

RESEARCH ARTICLE



LEGAL ANALYSIS OF THE EFFECTIVENESS OF MEDIATION BY THE ATR/BPN OF BANYUMAS DISTRICT IN RESOLUTION OF LAND DISPUTES

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ABSTRACT

This study aims to evaluate the effectiveness of mediation in resolving land disputes in Indonesia by examining the legal regulations governing it and the role of related institutions in the dispute resolution process. The research method used is normative juridical with statutory and conceptual approaches through the analysis of laws and regulations, policies, and mediation procedures applied in land dispute resolution. The results show that mediation is an effective alternative dispute resolution mechanism because it can reduce litigation processes that tend to be time-consuming and costly. The main legal basis for mediation is Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. In practice, the ATR/BPN Office plays an important role as a mediator facilitator in achieving peaceful agreements between disputing parties. However, the effectiveness of mediation still faces several challenges, including the low level of public understanding regarding the benefits of mediation, the lack of good faith among disputing parties, and the limited capacity of mediators in handling disputes optimally. In conclusion, mediation has significant potential as a fast, affordable, and effective mechanism for resolving land disputes. Nevertheless, it requires improvements in mediator capacity, greater public awareness, and stronger regulations and institutional support to optimize its implementation.

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1. Introduction

Land disputes remain one of the most common legal issues in various regions of Indonesia, including Banyumas Regency. Land-related problems generally arise due to unclear land boundaries, overlapping ownership rights, double certificates, improper land sale procedures, and unilateral claims by certain parties. These disputes not only create legal uncertainty but also affect the social and economic conditions of society because they often trigger prolonged conflicts between individuals or groups. In practice, land conflicts may hinder the optimal utilization of land and cause material losses to the disputing parties. This condition indicates that land issues remain a strategic concern requiring serious attention from the government and law enforcement institutions ([Christopher & Djaja, 2025](#)).

Constitutionally, state control over land is regulated under Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which states that land, water, and natural resources contained therein are controlled by the state and utilized for the greatest prosperity of the people. This provision is further elaborated in Law Number 5 of 1960 concerning Basic Agrarian Principle, which serves as the primary legal foundation for regulating land rights in Indonesia. The state with authority to regulate land ownership, control, use, and utilization in order to create legal certainty for society ([Saputra et al., 2026](#)).

However, in its implementation, various administrative land issues still frequently occur and often lead to land disputes. The settlement of land disputes is generally carried out through litigation processes in courts, either through District Courts or Administrative Courts. However, litigation procedures often require a long period of time, high costs, and complicated processes, making them less effective for

justice seekers. In addition, court decisions do not always completely resolve conflicts because the losing party frequently rejects the decision, causing disputes to continue ([Hanafi & Suratman, 2025](#)).

Therefore, non-litigation dispute resolution mechanisms have become increasingly important, particularly mediation. Mediation is considered a faster, simpler, and more economical dispute resolution method because it prioritizes deliberation and consensus with the assistance of a neutral mediator. The legal basis for mediation is regulated in Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. This law provides opportunities for disputing parties to resolve conflicts outside the court system through various alternative mechanisms, including mediation. In the context of land disputes, mediation is considered an important instrument because it allows parties to achieve mutual agreements without going through lengthy judicial proceedings. Through mediation, disputing parties may obtain a *win-win solution*, thereby maintaining social relations between them ([Setya et al., 2023](#)).

In practice, the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) plays an important role in resolving land disputes through mediation mechanisms. This role is regulated under the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 11 of 2016 concerning the Settlement of Land Cases. The regulation emphasizes that the settlement of land cases aims to provide legal certainty and justice regarding land ownership, control, use, and utilization. In addition to carrying out administrative functions in the land sector, ATR/BPN also acts as a facilitator in mediation processes to assist disputing parties in reaching peaceful agreements. In this process, mediators from ATR/BPN seek to reconcile the interests of the parties by prioritizing deliberation and consensus so that disputes may be resolved peacefully and sustainably ([Mulyanto, 2025](#)).

Previous studies regarding land dispute resolution through mediation have been widely conducted. [Purnama & Khasanah \(2024\)](#), explained that the National Land Agency possesses significant authority in resolving land disputes and conflicts through both litigation and non-litigation mechanisms. The study demonstrated that mediation can serve as a dispute resolution mechanism capable of providing legal certainty while minimizing prolonged conflicts within society. Meanwhile, [Yuningsih et al., \(2021\)](#), stated that the settlement of land disputes and conflicts based on Regulation of the Minister of ATR/BPN Number 11 of 2016 aims to realize legal certainty and justice through administrative and mediation mechanisms. The findings of the study emphasized that mediation has a strategic role in resolving land conflicts because it prioritizes deliberation and mutual agreement between disputing parties. In addition, several other studies have shown that mediation tends to be more effective than litigation because the process is faster, less costly, and capable of maintaining social relations between disputing parties.

