



## The Role of Mediators In Resolution of Inheritance Disputes As Reviewed From Supreme Court Regulation Number 3 of 2022 Concerning Mediation Procedures In Court

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### Abstract

An inheritance dispute is a dispute that arises between heirs regarding the inheritance left by someone who has died. This conflict is often triggered by disagreements regarding the division of assets, the validity of a will, or determining who is entitled to be an heir. This dispute has a high sensitivity because it involves emotional relationships and close family ties. In the context of its resolution, mediation is a very relevant instrument for inheritance disputes because it can maintain good relations between families. The mediation process provides a constructive dialogue space for heirs to express their respective interests openly. Thus, you can find a fair and mutually acceptable solution without having to go through a lengthy court process. This research is a normative legal research (doctrinal research) with a statutory approach, a conceptual approach, and a case approach. According to Prof. Peter Mahmud Marzuki, normative legal research is a process to find a legal rule, legal principles, and legal doctrines to answer the legal issues faced. The results of this study explain that first, Based on Supreme Court Regulation Number 3 of 2022, the role of a mediator in inheritance disputes is extensive. A mediator acts as a neutral facilitator who not only bridges communication but also explores the root causes and hidden interests. Second, the implementation of this role is based on fundamental principles such as neutrality, confidentiality, and voluntary decision-making. Mediators professionally create a conducive environment for fair and equal negotiations. Third, Overall, Supreme Court Regulation 3/2022 emphasizes that mediation is an effective and humane path to resolving inheritance disputes. The mediator's role is key to transforming destructive conflict into an opportunity to improve family relationships. Therefore, utilizing this mediation mechanism is a wise choice for those seeking a fair, swift solution that maintains the integrity of family ties.

### Introduction

Problems or disputes in social life cannot be avoided, because the interaction between one human being and another will definitely give rise to legal relations between them, each party will fight for their interests or rights, from such interactions it will give rise to disputes or disputes.<sup>1</sup>. The causes of conflict or disputes arise due to various factors, one of which is conflict within the family regarding the distribution of inheritance. Inheritance is everything left behind by a deceased person and becomes the property of the heirs according to sharia law.<sup>2</sup> However, often the distribution of inheritance belonging to the testator is not carried out equally or fairly, resulting in disputes within the family.

<sup>1</sup> Asri, et al., "THE ROLE OF MEDIATORS IN DISPUTE RESOLUTION IN THE MEDIATION BALE OF WEST NUSA TENGGARA PROVINCE". Jatiswara. Vol. 39 No. 3 November 2024.hlm.368-377

<sup>2</sup> Muhammad Khaled, "The Concept of Resolving Inheritance Disputes in Islamic Law". Al-Mizan Journal: Journal of Islamic Law and Sharia Economics. VOLUME: 10 | NUMBER: 2 | YEAR 2023. pp. 123-134.

Inheritance disputes are among the most sensitive legal conflicts because they involve close family relationships. Settlement through litigation often deepens divisions. Therefore, mediation offers a more humane alternative. The mediator's role as a neutral third party is central to facilitating dialogue to reach a mutually acceptable amicable agreement. The Supreme Court, through Supreme Court Regulation Number 3 of 2022 concerning Mediation Procedures in Court, has updated the legal framework for court mediation. This regulation provides a solid foundation for mediators, particularly in complex inheritance disputes. In this article, you will understand how the regulation defines and directs the mediator's crucial role in achieving a fair resolution and maintaining the integrity of family relationships.

Settlement of inheritance disputes is one of the important issues in family law in Indonesia.<sup>3</sup> The inheritance distribution process often gives rise to conflict, especially if a family member is dissatisfied with the outcome. Therefore, resolving inheritance issues peacefully is crucial to maintaining family harmony. One method considered effective in achieving this goal is mediation. Mediation is an out-of-court dispute resolution method that involves a mediator, a neutral third party, to help the parties find a mutually acceptable solution. In the Big Indonesian Dictionary, Mediation has three main elements. First, mediation is the process of resolving a dispute between two or more parties. Second, the settlement is carried out by someone outside the disputing parties. Third, this person acts only as an advisor and does not have decision-making authority.<sup>4</sup>

As an alternative dispute resolution method, mediation has many advantages. One is that the process is not bound by rigid formal rules. Mediation is conducted behind closed doors and confidentially, allowing the parties to express their concerns more freely. They also avoid using complex legal terminology and can discuss various aspects of the conflict, both legal and non-legal. Furthermore, mediation allows for the reaching of an agreement that benefits all parties.*win-win solution*), and is more cost and time efficient than resolving cases in court.<sup>5</sup> Therefore, the author will analyze the role of mediation in resolving family inheritance disputes in Indonesia by reviewing Supreme Court Regulation Number 3 of 2022 concerning Mediation Procedures in Indonesia.

