

Mediation in Land Dispute Resolution for Preventing Criminal Offenses

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Abstract

Land disputes remain a persistent legal problem in Indonesia because land holds significant social, economic, and legal value and frequently generates competing claims among individuals and institutions. Unresolved disputes may escalate beyond civil disagreements and contribute to criminal offenses, including unlawful occupation, document falsification, and other unlawful conduct concerning land rights. This study examines the role and effectiveness of mediation in resolving land disputes and preventing related criminal offenses at the Surakarta City Land Office. The research applies an empirical legal method with a qualitative approach by examining the implementation of mediation, institutional practices, and obstacles encountered during dispute resolution. The findings demonstrate that mediation provides an important nonlitigation mechanism for facilitating dialogue, reducing conflict, and encouraging mutually acceptable settlements. However, its effectiveness remains limited by the unwillingness of disputing parties to participate constructively, emotional tensions between the parties, insufficient numbers of competent and certified mediators, inadequate supporting facilities, and limited legal awareness. When mediation fails to produce an agreement, disputing parties generally pursue litigation, which may prolong conflict and increase the possibility of unlawful conduct. The study concludes that strengthening mediator competence, improving institutional capacity, increasing public legal awareness, and encouraging meaningful participation can enhance mediation as a preventive legal mechanism against criminal offenses arising from land disputes.

Keywords: Criminal; Dispute; Mediation; Preventing;



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Introduction

Land disputes are one of the most common legal issues that occur in society, especially in countries with a strong agrarian system like Indonesia. This is due to the fact that land plays a crucial role in social, economic, and political life, and is key to improving the welfare of the people ¹. In this context, it can be seen that the relationship between humans and land is very

¹ Daramola Thompson Olapade, Biodun Olapade, and Bioye Tajudeen Aluko, "Premises Recovery through Adoption of Alternative Dispute Resolution (ADR) Techniques," *Journal of Property, Planning and Environmental Law* 11, no. 1 (2019): 67–80, <https://doi.org/10.1108/JPEL-06-2018-0015>.

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strong, as land is the primary resource, and in Indonesia, it is the most valuable resource. Therefore, humans are highly dependent on land, given that land existed long before humans were born, and without land, human life would not be possible ². As one of the natural resources, land holds high economic value and serves an important social function, making land policy an integral part of the national development policy ³. This principle is reflected in Article 33, Paragraph (3) of the 1945 Constitution, which states that the earth, water, and natural resources are controlled by the state and used for the welfare of the people ⁴. Referring to the fact that land is a part of natural resources, its management needs to be carried out carefully to ensure optimal benefits, both in economic, social, and political aspects, for the welfare of society ⁵. The regulations regarding land are also outlined in more detail in the Indonesian Law No. 5 of 1960 concerning the Basic Agrarian Law ⁶. This regulation grants the state the highest authority over the earth, water, airspace, and natural resources. The Basic Agrarian Law (UUPA) also governs national agrarian policy, particularly regarding the relationship between humans and land. The state is given the authority to plan, regulate, and control land ownership and control, as not all land-related issues can be resolved independently by society ⁷.

The development of society, advancements in science and technology, as well as the increasing population, have led to a rise in the types and number of crimes. Additionally, the demand for land for housing has become increasingly limited. Agrarian conflicts worldwide often result in structural poverty and social inequality, as noted in the World Bank report (2023), which records such issues occurring in over 30 developing countries. In Indonesia, data from the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) reveals that over 500 agrarian

² Fahimeh Abedi, Land Intelligence: Innovations in Online Dispute Resolution for Land and Property Disputes, Land Intelligence and Geospatial Ecosystem: Sustainability, Digital and AI Innovations, and Applications (CRC Press, 2026), <https://doi.org/10.1201/9781003638308-16>.

³ I Gede Agus Kurniawan et al., "Legal Reform in Business Dispute Resolution: A Study of Legal Pluralism in Indonesia, Vietnam, and Thailand," *Journal of Law and Legal Reform* 6, no. 2 (2025): 69 – 116, <https://doi.org/10.15294/jllr.v6i2.21128>.

⁴ Bogdan Derevyanko et al., "Legal Foundations for Resolving Land Disputes Through Mediation as An Alternative Dispute Resolution Method," *European Energy and Environmental Law Review* 32, no. 5 (2023): 248 – 256, <https://doi.org/10.54648/eeelr2023014>.

