



NON-LITIGATION INHERITANCE DISPUTE RESOLUTION: A CASE STUDY OF MEDIATION BETWEEN A STEPMOTHER AND A STEPSON

Rahmat Hidayat¹, Mhd. Yadi Harahap², Ramadhan Syahmedi Siregar³

^{1,2,3}Universitas Islam Negeri Sumatera Utara, Indonesia

*Corresponding Author: rahmathidayat@uinsu.ac.id

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ABSTRACT

Inheritance disputes are legally complex phenomena, not only due to the involvement of assets but also because they intertwine with emotional ties and cultural values within the family. In Indonesia, mediation as a form of out-of-court dispute resolution has become a preferred alternative to avoid open conflict, especially in inheritance cases involving sensitive family relations such as those between a stepmother and a stepson. This study aims to explore the dynamics of an inheritance dispute between a stepmother and a stepson following the death of the decedent, identify factors influencing the success of mediation, and evaluate the substantive fairness of the mediated agreement from the perspective of Islamic inheritance law. The methodology employed is empirical juridical research using a case study approach. Data were collected from official documents provided by the law firm handling the case, as well as relevant literature. The analysis was conducted using a qualitative descriptive method, with an emphasis on legal relevance and substantive justice. The findings indicate that the mediation process successfully produced a settlement between the stepmother and stepson regarding the distribution of inheritance. However, the novelty of this study lies in the discovery that the agreement deviated from the proportionality principles of Islamic inheritance law. While the mediation effectively prevented prolonged social conflict, the division of assets did not reflect the ideal distribution according to sharia principles. This highlights a critical gap in the enforcement of formal justice concerning inheritance rights, raising concerns about the substantive effectiveness of out-of-court mediation.

Keywords: Dispute, Inheritance, Mediation, Out-of-Court

1. INTRODUCTION

Inheritance disputes are longstanding issues that frequently arise within communities, whether on a small or large scale. The complexity of such disputes is often exacerbated by emotional factors, familial bonds, as well as cultural and

religious backgrounds. When faced with these conflicts, individuals generally pursue one of two avenues: formal litigation through the courts or mediation as an out-of-court resolution. Mediation, as a form of Alternative Dispute Resolution (ADR), offers a more collaborative and flexible approach, and is often more effective in preserving harmonious relationships between disputing parties compared to formal litigation procedures.(Tjandra, 2020)

In general, non-litigation dispute resolution through mediation is preferred by many due to its shorter process, lower costs, and greater potential to provide emotional satisfaction for the parties involved.(Harahap, 2017) In Indonesia, particularly within communities that uphold strong Eastern cultural values, mediation offers a solution that aligns more closely with principles of togetherness, respect for family elders, and a cultural sense of shame associated with bringing private family matters into the public sphere, such as the courtroom.(Abdul Hakim, 2019)

Nevertheless, the implementation of mediation in resolving inheritance disputes is not without its challenges. These include imbalances in bargaining power between parties, limited understanding of mediation procedures, and insufficient mediator capacity to address the psychological and socio-cultural dimensions involved. Such factors often hinder the achievement of fair and sustainable agreements.(Abdurrahman and Lubis, 2018)

In Indonesia, diverse and complex family structures—such as those formed through second marriages or extended polygamous households—frequently give rise to disputes over inheritance rights. According to findings by Alfitri, inheritance disputes account for approximately 60% of all family-related cases brought before religious courts, with the majority stemming from unilateral control over inherited assets without a mutual agreement on their distribution.(Alfitri, 2021)

Indonesia's legal system recognizes two main frameworks in inheritance law: the Western Civil Law (as codified in the Indonesian Civil Code/Burgerlijk Wetboek), which applies to non-Muslim citizens, and Islamic inheritance law, which is based on the Compilation of Islamic Law (Kompilasi Hukum Islam/KHI) and applies to Muslims. These two systems differ in their underlying principles, classification of heirs, and distribution proportions. However, at the community level, their implementation often lacks sufficient legal understanding among the involved parties, resulting in many unresolved conflicts. Low levels of legal literacy, the desire to control the entire estate, and the reluctance of families to discuss inheritance matters early on are key triggers of such disputes.(Sutiyono, 2018)

To encourage peaceful dispute resolution, Indonesian law provides for alternative mechanisms outside the courtroom, known as non-litigation dispute resolution. One such mechanism is mediation—a deliberative process facilitated by a neutral third party (mediator) who assists the disputing parties in reaching a mutual agreement. The formal legal basis for mediation is found in Law No. 30 of

