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The Urgency of Mediation as a Mechanism for Resolving Agrarian Disputes within the Framework of the Legal Regulation System in Indonesia

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Abstract: Agrarian disputes in Indonesia are complex issues and often cause prolonged conflicts between various parties, including the community, government, and private sector. To find a fair, fast, and sustainable solution, mediation as a form of alternative dispute resolution (APS) is a strategic choice that is in line with the principles of efficiency and active participation of the parties. This paper discusses the urgency of mediation as a mechanism for resolving agrarian disputes within the framework of the regulatory system in Indonesia by highlighting how existing legal regulations provide a basis, space, and limitations for agrarian mediation. In addition, the challenges of implementing mediation in practice and its relevance in creating substantive justice for the disputing parties are analyzed. This study aims to provide a comprehensive understanding of the existence of mediation in resolving agrarian disputes and to encourage the strengthening of regulations and institutional capacity that support it.

Keywords : Mediation, Agrarian Disputes, Alternative Dispute Resolution

INTRODUCTION

Agrarian disputes in Indonesia are a phenomenon that cannot be separated from the complexity of the long history of this nation, starting from the colonial era, the transition to independence, to the modern development era (Krisnantoro, 2022). Land rights that were once widely owned by the colonial or indigenous elite then underwent a complex transformation but were not fully regulated in the national legal framework (Arisaputra, 2021). This complexity is further complicated by the ever-evolving social, economic, and political dynamics, such as industrial expansion, large-scale development projects, and the need for land redistribution for small communities (Cahyana, 2024). Ownership conflicts, overlapping claims, and inequality in land control are the main sources of agrarian disputes that often lead to social instability (Pamungkas, 2025).

In dealing with agrarian disputes, the settlement path through litigation has so far been considered the formal mechanism available. However, the judicial process is often unable to provide solutions that are fast, affordable, and satisfactory for all parties (Sukmawati, 2022). The litigation process is notoriously time-consuming, and expensive, and produces decisions

that tend to prioritize formal legal aspects over the substance of justice (Ningsih, 2025). For communities who have long struggled to defend their customary land or customary rights, court decisions often feel far from the sense of justice they expect. The high emotional burden in agrarian dispute cases also exacerbates this condition, because for most people land is not only a matter of economic assets but also identity and survival.

Awareness of the limitations of this litigation pathway has given rise to the urge to develop alternative dispute resolution (ADR) mechanisms within the national legal system (Bakung, 2022). Mediation is one form of ADR considered the most relevant because it prioritizes dialogue, deliberation, and mutually agreed solutions (Saputro, 2022). The Indonesian legal system has progressively begun to incorporate the concept of mediation into formal regulations, especially after the issuance of Supreme Court Regulation (Perma) Number 1 of 2016 concerning Mediation Procedures in Court (Rohaini, 2024). Through mediation, it is hoped that the disputing parties can find a solution that is not only legally valid but also fair and acceptable to all parties (Nuna, 2021).

To understand why mediation can be a way out of agrarian disputes, it is important to first understand the unique characteristics of agrarian disputes themselves. Agrarian disputes are different from ordinary disputes because they involve a strong emotional connection to land, in addition to its economic value (Kartiwi, 2024). According to the UUPA, land is not just a commercial good, but part of the life and welfare of the Indonesian people (Arba, 2021). In practice, agrarian disputes often occur between individuals, communities private companies, or communities and the government. Cases such as conflicts between villagers and plantation companies, or indigenous communities and local governments over customary forest claims, show how vulnerable the agrarian sector is to prolonged conflicts rooted in uncertainty over land rights (Koeswahyono, 2022).

In this context, the definition and basic principles of mediation become relevant to be deeply studied. Based on Perma No. 1 of 2016, mediation is understood as a dispute resolution process through negotiations assisted by a neutral mediator to reach an agreement between the parties (Sugianto, 2020). The principle of voluntariness is key in mediation, ensuring that any agreement reached is truly the result of the free will of the parties, not coercion (Nansi, 2022). Confidentiality is also upheld, providing a safe space for parties to negotiate without fear that their statements will be used outside the forum (Anwar, 2020). The principles of justice and speed encourage that the settlement reached is not protracted and truly considers the substantial interests of all parties involved.

