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The Effectiveness of Mediation in Resolving Land Disputes in Sorong City

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Abstract: This study aims to analyze the effectiveness of mediation in resolving land disputes in Sorong City and to identify the factors that support and hinder its implementation. **The method used** an empirical legal method with a qualitative approach. Data were collected through in-depth interviews, document analysis, and literature review, and were then qualitatively analyzed through data reduction, thematic organization, and drawing of conclusions. **The novelty** of this study lies in the use of three dimensions of mediation effectiveness analysis, namely procedural, substantive, and implementation, to assess the relationship between the reconciliation process, the quality of the agreement, and the implementation of the settlement outcome within the context of legal pluralism in Sorong City. **The results** of the analysis indicate that the effectiveness of mediation cannot be adequately measured solely by the achievement of an agreement but is also determined by procedural fairness, the clarity of the subject matter and the basis of land claims, the certainty of the parties' rights and obligations, and the enforceability of the agreement. Supporting factors include the mediator's competence, the parties' good faith, and the ability to consider the social context and customary law proportionally. Conversely, inhibiting factors relate to the lack of clarity regarding evidence and the subject matter of the dispute, limited land information, institutional coordination, and uncertainty regarding the follow-up to mediation outcomes. **This study concludes** that efforts to strengthen land mediation should focus on improving the quality of procedures, the substance of agreements, and implementation mechanisms to achieve fair resolutions and provide legal certainty. Assessments of the success rate of mediation still require the support of verifiable empirical data.
Keywords: Effectiveness of Mediation; Land Disputes; Legal Certainty; Customary Law; Sorong City

Abstrak: Penelitian ini bertujuan *menganalisis efektivitas mediasi dalam penyelesaian sengketa pertanahan di Kota Sorong serta mengidentifikasi faktor pendukung dan penghambat pelaksanaannya.* ***Metode penelitian*** *menggunakan metode yuridis empiris dengan pendekatan kualitatif. Data diperoleh melalui wawancara mendalam, studi dokumentasi, dan penelitian kepustakaan, kemudian dianalisis secara kualitatif melalui reduksi data, penyajian tematik, dan penarikan kesimpulan.* ***Kebaruan*** *penelitian terletak pada penggunaan tiga dimensi analisis efektivitas mediasi, yaitu prosedural, substantif, dan implementasi, untuk menilai hubungan antara proses perdamaian, kualitas kesepakatan, dan*

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pelaksanaan hasil penyelesaian dalam konteks pluralisme hukum di Kota Sorong. ***Hasil analisis*** *menunjukkan bahwa efektivitas mediasi tidak cukup diukur berdasarkan tercapainya kesepakatan, tetapi juga ditentukan oleh keadilan proses, kejelasan objek dan dasar klaim atas tanah, kepastian hak dan kewajiban para pihak, serta keterlaksanaan kesepakatan. Faktor pendukung meliputi kompetensi mediator, itikad baik para pihak, dan kemampuan mempertimbangkan konteks sosial serta hukum adat secara proporsional. Adapun faktor penghambat berkaitan dengan ketidakjelasan bukti dan objek sengketa, keterbatasan informasi pertanahan, koordinasi kelembagaan, serta ketidakpastian tindak lanjut hasil mediasi.* ***Penelitian ini menyimpulkan*** *bahwa penguatan mediasi pertanahan perlu diarahkan pada peningkatan kualitas prosedur, substansi kesepakatan, dan mekanisme implementasi untuk mewujudkan penyelesaian yang berkeadilan dan memberikan kepastian hukum. Penilaian mengenai tingkat keberhasilan mediasi tetap memerlukan dukungan data empiris yang dapat diverifikasi.*

Kata Kunci: *Efektivitas Mediasi; Sengketa Pertanahan; Kepastian Hukum; Hukum Adat; Kota Sorong*

1. INTRODUCTION

Land plays a strategic role in people's lives because it not only serves as an economic resource and a place to live, but is also linked to social identity, genealogical ties, and the preservation of the cultural values of customary law communities.[1] From the perspective of agrarian law, the relationship between people and land cannot be reduced solely to a relationship of individual ownership, because the control and use of land are also linked to social interests and the recognition of community rights.[2] This complexity becomes even more apparent when claims to a parcel of land are based on formal proof of ownership, a history of hereditary possession, and recognition by indigenous communities that have not yet been fully integrated into the land administration system.[3] Under such circumstances, land disputes not only reflect conflicting interests among individuals or groups, but also highlight issues of legal certainty, the protection of rights, and the effectiveness of dispute resolution mechanisms.[4][5]

This issue is relevant in the context of Sorong City, Southwest Papua, which is characterized by social and legal dynamics involving interactions among indigenous

[1] Moh. Maulana et al., "KEDUDUKAN SELF-DETERMINATION DALAM KONTEKS OTONOMI DAN PENGAKUAN IDENTITAS KULTURAL MASYARAKAT ADAT DI INDONESIA," *Jurnal Hukum Bisnis (J-Kumbis)* 3, no. 1 (2025): 53–70, https://doi.org/10.37606/j-kumbis.v3i1.286.

