

From Informal Settlement to Institutional Mediation:  
Assessing the Need for Village-Level Dispute Resolution  
in Malang City

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Article	Abstract
<p><b>Keywords:</b> Alternative Dispute Resolution; Village Mediation Institution; Malang City</p> <p><b>Article History</b> Received: May 31, 2025; Reviewed: Aug 04, 2025; Accepted: Oct 11, 2025; Published: Jan 09, 2026.</p>	<p>This research examines the necessity of establishing village-based mediation institutions as a strategic approach to resolving civil disputes in Malang City. Utilizing a qualitative-descriptive method, this study incorporates in-depth interviews with urban village heads (<i>lurah</i>) throughout Malang to explore practical challenges and community needs in resolving conflicts. This research aims to formulate the concept of a civil dispute resolution model based on mediation and alternative dispute resolution, the role of the sub-district government, and the presence of the Sub-district Mediation Institution. Findings indicate a significant gap between formal court-based mediation and the socio-cultural dynamics at the grassroots level. Most <i>lurah</i> expressed the urgent need for a formalized, community-embedded mediation body to address everyday civil disputes more effectively and restore social harmony. The study highlights a model of mediation institution tailored to the urban village structure, proposing clear standard operating procedures, legal legitimacy, and training modules for community mediators. The study concludes that forming such institutions could enhance access to justice and reduce court caseloads while fostering a</p>

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culture of peace and restorative justice at the local level.

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## Introduction

Alternative Dispute Resolution can generally be interpreted as a process of resolving disputes outside the court, where the parties can seek a resolution without involving the court. In its implementation, Alternative Dispute Resolution is seen as being able to provide a solution for law enforcement in Indonesia. Alternative Dispute Resolution, known as Alternative Dispute Resolution, is often interpreted as an alternative to litigation but is also often interpreted as an alternative to adjudication.<sup>1</sup> If the first definition is used as a reference (alternative to litigation), then all dispute resolution mechanisms outside the court, including arbitration, are part of Alternative Dispute Resolution and if Alternative Dispute Resolution (outside litigation and arbitration) is part of Alternative Dispute Resolution, then the definition of Alternative Dispute Resolution as an alternative to adjudication can include dispute resolution mechanisms that are consensual or cooperative such as negotiation, mediation, and conciliation.<sup>2</sup>

Mediation, which is one of the Alternative Dispute Resolutions, can be described as a problem-solving negotiating method, where an unbiased external party works together with the opposing parties to establish a mutual agreement. A mediator, a neutral third party, assists the parties in the negotiation process to identify multiple options for resolving the conflict without resorting to the method of deciding or pressuring a settlement.<sup>3</sup> Mediation can also be understood as a dispute resolution process that involves a negotiation process between the parties. Hutagalung defines Mediation as a process to reconcile the

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<sup>1</sup> Naser Sherman and Bashar Talal Momani, "Alternative Dispute Resolution: Mediation as a Model," *F1000Research* 13, no. May (2025): 1–18, <https://doi.org/10.12688/f1000research.152362.2>.

<sup>2</sup> Paul Balen, "Alternative Dispute Resolution (ADR): The Changing Landscape," *Journal of Patient Safety and Risk Management* 30, no. 2 (2025): 66–71, <https://doi.org/https://doi.org/10.1177/25160435251335136>.

<sup>3</sup> Robert A. Baruch Bush and Joseph P. Folger, *The Promise of Mediation: The Transformative Approach to Conflict*, Revised Ed (San Fransisco: Jossey-Bass, 2005), p. 45.

disputing parties. Mediation is one of the alternatives and ways to resolve a dispute where the disputing parties submit their settlement to a mediator with the intention of obtaining fair results that are accepted by the disputing parties.<sup>4</sup>

The increasing number of civil disputes in urban communities, especially in Malang City, shows the need for alternative conflict resolution mechanisms that are more accessible, community-based, and culturally contextual. Formal litigation is often considered time-consuming, expensive, and emotionally draining, especially for small-scale disputes that can actually be resolved through deliberation. One potential solution is the development of mediation institutions at the sub-district level that directly involve community leaders and trusted local leaders.<sup>5</sup>