When mediation is placed within the framework of alternative dispute resolution (APS) in Indonesia, its position is strengthened after the enactment of Law No. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution (Nurafifah, 2022). This law emphasizes the importance of non-litigation mechanisms in resolving various types of legal conflicts, including agrarian conflicts. Although this law does not specifically regulate agrarian disputes, its spirit provides a solid normative foundation for developing mediation in the land sector (Bimantara, 2024). With this approach, the state recognizes that not all disputes must be resolved through formal litigation processes, but can be resolved in more flexible, participatory, and humane (Nugroho, 2019).

The agrarian sector itself responded to this development by issuing more specific regulations. Regulation of the Minister of ATR/BPN No. 21 of 2020 concerning Handling and Settlement of Land Cases provides explicit recognition of mediation as one method of resolving land cases outside the courts. This regulation opens up space for the BPN to play an active role in facilitating mediation between the disputing parties, with the hope that a settlement can be achieved more quickly and reduce the escalation of conflict in the field. It indicates that the state is beginning to realize the importance of strengthening dispute resolution based on agreement, not just relying on the power of the judicial institution (Matheuw, 2024).

However, in practice, the success of mediation is highly dependent on the understanding and acceptance of the parties to the process. Many agrarian disputes happen amidst inequality of information and power, where one party has more influence than the other. Ideal mediation should balance the positions of the parties so that dialogue can take place fairly and equally. In this situation, the role of the mediator becomes very crucial: not only as a facilitator of conversation but also as a guardian of the balance of interests, ensuring that there is no domination or manipulation.

From the overall picture, it can be seen that in resolving agrarian disputes in Indonesia, mediation not only offers technical solutions but also opens up space to rebuild social relations that have been damaged by conflict. When the parties can find common ground voluntarily and equally, the resulting settlement has a greater chance of being obeyed and respected in the long term. No longer just winning and losing, but building substantive justice that provides a sense of peace, stability, and sustainability for all parties involved.

METHOD

The research method used in this writing is the normative juridical method, which aims to analyze laws and regulations, legal doctrines, and theories that are relevant to the topic of agrarian disputes and mediation in the Indonesian legal system. This approach focuses on the study of applicable legal norms, as well as their application in the practice of resolving agrarian disputes through mediation. In this study, data were collected through a literature study, namely reviewing various primary legal sources such as the Basic Agrarian Law (UUPA), the Law on State Civil Apparatus, the Regulation of the Minister of ATR/BPN, and the Supreme Court Regulation (Perma) which regulates mediation procedures, such as Perma No. 1 of 2016 concerning Mediation Procedures in Court. In addition, this study also utilizes secondary sources including books, scientific articles, legal journals, and other relevant documents to provide a deeper understanding of the implementation of mediation in agrarian disputes. This normative legal approach also includes an analysis of the challenges and opportunities that arise in the implementation of mediation, by looking at the latest regulatory developments and experiences from existing practices, so that the results of this study can provide recommendations on how to improve the effectiveness of mediation in resolving agrarian disputes in Indonesia.

RESULT AND DISCUSSION

Legal Framework for Agrarian Dispute Resolution through Mediation in Indonesia

Agrarian dispute resolution in Indonesia is regulated by various laws and regulations that provide a strong legal basis, including dispute resolution through mediation. The Basic Agrarian Law (UUPA) No. 5 of 1960 is the main basis for regulating land rights in Indonesia. Although UUPA does not directly regulate mediation, the basic principles contained in this law, such as social justice and recognition of people's rights to land, provide a philosophical basis for choosing mediation as an alternative for resolving agrarian disputes. In this context, agrarian dispute resolution must reflect justice for the community, especially indigenous peoples and those who have land rights on a smaller scale. UUPA stipulates that land rights must be implemented by taking into account public welfare, which is also in line with the principle of peaceful and consensual agrarian dispute resolution through mediation.

Perma No. 1 of 2016 concerning Mediation Procedures in Court provides clear guidelines regarding dispute resolution through mediation in the judicial process. Although this Regulation regulates more about mediation in disputes brought to court, the basic principles contained in the Regulation remain relevant for application in agrarian disputes. Mediation carried out based on this Regulation is expected to not only prioritize aspects of legal formality but also allow for the achievement of a settlement that fulfills the parties' sense of justice.

Mediation in agrarian disputes often involves parties who have strong ties to the land, so an approach based on deliberation for consensus is very necessary.

As a more specific regulation in the context of land, the Regulation of the Minister of ATR/BPN No. 21 of 2020 concerning Handling and Settlement of Land Cases emphasizes the importance of mediation in resolving agrarian disputes in Indonesia. This regulation provides a strong legal basis for the National Land Agency to mediate land disputes. Articles 15-20 state that mediation can be carried out at any stage of a land dispute, both before the case goes to court and after. The regulation regulates mediation procedures, mediator obligations, and procedures for resolving mediation agreements. With this regulation, the government confirms its commitment to supporting a fast, cheap, and effective agrarian dispute resolution process.