## Research Methods

The research method used in this paper is normative juridical research (*doctrinal research*). Normative legal research is a process to discover a legal rule that is faced. In this research, several types of approaches are used, namely the statutory approach, the conceptual approach, and the case approach. According to Prof. Peter Mahmud Marzuki, normative legal research is a process to discover a legal rule, legal principles, or legal doctrines to answer the legal issues faced.

## Discussion

### Definition And Role of Mediator In Dispute Resolution Through Mediation

In inheritance disputes, the mediator's primary role is to bridge communication, which is often hampered by negative emotions. The mediator creates a structured and safe space for dialogue, ensuring that each party, including you, can express their views without interruption.

<sup>3</sup> Novaldi Rhamadani Herda, et al., "EFFECTIVENESS OF DISPUTE RESOLUTION BY NON-JUDGE MEDIATORS IN INHERITANCE DISPUTES". Scientific Journal of Law Faculty Students (JIMFH). Volume 8, Number 3, August 2025. pp. 1-16

<sup>4</sup> Saladin Tomy, Application of Mediation in Resolving Cases in Religious Courts, Court: Journal of Islamic Law Studies 2, no. 2, 2017, p. 151

<sup>5</sup> Habib Ferian Fajar and Julfahmi Syahputra, Optimizing the Role of Mediators in Civil Dispute Resolution in the Religious Court of West Sumatra, Jurnal Hukum Lex Generalis4, no. 4, 2023, p. 295

By facilitating constructive communication, the mediator helps reopen lines of conversation previously blocked by conflict and misunderstanding among the heirs.

Mediators use various communication techniques to improve the quality of dialogue between the parties. One such technique is paraphrasing, which rephrases statements to make them easier to understand and reduce the potential for conflict. Mediators also ensure that you and the other party actively listen to each other, so that each perspective can be conveyed clearly and accepted without prejudice that could hinder the negotiation process.

As a facilitator, the mediator's role is to maintain balance and productivity during the mediation process. The mediator will manage the flow of the discussion so that no one party dominates. Furthermore, the mediator will steer the discussion away from blame and toward finding a shared solution, allowing you and the other heirs to work together effectively to reach a peaceful agreement.

Mediators play a crucial role in delving deeper than the surface level of property division disputes. They will guide you and the other parties to look beyond the formal demands to uncover the root cause of the conflict. Often, the root cause isn't legal, but rather emotional issues such as feelings of disrespect, jealousy, or unfulfilled past promises.

To identify the root of the problem, the mediator uses a variety of techniques, including separate sessions or caucuses. In these sessions, you are given the opportunity to speak more freely about feelings and concerns that you may be reluctant to express in front of the other party. The mediator uses open-ended questions to help you and the parties articulate the underlying issues that are the root cause of the inheritance dispute.

By identifying the true root of the problem, the focus of mediation shifts from simply dividing assets to addressing emotional and psychological needs. This understanding allows you and your family to design a solution that is not only materially fair but also repairs fractured family relationships. This will ensure that the agreement reached is more comprehensive, sustainable, and satisfactory to all parties.

After identifying the root cause, the mediator plays a crucial role in helping you and the other party distinguish between positions and interests. A position is the formal demand made, while interests are the underlying needs, hopes, or concerns. By exploring these interests, the mediator opens the way to solutions that might not have been possible if only the initial demands were addressed.

The mediator will use open-ended questioning techniques to guide you and the other heirs in articulating your respective interests. Questions like "What do you really hope to achieve from this division?" can reveal needs for security, fairness, or recognition. A shared understanding of these interests is often the starting point for rebuilding trust within the family.

By uncovering the underlying interests of the dispute, a mediator can help you identify areas where common goals or interests can be bridged. This process shifts the focus from a struggle for rights to meeting shared needs. As a result, the parties can work together to devise a creative solution that comprehensively accommodates the various interests.

The mediator plays a crucial role in helping to translate the agreed-upon options into a written peace agreement. The mediator ensures that each clause is formulated in clear, specific, and unambiguous language to prevent potential future disputes. This role requires precision to ensure the document accurately reflects the mutually agreed upon goals.

Before a final agreement is reached, the mediator will conduct a reality check on the draft. The mediator will ask questions to ensure you and the other party fully understand the implications and are able to implement each point of the agreement. This process aims to ensure that the resulting settlement agreement is not only fair, but also practical and legally enforceable.

The final stage of the mediator's role is to facilitate the formalization of the agreement into a legally binding document. The mediator will explain that the peace agreement you have

signed can be confirmed as a Peace Deed by a panel of judges. This deed has the same legal force as a final court decision, thus providing legal certainty for all parties.