1999 concerning Arbitration and Alternative Dispute Resolution, as well as in Supreme Court Regulation No. 1 of 2016 on Mediation Procedures in Court. In practice, however, mediation may also be conducted voluntarily outside the formal court system, as long as it is agreed upon by the parties and documented in a legally recognized form, such as a notarized agreement. (Simatupang and Silalahi, 2020)

Compared to litigation, mediation offers several advantages, including faster resolution, lower costs, and a greater opportunity to preserve social relationships between disputing parties. A survey conducted by the Institute for Legal Studies and Conflict Resolution revealed that the success rate of mediation in family-related cases reaches up to 70%, particularly when the facilitation is led by legal counsel who understands the social and cultural background of the parties involved. (Rahman, 2022)

One notable case worth examining is an inheritance dispute involving a stepson, identified by the initials MHS, and a stepmother, identified as NAS. The dispute arose following the death of Mr. MS, a man who had been married twice. His first marriage to SM resulted in the birth of a son, MHS. After SM passed away, Mr. MS remarried a woman named NAS, and from that union, two sons were born, identified as KS and MS.

After the death of the decedent, Mr. MS, the entire inheritance was taken over by his eldest child, MHS. Among the many assets left behind, two were of significant value: a house and a 10-hectare palm oil plantation. These two assets were unilaterally controlled by the daughter from the first marriage, without allocating any share to the second wife, NAS, or her children. Feeling that she had been treated unfairly, NAS sought legal assistance from the Law Office GAS & Partners.

The conflict clearly stemmed from the failure to distribute the inheritance in accordance with the applicable legal framework, leading to a dispute that—if not properly resolved—could escalate and create broader social unrest. Resolving this case is crucial to uphold the values of familial harmony recognized within Indonesia's legal system, in line with the principles of restorative justice and substantive justice. In the Indonesian social context, where deliberation (*musyawarah*) remains a highly regarded principle, mediation serves not only as a legal instrument but also as a culturally rooted mechanism for conflict resolution. (Sari and Harahap, 2023)

Based on the aforementioned background, this study has several primary objectives. First, to systematically examine the chronology and dynamics of the inheritance conflict that arose within the family of the late Mr. MS. Second, to identify the factors that contributed to the success or failure of the mediation process. Third, to evaluate the substance of the mediated agreement in terms of inheritance law justice and the principle of proportionality of rights.

2. RESEARCH METHOD

This study employs an empirical juridical research method with a case approach. The empirical juridical approach is used to understand the dynamics of dispute resolution within the case study by reconstructing field data in the form of legal documents and testimonies from the disputing parties.

The types of data used consist of primary and secondary data. Primary data were obtained from internal documents of the Law Office GAS & Partners, including warning letters (somasi), mediation minutes, and the notarized settlement agreement. Secondary data were derived from statutory regulations, legal literature, academic journals, and scholarly references related to inheritance law and mediation.

Data collection techniques included document analysis and literature review, which are fundamental methods in legal research. All documents were analyzed using a qualitative descriptive method, which involved classifying the data by theme and interpreting their legal relevance in the context of inheritance dispute resolution.

3. RESULT AND ANALYSIS

According to the Kamus Besar Bahasa Indonesia (Great Dictionary of the Indonesian Language), the term sengketa refers to a dispute or conflict. In the context of inheritance, a dispute refers to disagreements arising from the distribution of an estate that does not align with the applicable inheritance laws. Inheritance disputes may also emerge due to the contents of a will drafted by the decedent.

Typically, inheritance disputes arise when heirs feel dissatisfied with the division of the estate. Several key factors commonly contribute to the emergence of such conflicts, including: (Setiady and Maulina, 2024)

1. **Perceived Inequity in Inheritance Distribution:** Disputes often arise when certain heirs seek a larger portion of the estate than others, or when they demand control over assets considered to be more valuable or strategically advantageous.
2. **Economic Factors:** Economic conditions frequently serve as a primary trigger for inheritance conflicts. The desire to obtain a larger share of the estate is often driven by the financial circumstances of the heirs. Economic disparities among heirs can further intensify the dispute.
3. **Lack of Harmonious Relationships among Heirs:** Strained or dysfunctional family relationships between heirs are another significant factor contributing to inheritance disputes.

The high frequency of similar cases reflects the low level of public legal awareness regarding the rights of heirs as regulated under applicable laws, both in the context of Islamic law and civil law. It is not uncommon for familial closeness to be used as a justification for unilaterally controlling inherited assets, without regard for legal principles of fairness. In such situations, mediation plays a vital role in preventing disputes from escalating into litigation, which could further damage familial relationships.