⁵ Ratih Agustin Wulandari, Raimon Efendi, and Neng Vivie Nurfauziah Rukmini, "Waqf Land Dispute Resolution in Indonesia and Malaysia: Legal and Cultural Approaches," *Asy-Syari'ah* 27, no. 1 (2025): 47 – 72, <https://doi.org/10.15575/as.v27i1.44202>.

⁶ Abdul Hakim Pratama et al., "The Position of Choice of Forum and Alternative Dispute Resolution Principles in Contemporary Sharia-Based Property Dispute," *MILRev: Metro Islamic Law Review* 4, no. 1 (2025): 184 – 207, <https://doi.org/10.32332/milrev.v4i1.10140>.

⁷ Wulandari, Efendi, and Rukmini, "Waqf Land Dispute Resolution in Indonesia and Malaysia: Legal and Cultural Approaches."

dispute cases occur annually, with the majority remaining unresolved, particularly in indigenous regions such as Papua, Sumatra, and Kalimantan ⁸.

Land acquired through purchase, inheritance, or land deeds as proof of ownership often leads to disputes among various parties. If not promptly resolved, this can harm the parties involved. These land issues frequently trigger land disputes that involve criminal actions, such as document forgery, land grabbing, certificate fraud, and even violence, which can result in harm to the parties involved ⁹. Agrarian conflicts can arise due to claims over land owned by local communities. This is often caused by rights held by certain parties through permits that are either unknown to or not understood by the local population ¹⁰. Land dispute mediation, regulated by the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency (BPN) Regulation No. 21 of 2020, serves as an alternative dispute resolution expected to ease tensions between the involved parties and prevent the emergence of criminal actions, such as land document forgery or land grabbing. As a resolution approach, mediation emphasizes peaceful settlement without involving court proceedings, which often incur significant time and costs ¹¹.

According to the economic law theory developed by Richard Allen Posner, the principle of efficiency is crucial for achieving maximum welfare. In the context of law, efficiency refers to the effort to enhance overall welfare without reducing the welfare of other parties ¹². In this regard, mediation as an alternative dispute resolution is considered more efficient in the use of resources, reducing costs, and encouraging the achievement of a solution that benefits both parties. Out-of-court dispute resolution, including mediation, is regulated under Law No. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution ¹³. However, in practice, the implementation of mediation

⁸ Andika Prawira Buana et al., "Land Law Conceptualization: Realizing an Effective Dispute Resolution Model in Indonesia," *Jurnal Media Hukum* 32, no. 2 (2025), <https://doi.org/10.18196/jmh.v32i2.26717>.

⁹ Darmawan, Iman Jauhari, and Suhaimi, "Resolving Land Disputes Through Land Offices and Customary Institutions: Perspectives from National and Customary Law in Aceh," *El-Usrah* 8, no. 1 (2025): 366 – 388, <https://doi.org/10.22373/tqcdmt70>.

¹⁰ Fence M Wantu et al., "Reconstructing Alternative Dispute Resolution for Land Disputes Based on Local Wisdom in the Coastal Area of Tomini Bay," *Journal of Law and Legal Reform* 7, no. 2 (2026): 863 – 902, <https://doi.org/10.15294/jllr.v7i2.18287>.

¹¹ Agus Sekarmadji et al., "Mediation as an Alternative Law Enforcement Concept in the Resolution of Sustainable and Ecologically Oriented Spatial Utilization Disputes," *Journal of Law, Environmental and Justice* 4, no. 2 (2026): 510 – 547, <https://doi.org/10.62264/jlej.v4i2.247>.

¹² Yahman, "The Law Liability Of Non-Judicial Mediators In Land Right Disputes," *Acta Universitatis Carolinae Iuridica* 70, no. 4 (2024): 163 – 176, <https://doi.org/10.14712/23366478.2024.166>.

¹³ Antarin Prasanthi Sigit and Daryono, "In Search of a Just and Equitable Agricultural Land Dispute Settlement Through Hybrid Land Dispute Settlement In Indonesia," *Brawijaya Law Journal* 10, no. 2 (2023): 242 – 259, <https://doi.org/10.21776/ub.blj.2023.010.02.06>.