[2] Samun Ismaya, "KAJIAN TEORITIK DUALISME KEPENTINGAN DAN FUNGSI SOSIAL HAK ATAS TANAH," *Wijaya Putra Law Review* 4, no. 2 (2025), https://doi.org/10.38156/wplr.v4i2.318.

[3] Tamara Hendriana and David Hardjo, "Legal Protection Of Indigenous Peoples' Customary Land Over Certificate Claims By Third Parties," *Unizar Law Review* 8, no. 1 (2025), https://doi.org/10.36679/ulr.v8i1.88.

[4] Dekha Isvan Mahardika, "Perlindungan Hukum Terhadap Masyarakat Dalam Penyelesaian Sengketa Pertanahan," *Notary Law Journal* 5, no. 1 (2026): 25–34, https://notarylaw.journal.ulm.ac.id/index.php/nolaj/article/view/137.

[5] Setiawan Wicaksono, Bintang Bagas, and Agung Reyhansyah, "Penyelesaian Sengketa Dan Konflik Pertanahan Di Indonesia : Kajian Politik Hukum Resolution of Land Disputes and Conflicts in Indonesia : A Study of Legal Politics," *Dialogia Iuridica Volume* 16, no. 1 (2024): 68–95, https://doi.org/10.28932/di.v16i1.9993.

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communities, migrant communities, the government, and business actors regarding land ownership and use. Urban development and growing economic interests in land can give rise to various bases for claims that are not always easy to reconcile.[6] On the one hand, land administration documents play a crucial role in providing certainty regarding the status of and proof of land rights. On the other hand, the history of land tenure, customary boundaries, kinship ties, and community recognition remain of great importance to indigenous communities.[7] When these two dimensions are not given adequate opportunity for review and resolution, disputes have the potential to escalate into protracted conflicts.[8] Therefore, land issues in Sorong City need to be examined by taking into account the relationship between national agrarian law, institutional land practices, and the social realities of the local community.

The resolution of land disputes is grounded in Law No. 5 of 1960 on the Basic Provisions of Agrarian Law, which places land tenure and ownership within the framework of national agrarian law. Recognition of customary law communities and their traditional rights also has a constitutional basis under Article 18B(2) of the 1945 Constitution of the Republic of Indonesia, provided that the specified constitutional requirements are met. In dispute resolution, mediation serves as one of the mechanisms that can be used to reconcile the interests of the parties through the assistance of a neutral third party.[9] For disputes resolved through the court system, mediation procedures are governed by Supreme Court Regulation No. 1 of 2016 on Mediation Procedures in Court. Meanwhile, the handling and resolution of land cases by the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency are governed by Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency No. 21 of 2020 on the Handling and Resolution of Land Cases. These two instruments have different scopes; therefore, the implementation of mediation must be analyzed based on the forum, the authority of the institution, the nature of the dispute, and the legal consequences of the resulting agreement.

Although mediation offers a more participatory means of resolution, its inclusion in the regulatory framework does not in and of itself guarantee the effectiveness of land dispute

[6] Togar Polmanto Winfernando Sirait and Sumriyah, "PENERAPAN MODEL MEDIASI DALAM PENYELESAIAN SENGKETA TANAH SECARA NON-LITIGASI DI PENGADILAN SENGKETA TANAH SECARA NON-LITIGASI DI PENGADILAN," *Jurnal Media Akademik (Jma)* 4, no. 1 (2026), https://jurnal.mediaakademik.com/index.php/jma/article/view/4779.

[7] Yenni Novita Wulandari, Catur Yunianto, and Eka Jaya Subadi, "Pluralisme Hukum Dalam Penyelesaian Sengketa Berkepentingan Umum: Kajian Pustaka Tentang Relasi Antara Peradilan Negara Dan Hukum Adat Di Indonesia," *SIWAYANG Journal: Publikasi Ilmiah Bidang Pariwisata, Kebudayaan, Dan Antropologi* 5, no. 2 (2026), https://doi.org/10.47353/siwayang.v5i2.2700.

[8] Marlin Marlin and Marwan Marwan, "Tinjauan Yuridis Penyelesaian Sengketa Terhadap Peralihan Hak Milik Atas Tanah Tanpa Akta Hibah Di Desa Lelekaa, Kecamatan Wolasi, Kabupaten Konawe Selatan," *Al-Mizan (e-Journal)* 21, no. 1 (2025): 201–218., https://doi.org/10.30603/am.v21i1.6626.