Disputes can be resolved either through litigation in court or via non-litigation approaches. Although litigation remains the dominant method, it has several disadvantages, such as lengthy procedures, rigid formalities, limited confidentiality, and the potential to worsen conflicts between parties. In contrast, out-of-court dispute resolution mechanisms—such as mediation—are considered faster, more efficient, and effective in reducing the caseload burden on the courts.(Naftalia and Ambarwati, 2025)

Out-of-court dispute resolution has been formally accommodated in Indonesian law through Law No. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, which provides parties in civil matters the opportunity to resolve conflicts peacefully without undergoing a lengthy and formal litigation process. Article 6 of the law stipulates that out-of-court settlement may be pursued through consultation, negotiation, mediation, conciliation, and expert assessment. This grants legal legitimacy to flexible, solution-oriented non-litigation mechanisms.

Meanwhile, Supreme Court Regulation (PERMA) No. 1 of 2016 also affirms that mediation is a legitimate part of the legal process, albeit within the context of court proceedings. Nonetheless, its principles are general in nature and remain applicable to out-of-court mediation practices. One of the advantages of mediation is the involvement of a neutral third party who facilitates the achievement of a peaceful agreement, as described in Article 1, paragraph 7 of the regulation.

Out-of-court mediation offers greater flexibility and a more relaxed environment, allowing parties to engage in informal and emotionally open discussions without the pressure of courtroom formalities. This is particularly important in family cases such as inheritance disputes, where personal relationships significantly influence the outcome of negotiations. However, non-judicial mediation also has its limitations, including the absence of judicial oversight, differing interpretations of legal rights, and power imbalances during negotiation.

On the other hand, court-annexed mediation takes place under the supervision of a judge-mediator and is subject to strict procedural rules. Its legal effect is directly binding and can be formalized through a deed of settlement (*akta damai*). Nevertheless, court mediation is not without drawbacks, such as time and cost burdens and the tendency of parties to adopt more defensive stances.

The inheritance dispute between Ms. MHS and Ms. NAS arose following the death of Mr. MS in late 2023. He left behind several assets, two of which held

substantial value: a house worth approximately IDR 1.5 billion and a 10-hectare palm oil plantation valued at around IDR 1 billion. After his passing, these assets were unilaterally claimed by the daughter from his first marriage (MHS), leaving no share for the second wife and her children, who are MHS's half-siblings. This triggered an objection from Ms. NAS, who then sought legal assistance from Law Office GAS & Partners.

This case highlights the importance of non-litigation approaches as effective alternatives to achieve mutually beneficial resolutions. Prior to entering the mediation stage, the claimant must first initiate action to encourage the opposing party's willingness to mediate. In this case, Ms. NAS issued a formal warning (*somasi*) to persuade Ms. MHS to engage in mediation.

The *somasi* was delivered in the form of an official letter addressed to Ms. MHS by LAW OFFICE GAS & PARTNERS, acting on behalf of Ms. NAS, who felt her inheritance rights had been disregarded. The primary purpose of this *somasi* was to encourage the opposing party to settle the dispute amicably without resorting to litigation, which is known to involve high costs, lengthy procedures, and prolonged psychological stress for those involved.

In the letter, LAW OFFICE GAS & PARTNERS emphasized the negative consequences of pursuing litigation, including the substantial financial burden of court proceedings, the extended duration of case resolution, and the potentially greater losses compared to a mediated settlement. Upon receiving and reviewing the *somasi*, the defendant, through her legal counsel, expressed willingness to pursue mediation as a more constructive avenue for dispute resolution.

The persuasive strategy employed by Ms. NAS's legal counsel involved emphasizing that, should the case proceed to the religious court, MHS would likely lose a significant portion of the estate, given that Islamic inheritance law allocates one-eighth ($1/8$) of the estate to a wife when there are children, and that male heirs receive twice the share of female heirs. In this case, the daughter from the first marriage had taken control of the entire estate, despite likely being entitled to only one-fourth or even less, depending on the presence of other heirs.

This rational and structured explanation helped convince MHS to enter into dialogue. This was further supported by emotional appeals and moral arguments, highlighting the importance of protecting the family's reputation and upholding justice in accordance with Islamic values.

In conducting mediation, there are several stages that must be followed to ensure the process aligns with applicable regulations.

Pre-Mediation Stage

The initial phase of the mediation process is the pre-mediation stage. This stage involves bringing together both disputing parties—Ms. MHS and Ms. NAS along with her two underage children—each accompanied by their respective legal counsel. The presence of legal representatives in this process is essential to ensure

that the rights and obligations of each party are fairly represented and in accordance with applicable legal standards.