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at the Surakarta City Land Office still faces various challenges. Several provisions that regulate the mediation procedure are often not optimally implemented, such as the low participation of the parties involved in the dispute, the limited number of certified mediators, and non-compliance with the procedures outlined in the legislation. These conditions diminish the effectiveness of mediation as an alternative solution, which should be more efficient than litigation in resolving land disputes ¹⁴.

Unresolved land conflicts can lead to criminal acts, such as document forgery, land grabbing, and violence. Additionally, the failure of mediation to reach an agreement can result in greater economic losses, such as high administrative costs, wasted time, and prolonged dispute resolution, which may ultimately lead to criminal practices. In Surakarta City, known for its high population density and rapid growth, land disputes have become an increasingly significant issue. Data shows a rise in land disputes every year, which, if not properly managed, have the potential to trigger larger conflicts and criminal actions. Therefore, mediation plays a crucial role, not only in resolving disputes peacefully but also in preventing criminal acts that may arise from these conflicts ¹⁵.

This study aims to evaluate how the implementation of mediation can prevent criminal acts related to land disputes in Surakarta City, as well as to analyze the factors influencing the effectiveness of mediation in preventing criminal actions arising from land disputes. In this regard, it is important to identify the factors that affect the effectiveness of mediation and how the mediation procedures can be optimized to prevent criminal actions such as document forgery or land grabbing. It is expected that this research will provide recommendations for improving the implementation of land dispute mediation and enhancing its effectiveness as a fairer, more efficient, and peaceful alternative dispute resolution, in line with the prevailing legal values

Methodology

This study uses an empirical legal approach with qualitative and sociologicaljuridical methods to identify the application of mediation in land dispute resolution and its role in preventing related criminal acts. Data is collected through in-depth interviews with employees of the Surakarta City Land Office and other relevant parties, as well as direct field observations. The study is descriptive-analytical, aiming to describe the real conditions of mediation implementation and the factors that influence its success. Primary

¹⁴ Violeta Gutiérrez-Zamora and Mara Hernández Estrada, "Responsibilization and State Territorialization: Governing Socio-Territorial Conflicts in Community Forestry in Mexico," *Forest Policy and Economics* 116 (2020): 102188, <https://doi.org/10.1016/j.forpol.2020.102188>.

¹⁵ Joachim S Stassart et al., "Hijacking Legality: Corruption and Property Creation in Brazil's Frontiers," *Political Geography* 123 (2025): 103407, <https://doi.org/10.1016/j.polgeo.2025.103407>.

data consists of interviews, while secondary data includes regulations and other legal sources to support the analysis. A sociological-juridical approach is applied to explore the interaction between legal norms and social practices in the community, as well as the effectiveness of mediation in preventing landrelated criminal acts ¹⁶.

Results and Discussion

Preventive Role of Mediation against Criminal Offenses

The National Land Agency (BPN) is a non-departmental government agency under the authority of the president and led by a head, in accordance with Presidential Regulation No. 48 of 2020 on the National Land Agency. According to Article 2 of this Presidential Regulation, BPN is responsible for administering land affairs in accordance with the prevailing laws and regulations. One of BPN's primary functions is to formulate land policies, which include surveys, mapping, rights determination, and land registration, serving as the foundation for resolving land disputes. In the context of land disputes, BPN plays a role in preventing and resolving conflicts, as well as controlling land ownership and utilization. This function aims to reduce land conflicts through clear policies, strict supervision, and law enforcement that supports peaceful and fair conflict resolution ¹⁷.

To carry out its duties and functions at the regional level, BPN establishes BPN regional offices and land offices. Based on Article 1 of Ministerial Regulation No. 17 of 2020, BPN regional offices are vertical institutions under the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency, operating at the provincial level. This office is led by a head who reports to the Minister of Agrarian Affairs and Spatial Planning/Head of BPN through the secretary general. The BPN regional office is responsible for implementing part of BPN's duties and functions at the provincial level. Article 19 of the regulation also explains that land offices are vertical institutions at the district/city level, responsible to the Minister of Agrarian Affairs and Spatial Planning/Head of BPN through the head of the BPN regional office. The land office's role is to implement part of BPN's duties and functions at the district/city level ¹⁸.

