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The Effectiveness of Village Heads as Mediators in Land Dispute Resolution: An Empirical Juridical Study in Pasilian Village, Tangerang Regency

Abdulatip, Muh Nasir, Rasman Habeahan

Universitas Dharma Indonesia (UNDHI)

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Abstract:

Land disputes remain a persistent challenge in rural Indonesia, often threatening social cohesion and local development. While formal litigation offers a legally binding resolution, its cost, complexity, and length frequently deter village communities. Consequently, alternative dispute resolution through mediation has emerged as a preferred mechanism, with the Village Head functioning as a key mediator due to his or her formal authority and social legitimacy. This study examines the implementation and effectiveness of the Village Head's mediating role in land disputes in Pasilian Village, Kronjo District, Tangerang Regency. Employing a socio-legal or empirical-normative research methodology, the study combines analysis of statutory regulations with empirical data obtained through in-depth interviews, direct observation, and documentary analysis. The findings reveal that the Village Head performs multiple functions: as a

facilitator of dialogue, a neutral intermediary, and a guardian of local wisdom. However, the effectiveness of this role is constrained by several factors, including limited legal knowledge regarding agrarian law and mediation techniques, the absence of standardised procedural guidelines, weak administrative documentation of land rights, and the potential for bias arising from kinship ties or local political interests. Furthermore, mediation outcomes lack formal executorial force, undermining legal certainty. The study concludes that while the Village Head's mediation offers significant advantages in terms of speed, cost, and social harmony, its sustainability requires institutional reinforcement through capacity-building programmes, clearer regulatory frameworks, and enhanced coordination with land agencies. Recommendations include the development of standard operating procedures for village-level mediation, systematic training for Village Heads in agrarian law and conflict resolution, and improved land administration systems to prevent future disputes.

Keywords: *Village Head; mediation; land dispute; socio-legal study; alternative dispute resolution*

INTRODUCTION

In Indonesia, the village (*desa*) is not merely the lowest administrative unit; it is constitutionally recognised as a self-governing community with the authority to regulate and manage local affairs based on its origins and customary traditions. This recognition is enshrined in Article 18B of the 1945 Constitution and operationalised through Law Number 6 of 2014 concerning Villages. Within this framework, the Village Head occupies a pivotal position: as the chief executive of village governance, a leader in development, and a primary agent of social order and conflict resolution.

Land disputes represent one of the most frequent and complex conflicts in rural settings. Land in Indonesia carries multidimensional value—economic, social, cultural, and symbolic. It is not only a productive asset but also a marker of family identity, social status, and intergenerational continuity. Disputes often arise from unclear boundaries, overlapping ownership claims, incomplete documentation, poorly managed inheritance, or rapid land-use changes accompanying development. In Pasilian Village, located in the rapidly urbanising Kronjo District of Tangerang Regency, the pressures of economic growth have intensified competition for land. According to data collected from the Village Head office, no fewer than 150 land dispute cases were recorded between 2021 and 2025, involving boundary conflicts, sale-and-purchase disputes, inheritance claims, and certificate irregularities.

While formal litigation through the courts offers a legally definitive resolution, it is frequently perceived by

villagers as costly, time-consuming, adversarial, and disruptive to social relationships. Consequently, many prefer non-litigative mechanisms, particularly mediation facilitated by the Village Head. This preference aligns with deeply rooted cultural values of *musyawarah* (deliberation) and *gotong royong* (mutual cooperation), which prioritise consensus and social harmony over adversarial contestation.

The role of the Village Head as mediator is not explicitly codified in a single statute, but it derives from multiple legal sources. Law Number 6 of 2014 implicitly grants village heads the authority to settle community disputes. Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution provides the general legal basis for non-litigation settlement. Moreover, Supreme Court Regulation Number 1 of 2016 on Mediation Procedures in Court, although primarily court-oriented, reinforces the legitimacy of mediation as a dispute resolution method. At the local level, customary law and social norms further empower the Village Head as a natural mediator.

Despite this normative foundation, the actual practice of village-level mediation faces significant challenges. Soerjono Soekanto (2019), in his theory of legal effectiveness, identifies five determinants: the law itself, law enforcement officers, facilities, society, and culture. Applied to village mediation, these factors highlight gaps between legal ideals and empirical realities. Satjipto Rahardjo (2010) similarly emphasises that law must be understood in its social context; legal rules alone do not guarantee justice if institutional capacity and community awareness are weak.