### **Authority and Limitations of Mediators According To Major Regulation Number 3 of 2022 Concerning Mediation Procedures In Court**

Mediation is used by the parties to get the best solution without either party feeling disadvantaged.<sup>6</sup>. According to Supreme Court Regulation 3/2022, a mediator's primary authority is to facilitate negotiations between you and the other party in a neutral manner. The mediator has the authority to determine the schedule, set the meeting agenda, and hold caucus sessions or separate meetings with each party. The goal is to help the parties understand their own interests and those of the other party and develop various options for resolving inheritance disputes.

These regulations strictly limit the mediator's authority to providing biased legal advice, opinions, or recommendations. Mediators are strictly prohibited from imposing a solution or making any judicial decisions regarding your dispute. Their role is purely that of a neutral mediator, with full autonomy to reach an agreement remaining with the parties.

Furthermore, mediators do not have the authority of a judge to decide a dispute. This limitation is crucial to maintaining the voluntary principle of mediation. If you and the other party are unable to reach an amicable agreement, the mediator cannot issue a decision. The mediator will simply report that the mediation failed to reach an agreement, and the legal process will proceed to trial.

A mediator is obliged to uphold professional ethics, particularly the principles of neutrality and impartiality, as mandated by Supreme Court Regulation 3/2022. In inheritance disputes, which are fraught with emotional dynamics, mediators must avoid any conflict of interest. This impartial attitude is crucial for building trust, ensuring that both you and the other party are confident that the process is fair and without any bias.

A mediator's professionalism is also reflected in their competence in understanding inheritance law and the dynamics of family conflict. Mediators have an ethical obligation to maintain the confidentiality of all information you provide during the process. This ensures a safe space for the parties to communicate openly without fear of misuse of their information outside the agreed-upon mediation forum.

Integrity is a fundamental ethical foundation for mediators in carrying out their duties. Mediators are responsible for managing the process transparently and ensuring that the agreements you reach are voluntary, without coercion from any party. This professionalism is demonstrated by refusing to offer personal opinions that could compromise your or the other party's autonomy in making the final decision.

The main challenge in mediating inheritance disputes is the high emotional content and complex history of family conflict. These disputes are not simply about assets; they often involve emotional wounds, jealousy, or hidden feelings of injustice. The mediator must be able to manage these psychological dynamics so that you and the other party can engage in constructive dialogue toward a peaceful resolution.

The imbalance of power among heirs is another typical challenge mediators often face. The position of the eldest child, economic status, or educational level can create dominance for one party. The mediator must ensure that those in a weaker position have an equal opportunity to express their interests without feeling intimidated by the other family member.

Another challenge is the involvement of third parties with no direct interest, such as in-laws or distant relatives, which often exacerbates the situation. Furthermore, the complexity of

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<sup>6</sup> Talitha Rahmaningtyas, "Successful Mediation of Civil Cases at the Pamekasan District Court Referring to Supreme Court Regulation Number 1 of 2016". Bulletin of Community Engagement. Vol. 4, No. 3, December 2024.hlm.136-144

disputed objects, such as unregistered assets or family businesses, poses a challenge. Mediators must be skilled at limiting external influences and helping you formulate an objective and mutually acceptable asset valuation method. Therefore, the authority and limitations of mediators in dispute resolution, particularly inheritance disputes, serve to maintain the professionalism and integrity of mediators in objectively resolving inheritance issues.

### **Effectiveness of Mediators In Resolution of Inheritance Disputes In Indonesia**

Etymologically, the word "effectiveness" comes from the English word "effective," which, according to John M. Echols and Hassan Shadily's dictionary, means "successful and obeyed." In the Great Indonesian Dictionary, "effective" means "able to bring results, effective" in relation to an effort or action. It can also mean "already in force" in relation to laws or regulations.<sup>7</sup>. The success of mediation will not be achieved if the parties concerned do not have good intentions to reach a peaceful agreement.<sup>8</sup> The mediator ensures fairness not by determining the terms of the agreement, but by maintaining balance in the negotiation process. Their role is to ensure that you and the other party have an equal opportunity to express your views and interests without any form of domination. Fairness in mediation is subjective, where an agreement is considered fair because it arises from the sincere and voluntary agreement of all disputing parties.

To ensure sustainability, the mediator helps you conduct a reality test (*reality testing*) for each clause of the agreement. The mediator will ask critical questions about practical implementation and potential future obstacles. This process ensures that the resulting agreement is not only ideal on paper, but also realistic, enforceable, and sustainable over time.