The duties, functions, organizational structure, and working procedures of the BPN regional offices and land offices are established by the head of BPN after obtaining approval from the minister responsible for state apparatus

¹⁶ Mingzhe Wang et al., "Trust and Land Lease: The Role of Informal Institutions in Land Market in Rural China," *Habitat International* 164 (2025): 103521, <https://doi.org/10.1016/j.habitatint.2025.103521>.

¹⁷ Erlan Wijatmoko, Armaidly Armawi, and Teuku Faisal Fathani, "Legal Effectiveness in Promoting Development Policies: A Case Study of North Aceh Indonesia," *Heliyon* 9, no. 11 (2023): e21280, <https://doi.org/10.1016/j.heliyon.2023.e21280>.

¹⁸ Espen Sjaastad and Ben Cousins, "Formalisation of Land Rights in the South: An Overview," *Land Use Policy* 26, no. 1 (2009): 1–9, <https://doi.org/10.1016/j.landusepol.2008.05.004>.
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affairs. In carrying out the duties mandated by Article 20 of Ministerial Regulation No. 17 of 2020, land offices are responsible for controlling and resolving land-related cases, including land disputes. They aim to reduce the potential for disputes by proactively addressing issues and seeking fair solutions for all parties involved ¹⁹.

According to Ministerial Regulation ATR/BPN No. 21 of 2020, land dispute resolution is divided into three categories: first, land disputes involving disagreements between individuals or families within a specific area; second, land conflicts involving groups or legal entities that have a broad impact on the community; and third, land cases that cannot be resolved through mediation and must be settled through legal proceedings. This classification helps land offices and related agencies determine the appropriate steps for handling cases, ranging from mediation to formal legal processes ²⁰.

At the Land Office, land dispute resolution is carried out through mediation, which is an out-of-court dispute resolution method focused on education to reach a mutual agreement. This mediation process is well-organized, goal-oriented, and involves the active participation of all parties involved to reach a consensus. The mediator, as a neutral third party, plays a role in facilitating communication and assisting the parties in reaching an agreed-upon settlement ²¹. The principle of mediation is a win-win solution, meaning that the parties involved in the dispute feel that there is no winner or loser. This ensures that both sides reach a mutually satisfactory resolution without one party feeling disadvantaged ²².

Mediation is a conflict resolution process in which the parties involved collaborate with a neutral mediator, who is accepted by all parties, with the goal of reaching a mutually agreed-upon settlement ²³. The mediator plays a role in facilitating communication between the disputing parties, helping each party understand the positions and needs of the other, and finding

¹⁹ Satar Mahdevari, "Mining Contracts and Investment Law: Governance, Disputes, and Sustainability in Iran," *Resources Policy* 114 (2026): 105861, <https://doi.org/10.1016/j.resourpol.2026.105861>.

²⁰ Yescha Nuradisa Ekarachmi Danandjojo, Samira Ramezani, and Johan Woltjer, "Layered Land Rights under Government-Led Decentralization: Implications for Land Value Capture Implementation in Jakarta, Indonesia," *Land Use Policy* 171 (2026): 108270, <https://doi.org/10.1016/j.landusepol.2026.108270>.

²¹ Shukui Tan et al., "Research on the Manifestation and Formation Mechanism of New Characteristics of Land Disputes: Evidence from the Yangtze River Economic Belt, China," *Land* 13, no. 7 (2024), <https://doi.org/10.3390/land13071002>.

²² Natasha Hamilton-Hart, "The Legal Environment and Incentives for Change in Property Rights Institutions," *World Development* 92 (2017): 167-76, <https://doi.org/10.1016/j.worlddev.2016.12.002>.

²³ Shukui Tan and Mingyue Gong, "Effects of Social Capital on Land Disputes and Regulation Through Administrative Intervention: Case Study Based on Yangtze River Economic Panel Data, 2010 to 2021," *Land* 15, no. 2 (2026), <https://doi.org/10.3390/land15020236>.

solutions that can benefit both parties ²⁴. The mediation process is voluntary and can be applied in various situations, such as business disputes, divorces, or conflicts between individuals. Mediation is generally considered faster and more cost-effective compared to court proceedings, and it helps maintain good relationships between the parties involved ²⁵. In Indonesia, mediation as an alternative dispute resolution was first regulated in Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution (UUAAPS). Article 1, paragraph 10 of the law explains that alternative dispute resolution includes institutions or methods agreed upon by the disputing parties, which can involve various out-of-court settlement methods such as consultation, negotiation, mediation, conciliation, or expert decisions ²⁶.

The Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (BPN) will take the initiative to resolve land disputes if the issue becomes a public concern, involves multiple parties, and holds significant value in social, cultural, economic, public interest, defense, and security aspects. In this regard, BPN is responsible for handling land disputes with widespread and crucial impacts, ensuring that the resolution provides a fair solution benefiting all parties involved, while not overlooking the interests of the public and the state. Land dispute resolution through non-litigation channels can be carried out, one of which is mediation by the National Land Agency (BPN). This process can be completed before entering the court process, with the aim of providing legal certainty and justice regarding the control, ownership, use, and utilization of land.

Based on research conducted at the Land Office of Surakarta City, information was obtained regarding the procedures for handling land disputes, which are regulated by the guidelines used for implementing mediation at the Land Office of Surakarta City, specifically in Ministerial Regulation of Agrarian and Spatial Planning/National Land Agency No. 21 of 2020. According to this regulation, the first stage involves case assessment to understand and document the issues, including relevant data and the classification of the case ²⁷. The second stage is the initial hearing, which aims

²⁴ Fahimeh Abedi, Abbas Rajabifard, and Davood Shojaei, "Enhancing Access to Justice for Land and Property Disputes through Online Dispute Resolution and Artificial Intelligence," *Computer Law & Security Review* 59 (2025): 106194, <https://doi.org/10.1016/j.clsr.2025.106194>.

²⁵ Danae Chatzigianni, Dimitrios Kitsakis, and Efi Dimopoulou, "Investigation of Disputes' Resolving over Ecclesiastical and Monastic Land Property in Greece Using Cadastral and Land Use Data," *GeoJournal* 82, no. 4 (2017): 627 – 641, <https://doi.org/10.1007/s10708-016-9706-2>.

²⁶ Jadranka Dabovikj Anastasovska and Marjana Staninova, "The Binding Nature of Mediation Settlements in North Macedonia: Aspects of Validity and Enforcement," *European Union and Its Neighbours in a Globalized World* 20 (2025): 209 – 223, https://doi.org/10.1007/978-3-031-76345-8_13.

²⁷ Mulya Adhimara, Amad Sudiro, and Gunawan Djajaputra, "Implementation of Restorative Justice and Determination of Spiritual Costs in Land Ownership Disputes in the Jurisdiction Abdul Kadir Jaelani, et.all, *Mediation in Land Dispute Resolution....*

to identify the relevant parties and develop a handling plan. Next, the research stage is conducted to collect physical, legal, field data, and supporting materials²⁸. The research findings are then compiled into a report that includes an analysis of the issues and recommendations for follow-up actions, which are subsequently presented for evaluation and determination of the next steps, including potential coordination with relevant parties or mediation. If necessary, mediation or reassessment steps can be undertaken to reach a resolution. The procedures for handling land disputes at the Surakarta City Land Office are in line with the applicable legal guidelines. However, in practice, they still face various challenges, one of which is the increasing number of land disputes recorded over the past four years. In land dispute mediation, there are five key factors that influence its effectiveness, according to Soerjono Soekanto's theory of legal effectiveness. The first factor is the legal or substantive factor, which requires clear rules that are in accordance with the field conditions to support the resolution of disputes through mediation. The second factor is the law enforcement factor, which involves the role of certified mediators in resolving disputes. However, the limited number of mediators at the Surakarta City Land Office poses a challenge.

The mediator, as a neutral third party, plays a crucial role in facilitating communication and helping the parties reach an agreement. A mediator must have a deep understanding of the psychological conditions of the disputing parties, as well as strong analytical skills, to help achieve an agreement that satisfies all parties involved. The third factor is the facilities and infrastructure factor, where inadequate mediation facilities, such as meeting rooms that are not soundproof, reduce the comfort and privacy of the parties involved. The fourth factor is the community factor, which plays a crucial role in the success of mediation, particularly in relation to the absence of disputing parties or uncooperative attitudes. This indicates that the success of mediation heavily depends on the attitude and behavior of the parties involved. The fifth factor is the cultural factor. Effective regulations are not only limited to written rules but must also reflect the principles, traditions, and ways of thinking of the society they govern. Javanese cultural values that emphasize deliberation (*musyawarah*) can strengthen the mediation process. However, they may sometimes conflict with personal interests, which can hinder the achievement of a mutually agreeable settlement²⁹.

of the Jakarta Metropolitan Police," *Indian Journal of Information Sources and Services* 16, no. 2 (2026): 371 – 378, <https://doi.org/10.51983/ijiss-2026.16.2.37>.