[9] Juwita Tarochi Boboy, Budi Santoso, and Irawati Irawati, "PENYELESAIAN SENGKETA PERTANAHAN MELALUI MEDIASI BERDASARKAN TEORI DEAN G.PRUITT DAN JEFFREY Z.RUBIN," *Notarius* 13, no. 2 (2020): 803–18, https://doi.org/10.14710/nts.v13i2.31168.

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resolution.[10] The effectiveness of mediation cannot be measured solely by whether meetings are held or agreements are reached; rather, it must be assessed based on the process's ability to produce enforceable resolutions, provide certainty regarding the rights and obligations of the parties, and reduce the likelihood of future disputes. In disputes involving customary land claims and administrative land records, an assessment of effectiveness must also consider the balance of the parties' positions, the involvement of interested rights holders, the clarity of the subject matter of the dispute, and the agreement's compliance with applicable legal provisions. Thus, while mediation may be procedurally successful, it does not necessarily resolve substantive issues if the agreement cannot be implemented or fails to provide certainty regarding the status and boundaries of the disputed land.

A number of previous studies have examined land dispute resolution through alternative and indigenous peoples-based approaches in the Sorong region. Putirulan and Simanjuntak, in their study on land dispute resolution among the Malamoi people in Sorong Regency, highlighted the importance of out-of-court peaceful resolution, including mediation and deliberation, while taking into account the social needs of indigenous peoples and the obstacles that arise during the resolution process.[11] A study by Wattimury, Renouw, and Syauta examines the perceptions of the Moi Kelim indigenous community in Sorong City regarding out-of-court land dispute resolution and identifies traditional deliberation as one of the mechanisms upheld by the community.[12] Meanwhile, a study by Hidaya et al. on the effectiveness of mediation using a collaborative approach at the Sorong City Land Office highlights the implementation of mediation within the context of the land administration system, as well as the obstacles that affect the resolution process.[13] These studies show that mediation and community-based dispute resolution mechanisms are relevant to land disputes in the Sorong region, but they also underscore the need to evaluate resolution processes based on the context, the actors involved, and the nature of the disputes under study.

Based on this previous research, the issue that needs to be explored further is not merely whether mediation is used in land dispute resolution, but rather how its effectiveness can be assessed through the relationship between the resolution procedure, the substance of the agreement, and the implementation of the mediation outcome. Research on

[10] Ahmad Tohardi and Anny Riwayati, *MEDIASI PERTANAHAN: Kebijakan, Konsep, Dan Praktik Penyelesaian Sengketa Di Indonesia* (Penerbit Widina, 2026).

[11] Benhur Raubert Putirulan, Kristi Warista Simanjuntak, and Paul Przemysław Polański, "Settlement of the Malamoi Community Customary Land Dispute in Sorong Regency: A Review of Legal and Social Aspects," *Journal of Law Justice* 2, no. 2 (2024): 107–21, https://doi.org/10.33506/jlj.v2i2.3344.

[12] Andrhy J R Wattimury, Dian Mega Erianti Renouw, and Novalin Margaretha Syauta, "PERSEPSI MASYARAKAT ADAT MOI KELIM DI KOTA SORONG TERHADAP PENYELESAIAN SENGKETA TANAH DI LUAR PENGADILAN," *Jurnal Hukum Wos Kenem* 3, no. 1 (2023), https://doi.org/10.56942/wk.v2i1.124.

[13] Wahab Aznul Hidaya et al., "Implementing Living Law under Article 2 of the Indonesian Criminal Code : The Maya Indigenous Community in Raja Ampat," *Vifada Assumption Journal of Law* 4, no. 2 (2026): 1–24, https://doi.org/10.70184/nwzphm18.

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mediation based on land institutions, for example, cannot automatically represent all dispute resolution practices that take place through the courts, deliberations between parties, or the involvement of customary institutions. Similarly, the success of a settlement through deliberation is not always synonymous with legal certainty if the status of the disputed object, the authority of the parties to the agreement, or the mechanism for implementing the agreement remains unclear. On this basis, this study aims to examine the effectiveness of mediation in resolving land disputes in Sorong City by considering procedural, substantive, and implementation aspects. The focus of this study must be clearly distinguished from previous research through the scope of the empirical data and the specific indicators of effectiveness used, ensuring that its contribution goes beyond merely reiterating the benefits of mediation.