A fair and sustainable agreement should also be able to repair previously fractured family relationships. A mediator helps formulate an agreement using forward-looking language, emphasizing a shared commitment to maintaining harmony. Thus, the agreement serves not only as a legal solution but also as a new foundation for rebuilding positive and lasting family relationships.

Mediators encourage voluntary compliance by ensuring that the agreement reached is the result of the parties' genuine will. Because you and the other party design the solution yourself, ownership of the agreement is greatly enhanced. This differs from a judge's decision, which is mandatory, and the potential for future violations can be significantly minimized through this participatory approach.

The mediator's role also includes reality testing each point of the proposed agreement. The mediator will help you and the other party carefully consider the feasibility and practical consequences of implementing the agreement. By ensuring that the agreement is realistic and implementable, the mediator indirectly builds a strong foundation for voluntary compliance by the parties.

The mediator helps frame the peace agreement as a new foundation for more harmonious family relationships in the future. By emphasizing that compliance with the agreement demonstrates a commitment to improving the relationship, you and the parties are encouraged to view it not as a burden. This fosters an internal motivation that is far stronger than the mere threat of external legal sanctions.

The effectiveness of a mediator in resolving disputes through mediation provides the fairest possible solution without causing harm to either party, particularly regarding inheritance

<sup>7</sup> Baiti Akisha and Muktamar Ibrahim, "EFFECTIVENESS OF THE MEDIATION PROCESS IN RESOLUTION OF INHERITANCE DISPUTES IN THE MEDIATION BALE OF WEST NUSA TENGGARA (NTB)". Al-Ikha. Journal of Family Law. Vol. 17 No. 1. (2025). hlm.61-82

<sup>8</sup> Bintang Raharja Pangestu and Abdullah Afif, "MEDIATOR STRATEGIES IN ACHIEVING PEACE IN INHERITANCE DISPUTES (Case Study of Decision Number: 1572/Pdt.G/2022/Pa.Ngw)". ACADEMIC CAMPUS PUBLISHING Student Research Scientific Journal Vol.2, No.4 August 2024. pp. 928-938

distribution. A mediator's primary role in preventing recurrent conflict is to ensure the resolution addresses the emotional root of the issue, not just the division of assets. By facilitating reconciliation and a deeper understanding between the parties, the agreement reached is not merely transactional. This rebuilds the foundation of damaged family relationships, effectively minimizing the potential for new disputes arising from the same source.

Next, the mediator helps draft a peace agreement that is highly detailed and anticipates potential future problems. By including clear clauses regarding implementation mechanisms and how to resolve disputes, the agreement serves as a practical guide. This way, you and your family have a solid foundation to follow, reducing the room for ambiguity that often triggers new conflicts later on.

The mediation process also equips you and the parties with improved communication and problem-solving skills. The mediator indirectly teaches you how to engage in constructive dialogue and negotiate based on interests. These new skills provide valuable capital for families to manage future disagreements independently, preventing them from falling into similar disputes again.

The effectiveness of a mediator in inheritance disputes is significant because it can transform a confrontational approach into a collaborative one. Unlike litigation, mediation doesn't seek a winner or loser, but rather a mutually acceptable solution. The focus on restoring communication and understanding mutual interests makes this method highly effective in maintaining the integrity of often-fractured family relationships.

In terms of efficiency, the role of mediators has proven effective in expediting dispute resolution and reducing costs. Mediation processes facilitated by mediators are generally much shorter than court proceedings, which can take years. Supreme Court Regulation 3/2022 further strengthens this effectiveness by providing a clear timeframe and more flexible electronic mediation options.

The highest effectiveness lies in the quality of the agreement and a high level of voluntary compliance. Because the solution is designed by you and your family, ownership of the final outcome is strengthened. The mediator ensures that the agreement is realistic and comprehensive, thus not only resolving the current dispute but also preventing potential similar conflicts in the future.

## Conclusion

According to Supreme Court Regulation Number 3 of 2022, the role of a mediator in inheritance disputes is extensive. A mediator acts as a neutral facilitator, not only facilitating communication but also exploring the root causes and hidden interests. This helps you shift from a rigid stance to finding creative solutions that comprehensively meet the needs of all heirs.

The implementation of this role is based on fundamental principles such as neutrality, confidentiality, and voluntary decision-making. Mediators professionally create a conducive environment for fair and equal negotiations. This structured process ensures that the resulting peace agreement is not only sustainable but also legally binding once confirmed by the court.

Overall, Supreme Court Regulation 3/2022 emphasizes that mediation is an effective and humane way to resolve inheritance disputes. The mediator's role is key to transforming destructive conflict into an opportunity to improve family relationships. Therefore, utilizing this mediation mechanism is a wise choice for those seeking a fair, expeditious solution that maintains family ties.

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