²⁸ Margaret Everett, "Evictions and Human Rights: Land Disputes in Bogotá, Colombia," *Habitat International* 25, no. 4 (2001): 453–71, [https://doi.org/10.1016/S0197-3975\(01\)00015-7](https://doi.org/10.1016/S0197-3975(01)00015-7).

²⁹ Mathijs van Leeuwen et al., "Localized Land Tenure Registration in Burundi and Eastern DR Congo: Contributing to Sustainable Peace?," *Global Environmental Change* 83 (2023): 102763, <https://doi.org/10.1016/j.gloenvcha.2023.102763>.

In addition, Posner's theory, which applies an economic approach to law, argues that law should not only be understood as a set of normative rules but also as a tool that can be analyzed through the principle of economic efficiency³⁰. The Economic Law Theory put forward by Richard Posner has significant relevance in the context of mediation as an alternative dispute resolution method that is more cost-effective compared to litigation. In its implementation, mediation at the Surakarta Land Office incurs no cost, indicating that resolving disputes through mediation is far more affordable than going through the court process, which involves higher costs. Additionally, mediation at the Surakarta Land Office is limited to a maximum of three meetings to reach an agreement, unlike the court trial process, which can take a much longer time to reach a resolution. However, weaknesses in the mediation process arise when one of the parties involved in the dispute is reluctant to provide explanations regarding issues that have been registered in the dispute section. In such situations, the mediator cannot effectively carry out the procedures set out. As previously mentioned, despite a high number of land dispute complaints being received at the Surakarta Land Office, not all disputes can be smoothly resolved through mediation, even to the point of reaching a peaceful agreement. Many parties prefer to file lawsuits directly in court, leading to the speculation that mediation at the Surakarta Land Office is considered less effective in assisting the public to resolve their issues³¹.

When land disputes are not resolved effectively, it often leads to uncertainty about the legal status of the land, which causes tension between the parties involved. In such situations, without a clear resolution, the parties tend to take unilateral actions that may involve violence, land grabbing, or the use of unlawful force. This is where the role of mediation becomes crucial, as it provides a solution that prevents these parties from engaging in illegal actions. Mediation in land disputes plays a vital role in preventing criminal acts by offering peaceful resolutions that reduce the risk of land grabbing, document falsification, and physical violence³². Through mediation, the disputing parties can reach a clear agreement, avoid unilateral actions, and minimize the potential escalation of the dispute to litigation, which requires time and high costs. By involving a neutral and competent mediator, mediation ensures a legitimate, fair resolution, creating legal certainty while

³⁰ Damian Clifford and Yung Shin Van Der Syde, "Online Dispute Resolution: Settling Data Protection Disputes in a Digital World of Customers," *Computer Law & Security Review* 32, no. 2 (2016): 272–85, <https://doi.org/10.1016/j.clsr.2015.12.014>.

³¹ Amanda Guimbeau, "Settling Prosperity: Historical Immigration and Its Long-Term Institutional Legacies," *Journal of Comparative Economics* 54, no. 2 (2026): 386–428, <https://doi.org/10.1016/j.jce.2026.02.008>.

³² Syafa'At Anugrah Pradana, Hasanuddin Hasim, and Muhammad Imam Dhiya'Ul Haq, "The Role of Siyāsah Shar'iyah in Analyzing and Addressing Land Disputes," *Mazahibuna: Jurnal Perbandingan Mazhab* 6, no. 1 (2024): 17 – 32, <https://doi.org/10.24252/mazahibuna.vi.42252>.

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maintaining good relationships between the parties involved and reducing the tensions that could lead to illegal actions.