2. METHOD

This study employs an empirical legal methodology with a qualitative approach to analyze the effectiveness of mediation in resolving land disputes in Sorong City. This approach is used to examine the alignment between legal provisions and their implementation in practice, particularly regarding the mediation process, factors influencing success, and the implementation of the agreed-upon outcomes. Primary legal sources include the 1945 Constitution of the Republic of Indonesia, specifically Article 18B(2), Law No. 5 of 1960 on the Basic Provisions Agrarian Law, Supreme Court Regulation No. 1 of 2016 on Mediation Procedures in Court, and Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency No. 21 of 2020 on the Handling and Resolution of Land Cases. Secondary legal sources were obtained from books, scholarly journal articles, and previous research relevant to mediation and the resolution of land disputes.[14]

Data collection was conducted through in-depth interviews and a review of documents. Informants were selected purposefully based on their knowledge, experience, and involvement in the resolution of land disputes in Sorong City, which may include officials from the Land Office, mediators or legal practitioners, indigenous community leaders, and parties who have participated in mediation. The documents reviewed included dispute handling records, mediation minutes, settlement agreements, and other supporting documents that were available and legally accessible. Interview data and documentation were compared with applicable legal provisions and the results of previous research to identify gaps between legal norms and dispute resolution practices. The selection of informants and the use of documents were tailored to their availability and the data actually obtained during the research.

Data analysis was conducted qualitatively through data reduction, thematic data presentation, and drawing conclusions. Data validity was verified through triangulation of sources and techniques by comparing statements among informants, interview results,

[14] Suyanto, *Metode Penelitian Hukum* (Surabaya: Unigres Presss, 2022).

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documents, and relevant legal provisions. The effectiveness of mediation was analyzed based on three dimensions: procedural, substantive, and implementation. The procedural dimension encompasses the involvement of the parties, opportunities to articulate their interests, and the conduct of the mediation process; the substantive dimension encompasses the parties' acceptance of the outcome, the clarity of the resolution regarding rights and obligations, and consideration of the rights of indigenous communities where relevant; while the implementation dimension encompasses the enforcement of the agreement, the sustainability of the resolution, and the likelihood of the dispute recurring. These three dimensions serve as a framework for analyzing the effectiveness of mediation based on available empirical evidence, rather than solely on the achievement of an agreement.

3. DISCUSSION

3.1. The Effectiveness of Mediation in Resolving Land Disputes in Sorong City

The effectiveness of mediation in resolving land disputes in Sorong City must be assessed within the framework of evaluating the ability of dispute resolution mechanisms to simultaneously deliver justice and legal certainty. Mediation cannot be deemed effective simply because the parties are willing to attend, the negotiation process takes place, or an agreement is successfully reached.[15] These measures merely indicate procedural success at a certain stage, but do not yet prove that the dispute has been substantively resolved. In land disputes, a true resolution requires clarity regarding the subject matter of the land, the basis of the parties' claims, the boundaries of the land parcels, and the legal consequences of the agreement reached. Thus, the effectiveness of mediation must be understood as the ability of the resolution process to link reconciliation between the parties with legal certainty regarding the disputed subject matter.

The complexity of land disputes in Sorong City demonstrates that land conflicts cannot always be resolved through an approach that relies solely on formal documents. In disputes involving indigenous communities, land claims may be tied to a history of hereditary possession, genealogical ties, community recognition, and territorial boundaries as understood through local social practices.[16] Meanwhile, the national land law system requires a legally accountable basis for evidence and administration. The main issue is not to determine that one basis for a claim is always superior to another, but rather to ensure that every claim is examined through the proper procedures. Mediation becomes relevant when it can bridge these differences without turning the reconciliation process into a means of validating claims that have not been adequately examined.

Land mediation must be analyzed by distinguishing between the forums and the

[15] Tohardi and Riwayati, *MEDIASI PERTANAHAN: Kebijakan, Konsep, Dan Praktik Penyelesaian Sengketa Di Indonesia*.
[16] Fadiah Hazirah et al., "Efektivitas Alternative Dispute Resolution Dalam Penyelesaian Sengketa Konsumen Atas Penyalahgunaan Data Pribadi Oleh Perusahaan," *PESHUM : Jurnal Pendidikan, Sosial Dan Humaniora* 5, no. 1 (2025): 100–108.

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authority of the institutions that conduct it.[17] Supreme Court Regulation No. 1 of 2016 governs mediation procedures in court, while Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency No. 21 of 2020 governs the handling and resolution of land cases within the scope of land administration. These differences have implications for the procedures, authority, and forms of follow-up that can be taken regarding the results of mediation. Therefore, it is inappropriate to assess the effectiveness of mediation using a single, uniform standard without considering the specific forum in which it takes place. Analyses that conflate court-based mediation and out-of-court mediation risk obscuring legal issues regarding the status of agreements and the mechanisms for their implementation.