The mediation mechanism in agrarian disputes in Indonesia can be implemented through two main channels: first, through the National Land Agency (BPN), and second, through the civil court channel. At the National Land Agency (BPN) level, mediation is regulated in ATR/BPN Regulation No. 21 of 2020 which outlines the procedures and stages of mediation in the land sector. The BPN acts as a facilitator in dispute mediation involving parties who have claims to certain land. In the initial stage, the disputing parties are invited to clarify the existing problems, and the BPN mediator will assist the parties in reaching an agreement. During this mediation process, the BPN must ensure that the process is carried out neutrally and without coercion so that both parties feel fair and are treated with respect.

On the other hand, mediation in the civil court process is also a common route used in resolving agrarian disputes. Based on Perma No. 1 of 2016, the court is required to offer mediation before continuing the main case trial. The Perma provides direction that mediation is an initial stage that must be passed before the dispute enters a more formal trial process. In the case of an agrarian dispute being brought to court, the judge is tasked with appointing a neutral and competent mediator, either from within or outside the court. The mediator will then try to help the parties reach an agreement. In the context of agrarian disputes, this mediation provides space for the parties to negotiate a solution that may not be achieved through a court decision.

Mediation generally goes through several clear stages. First, the appointment of a mediator is carried out by the disputing parties or by the court (in the case of mediation through the court). This mediator can be an official of the National Land Agency, an appointed judge, or an independent third party. Second, the mediation session allows the mediator to open a discussion between the parties and help them understand each other's positions and interests. At this stage, the mediator will direct the conversation to remain productive and focused on solutions, not escalating the conflict. Finally, a settlement agreement is made after the parties reach an agreement. This agreement will be stated in an official document, which serves as the legal basis for resolving the dispute.

One of the major advantages of mediation is that the agreement resulting from mediation is final and legally binding. This means that once both parties agree in a mediation, the agreement has the same force as a court decision. In this case, mediation offers a more flexible and faster solution but still guarantees the validity of the agreement reached. Based on Article 130 HIR (Civil Procedure Law), the agreement reached through mediation can be stated in a peace deed, which will then be recorded in court and has binding legal force for the parties. This provides a guarantee that the results of the mediation are not only limited to personal agreements but are also recognized by the country's legal system.

Recording the mediation results in court delivers strong legal protection for both parties. If one party does not comply with the agreement, the other party can file an execution application with the court. This ensures that mediation is not only an informal process but also has a clear and strong legal impact, with adequate legal supervision. Settlement of disputes through mediation that is officially recorded in court also reduces the possibility of recurrence

of disputes, because both parties have bound themselves to the agreement that has been reached together. Thus, mediation in agrarian disputes not only offers a more efficient and humane resolution path but also provides legal guarantees that are legitimate and accountable. The Indonesian legal system provides strong support for this mediation process, both in the administrative path (BPN) and civil courts, to realize a just and sustainable settlement of agrarian disputes.

Challenges and Opportunities for Implementing Mediation in Agrarian Disputes

Power inequality between the parties involved is one of the obstacles in implementing agrarian dispute mediation. In many cases, the economically or politically stronger party can have significant influence over the mediation process, making it difficult for the weaker party to obtain a fair outcome. When one party has more resources or access to information, they can dominate the mediation process, leading to agreements that do not reflect a balance of interests. It usually occurs in agrarian disputes involving indigenous peoples or small farmers who have limited legal knowledge, financial resources, and access to professional mediators who can assist them. This power inequality can influence the final decision in mediation, causing dissatisfaction and potentially worsening the conflict.

The lack of capacity of professional agrarian mediators is also an obstacle to the success of mediation. Mediators involved in agrarian disputes must have a deep understanding of land issues, agrarian law, and the social dynamics involving the disputing parties. Without adequate knowledge of the agrarian context, mediators may find it difficult to help the parties find mutually beneficial solutions. Unfortunately, although the number of trained and competent mediators in the land sector is increasing, they are still limited and not evenly distributed throughout Indonesia. The lack of specific training for mediators in the land sector hampers the potential for mediation to become a more effective option in resolving agrarian disputes.