Nevertheless, most previous studies still focus on normative aspects related to the authority of ATR/BPN and the general legal framework of mediation. Previous research has not specifically examined the implementation of mediation in resolving land disputes at the regional level, particularly in Banyumas Regency. Furthermore, studies discussing the effectiveness of mediation implementation and the obstacles faced by mediators and disputing parties in land dispute resolution remain limited. In fact, each region has different characteristics of land disputes, both in terms of conflict causes, public legal awareness, and the effectiveness of dispute resolution institutions. Therefore, there is a research gap that needs further examination regarding the implementation of land mediation in Banyumas Regency and the extent to which ATR/BPN plays a role in realizing effective and equitable dispute resolution.

The urgency of this research becomes increasingly important considering the growing number of land disputes in society that have the potential to create prolonged social conflicts. In practice, not all land disputes can be resolved quickly through courts due to limitations in time, costs, and complex procedures. On the other hand, mediation frequently faces several obstacles, such as the low level of public understanding regarding the benefits of mediation, the lack of good faith among disputing parties, and the limited capacity of mediators in facilitating dispute resolution optimally. In some cases, society still prefers litigation because court decisions are considered to have stronger legal force than mediation agreements. This condition indicates that the effectiveness of mediation as an alternative land dispute

resolution mechanism still requires evaluation and strengthening, both in terms of regulations and practical implementation.

Based on the explanation above, this study aims to analyze the implementation of mediation in resolving land disputes in Banyumas Regency, examine the role of ATR/BPN in facilitating mediation processes, and identify the obstacles and effectiveness of mediation in resolving land conflicts. This research is expected to contribute academically to the development of agrarian law studies, particularly regarding alternative land dispute resolution through mediation. Furthermore, the results of this study are expected to serve as evaluation material and recommendations for the government and ATR/BPN in improving the effectiveness of non-litigation land dispute resolution in order to create legal certainty, justice, and public order within society.

2. Methodology

This study uses a normative juridical approach, which focuses on the examination of legal norms contained in applicable laws and regulations (Republic of Indonesia, 1999; Republic of Indonesia, 2016). This approach is also known as library research, as it is conducted through the review of legal literature, regulations, and documents relevant to the research object. The main focus of this study is to analyze legal provisions governing land dispute resolution through mediation, particularly within the framework of Indonesian agrarian law. This approach is used to understand the interrelation between regulations and their implementation in non-litigation land dispute resolution ([Negara, 2023](#)).

The data sources in this study consist of primary, secondary, and tertiary legal materials. Primary legal materials include binding laws and regulations, such as Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 11 of 2016 concerning the Settlement of Land Cases, Regulation of the Minister of ATR/BPN Number 21 of 2020 concerning the Handling and Settlement of Land Cases, and Decree of the Head of BPN Number 34 of 2007 concerning technical guidelines for handling land issues. Secondary legal materials are obtained from legal books, scientific journals, and previous research related to land dispute resolution. Meanwhile, tertiary legal materials are used to support legal terminology understanding, such as legal dictionaries and encyclopedias.

Data analysis is conducted qualitatively using a descriptive-analytical approach by systematically collecting, classifying, organizing, and interpreting all legal materials obtained. Furthermore, an analysis is carried out to examine the consistency between regulations and their relevance to the practice of land dispute resolution in Indonesia. The results of the analysis are used to provide a comprehensive overview of the effectiveness of the legal framework in resolving land disputes through mediation mechanisms.

3. Results and discussion

3.1 Land Dispute Conflict

Empirically, land disputes in Indonesia continue to show a persistent and recurring pattern without significant reduction. Based on data from the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN), reports on land disputes, conflicts, and cases reach thousands annually across various provinces. The most dominant types of conflict include boundary disputes, overlapping land certificates, unlawful land occupation, and disputes between communities and corporations or government institutions. This phenomenon is also evident at the local level ([Afrizal & Berenschot, 2022](#)). In Banyumas Regency, data from the District Court indicates that within the last four years, there were approximately 32 land dispute cases processed through litigation. Most of these cases were related to ownership disputes and boundary conflicts, while only a small portion was resolved through non-litigation mechanisms. This indicates that litigation remains the dominant dispute resolution mechanism compared to mediation.

A study entitled *The Effectiveness of Mediation by BPN in Land Dispute Resolution (Klaten Study)* further supports this empirical finding, showing that the success rate of mediation is only around 25%, while the rest proceeds to court or remains unresolved ([Maharani, 2025](#)). The low success rate is attributed to factors such as absenteeism of parties, weak legal awareness, and strong ego in defending respective claims.

A similar study in Lamongan found that more than 60% of land disputes submitted to the land office failed to reach agreement in early mediation stages, as the parties already held conflicting positions from the beginning of the process ([Maulidah et al., 2025](#)). This indicates that land conflicts often escalate before mediation is initiated, leaving very limited room for compromise. From the perspective of conflict theory, this situation reflects that land disputes are not merely legal conflicts but also structural conflicts influenced by inequality in access to resources, information, and legal power. Conflict theory also suggests that law is not always neutral, as it may reflect the dominance of certain groups in society. In land disputes, parties with legal certificates or institutional access tend to have stronger positions compared to those relying only on physical control of land.