From a procedural perspective, the effectiveness of mediation depends on the quality of the process in providing the parties with equal opportunities to explain their interests and the basis for their claims. The mere presence of the parties does not in itself indicate that the process has been conducted fairly. The mediator must also ensure that all parties with an interest in the subject matter of the dispute have been identified and that information regarding the land in question has been adequately examined.[18] If the mediation process is focused solely on reaching a compromise, there is a risk that information asymmetries, disparities in legal capacity, or ambiguities regarding the status of certain parties will not receive sufficient attention. Therefore, procedural success must be measured based on the quality of participation, the adequacy of information, and the mediator's ability to help the parties understand the actual issues in dispute.

The mediator's competence is a critical factor because land disputes often involve issues that go beyond simple conflicts of interest. Mediators must be able to distinguish between issues that can be resolved through negotiation and those that require administrative verification, document review, or action by the relevant authorities. Communication skills alone are not enough if the mediator does not understand the fundamental nature of the dispute and the limits of their authority. Conversely, a strong legal understanding does not necessarily lead to effective mediation if the mediator fails to establish communication that allows the parties to openly express their interests. Effectiveness, therefore, requires a combination of substantive competence, negotiation facilitation skills, and the ability to maintain the neutrality of the process.

The good faith of the parties must also be critically analyzed as a factor that supports, but does not entirely determine, the success of mediation. A willingness to negotiate can open up opportunities for resolution, but an agreement remains difficult to reach if the subject of the land is unclear or the bases for the claims are contradictory. In such

[17] Jennifer Corrin, "Legal Pluralism," in *The Wiley-Blackwell Encyclopedia of Social Theory* (Wiley, 2017), 1–3, https://doi.org/10.1002/9781118430873.est0206.

[18] A. Sultan Sulfian, "Optimalisasi Peran Badan Pertanahan Nasional Dalam Menyelesaikan Sengketa Agraria Melalui Jalur Mediasi," *Ekspose: Jurnal Penelitian Hukum Dan Pendidikan* 24, no. 1 (2025), https://doi.org/10.30863/ekspose.v24i1.10329.

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circumstances, the failure of mediation cannot be directly attributed to a lack of good faith. The assessment must distinguish between obstacles stemming from the parties' behavior and those arising from evidentiary and institutional issues. This distinction is important so that recommendations for improvement do not merely place the burden of responsibility on the disputing parties, but also direct attention to the need for data verification, procedural clarity, and institutional support.

From a substantive perspective, the quality of an agreement is a more profound benchmark than merely the achievement of peace. An effective agreement must clearly identify the subject property, outline the rights and obligations of each party, and specify the actions required to resolve the dispute. If the agreement merely states that the parties have reconciled without specifying concrete consequences regarding land ownership or use, the potential for further disputes remains open. In this context, mediation may result in a formal success but does not necessarily provide an adequate resolution.[19] Therefore, the substantive quality of the agreement must be assessed based on its clarity, feasibility, and compliance with applicable law.

The relationship between state law and customary law is a critical issue in assessing the substantive quality of mediation in Sorong City. Recognition of customary law communities and their traditional rights is grounded in Article 18B(2) of the 1945 Constitution of the Republic of Indonesia, subject to applicable constitutional requirements. In the practice of dispute resolution, the customary context can help clarify the history of land tenure, the parties' relationships to the land, and forms of resolution acceptable to the community. However, recognition of the customary context does not mean that every claim made in the name of custom is automatically proven or binding on all parties. Effective mediation must be able to weigh social and customary information proportionally while also examining the parties' positions, the subject matter of the dispute, and the legal consequences of any agreement. Thus, the integration of customary values into mediation should not be understood merely as the involvement of customary leaders in dispute resolution meetings. Such integration must be evaluated based on the extent to which customary knowledge and mechanisms help clarify the issues in dispute, enhance acceptance of the process, and support a resolution that does not conflict with the law. If customary leaders are involved without a clear definition of their role or without considering the interests of all relevant parties, the mediation process may still face legitimacy issues. Conversely, appropriate involvement can help mediators understand the social context that is not always revealed through formal documents. Therefore, the effectiveness of integrating customary law is determined by the quality of the process and its outcomes, not merely by the presence of customary elements in mediation.

Another aspect that determines substantive effectiveness is the relationship between a

[19] Wahab Aznul Hidaya, "The Role of Witness and Victim Protection Agency for Imekko Tribe in Criminal Justice System in Sorong," *Law and Justice* 8, no. 2 (2023): 176–91, https://doi.org/10.23917/laj.v8i2.2363.