Previous studies have examined the Village Head's mediating role in various regions. For instance, Riska Fitriani (2013) studied forest land dispute mediation in Siak Regency and found that local leadership significantly influenced success. Jenny Lah (2014) analysed the role of customary heads in resolving communal land disputes in Malinau. Yet limited research has specifically addressed the intersection of formal authority, customary legitimacy, and practical challenges in a single village setting with high dispute density. This study addresses that gap by focusing on Pasilian Village as a case representing rapid peri-urban development and its associated land conflicts.

The novelty of this research lies in its dual analytical approach: first, it examines the substantive role of the Village Head by integrating legal-normative analysis with empirical fieldwork; second, it systematically identifies and categorises the factors that influence the effectiveness of that role, drawing on legal theory, conflict resolution theory, and local governance perspectives. The study thereby contributes both theoretically—by enriching the discourse on alternative dispute resolution in Indonesian rural contexts—and practically—by offering evidence-based recommendations for policy improvement.

The research questions are formulated as follows:

1. How does the Village Head of Pasilian Village perform the role of mediator in land dispute resolution?
2. What factors influence the implementation of this mediating role?

The objective is to analyse the Village Head's mediating function and to identify both enabling and constraining factors, with the ultimate aim of enhancing the quality and legal certainty of village-level dispute resolution.

METHOD

This study employs a socio-legal research approach, also termed empirical-normative legal research. This methodology integrates two dimensions: the normative analysis of legal rules (*das sollen*) and the empirical investigation of their application in social reality (*das sein*). As noted by Amirudin and Zainal Asikin (2016), and Soemitro Ronny Hanitijo (2008), this approach is essential when legal norms cannot be fully understood without examining how they are implemented, interpreted, and contested by social actors.

The research was conducted in Pasilian Village, Kronjo District, Tangerang Regency. Data sources are divided into primary and secondary categories. Primary data were obtained through in-depth interviews with the Village Head, village officials, disputing parties, and community leaders. Direct observation of mediation sessions and documentation of village archives, such as land registration books (letter C), certificates, sale deeds, and other relevant documents, supplemented the interviews. Secondary data included statutory regulations—particularly Law Number 5 of 1960 on Basic Agrarian Law (UUPA), Law Number 6 of 2014 on Villages, Law Number 30 of 1999 on Arbitration and Alternative Dispute Resolution, Supreme Court Regulation

Number 1 of 2016, and implementing regulations—as well as legal literature, prior research, and academic publications.

Data collection techniques comprised semi-structured interviews, purposive sampling of key informants, participant observation of mediation processes, and document analysis. Data analysis followed an interactive model: data reduction, data display, and conclusion drawing. Validity was ensured through triangulation of sources (comparing interview accounts with documentary evidence) and triangulation of methods (cross-checking interview results with observational data).

RESULTS AND DISCUSSION

1 The Village Head's Mediating Role in Land Dispute Resolution

The empirical findings reveal that the Village Head of Pasilian performs a multifaceted mediating role that can be categorised into three interrelated functions: communicator, facilitator, and norm-guardian.

First, as a communicator, the Village Head creates a space for dialogue. When a land dispute is reported—usually by one party visiting the village office—the Village Head invites both sides for an initial hearing. This stage involves listening to each party's narrative, identifying the core issues, and assessing the emotional climate. According to the Village

Head, the primary challenge at this stage is managing distrust and hostility between parties. By maintaining a calm, impartial demeanour and employing local language and customs, the Village Head aims to lower tensions.

Second, as a facilitator, the Village Head organises formal mediation sessions. These sessions typically take place in the village hall or the Village Head's office, attended by the disputants, village officials, and sometimes respected elders or customary leaders. The Village Head opens the session, explains the purpose, and establishes ground rules—especially that the process is voluntary, confidential, and oriented toward mutual agreement. Each party is given equal time to present their claims and evidence. The Village Head then guides the discussion toward common ground, proposing options for settlement, and encouraging compromise. In many cases, the mediation results in a written agreement signed by both parties and witnessed by village officials.