Integrating alternative dispute resolution (ADR) procedures within local government systems is crucial, according to several studies. According to Ilham Yuli Isdianto, ADR models that are grounded on local knowledge are typically more successful and long-lasting.<sup>6</sup> Additionally, grassroots mediation promotes restorative justice through reconciliation rather than punishment, as noted by Agnes Monika Gultom.<sup>7</sup> One significant gap, though, is Indonesia's lack of formalized and legally recognized village-based mediation organizations. Mediation reduces conflict and builds trust between disputing parties. It can occur unilaterally, bilaterally, or through a third party, leading to more effective and efficient dispute resolution.<sup>8</sup> These findings reinforce the view that society is more accepting of

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<sup>4</sup> Sophar Maru Hutagalung, *Praktik Peradilan Perdata Dan Alternatif Penyelesaian Sengketa* (Jakarta: Sinar Grafika, 2017), p. 38.

<sup>5</sup> Didik Sukriono et al., "Local Wisdom as Legal Dispute Settlement: How Indonesia's Communities Acknowledge Alternative Dispute Resolution?," *Legality: Jurnal Ilmiah Hukum* 33, no. 1 (2025): 261–85, <https://doi.org/10.22219/ljih.v33i1.39958>.

<sup>6</sup> Ilham Yuli Isdianto, "Village Sovereignty in Dispute Resolution after Law No 6 of 2014 Concerning Village," *Jurnal Media Hukum* 26, no. 2 (2019): 223–39, <https://doi.org/10.18196/jmh.20190136>.

<sup>7</sup> Agnes Monika Gultom, Hisar Siregar, and Ria Juliana Siregar, "Legal Review of Settlement of Customary Land Disputes Through Mediation According to Positive Law," *Journal of Legal and Cultural Analytics* 4, no. 1 (2025): 109–18, <https://doi.org/10.55927/jlca.v4i1.13656>.

<sup>8</sup> Fahira Nurfayza et al., "Efektivitas Mediasi Dalam Penyelesaian Sengketa Perdata Di Indonesia," *Jurnal Prisma Hukum* 8, no. 6 (2024): 48–52, <https://jurnalhost.com/index.php/jph/article/view/1272>.

informal dispute resolution mechanisms based on social relations that prioritize harmony.<sup>9</sup>

This study attempts to fill this gap by proposing the establishment of a village-based mediation institution in Malang City. This study builds on the existing legal framework, namely Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution and Regulation of the Supreme Court of the Republic of Indonesia No. 1 of 2016 concerning Mediation Procedures in Court, to assess the legal feasibility, practical design, and implementation strategy of this institution.<sup>10</sup> Through interviews with all village heads in Malang City, this study explores grassroots views on the urgency, expectations, and challenges in establishing a local mediation system. This research is designed to produce a concept model for resolving civil disputes through mediation, with the urgency of establishing a sub-district mediation institution in each sub-district, the role of the sub-district, and the city government. Apart from that, it is also to disseminate the concept of a dispute resolution model through the Village Mediation Institution to the public, which is expected to create a shared understanding and awareness to strengthen peaceful social, national, and state life without any disputes.

## Method

This study uses a qualitative descriptive approach. Data were collected through semi-structured interviews with samples from several sub-districts in five districts of Malang City. Interviews focused on experiences in handling local disputes, perceptions of mediation, and views on the establishment of mediation institutions at the sub-district level. This research employs a socio-legal approach, which is a methodological framework particularly suited for legal research that seeks to understand the law not merely as a set of abstract norms, but as a social institution that operates within a specific socio-cultural context.<sup>11</sup> This approach bridges doctrinal legal analysis with empirical

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<sup>9</sup> Sri Sudaryatmi, "Peranan Hukum Adat Dalam Pembangunan Hukum Nasional Di Era Globalisasi," *Masalah-Masalah Hukum* 41, no. 4 (2012): 572–78, <https://doi.org/https://doi.org/10.14710/mmh.41.4.2012.572-578>.