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settlement agreement and certainty regarding the status of the land in question. An agreement between the parties does not always resolve land administration issues if an examination or action by the competent authority is still required. This indicates that settlement and administrative resolution are two interrelated aspects, but they are not always identical. An agreement that is not followed by the necessary administrative actions can leave uncertainty regarding the status or boundaries of the land. Therefore, the mediation process needs to distinguish between obligations that can be fulfilled directly by the parties and actions that require institutional procedures or authority. This distinction prevents the parties from assuming that the agreement automatically resolves all legal land issues.

The implementation phase serves as the most concrete test of mediation's success, as it reveals whether the agreement actually brings about changes to the disputed situation. A written agreement is insufficient if the parties' obligations are not fulfilled or if the follow-up mechanisms are unclear. Under such circumstances, an issue that initially appeared as a conflict of interest can turn into a conflict over the implementation of the agreement. The effectiveness of mediation therefore requires attention to the clarity of the implementation timeline, the allocation of obligations, the actions to be taken, and the procedures available in the event of noncompliance. An assessment of the implementation aspect must be supported by verifiable documents or evidence, not merely a statement that mediation has resulted in a settlement.

The distinction between court-based mediation and out-of-court mediation becomes relevant when assessing the enforceability of settlement outcomes. In civil cases in court, a settlement agreement may take on a specific form and legal effect in accordance with the applicable mediation procedures, including through a settlement deed if the requirements are met. Meanwhile, agreements reached outside of court should not automatically be assumed to have the same enforceability. The status and enforceability of the agreement must be examined based on the form of the document, its legal basis, and relevant procedures. Therefore, difficulties in implementation do not always indicate a failure on the part of the mediator, but may also highlight the need to clarify the legal pathways and follow-up actions available to the parties.

Based on these three dimensions, the effectiveness of mediation must be understood as an interdependent relationship between the process, the content of the agreement, and its implementation. Fair procedures help produce higher-quality agreements, while clear agreements increase the likelihood of implementation. However, this relationship is not automatic, as implementation can still be influenced by institutional support, the availability of data, and the willingness of the parties to fulfill their obligations. Therefore, it is inappropriate to assess the effectiveness of mediation based on a single indicator, such as the number of agreements reached. A more comprehensive assessment must examine whether the resolution meets procedural standards, yields adequate substantive results, and is actually implemented.

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Findings from a previous study on the resolution of land disputes among the Malamoi community in Sorong Regency by Putirulan, Simanjuntak, and Polański (2024) highlight the relevance of out-of-court reconciliation mechanisms that take both legal and social aspects into account. Meanwhile, Wattimury, Renouw, and Syauta (2023) discuss the perceptions of the Moi Kelim indigenous community in Sorong City regarding out-of-court land dispute resolution. Both studies help explain why community-based resolution mechanisms remain important in the Sorong context. However, the importance of these mechanisms does not in itself prove the effectiveness of every mediation process. An analysis of effectiveness still requires an examination of the procedures used, the quality of the agreements reached, and the sustainability of their implementation in the cases studied.

The focus of this study lies in assessing mediation through indicators that go beyond its role as an alternative dispute resolution method. Attention to procedural, substantive, and implementation aspects allows the analysis to examine the possibility of a gap between the peace achieved and the legal certainty produced. This framework also helps distinguish between agreements that genuinely resolve conflicts and those that merely temporarily halt disputes. Thus, the analytical contribution of this research is not to assume that mediation is always better than litigation, but rather to explain the conditions under which mediation can produce a fair and enforceable resolution. This assessment must, however, be limited to the types of disputes, forums, and empirical evidence within the scope of this study.

3.2. Factors Supporting and Hindering the Effectiveness of Mediation in the Resolution of Land Disputes in Sorong City

The effectiveness of mediation in resolving land disputes in Sorong City is determined by the interplay between the mediator's competence, the parties' good faith, the clarity of the subject matter of the dispute, institutional support, and the social character of the community. These five factors do not operate in isolation but form an interconnected system that determines the quality of the mediation process and its outcomes. A mediator's competence, for example, will not yield an adequate resolution if evidence regarding the land in question is unclear or if interested parties are not involved. Similarly, an agreement reached through effective communication may lose its effectiveness if it is not accompanied by accountable implementation mechanisms. Thus, the central challenge of land mediation is not merely how to bring the parties together, but how to establish a resolution process that delivers both legal certainty and substantive justice.

In the preliminary research manuscript, an interview with Ali Mustafa Kamal, S.H., a land law practitioner in Sorong City, identified the mediator's competence and the good faith of the parties as factors influencing the success of mediation. This statement indicates that the dispute resolution process requires the capacity to bridge differences in interests and build communication among the parties. However, methodologically, an informant's statement must be viewed as a perspective based on their experience and knowledge, not as a comprehensive representation of all land disputes in Sorong City. Analytically, this is

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important because factors considered dominant by practitioners are not necessarily the most decisive factors in every type of dispute. Therefore, the identification of supporting and hindering factors must be conducted by distinguishing between individual experiences, the nature of the case, and the institutional conditions that influence the implementation of mediation.