3.2 Effectiveness of Law in Land Disputes

From the perspective of legal effectiveness, various studies show a significant gap between legal norms and their implementation in practice. Normatively, Indonesia already has strong regulations regarding mediation, such as Law No. 30 of 1999, Law No. 48 of 2009, and Ministerial Regulation ATR/BPN No. 11 of 2016. However, empirically, the effectiveness of implementation remains suboptimal. The one of the main obstacles in mediation is the low participation of disputing parties, where many do not attend mediation sessions or fail to show commitment to reaching an agreement. In some cases, more than half of mediation processes fail to proceed due to the absence of one party. Another study, highlights that the competence of mediators significantly affects mediation success. Mediators lacking communication and negotiation skills tend to fail in guiding parties toward agreement ([Juniyanti et al., 2021](#)).

Meanwhile, research in Central Lombok shows that around 40-50% of land disputes fail to be resolved through mediation due to low public trust in land institutions acting as mediator ([Pratama et al., 2025](#)). This distrust arises from the perception that ATR/BPN is not fully neutral, especially when disputes involve administrative documents issued by the institution itself. *Resolution* found that mediation success depends on three main factors: good faith of parties, mediator competence, and clarity of land data. However, in practice, these three factors are rarely present simultaneously ([Hartanto, 2018](#)). Within [Kelsen \(2017\)](#), this condition shows that law is not fully effective because legal norms are not consistently followed in practice. Kelsen argues that legal effectiveness is measured by the extent to which norms are actually implemented in social life. When society does not comply with or trust mediation mechanisms, law loses its effectiveness despite being normatively complete.

3.1 Comparative Study of Cross-Regional Land Disputes

Comparative studies across regions show relatively similar patterns of failure in land dispute mediation throughout Indonesia. In Klaten Regency, research indicates that the success rate of mediation is only around 25%, while the rest proceeds to court or remains unresolved. The main causes of failure are absenteeism of disputing parties, weak communication, and unwillingness to compromise. In Lamongan Regency, the success rate is slightly higher at around 30-35%, but still indicates that most disputes are not resolved through mediation. The main obstacles include mediators' limited ability to manage emotional conflicts and low legal literacy among the public ([Malizia & Jameson, 2018](#)).

In Central Lombok, studies show that more than 50% of land dispute cases fail to be mediated, as parties from the outset demonstrate non-cooperative attitudes and lack of willingness to reach settlement. Compared to Banyumas Regency, empirical data shows that within four years there were 32 land dispute cases in the District Court, most of which were resolved through litigation. This indicates

that the pattern of dispute resolution in Banyumas is not significantly different from other regions, where litigation remains dominant over mediation. This comparison demonstrates that the main problem in land dispute resolution in Indonesia is not the absence of regulations but rather implementation gaps. Although the legal system provides alternative mechanisms such as mediation, in practice these mechanisms have not yet become the primary choice for society.

Based on empirical data and previous studies, it can be concluded that the low effectiveness of land dispute mediation is influenced by three main dimensions. First, the structural dimension, which refers to the limited capacity of ATR/BPN institutions and mediators in carrying out mediation effectively. This includes lack of trained human resources, limited authority of mediators, and inadequate land administration systems. Second, the cultural dimension, namely the low legal culture of society in resolving disputes through non-litigation mechanisms. Many people still believe that courts are the only legitimate mechanism for dispute resolution, making mediation perceived as secondary. Third, the socio-psychological dimension, including ego, distrust, and lack of good faith among disputing parties. This factor is one of the main causes of mediation failure across almost all studied regions.

From the perspective of conflict theory, these dimensions indicate that land disputes are multidimensional conflicts that cannot be resolved solely through formal legal approaches. Meanwhile, from the perspective of legal effectiveness theory, the gap between normative rules and implementation reality shows that law has not functioned optimally in regulating social behavior. Thus, mediation as an instrument for land dispute resolution is still in a developmental stage. Although it has strong legal foundations and is theoretically more efficient than litigation, in practice it still faces serious structural, cultural, and social challenges.

4. Conclusion

The implementation of land dispute mediation at the ATR/BPN Office of Banyumas Regency has not yet achieved optimal results. This is due to various obstacles encountered in practice, such as the absence of one of the disputing parties, a lack of good faith among the parties to reach an agreement, and disparities in legal knowledge and capacity between the involved parties. These conditions cause the mediation process to become unbalanced and often fail to produce a final agreement. In addition, the limited authority and competence of mediators also constitute a significant barrier in the dispute resolution process. In practice, mediators only function as facilitators without the authority to make binding decisions. As a result, when the parties fail to reach consensus, the mediation process becomes ineffective. Moreover, the low level of transparency regarding mediation outcomes and the lack of public understanding of the role of ATR/BPN as a mediation facilitator further weaken the effectiveness of the mediation mechanism.

Based on these conditions, it is necessary to strengthen human resources through continuous training and competency development for mediators. In addition, the provision of supporting facilities, along with increased transparency and public outreach regarding mediation procedures and outcomes, is essential. In this way, land dispute resolution through non-litigation mechanisms is expected to become more effective, efficient, and capable of delivering fair benefits to all disputing parties.

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