Third, as a norm-guardian, the Village Head ensures that the mediation process and outcome respect both formal legal norms and local customary values. For example, while the Basic Agrarian Law (UUPA) requires clear proof of ownership, the Village Head often accepts traditional evidence such as oral testimony from neighbours or historical usage patterns, provided they do not contradict statutory requirements. The Village Head also invokes principles of *kekeluargaan* (family spirit) and *gotong royong* to persuade parties to accept solutions that preserve social harmony. This blending of formal law and local wisdom reflects the concept

of "living law" advocated by Satjipto Rahardjo (2010), where legal practice is adapted to community values.

However, the Village Head's capacity to execute these functions is uneven. Interviews reveal that the current Village Head has no formal legal education; his knowledge of agrarian law, land registration procedures, and mediation techniques was acquired through experience and occasional informal briefings. While he demonstrates strong interpersonal skills and community trust, the lack of structured training occasionally leads to procedural inconsistencies. For instance, in some cases, the Village Head failed to document the mediation process adequately, which later caused disputes over the agreement's authenticity.

This finding aligns with Soerjono Soekanto's (2019) theory of legal effectiveness, which emphasises that the quality of law enforcement officers is a critical determinant. The Village Head, as a "law enforcement officer" in a broad sense, requires not only social legitimacy but also technical competence. Without systematic capacity building, the mediating role remains vulnerable to idiosyncratic practices.

Furthermore, the Village Head's mediation operates within the shadow of the formal legal system. While Law Number 6 of 2014 confers authority to resolve community disputes, it does not specify mediation procedures, evidentiary standards, or the legal status of mediated agreements. This legal vacuum creates uncertainty. In several observed cases, one party later repudiated the agreement, claiming it was coerced or that the Village Head was biased. Because the agreement lacks executorial force—unlike a court judgment or

a notarial deed—the aggrieved party has no direct enforcement mechanism, often leading to re-escalation of the conflict.

This situation reflects the tension between legal certainty and restorative justice, a recurring theme in Indonesian legal scholarship. As emphasised by Achmad Ali (2011) and Philipus M. Hadjon (2007), legal certainty requires predictable, enforceable rules; restorative justice prioritises mutually acceptable outcomes. The village mediation model leans toward the latter but must incorporate sufficient certainty to be sustainable. One possible improvement is to formalise the mediation agreement through a village regulation (*peraturan desa*) or to register it with the district land office, thereby granting it administrative recognition.

2. Factors Influencing the Implementation of the Village Head's Mediating Role

The effectiveness of the Village Head's mediation is shaped by a constellation of internal and external factors. Based on field data and theoretical analysis, these factors can be classified into four categories: individual capacity, social capital, institutional support, and documentary infrastructure.

Individual Capacity

The most immediate factor is the Village Head's personal competence. This includes knowledge of substantive land law (especially the Basic Agrarian Law, land registration regulations, and inheritance rules), procedural skills in mediation (active listening, reframing, interest identification,

and drafting agreements), and personal attributes such as patience, impartiality, and integrity. In Pasilian, the Village Head's strong community reputation compensates for his limited legal training, but this is not a sustainable substitute. Other villages may have Village Heads with weaker social standing or lower conflict management skills. Thus, institutionalising capacity building through regular training is essential.

Social Capital

Social capital refers to the trust, networks, and norms that facilitate collective action. The Village Head of Pasilian benefits from high social capital: he is a native of the village, has served for over a decade, and maintains good relations with all major kinship groups. This trust allows him to convene disputants who might refuse to meet otherwise. However, the same ties can generate conflicts of interest. In three of the cases studied, one party accused the Village Head of favouring his relatives or political allies. Although these accusations were not proven, they damaged the perceived neutrality of the process. As Sudikno Mertokusumo (2010) notes, a mediator's legitimacy depends on perceived impartiality; any perception of bias undermines the outcome's acceptability.

Institutional Support

The village government operates within a multi-level institutional environment. Support from the district government (kecamatan and kabupaten) significantly affects mediation effectiveness. In Pasilian, the district land office

occasionally provides data clarification on certificates, but there is no formal referral mechanism or standardised mediation protocol. Village officials also lack dedicated budget lines for dispute resolution, relying on ad hoc arrangements. This institutional weakness echoes the systemic problems identified by Jimly Asshiddiqie (2015) in Indonesia's decentralisation experience: devolution of responsibilities without corresponding resources and capacity building.

