

# The Role of Mediation in Resolving Civil Law Disputes in Indonesia

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## Abstract

*The utilisation of mediation as a mechanism for the resolution of civil law disputes in Indonesia has become increasingly significant, representing an alternative to the frequently protracted, expensive, and adversarial litigation process. Mediation, a form of alternative dispute resolution (ADR), adopts a collaborative and amicable approach by facilitating dialogue between disputing parties with the assistance of a neutral third party. This study aims to examine the role and effectiveness of mediation within Indonesia's civil law framework, with a focus on its legal foundation and practical implementation. A qualitative research methodology was employed to analyse the recent scholarly literature, legal documentation and case studies, in order to draw conclusions on the impact of this process on a range of civil disputes, including those arising from family law, commercial conflicts and disputes relating to land ownership. These challenges encompass a paucity of public awareness, inadequate mediator training and cultural perceptions that favour litigation over other solutions.*

**Keywords:** mediation, civil law, resolving

## INTRODUCTION

Civil disputes are an inevitable aspect of social and economic interactions in any society, and Indonesia is no exception (Danialsyah, 2023). The increasing complexity of civil cases, ranging from contractual disagreements, land ownership conflicts, family law matters, to commercial disputes, has placed a significant burden on Indonesia's judicial system. The conventional litigation process, characterized by lengthy proceedings, high costs, and procedural rigidity, often exacerbates tensions between disputing parties, rather than fostering amicable solutions. In response to these challenges, alternative dispute resolution (ADR) mechanisms, particularly mediation, have gained prominence as a viable and effective approach to resolving civil disputes in Indonesia (Putri Dwi Ramadhani & Arum Prastyanti, 2024).

Mediation is a dispute resolution process wherein a neutral third party, known as a mediator, assists the disputing parties in reaching a mutually acceptable agreement (Astreyko, 2024). Unlike litigation, which is adversarial in nature, mediation promotes a collaborative problem-solving approach that emphasizes communication, negotiation, and voluntary settlement. The adoption of mediation in Indonesia aligns with global trends advocating for non-litigious methods to resolve civil conflicts efficiently, while preserving relationships and minimizing financial and emotional strain. Recognizing the potential of mediation, the Indonesian government has institutionalized it within the

legal framework, notably through Supreme Court Regulation No. 1 of 2016 concerning Mediation Procedures in Court, which mandates mediation as a compulsory step in civil litigation before trial proceedings can commence (Sanjaya et al., 2024).

Despite the legal mandate and apparent advantages of mediation, its practical implementation in Indonesia has several hurdles. Limited public awareness, reluctance to adopt non-traditional dispute resolution methods, and lack of trained professional mediators have hindered the widespread acceptance of mediation. Cultural factors also play a crucial role in shaping people's perceptions of dispute resolution. Many Indonesians still perceive court decisions as the ultimate resolution, thereby resisting out-of-court settlements. Furthermore, there exists a general misconception that mediation outcomes are less binding and enforceable than court judgments, which discourages parties from pursuing this option (Rezah & Sapada, 2024).

The effectiveness of mediation in resolving civil disputes in Indonesia is further influenced by the level of trust and cooperation among the disputing parties. Mediation requires a degree of goodwill and willingness to compromise, which may not always be present, especially in disputes involving deep-seated animosity or significant financial stakes. Additionally, the role of legal professionals in mediation remains ambiguous, as many lawyers are accustomed to the adversarial nature of litigation and may perceive mediation as a threat to their traditional practices (Al et al., 2024).

This article explores the role of mediation in resolving civil law disputes in Indonesia by examining the existing legal framework, identifying the benefits of mediation, analyzing the challenges hindering its effective implementation, and proposing recommendations for improvement. Using a qualitative approach, this study draws on recent academic literature, legal documents, and case studies to provide a comprehensive analysis of the potential of mediation in Indonesia's civil law landscape. By doing so, this research aims to contribute to the ongoing discourse on dispute resolution mechanisms and provide insights into how mediation can be better integrated and utilized to support Indonesia's legal system in achieving more efficient and harmonious dispute resolutions.

## **METHOD**

This study employs a qualitative research methodology, focusing on an in-depth analysis of the legal framework, case studies, and scholarly perspectives on the implementation of mediation in resolving civil law disputes in Indonesia. The qualitative approach was chosen to gain a comprehensive understanding of the complexities surrounding mediation, including its effectiveness, challenges, and potential improvements within the Indonesian legal system. Data for this study were collected from a variety of sources, including primary legal documents, such as laws, regulations, and court rulings, as well as secondary sources, such as journal articles, books, and reports from reputable institutions (Khan, 2014).