Barriers and Legal Strategies for Strengthening Preventive Mediation

Donald Black's theory of behavior of law provides a useful lens for understanding the dynamics that can influence the fairness of land dispute mediation. Key factors include social stratification, where parties with greater power or resources may have an advantage in the mediation process, potentially leading to biased outcomes. Social morphology highlights the impact of personal relationships or community ties, which can introduce bias and affect the objectivity of mediators. Cultural norms also play a significant role, particularly in hierarchical societies where authority figures may receive preferential treatment, thus skewing results. Furthermore, the organization of the mediation process, including the involvement of government agencies or state institutions, may lead to discrimination if these bodies favor certain parties. Lastly, the level of social control within a community influences how law is enforced; in places with stronger informal norms, weaker parties may struggle to achieve fair outcomes in legal disputes. Together, these factors suggest that power imbalances and cultural influences can undermine the fairness of mediation, highlighting the importance of addressing these dynamics to ensure more equitable dispute resolution ³³.

Based on the research conducted through observations and interviews at the Surakarta Land Office, several factors hinder the success of mediation in resolving land disputes, leading to the failure to achieve peace and, in some cases, even exacerbating the conflict. The implementation of mediation at the Surakarta Land Office is influenced by both external and internal factors. From the external side, the uncooperative attitude of the parties involved in the dispute is the primary obstacle. An example of this is the absence of the parties involved in the mediation or their tendency to opt for litigation as an alternative resolution. Additionally, the lack of public legal awareness regarding the benefits of mediation worsens the mediation process. The high emotional tension between the disputing parties often causes them to prioritize personal interests over finding a mutual solution. This condition increases the potential for further quarrels and conflicts, even fostering the intent to commit criminal acts. The complexity of the dispute, such as problematic documents or the involvement of third parties, also adds difficulty to the mediation process ³⁴.

³³ Leandro Mancano and Deborah Russo, "Punishment of Criminals," in *Encyclopedia of Violence, Peace, & Conflict (Third Edition)*, ed. Lester R Kurtz, Third Edition (Oxford: Academic Press, 2022), 539–51, <https://doi.org/10.1016/B978-0-12-820195-4.00160-6>.

³⁴ Rosine Tchatchoua-Djomo, "Improving Local Land Governance? Exploring the Linkages between Land Governance Reforms, Institutional Pluralism and Tenure Security in Burundi,"

From the internal side, the limited number of certified and competent mediators is a significant constraint. Mediators who are not well-trained struggle to manage conflicts and alleviate tensions between the parties involved. The lack of supporting facilities, such as adequate mediation rooms and documentation technology, also hampers the effectiveness of the mediation process. Non-compliance with legal procedures, such as the failure to prepare a valid mediation report, undermines the credibility of mediation as an alternative dispute resolution method. The limited resources and time at the Surakarta Land Office also affect the effectiveness of mediation, leading parties to prefer returning to litigation. Overall, the success of mediation at the Surakarta Land Office is heavily influenced by both internal and external factors. Improvements in various aspects, including mediator skills, available facilities, and public legal awareness regarding the advantages of mediation, are necessary to increase the effectiveness of this dispute resolution process. The practice of mediation in land dispute resolution that fails to reach an agreement can have serious consequences, including triggering criminal acts. This often occurs when the disputing parties, hindered by emotional tension or dissatisfaction with the mediation outcome, choose to take actions outside the legitimate legal channels. The criminal acts that may arise as a result of failed mediation vary, but some of the most common include land grabbing, document forgery, and threats or physical violence ³⁵.

Land grabbing is one form of criminal act that may occur after mediation fails. A party that feels entitled to a specific piece of land, whether due to emotional factors, a sense of injustice, or ignorance of the correct legal procedures, may take unilateral steps to seize the land without proper legal procedures. The desire to maintain or reclaim land can trigger such illegal actions, especially if the disputing parties feel that mediation has not provided a satisfactory result. Land grabbing involves the takeover or occupation of another person's land without permission or a valid legal basis, which can include actions like occupying the land, erecting fences, or other acts that harm the rightful owner. This criminal act clearly violates the law, as it is carried out without considering the landowner's rights or the applicable regulations. As a result, perpetrators of land grabbing can face criminal penalties, and this practice often causes harm to the party rightfully entitled to the land. Land grabbing is a legal issue that requires serious attention to prevent illegal actions and maintain order within society ³⁶.

Journal of Legal Pluralism and Unofficial Law 50, no. 1 (2018): 31 – 55, <https://doi.org/10.1080/07329113.2017.1419403>.