<sup>10</sup> Muhammad Syahroni, Rina Susilawati, and Muhammad Izhar, "Juridical Analysis of Customary Land Disputes and Their Resolution through Mediation in North Lombok Regency," *Justicia Insight* 1, no. 2 (2025): 33–38, <https://doi.org/10.70716/justin.v1i2.157>.

<sup>11</sup> Peter Mahmud Marzuki, *Penelitian Hukum: Edisi Revisi* (Jakarta: Kencana, 2019), p. 89.

social science inquiry to examine the gap between the ‘law in the books’ and the ‘law in action’.<sup>12</sup> The research was conducted in two primary stages. First, a doctrinal legal analysis was performed to identify and analyze the primary legal materials, including Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, Regulation of the Supreme Court of the Republic of Indonesia No. 1 of 2016 concerning Mediation Procedures in Court, Law Number 6 of 2014 concerning Villages, and other relevant regulations.<sup>13</sup> This stage aimed to construct the normative framework and identify the legal opportunities and gaps for establishing village mediation institutions.<sup>14</sup>

Second, an empirical qualitative study was undertaken to gather data on the practices, challenges, and social needs at the grassroots level. Data were collected through semi-structured interviews with a sample of *lurah* (urban village heads) across the five districts of Malang City. The interviews focused on their experiences in handling local disputes, perceptions of mediation, and views on the formalization of a *kelurahan*-based mediation institution.<sup>15</sup> This empirical data is crucial for understanding the ‘living law’ and the social feasibility of the proposed institution.<sup>16</sup> The data from both stages were then integrated and analyzed using thematic content analysis. This technique was used to identify recurring patterns, key challenges, and potential institutional models for urban village mediation, ensuring that the proposed design is not only legally sound but also socially contextual and responsive to local realities.<sup>17</sup>

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<sup>12</sup> Rikardo Simarmata, “Kedudukan Dan Peran Peradilan Adat Pasca-Unifikasi Sistem Peradilan Formal,” *Undang: Jurnal Hukum* 4, no. 2 (2021): 281–308, <https://doi.org/10.22437/ujh.4.2.281-308>.

<sup>13</sup> M. Yahya Harahap, *Hukum Acara Perdata: Gugatan, Persidangan, Penyitaan, Pembuktian, Dan Putusan Pengadilan*, ed. Tarmizi (Jakarta: Sinar Grafika, 2022), p. 156.

<sup>14</sup> Moh. Mahfud MD, *Membangun Politik Hukum, Menegakkan Konstitusi* (Jakarta: Pustaka LP3ES, 2023), p. 234.

<sup>15</sup> Achmad Azro’I, Galang Asmara, and Minollah, “The Position of The Village Head as Mediator in Resolving Disputes in the Village in Terara District, East Lombok Regency,” *International Journal of Scientific Research and Management* 10, no. 07 (2022): 369–74, <https://doi.org/10.18535/ijserm/v10i07.11a02>.

<sup>16</sup> Muhammad Arifin Tanjung, “Legal Pluralism and Indigenous Justice Systems: An Anthropological Analysis,” *Jurnal Ar Ro’is Mandalika (Armada)* 3, no. 2 (2023): 84–91, <https://doi.org/10.59613/armada.v3i2.2838>.

<sup>17</sup> Kamarusdiana et al., “Family Dispute Resolution Practices in Seribu Islands (Study of the Role of Religious Leaders, Community and State Apparatus),” *Syariah: Jurnal*

## Result and Discussion

### A. The Legal Foundations Mediation in Indonesia: a Normative and Institutional Analysis

The legal basis for mediation in Indonesia has a strong foundation, although its implementation is still limited to the formal court realm. First, Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution expressly recognizes the existence of out-of-court civil dispute resolution. Article 1 number 10 of this Law defines alternative dispute resolution as "an institution for resolving disputes or differences of opinion through procedures agreed upon by the parties, namely out-of-court settlement using consultation, negotiation, mediation, conciliation, or expert assessment." This provision opens up space for the public to choose a more flexible, faster, and cheaper non-litigation settlement. Second, Regulation of the Supreme Court of the Republic of Indonesia No. 1 of 2016 concerning Mediation Procedures in Court is a technical regulation that governs the procedures for implementing mediation in civil cases ongoing in the district court. This Regulation of the Supreme Court of the Republic of Indonesia stipulates that every civil case must first go through a mediation process as a formal requirement. It contains provisions regarding the stages, period, appointment of a mediator, and the final results of the mediation process. This Regulation of the Supreme Court of the Republic of Indonesia No. 1 of 2016 also emphasizes the role of the judge as a mediator or appointing a certified mediator from outside the court.