At this stage, both parties agree upon the individual who will act as the mediator. The mediator plays a crucial role in facilitating dialogue between the parties, ensuring effective communication, and maintaining a constructive and respectful atmosphere throughout the session. The mediator also provides a clear explanation of the legal rights and responsibilities of each party, based on both positive law and Islamic inheritance principles. In addition, the mediator actively outlines the advantages and disadvantages of resolving the dispute through the Religious Court (Pengadilan Agama) versus out-of-court mediation, so that the parties can make informed decisions.

In this particular case, the Village Head (Kepala Desa) was appointed as the mediator. This appointment was based more on cultural considerations than administrative qualifications. Although the Village Head did not possess formal mediator certification or specific expertise in civil and inheritance law, he was considered capable of facilitating the resolution due to his respected position within the community.

During the pre-mediation stage, the core issues of the dispute were also formally established. The central points of contention were identified as a house valued at approximately IDR 1.5 billion and a 10-hectare palm oil plantation estimated at IDR 1 billion.

Mediation Process

In the core stage of the mediation, all disputing parties and their legal representatives were required to be present. The mediation was led by the Village Head, acting as the mediator. At this stage, discussions were relatively straightforward, as both legal counsels had already formulated their positions. Notably, joint property shared between the deceased and his first wife was also taken into account, since it had not been distributed following her death—the mother of Ms. MHS.

The agreement reached during mediation stipulated that Ms. MHS would receive the house valued at IDR 1.5 billion, while Ms. NAS and her two underage children would receive the 10-hectare palm oil plantation valued at IDR 1 billion. This decision was made based on the consideration that the house originated from the joint estate of the deceased and his first wife, thus rightfully belonging to Ms. MHS, and also taking into account the economic needs of Ms. NAS and her dependent children.

Post-Mediation and Agreement Finalization

The final stage of the process involved formalizing the mediation outcome in an official legal document, which was notarized to provide binding legal force. This agreement was not only notarized but also witnessed by two officials from the

village government, a local community leader, and the legal representatives of both parties. The presence of these witnesses served to strengthen the legal legitimacy of the agreement and minimize the risk of future disputes.

In this process, Ms. NAS acted not only on her own behalf but also as the legal guardian of her two underage children, in accordance with civil and Islamic inheritance law provisions regarding guardianship in inheritance distribution.

Although the agreement had legal status, both parties remained aware of the limitations inherent in out-of-court mediation, including the risk of future legal challenges from dissatisfied parties. Therefore, attention was also given to the psychological aftermath of the mediation, with the hope of preserving familial relationships after the resolution of the dispute.

The final agreement specified that the house would go to MHS, while the palm plantation would be given to NAS and her children. Legally, this division did not adhere strictly to Islamic inheritance law but was the result of a compromise strategy proposed by NAS's legal counsel. Based on the total estate value of IDR 2.5 billion, if divided equally under the assumption of joint marital property (albeit ideally also considering property shared with the second wife), this distribution deviated from formal inheritance norms. However, considering NAS's lack of stable income and her responsibility to support and educate two young children, the decision was accepted.

Ms. NAS willingly accepted a lesser share in terms of asset value for the sake of stability and sustainable livelihood. From an inheritance law perspective, the concept of hibah (gift) can be used to justify this distribution, so long as there is explicit and voluntary consent from the party receiving less than their entitled share. This ensures that the arrangement does not violate Islamic or civil inheritance principles.

From a social standpoint, the resolution did not fully restore family harmony. Although a legally binding agreement was reached, emotional tensions between the parties persisted. In an informal interview, it was revealed that psychological conflict between the stepmother and stepdaughter remained, despite the settlement of the estate. This indicates that legal success in mediation does not necessarily equate to full social reconciliation.

On the positive side, this mediation achieved an effective resolution and significantly reduced legal costs. On the downside, out-of-court mediation agreements are more vulnerable to future legal challenges than court-issued rulings. Given the context of this case, the decision to pursue out-of-court mediation proved to be appropriate—particularly in light of the second wife's urgent economic needs and the desire to avoid lengthy and uncertain litigation.

Based on the findings of this case study, it can be concluded that mediation as an alternative method of resolving inheritance disputes between a stepmother and a stepchild demonstrates high effectiveness, especially when viewed from the perspective of substantive justice. Although the agreement deviated from the

normative provisions of Islamic inheritance law, the resolution addressed the immediate needs of the economically and socially disadvantaged party, while also preventing prolonged litigation and preserving family dignity.