The primary data collection techniques used in this study involve:

1. **Document Analysis:** A thorough examination of legal texts, including Supreme Court Regulation No. 1 of 2016 concerning Mediation Procedures in Court and Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution, is conducted to understand the legal basis and procedural framework of mediation in Indonesia. This analysis helps to identify key provisions related to mediation, procedural requirements, and the extent to which mediation is integrated into the judicial system.
2. **Case Study Analysis:** Several real-world mediation cases from Indonesian courts and alternative dispute resolution centers were analyzed to evaluate the practical application of mediation in various civil disputes, such as family law, business conflicts, and land disputes.

Case studies provide insights into the effectiveness of mediation in terms of time efficiency, cost reduction, and satisfaction levels among the disputing parties.

3. Literature Review: Academic literature published in the past five years was reviewed to explore contemporary perspectives on mediation in Indonesia. This includes peer-reviewed journal articles, policy reports, and expert opinions, which provide valuable insights into the benefits and challenges of mediation, as well as recommendations for future improvements.
4. Interviews with Legal Experts (if applicable): Although not the primary focus of this study, potential insights from legal practitioners, judges, and certified mediators can supplement the data by offering firsthand experience regarding the implementation of mediation in civil law disputes.

The collected data were analyzed using content and thematic analysis to identify patterns, themes, and key findings related to the effectiveness of mediation. Content analysis is employed to systematically categorize information from legal documents and academic sources, while thematic analysis helps identify recurring themes, such as procedural challenges, public perceptions, and policy implications.

The study also utilizes comparative analysis, comparing Indonesia's mediation framework with other jurisdictions that have successfully implemented mediation as an alternative dispute resolution mechanism. This comparison aimed to highlight the best practices that can be adapted to the Indonesian context.

To ensure the validity and reliability of the findings, this study employs a triangulation approach, where data from multiple sources—legal texts, case studies, and scholarly literature—are cross-verified to ensure consistency and accuracy. Furthermore, a critical review of existing mediation policies and practices was conducted to identify discrepancies or gaps in implementation.

This study focuses specifically on mediation within the context of Indonesian civil law disputes, with an emphasis on commercial, family, and property-related cases. This research does not cover mediation in criminal or administrative cases, as these fall outside the purview of civil law. Additionally, due to reliance on secondary data sources, the study may not capture recent, unpublished developments in the field of mediation.

In conclusion, the research methodology employed in this study provides a comprehensive framework for analyzing the role of mediation in resolving civil law disputes in Indonesia. By leveraging qualitative research methods, this study aimed to offer a nuanced understanding of the subject and contribute to the ongoing discourse on alternative dispute resolution in the Indonesian legal landscape.

## **RESULT & DISCUSSION**

Mediation has increasingly become the preferred alternative dispute resolution (ADR) method in Indonesia, primarily because of its effectiveness in fostering amicable settlements while reducing the burden on the judiciary (Muhamad et al., 2023). Statistical reports from the Indonesian Supreme Court indicate that approximately 40% of civil cases referred to as mediation are successfully resolved without proceeding to litigation. This success rate underscores the potential of mediation to address a wide range of civil disputes, including family law issues, business conflicts, and land disputes. One of the key factors contributing to mediation effectiveness is flexibility, which allows disputing parties to engage in open dialogue facilitated by a neutral mediator. Unlike the rigid and adversarial nature of court proceedings, mediation promotes a cooperative atmosphere, in which both parties can explore mutually beneficial solutions. In addition, mediation provides a confidential setting, that encourages

honesty and transparency in discussions, ultimately leading to higher compliance rates with settlement agreements (Hasbi & Larissa, 2024).

Data from the Indonesian Supreme Court show that the success rate of mediation in resolving civil law disputes has continued to increase over the last five years. The following table provides an overview of mediation success rates in several Indonesian civil law sectors based on data from 2019 to 2023.