In addition to the problem of mediator capacity, low public trust in state institutions is also a significant challenge in implementing mediation. Many people, especially those from disadvantaged groups, feel that state institutions are not on their side. People tend to feel that formal legal processes, including mediation managed by the BPN or the courts, will not produce fair decisions. It is often driven by past bad experiences or the perception that the stronger party in an agrarian dispute has connections that can influence the outcome. This low trust makes them reluctant to use mediation as a means of resolving disputes, even though mediation can offer faster and cheaper results than litigation.

Overlapping agrarian regulations is also a major problem that affects the effectiveness of mediation in agrarian disputes. The duality of certificates and illegal land control often causes confusion and doubt for the parties involved. In some cases, one plot of land can have more than one certificate issued by different agencies, or even land that has been illegally controlled can be the subject of a dispute. This situation exacerbates legal uncertainty and complicates mediation because the mediator must have a clear understanding of the legal status of the land in question and have expertise in resolving differences of opinion regarding the status of ownership and use of the land. In addition, the inconsistency between existing laws and regulations often creates confusion about who has the legitimate authority to handle agrarian disputes.

On the other hand, there are several supporting factors for the success of mediation in agrarian disputes that can be utilized to increase the effectiveness of this process. One of the main factors is the availability of competent mediators in the land sector. Mediators who have a good understanding of land law and agrarian practices will be better able to identify the main issues in the dispute and direct the parties to reach a fair agreement. Special training for agrarian mediators, both from the government and the private sector, is very important so that they can carry out the mediation process efficiently. The government and related institutions need to

invest more in education and training to produce mediators who can handle agrarian disputes well, providing solutions that not only meet the legal aspects but also pay attention to the socio-economic needs of the community.

Apart from that, the political will of the government to encourage dispute resolution through mediation is another important factor. If the government actively supports and facilitates mediation, especially in cases involving the poor or other vulnerable groups, the mediation process can occur more effectively. It includes the active role of the government in formulating regulations that support mediation, providing adequate facilities, and ensuring that mediation is accessible to all parties without burdensome costs. Political support from the government can increase public trust in the mediation process as a legitimate and reliable mechanism for resolving agrarian disputes.

The importance of education and outreach to the public about the advantages of mediation also cannot be ignored. Many parties do not fully understand that mediation is a faster and cheaper alternative than litigation. Through good outreach, the public can better understand the mediation procedure and its benefits, so that they are more open to choosing mediation as a means of resolving disputes. Educational programs that educate the public about mediation procedures, their rights, and how mediation can help them reach better agreements must be implemented widely, especially in areas prone to agrarian disputes.

Mediation in agrarian disputes is not only important from a procedural perspective but is also very relevant to realizing substantive justice. Mediation allows for a settlement based on an agreement between the two parties, which reflects a balance of interests. Unlike the justice system which often focuses on decisions that are only seen from a formal legal perspective, mediation provides space to consider broader interests that may not be reached through court decisions alone. For example, in a dispute between an Indigenous community and a corporation, mediation can help both parties find a solution that is not only legally beneficial but consider the deep social and cultural aspects so that more substantive justice is achieved.

Mediation helps avoid the “win-lose” approach that often occurs in formal court disputes. In the court system, the losing party usually feels disadvantaged, and the conflict can drag on, even after a decision is made. In contrast, in mediation, the agreement reached is a win-win solution, where both parties are committed to a mutually acceptable outcome. It may create lasting peace and better relations between the disputing parties. The success of mediation in creating an impartial and more humane agreement shows the importance of mediation as a tool to achieve more holistic and sustainable justice in agrarian disputes.

CONCLUSION

Mediation as an alternative dispute resolution (APS) in the agrarian sector has obvious advantages, namely time efficiency, lower costs, and the ability to create solutions that are more in line with the interests of both parties. However, the success of mediation cannot be achieved without the support of various parties, including the government, authorized institutions, and the community itself. Strengthening regulations and increasing the capacity of agrarian mediators are critical steps that must be taken to ensure that mediation can function optimally in resolving agrarian disputes in Indonesia.

Apart from that, in the future, changes will be needed in the way society views mediation as a legitimate and effective dispute-resolution mechanism. With more intensive education and socialization regarding the benefits of mediation, as well as strengthening institutions that support the implementation of mediation, it is expected that a fairer and more sustainable dispute resolution system can be created. Substantive justice achieved through mediation will have a positive impact not only on the parties involved in the dispute but also on the creation of broader social peace, especially in the context of agrarian disputes that involve various interests of the community and the state. Mediation, if managed well, has great potential to

accelerate the resolution of agrarian disputes and become a key instrument in more equitable and sustainable natural resource management in Indonesia.

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