The mediator's competence is a fundamental supporting factor because land disputes involve legal and evidentiary complexities that cannot always be resolved through ordinary negotiation. Mediators need to understand the differences between disputes over factual possession, disputes over land boundaries, conflicts regarding the basis for acquiring rights, and administrative issues that require action by the competent authorities. This distinction determines whether an issue can be resolved through an agreement between the parties or requires further legal examination and procedures. If a mediator is unable to recognize these distinctions, mediation risks producing an agreement that appears to resolve the conflict but actually fails to address the underlying legal issues. Therefore, a mediator's competence must be assessed not only based on communication skills but also on their ability to identify the limits of resolution through mediation and to direct the matter to the appropriate mechanism. Nevertheless, a mediator's competence cannot replace the evidentiary functions and authority of the agencies responsible for handling land disputes. Mediators essentially help the parties identify possible resolutions; they do not automatically determine who the rightful landowner is. When there are discrepancies between land documents, the history of possession, and claims made by other parties, mediators must ensure that these discrepancies are understood and adequately examined before the parties formulate an agreement. If the issue requires administrative verification or legal action that falls outside the mediator's authority, the resolution process must consider appropriate mechanisms. This argument underscores that the effectiveness of mediation does not lie in the mediator's ability to impose a resolution, but rather in their ability to facilitate a realistic, valid, and enforceable agreement within the applicable legal framework.

The good faith of the parties is another contributing factor, but its role must be analyzed in proportion to the circumstances. A willingness to participate, provide relevant information, consider the interests of the other party, and carry out agreements can increase the likelihood of reaching a resolution.[20] In the context of court-based mediation, the duty of good faith is regulated under Article 7 of Supreme Court Regulation No. 1 of 2016 on Mediation Procedures in Court. However, the application of this provision must be considered within its specific scope and should not automatically be equated with all out-of-court mediation mechanisms. Substantively, good faith cannot be assessed solely based on the parties' statements that they are willing to settle; it must also be evaluated based on the consistency of their conduct throughout the process and the implementation of the

[20] Fidela Salma Endrista et al., "Analisis Persiapan Dan Proses Negosiasi Dalam Penyelesaian Konflik Organisasi: Sebuah Kajian Literatur," *JURNAL ILMIAH EKONOMI DAN MANAJEMEN* 4, no. 6 (2026), https://doi.org/10.61722/jiem.v4i6.11569.

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agreement.

The issue is that the failure of mediation cannot automatically be attributed to a lack of good faith. In land disputes, the parties may have conflicting interests due to discrepancies in documents, unclear land boundaries, or differing interpretations of the basis for land tenure. In such circumstances, the rejection of a settlement offer does not necessarily indicate an uncooperative attitude; the rejection may also be a response to a proposal deemed insufficient to provide adequate legal protection. Therefore, an analysis of good faith must distinguish between behavior that unreasonably obstructs the process and a critical stance arising from the fact that the substance of the settlement is not yet acceptable. This distinction is important so that mediation does not become a tool used to pressure a particular party into accepting an agreement merely to achieve a formal settlement.

Clarity regarding the subject matter of the dispute is a crucial factor, as an agreement cannot provide certainty if the parcel of land in question has not been adequately identified.[21] In disputes concerning differences in area, boundaries, location, or history of possession, ambiguity regarding the subject matter can lead the parties to agree on different terms even when using the same settlement agreement. This issue is not merely a technical or administrative matter; it also concerns the certainty of the rights and obligations to be resolved. Therefore, land documents, information on parcel boundaries, acquisition history, and other relevant details must be examined in accordance with the needs and authority of the agency handling the case. Without clarity regarding the subject matter, an agreement risks shifting the conflict from the stage of determining rights to the stage of implementing the settlement.

In the context of Sorong City, the issue of proof can become more complex when land claims involve a history of hereditary possession and recognition by indigenous communities. Formal administrative documents are an important part of legal assessment, but in disputes related to customary land, information regarding the history of possession, community relationships, and boundaries recognized by the community can be relevant to understanding the root of the problem. Conversely, a history of possession or community recognition cannot automatically be considered to resolve all issues regarding the legal status of the land. The challenge lies in how this information is examined and situated within the applicable legal framework. Thus, effective mediation requires a careful approach to evidence that takes social context into account without neglecting legal certainty.