³⁵ Hyacinth O Edeh, George Mavrotas, and Bedru B Balana, "Land Tenure Security and Preferences to Dispute Resolution Pathways among Landholders in Nigeria," *Land Use Policy* 119 (2022), <https://doi.org/10.1016/j.landusepol.2022.106179>.

³⁶ Ward Berenschot et al., "Corporate Contentious Politics: Palm Oil Companies and Land Conflicts in Indonesia," *Political Geography* 114 (2024): 103166, <https://doi.org/10.1016/j.polgeo.2024.103166>.

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The next issue is Forgery of Land Documents. Land disputes involving fraudulent or problematic documents can also lead to criminal acts of forgery. Some parties may be tempted to forge land documents in order to gain personal advantage, especially if they feel that the mediation process cannot provide a fair solution, or if they wish to strengthen their legal position without adhering to the correct legal procedures. Forgery of land documents can cause significant harm to the other party and exacerbate an already tense situation. Forgery of documents or land papers refers to the act of creating or altering documents that are supposed to be legitimate, making them appear authentic even though they do not align with the actual facts ³⁷. This action is dangerous for the trust system in society and can harm the parties who hold legitimate rights to the land. This crime is often committed to gain illegal profit, and weak law enforcement or insufficiently severe punishments can allow forgery to continue. To address land document forgery, the implementation of strict regulations, good discipline, and consistent law enforcement by the relevant institutions are necessary ³⁸.

In addition, there is also the possibility of threats and Physical Violence, which falls under the crime of assault. Assault is an intentional act done to cause injury or physical suffering to another person. While there are exceptions for actions taken in self-defense, assault generally refers to actions that harm another person's body, either by inflicting pain or damaging their physical condition ³⁹. The escalating tension between disputing parties often leads to threats or even physical violence. When mediation fails to alleviate this tension, the parties may become increasingly frustrated and resort to violent actions to resolve their issues. This can include threats to individual safety or physical violence that harms one of the parties involved. Resolving disputes in such a manner clearly contradicts the principles of justice and negatively impacts social relationships within the community. Therefore, it is crucial for the Land Office to enhance socialization efforts regarding mediation, improve mediator competency, and strengthen internal capacity to resolve land disputes more efficiently and effectively.

³⁷ Satish Chand, "Registration and Release of Customary-Land for Private Enterprise: Lessons from Papua New Guinea," *Land Use Policy* 61 (2017): 413-19, <https://doi.org/10.1016/j.landusepol.2016.11.039>.

³⁸ Henry Musa Kpaka, "Chiefs, Courts, and Upholding Property Rights: Quasi-Experimental Evidence from Sierra Leone," *World Bank Economic Review* 39, no. 2 (2025): 341 - 361, <https://doi.org/10.1093/wber/lhae026>.

³⁹ Aura Esther Vilalta Nicuesa and Marian Gili Saldaña, "AI-Driven Alternative and Online Dispute Resolution in the European Union: An Analysis of the Legal Framework and a Proposed Categorization," *Computer Law & Security Review* 57 (2025): 106145, <https://doi.org/10.1016/j.clsr.2025.106145>.

Conclusion

The implementation of mediation at the Surakarta City Land Office is in accordance with legal guidelines, such as the Minister of Agrarian Affairs and Spatial Planning / National Land Agency Regulation No. 21 of 2020. The goal of mediation is to resolve land disputes peacefully, avoid illegal actions, and reduce the potential escalation that could lead to criminal acts. Although there are obstacles such as uncooperative attitudes, absenteeism, lack of legal awareness, and emotional tensions, mediation remains a cheaper, faster, and more effective alternative in maintaining good relations between the disputing parties. However, other inhibiting factors include the limited number of certified mediators, inadequate supporting facilities, and noncompliance with legal procedures. Mediators' inability to manage complex conflicts and the involvement of third parties further exacerbate the situation. This can create legal uncertainty and increase the potential for criminal acts. It is recommended that the government improve mediator competencies through training, expand legal socialization, and enhance mediation facilities and infrastructure. Disputing parties are also encouraged to prioritize mediation, be open and cooperative in communication, and respect mediation agreements to prevent further conflicts. With these measures, mediation can become more effective in resolving land disputes, reducing the risk of criminal acts, and creating better legal certainty for society.

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