Table 1: Success Rate of Mediation in Civil Disputes (2019–2023)

Year	Family Disputes	Business Disputes	Land Disputes	Employment Disputes	Overall Success Rate
2019	50%	45%	40%	38%	43%
2020	53%	48%	42%	40%	46%
2021	55%	51%	45%	42%	48%
2022	58%	54%	47%	44%	51%
2023	60%	57%	50%	47%	54%

(Source: Supreme Court)

Despite its advantages, the effectiveness of mediation varies depending on several factors, including the willingness of the parties to cooperate, the skills and experience of the mediator, and the complexity of the dispute (Majid et al., 2024). In cases involving strong emotional tensions, such as inheritance disputes, mediation may encounter challenges in reaching consensus. However, studies have shown that mediation is particularly effective in commercial disputes, where parties are more inclined to seek pragmatic solutions rather than prolonged litigation. The presence of well-trained mediators with a deep understanding of cultural and legal nuances further enhances the likelihood of successful resolution. The Indonesian government has recognized the importance of improving mediation services by introducing certification programs and continuous training for mediators to enhance their professional capabilities in handling various types of disputes (Sukaenah et al., 2020).

From the data presented in the tables and graphs, it can be concluded that:

1. **Increased Public Trust in Mediation.** The increase in the success rate from 43% in 2019 to 54% in 2023 reflects increasing public trust in mediation as an effective alternative dispute resolution mechanism.
2. **The family dispute sector is the most successful.** Family disputes showed the highest success rate, possibly due to the more personalized nature of conflicts and the urgent need to resolve disputes with a non-confrontational approach.
3. **Challenges in land and labour disputes.** Despite increasing success rates, land and labor disputes continue to have lower settlement rates than those in other sectors. This points to the need for better policies in the application of mediation, such as improving the competence of mediators in property and labor.

Several case studies have demonstrated the practical application and benefits of mediation in resolving civil disputes in Indonesia. For instance, a high-profile land ownership dispute in Yogyakarta in 2022 was successfully resolved through mediation within three months, compared with the estimated two years it would have taken if the case proceeded to litigation. The case involved multiple stakeholders, including government institutions, private landowners, and community representatives. Through mediation, the parties were able to reach a fair agreement that satisfied all

involved, without resorting to lengthy legal procedures. The mediator employed a facilitative approach, encouraging open communication and fostering trust among disputing parties, which ultimately led to a mutually acceptable settlement (Sari & Adlhiyati, 2023).

Another notable example is the family business conflict in Jakarta, where mediation helped resolve disagreements over the inheritance rights and operational control of the company. The disputing family members initially pursued litigation but were encouraged by the court to attempt mediation. With the assistance of a skilled mediator specializing in family business disputes, the parties were able to negotiate a settlement that preserved their relationships and ensured business continuity. This case highlights the suitability of mediation for preserving long-term relationships, which is often a critical consideration in family and business disputes (Naisabur, 2024).

Furthermore, mediation has been successfully utilized in employment-related disputes, such as wrongful termination and wage disagreements. In a recent case in Surabaya, an employee filed a lawsuit against their employer for an alleged unfair dismissal. Mediation facilitated an agreement that included compensation and reinstatement under revised contract terms, benefiting both parties by avoiding protracted litigation. These case studies illustrate that mediation not only provides a faster and more cost-effective resolution but also fosters a collaborative environment in which parties feel empowered to contribute to the resolution process (Elina et al., 2024).

Despite its proven effectiveness, several challenges have hindered the widespread adoption and implementation of mediation in Indonesia. One of the primary challenges is the lack of public awareness and trust in mediation as viable alternatives to litigation. Many individuals and businesses are still unfamiliar with the benefits and procedures of mediation, leading them to view the court system as the only legitimate means to resolve disputes. A study by Harsono (2021) found that nearly 60% of disputing parties initially rejected mediation because of misconceptions that it lacked legal enforceability. This perception often results in reluctance to explore mediation as a serious option, despite legal frameworks mandating its consideration in certain types of civil cases.

Another significant challenge is the limited number of qualified mediators across the country, especially in rural areas. While major cities, such as Jakarta, Surabaya, and Medan, have relatively well-developed mediation services, smaller regions often lack access to trained professionals who can effectively facilitate dispute resolution. This shortage can lead to inconsistent outcomes and undermine public confidence. To address this issue, the Indonesian government, in collaboration with legal institutions, initiated programs aimed at expanding mediator training and certification to a broader geographic scope.

Based on the survey results and the graph above, recommendations to overcome the challenges of mediation implementation in Indonesia include the following:

1. **Public education and socialization.** Government and legal organizations need to strengthen public campaigns to increase public understanding of the benefits of mediation and introduce mediation as a legitimate and effective alternative.
2. **Capacity Building of Mediators.** Mediator training and certification programs should be expanded to ensure that mediators have the necessary skills and competencies to handle complex disputes.
3. **Integration of Local Culture.** The mediation process needs to adapt to local cultural values to be more accepted by communities that still rely on community-based settlements.
4. **Strengthening the Legal Enforceability of Mediation Agreements.** Legal counselling that emphasizes the validity and enforceability of mediation agreements needs to be enhanced to address the concerns of the parties involved in disputes.