Documentary Infrastructure

Land disputes are fundamentally about competing claims to evidence. The most critical factor in mediation is the quality and completeness of land documentation. In Pasilian, many villagers possess only informal evidence—*girik* (a colonial-era tax receipt), letter C (village land register extracts), or handwritten sale agreements. These documents are often ambiguous, inconsistent, or lost. The village archive itself is incomplete; many older records were destroyed by fire or simply neglected. When parties present contradictory documents, the Village Head lacks the expertise to authenticate them, leading to deadlock. This finding underscores the importance of systematic land registration and village archive digitisation, as recommended by agrarian law scholars such as Maria S.W. Sumardjono (2011) and Budi Harsono (2007).

The interconnection of these factors creates a complex dynamic. For instance, weak documentary infrastructure exacerbates the need for mediators' interpretive skills, which in turn depends on their individual capacity. Low institutional support leaves the Village Head without procedural guidance,

forcing reliance on personal social capital. This interdependency suggests that piecemeal improvements will be insufficient; a comprehensive strategy addressing all four dimensions is required.

From a theoretical perspective, these findings can be analysed using Lawrence M. Friedman's (2019) legal system theory. Friedman identifies three components: legal structure (institutions), legal substance (rules), and legal culture (attitudes and values). In the village mediation context, the structural component (village government, district land office) is present but under-resourced. The substance (laws on mediation, land registration) is adequate at the macro level but insufficiently operationalised at the village level. The cultural component is favourable—villagers generally prefer mediation and respect the Village Head—but this culture is not backed by structural reinforcement.

The research also highlights a gap in legal certainty theory. While mediation serves the values of justice and utility, it often fails on legal certainty. As Peter Mahmud Marzuki (2019) argues, legal certainty requires that outcomes be predictable and enforceable. Village-level mediation outcomes are neither. Proposals to strengthen certainty include: (1) requiring that all mediated agreements be notarised or registered with the district land office; (2) establishing a village mediation board with standardised procedures; and (3) granting the mediated agreement the status of a village regulation, making it binding on all parties and subject to administrative sanctions for non-compliance.

CONCLUSION

This study concludes that the Village Head of Pasilian Village plays a crucial but institutionally fragile role as mediator in land dispute resolution. The Village Head's functions as communicator, facilitator, and norm-guardian demonstrate significant potential to resolve conflicts quickly, inexpensively, and in a manner that preserves social harmony. However, the effectiveness of this role is contingent upon multiple factors: the individual capacity of the Village Head (legal knowledge, mediation skills, impartiality), the social capital embedded in community trust, the availability of institutional support (clear procedures, coordination with land agencies, resource allocation), and the quality of documentary infrastructure (village land records, certificates, archives).

The theoretical contribution of this study lies in its integration of legal effectiveness theory, legal system theory, and alternative dispute resolution concepts to explain the gap between normative expectation and empirical reality in village-level mediation. The practical contribution is the identification of specific leverage points for policy intervention: mandatory mediation training for Village Heads, standard operating procedures for village mediation, formalisation of mediation agreements, and systematic improvement of land administration in villages.

Based on these findings, the following recommendations are offered:

1. The Ministry of Villages and the Ministry of Agrarian Affairs should jointly develop a standardised mediation protocol for land disputes at the village level, including

clear procedures, evidentiary rules, and template agreements.

2. District governments should conduct regular training programmes for Village Heads on land law, mediation techniques, and conflict management.
3. Village governments should digitise and maintain land archives; the National Land Agency (BPN) should assist in verifying and updating village land data.
4. Mediation agreements should be given legal force through district regulation, making them enforceable within the village jurisdiction and subject to administrative sanctions.
5. Community legal education programmes should be expanded to raise awareness of the importance of formal land documentation and the benefits of mediation over litigation.

Ultimately, strengthening the Village Head's mediating role requires not only improving individual skills but also building a supportive institutional ecosystem. Without such systemic reinforcement, village mediation will remain a valuable but incomplete instrument for resolving one of Indonesia's most enduring legal and social problems.

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