The recognition of customary law communities, as stipulated in Article 18B(2) of the 1945 Constitution of the Republic of Indonesia, provides a constitutional basis for respecting the integrity of customary law communities and their traditional rights, provided they meet constitutional requirements. This provision is relevant when land disputes involve claims or interests of indigenous communities, but it cannot be interpreted as an automatic

[21] Fandri Rachmanto, "The Application of Penal Mediation in Handling Minor Criminal Offenses Regulated by Regional Regulations," *Justisi* 11, no. 2 (2025): 317–32, https://doi.org/10.33506/js.v11i2.3961.

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justification for every claim made in the name of customary law. In the mediation process, the information and perspectives of indigenous communities must be considered proportionately, including by taking into account the parties authorized to represent the community as well as other parties with an interest in the subject of the dispute. If the representation and standing of the parties are not examined, the agreement may fail to reflect the full range of affected interests. Therefore, recognition of the customary context must be accompanied by mechanisms that ensure the legitimacy and clarity of the settlement outcome.

The involvement of traditional leaders can be a supportive factor if it helps explain the social context, history of land tenure, and dispute resolution patterns recognized by the community. However, such involvement should not be understood merely as the addition of a symbolic element to gain acceptance of the mediation process. It must be clarified whether traditional leaders serve as informants, communication facilitators, legitimate community representatives, or parties with a direct interest in the subject of the dispute. These differing roles have implications for the neutrality of the process and the legitimacy of the agreement. Furthermore, agreements reached through customary mechanisms must still be evaluated based on their substance, the parties bound by them, and their compliance with applicable law. Thus, the integration of customary mechanisms will support the effectiveness of mediation if it strengthens the understanding and legitimacy of the resolution, rather than replacing the necessary legal review.

Institutional support is a structural factor that cannot be overlooked when assessing the effectiveness of mediation. The availability of adequate land information, coordination among relevant parties or agencies, and clarity regarding follow-up actions help mediators and the parties draft realistic agreements. Conversely, limited data can cause the mediation process to proceed without a sufficient information base to verify each party's claims. Under such conditions, issues that should have been clarified before an agreement is reached may instead be left for the parties to resolve at a later date. This demonstrates that mediation does not operate in a vacuum but depends on the support of administrative systems and mechanisms for handling land-related cases. Therefore, strengthening mediation must include improving the quality of information and coordination, not merely enhancing mediators' skills.

This institutional framework must be read in conjunction with Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency No. 21 of 2020 on the Handling and Resolution of Land Cases. This regulation serves as a reference in the context of land case handling by land agencies; therefore, the mediation process within this scope must be analyzed based on the relevant procedures and authorities. Meanwhile, mediation in court is subject to judicial procedural provisions, including Supreme Court Regulation No. 1 of 2016. These differences in scope indicate that institutional support cannot be assessed solely based on the presence or absence of mediation, but must also

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consider the clarity of responsibilities, authorities, and follow-up mechanisms. Without such distinctions, recommendations for improvement risk missing the mark by overlooking the fundamental legal differences between dispute resolution forums.

Another obstacle arises when an agreement is not accompanied by a clear implementation mechanism. Legally speaking, reaching an agreement and implementing it are two distinct stages. An agreement may indicate that the parties have found common ground, but its implementation still depends on the clarity of obligations, the willingness of the parties, and the necessary follow-up actions. The legal consequences of an agreement must also be examined based on the forum and form of resolution; out-of-court agreements should not be automatically assumed to have the same enforceability as a settlement agreement drawn up in accordance with court procedures. Therefore, the effectiveness of mediation requires the formulation of clear outcomes regarding the subject matter, obligations, and implementation stages, as well as the parties' understanding of the available legal remedies should the agreement not be fulfilled.

4. CONCLUSION

The effectiveness of mediation in resolving land disputes in Sorong City cannot be measured solely by whether an agreement is reached between the parties, but must be assessed based on the integration of procedural, substantive, and implementation aspects. Procedurally, mediation must ensure the fair participation of the parties, clarity regarding the subject matter of the dispute, and a process facilitated by a competent and neutral mediator. Substantively, the agreement must provide clarity regarding the rights and obligations of the parties, take into account the social context and the rights of indigenous peoples where relevant, and comply with applicable legal provisions. Meanwhile, the implementation aspect requires that the agreement be enforceable and provide a sustainable resolution. Thus, mediation that formally produces a settlement is not necessarily effective if it leaves legal uncertainties unresolved or fails to address the root causes of the dispute. Factors that support and hinder the effectiveness of mediation are interrelated, including the mediator's competence, the parties' good faith, the clarity of evidence and the subject matter of the dispute, recognition of the social context of indigenous communities, as well as institutional support and follow-up mechanisms. The mediator's competence and the parties' willingness to negotiate can increase the likelihood of reaching an agreement, but these are insufficient if land-related information is inadequate, stakeholders have not been accommodated, or the implementation of the mediation outcome lacks clarity.

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