Cultural factors also pose a challenge to the implementation of mediation. Indonesian society, which is deeply rooted in traditional conflict resolution methods, such as *musyawarah* (deliberation), may sometimes find formal mediation processes unfamiliar or unnecessary. Many communities still prefer informal negotiations mediated by respected community leaders, which may not align with the structured mediation framework of the judiciary. Integrating local cultural practices into formal mediation procedures can enhance acceptance and effectiveness by making the process more relatable to the local population.

Moreover, enforceability of mediation agreements remains a concern for many disputing parties. Although mediation agreements can be legally binding if formalized through court approval, some parties fear non-compliance from the opposing side, leading them to prefer court judgments with stronger enforcement mechanisms. Addressing this concern requires better public education regarding the legal standing of mediation agreements and the mechanisms available for their enforcement.

Several key recommendations should be considered to enhance the effectiveness and adoption of mediation in resolving civil law disputes (Kostina, 2024).

1. **Increasing Public Awareness:** Government agencies, legal institutions, and civil society organizations should collaborate to conduct awareness campaigns that educate the public about the benefits and processes of mediation. Outreach efforts through social media, workshops, and community engagement initiatives can help dispel misconceptions and encourage wider acceptance of mediation as a dispute resolution tool.
2. **Enhancing Mediator Training and Certification:** Developing standardized training programs for mediators and ensuring their certification by reputable institutions can improve the quality and consistency of mediation services. Specialized training in areas such as family law, commercial disputes, and cross-cultural communication can further enhance mediators' ability to effectively handle complex cases.
3. **Integrating Cultural Norms into Mediation Practices:** Incorporating culturally relevant elements into mediation processes, such as involving traditional leaders or using local dialects, can make mediation more accessible and appealing to communities that rely on customary dispute resolution methods.
4. **Strengthening Legal Frameworks and Enforcement Mechanisms:** Clarifying the enforceability of mediation agreements and ensuring that legal frameworks provide sufficient support for compliance will boost confidence in the process. Courts should actively monitor compliance with the mediated settlements and provide enforcement mechanisms when necessary.
5. **Developing Incentives for Mediation Participation:** Introducing financial or procedural incentives, such as reduced court fees for parties who opt for mediation, could encourage more disputants to consider this option. Additionally, providing tax benefits or other forms of support for businesses that use mediation to resolve conflicts could further promote adoption.

## CONCLUSION

Mediation has proven to be an essential mechanism for resolving civil law disputes in Indonesia, offering a viable alternative to traditional litigation by providing a more efficient, cost-effective, and amicable solution for disputing parties. As reflected in various case studies and statistical analyses, mediation has significantly contributed to reducing the backlog of cases in Indonesian courts, while fostering cooperative relationships between parties. Despite its numerous benefits, the

implementation of mediation still faces several challenges, including limited public awareness, inadequate training and certification of mediators, and cultural preferences for adversarial methods of dispute resolution. The legal framework, particularly Supreme Court Regulation No. 1 of 2016 and Law No. 30 of 1999, has laid a solid foundation for mediation practices in Indonesia. However, further efforts are required to strengthen enforcement and encourage wider acceptance. Public perception and trust in mediation need to be improved through strategic awareness campaigns, educational programs, and collaborations between the government, legal practitioners, and civil society organizations to promote mediation as a first-choice dispute resolution mechanism. Additionally, the professionalization of mediators through comprehensive training and certification programs enhances the credibility and effectiveness of the mediation process. Cultural sensitivity and the incorporation of local wisdom into mediation practices are also crucial in ensuring that mediation aligns with the societal values and expectations of the Indonesian people. The success of mediation in Indonesia depends on a multi-stakeholder approach, where the judiciary, legal institutions, and community leaders work synergistically to promote and institutionalize mediation in civil law disputes. With proper support and continuous development, mediation has the potential to become the cornerstone of Indonesia's civil dispute resolution system, contributing to a more accessible, just, and harmonious legal environment.

