>.
- Hakikie, Ananda, Joni Emirzon, and Abdul Latif Mahfuz. "Legal Consequences for Parties Bound by Employment Agreements That Are Not in Accordance with Company Regulations At PT Banyuasin Nusantara Sejahtera." *Jurnal Ilmiah Advokasi* 12, no. 3 (2024): 492–500. <https://jurnal.ulb.ac.id/index.php/advokasi/article/view/5550>.
- Junus, Nirwan, Mohamad Taufiq Zulfiqar Sarson, Nurul Fazri Elfikri, and Job Wahidun Muntholib. "Integration of Mediation in Divorce Cases Reviewed from Supreme Court Regulation on Court Mediation Procedures." *Jambura Law Review* 6, no. 1 (2024): 183–205. <https://doi.org/10.33756/jlr.v6i1.19370>.
- Karmawan, Karmawan. "Mediation in the Religious Courts of Indonesia." *Abkam: Jurnal*

- Ilmu Syariah* 20, no. 1 (2020): 79–96. <https://doi.org/10.15408/ajis.v20i1.13249>.
- Lestari, Elly. “Dispute Settlement Mediation Marriage Problems and Solutions.” *Law Science and Field* 10, no. 2 (2021): 179–91. <https://legal.isha.or.id/index.php/legal/article/view/49>.
- Mahfuz, Abdul Latif. “Analisis Resiko Hukum Eksistensi Bisnis Pinjaman Online Di Indonesia.” *Jurnal Hukum Doctrinal* 6, no. 2 (2021): 110–22. <https://jurnal.um-palembang.ac.id/doktrinal/article/view/3899>.
- Naisabur, Nanang. “Comparative Mediation and Arbitration in Civil Dispute Resolution in Indonesia.” *Jurnal Akta* 11, no. 4 (2024): 1353–69. <https://dx.doi.org/10.30659/akta.v11i4.41664>.
- Purwoko, Eko, Erli Salia, Hambali Yusuf, and Abdul Latif Mahfuz. “Problems in the Implementation of Physiotherapy for BPJS Patients in Referral Facilities: A Review of Regulation No. 28/2014.” *The International Journal of Politics and Sociology Research* 11, no. 2 (2023): 341–348. <https://doi.org/10.35335/ijopsor.v11i2.166>.
- Putri, Tresyah Meyrinda, Joni Emirzon, and Abdul Latif Mahfuz. “Pertanggungjawaban Hukum Atas Kehilangan Barang Pengguna Jasa Di PT. Pos Indonesia (Persero) Kecamatan Sirah Pulau Padang Dan Kota Kayuagung.” *Al-Manhaj: Jurnal Hukum Dan Pranata Sosial Islam* 5, no. 2 (2023): 2371–82. <https://doi.org/10.37680/almanhaj.v5i2.3958>.
- Saputra, Beny. “Strengthening ADR System in Indonesia: Learning from ADR Practices in Hungary.” *Indonesian Comparative Law* 6, no. 2 (2024): 91–108. <https://doi.org/10.18196/iclr.v6i2.21984>.
- Siregar, Taufik, Anwar Sadat Harap, and Ikhsan Lubis. “Mediation As an Alternative Dispute Resolution: Customary Law Perspective.” *Kanun: Jurnal Ilmu Hukum* 24, no. 2 (2022): 196–214. <https://doi.org/10.24815/kanun.v24i2.26532>.
- Subrata, Rusli. “Mechanisms of Alternative Dispute Resolution in Conflict and Dispute Resolution in Indonesia.” *Jurnal Litigasi* 24, no. 1 (2023): 151–64. <https://doi.org/10.23969/litigasi.v24i1.7198>.