The success of this resolution was significantly influenced by the role of the legal counsel, who applied a legal approach infused with social empathy and persuasive communication techniques tailored to the realities faced by the disputing parties. Legal practitioners should be equipped not only with litigation skills but also with mediation techniques and a deep understanding of substantive justice, enabling them to bridge family conflicts through a restorative approach. (Hartanti, 2018)

Nevertheless, this case also highlights the inherent limitations of out-of-court mediation, such as unresolved psychological tensions and the potential—albeit minimal—for future legal claims. Therefore, comprehensive legal assistance and the involvement of community leaders or professional mediators are essential to strengthen the outcomes of mediation, both socially and legally.

4. CONCLUSION

This case study provides a comprehensive overview of the dynamics of mediation in resolving inheritance disputes, particularly within complex family configurations such as the relationship between a stepmother and a stepchild. In Indonesia's social context, where family values and deliberation (*musyawarah*) are highly respected, resolving conflicts through dialogue holds strong social legitimacy. Mediation thus functions not only as a legal instrument for dispute resolution but also as a mechanism to preserve social cohesion.

However, the outcome of this mediation also reveals a fundamental shortcoming: the agreement reached deviated from the principles of inheritance law justice, both in Islamic and civil legal frameworks. The asset distribution was not based on the proportional shares prescribed by Islamic inheritance law, but rather on a situational and pragmatic compromise strategy. This represents both a novelty and a critique of the tendency in mediation practices to prioritize social functionality over legal certainty.

Formally, the estate—valued at approximately IDR 2.5 billion—was divided such that the house worth IDR 1.5 billion was allocated to the child from the first marriage (MHS), while the 10-hectare palm plantation, valued at IDR 1 billion, was given to the second wife (NAS) and her two children. According to Islamic law, a wife is entitled to one-eighth ($1/8$) of the estate if the deceased has children, and male children are entitled to twice the share of female children. In this case, no portion of the distribution reflected a fair representation of legal heirs as prescribed by Sharia principles.

The agreement was essentially a compromise that considered the economic vulnerability of the second wife, who had no stable income and was responsible for supporting and educating two minor children. This reflects the ongoing tension

between formal justice and substantive justice. While formal justice demands precise legal adherence to inheritance proportions, substantive justice emphasizes the welfare and survival of the more vulnerable party.

This situation illustrates the ambiguity that persists in out-of-court mediation practices. In the absence of a strict evaluation mechanism for the contents of agreements, mediation risks becoming a temporary solution that leaves room for injustice—or even new conflicts—in the future. This issue is compounded by the limited capacity of mediators to balance legal, social, and psychological aspects effectively. In this case, for example, the Village Head acted as the mediator despite lacking certification or legal background, highlighting society's tendency to trust local figures over legally trained professionals.

Another consequence of this practice is the weak legal legitimacy of out-of-court mediation outcomes. Although the agreement was notarized and witnessed by community leaders, it remains vulnerable to future legal challenges if one party feels disadvantaged. This underscores the need for legal support that goes beyond procedural guidance and includes thorough education for all parties about their rights and obligations under the law.

From a social perspective, the mediation's success was also superficial. While the estate was legally divided, emotional tensions between the stepmother and stepchild remained unresolved. Informal interviews revealed that psychological conflict continued despite the legal settlement. This demonstrates that legal agreement alone does not guarantee emotional reconciliation or relational healing. Therefore, the success of mediation should not be measured solely by formal agreement, but also by the quality of post-conflict relationships and the sustainability of peace.

In such contexts, the role of the advocate becomes critical. In addition to serving as a legal representative, the advocate functions as a facilitator of justice—capable of defusing conflict through empathy, cultural awareness, and strategic insight. The peaceful resolution of family disputes largely depends on the advocate's ability to integrate legal reasoning with a deep understanding of the substantive context of the conflict.

Looking forward, clearer and more binding regulations are needed to govern the implementation of out-of-court mediation. These should include standards for mediator qualifications, mandatory legal review of settlement contents, and oversight mechanisms to address potential power imbalances in negotiated outcomes. Moreover, enhancing public legal literacy regarding inheritance rights is essential to prevent conflicts at their root and ensure that mediation processes remain fair and balanced.

In conclusion, this study offers a new perspective that the success of mediation in inheritance disputes should not be evaluated solely based on the formal achievement of an agreement. Rather, its success should be measured by its alignment with principles of substantive justice. Material justice must become the

primary benchmark in assessing the effectiveness of mediation, beyond mere procedural compliance or administrative completeness.

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