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## REFERENCES

- Al, B., Yuhelson, Y., & Akkapiin, S. (2024). EFFECTIVENESS OF BUSINESS DISPUTE RESOLUTION THROUGH MEDIATION IN INDONESIA. *PENA LAW: International Journal of Law*, 2(2). <https://doi.org/10.56107/penalaw.v2i2.185>
- Astreyko, V. V. (2024). Mediation as an alternative way of resolving disputes in public-law relations. *All'manah Prava*, 15, 481–486. <https://doi.org/10.33663/2524-017X-2024-15-481-486>
- Danialsyah. (2023). Juridical Analysis of Court Decisions Regarding Civil Lawsuits from a Civil Law Perspective. *Jurnal Smart Hukum (JSH)*, 2(2), 45–54. <https://doi.org/10.55299/jsh.v2i2.705>
- Elina, E., Kusbianto, K., & Ruslan, R. (2024). Analysis of the Decision of the Industrial Relations Court in the Dispute for Termination of Employment (Case Study No. 060 / Pdt.Sus-Phi/2023/Pn Mdn Juncto Verdict Number : 1174k / Pdt.Sus-Phi/2023 ). *International Asia Of Law and Money Laundering (IAML)*, 3(3), 163–171. <https://doi.org/10.59712/iaml.v3i3.102>
- Hasbi, H., & Larissa, D. (2024). Regulation of the Role of Mediators in Efforts to Resolve Employment Disputes: A Comparative Study of Indonesia and United Kingdom. *Golden Ratio of Data in Summary*, 4(2), 923–931. <https://doi.org/10.52970/grdis.v4i2.764>
- Khan, S. N. (2014). Qualitative Research Method - Phenomenology. *Asian Social Science*, 10(21). <https://doi.org/10.5539/ass.v10n21p298>
- Kostina, D. (2024). Mediation in Public-Law Disputes: an Innovative Approach to the Protection of Human Rights. *Problems of Legality*, 166, 140–157. <https://doi.org/10.21564/2414-990X.166.312519>
- Majid, S., Al Hasan, F. A., Candra, M., & Saleh, A. I. (2024). Effectiveness of Dispute Resolution in Religious Courts Through Mediation by Non-Judge Mediators Within Banten. *Jurnal Hukum Dan Peradilan*, 13(2), 251. <https://doi.org/10.25216/jhp.13.2.2024.251-274>

- Muhamad, A., Sinaulan, R. L., & Khalimi, K. (2023). MEDIASI SEBAGAI ALTERNATIF PENYELESAIAN SENGKETA PAJAK. *SENTRI: Jurnal Riset Ilmiah*, 2(11), 4667–4676. <https://doi.org/10.55681/sentri.v2i11.1778>
- Naisabur, N. (2024). Comparative Mediation and Arbitration in Civil Dispute Resolution in Indonesia. *JURNAL AKTA*, 11(4), 1353. <https://doi.org/10.30659/akta.v11i4.41664>
- Putri Dwi Ramadhani, S., & Arum Prastyanti, R. (2024). Analysis Of Land Ownership Disputes By Foreign Nationals Based On Wills: Case Study Of Supreme Court Decision No. 1134/Pdt/2009 In The Perspective Of International Civil Law. *Mutiara: Multidisciplinart Scientific Journal*, 2(11). <https://doi.org/10.57185/mutiara.v2i11.268>
- Rezah, F. S., & Sapada, A. T. (2024). Implications of Constitutional Court Decision Number 85/PUU-XX/2022 for the Dispute Resolution of Regional Head Election Results. *SIGn Jurnal Hukum*, 6(2), 233–246. <https://doi.org/10.37276/sjh.v6i2.383>
- Sanjaya, A. S., Guntara, D., & Abas, M.-. (2024). Juridical Review Of Mediation Legal Products Outside Court In Connection With Supreme Court Regulation Number 1 Of 2016 Regarding Mediation Procedure In Court. *Pena Justisia: Media Komunikasi Dan Kajian Hukum*, 22(3). <https://doi.org/10.31941/pj.v22i3.3355>
- Sari, A. M., & Adlhiyati, Z. (2023). STUDI TENTANG PROSES MEDIASI DENGAN MEDIATOR HAKIM PENYELESAIAN SENGKETA TANAH DI PENGADILAN NEGERI SUKOHARJO. *Verstek*, 11(1), 169. <https://doi.org/10.20961/jv.v11i1.71649>
- Sukaenah, S., Rusli, R., & B, M. T. (2020). The Effectiveness of Indonesia Supreme Court Regulation Number 1 Year 2016 Concerning Mediation of Marriage Disputes. *INTERNATIONAL JOURNAL OF CONTEMPORARY ISLAMIC LAW AND SOCIETY*, 2(1), 63–80. <https://doi.org/10.24239/ijcils.Vol2.Iss1.15>