However, both legal instruments are still limited to the scope of judicial institutions, meaning they have not touched on mediation models rooted in local communities such as sub-districts. There are no explicit provisions in Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution or Regulation of the Supreme Court of the Republic of Indonesia No. 1/2016 that regulate community-based or village/sub-district mediation institutions. This is an important legal gap to be filled through regional policies or derivative regulations that encourage community mediation.

Normatively, it means that instead of explaining how rules and regulations are usually applied in actuality, we are looking at what they permit or encourage. These rules establish the legal framework,

credibility, and support necessary for community-based mediation to thrive. Opportunities to strengthen community mediation can also be referred to from several other regulations, such as:

1. *Law Number 6 of 2014 concerning Villages*, gives authority to village/sub-district governments to resolve local conflicts by local wisdom.

This law is a revolutionary piece of legislation that fundamentally shifts power to the village level. It recognizes the village as a legal community unit with the authority to regulate and manage its own affairs.<sup>18</sup> The conflict resolution process within customary institutions is flexible. The applicable structures and norms are flexible and constantly adapt to social changes. Dispute resolution within customary institutions utilizes the authority and legitimacy of local (customary) communities. Rural communities prefer customary justice, primarily because the decision-makers within the village have the authority to resolve problems and enforce decisions.<sup>19</sup> The strongest legal mandate for both traditional and adat mediation procedures is provided by this statute.<sup>20</sup> It transforms community mediation from an unofficial, "extra-legal" practice into a state-approved village governance role.<sup>21</sup>

By emphasizing local wisdom, the law acknowledges that many disputes are best resolved through the application of local customs, values, and social structures that are understood and respected by the community. A mediator from the community understands these nuances far better than an external judge or official. It typically covers civil disputes (e.g., land boundaries, inheritance, small debts, neighbor conflicts) and minor social conflicts that, if left unresolved, could escalate and disrupt village harmony. The primary objective is to

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<sup>18</sup> Muhammad Addi Fauzani, "Guarantees and Limitations of the Sustainability Village Autonomy Through Rules of Recognition: Indonesia Experiences," *Lex Localis* 22, no. 4 (2024): 283–99, <https://doi.org/10.52152/22.4.283-299>.

<sup>19</sup> Erwin Taroreh, Fadilah Husain, and Zulfa Cika Ananda Wenur, "Peran Hukum Adat Dalam Penyelesaian Persoalan Adat Di Desa Didiri Kecamatan Pamona Timur," *Jurnal Ilmu Hukum, Humaniora Dan Politik* 4, no. 5 (2024): 1097–1100, <https://doi.org/10.38035/jihhp.v4i5.2197>.

<sup>20</sup> Philipus M. Hadjon, *Perlindungan Hukum Bagi Rakyat Di Indonesia* (Surabaya: Bina Ilmu, 2013), p. 178.

<sup>21</sup> Vianti Nur Maulidya Ike Safitri and Moh. Soleh, "Efektivitas Peran Pemerintah Desa Dan Tokoh Masyarakat Dalam Penyelesaian Perkara Non-Litigasi Di Desa Jarin," *Federalisme: Jurnal Kajian Hukum Dan Ilmu Komunikasi* 1, no. 4 (2024): 128–38, <https://doi.org/10.62383/federalisme.v1i4.276>.

restore social harmony (rukun) and order within the community, which is the exact aim of community mediation.

2. *Law Number 23 of 2014 concerning Government Regions*, encourages regional autonomy in developing public services including resolving social conflicts.

This law governs the implementation of regional autonomy for provinces, regencies, and cities. Autonomy means these regions have the right to innovate and manage their own governance, including public services, based on local needs and potentials.<sup>22</sup>

The law encourages regional governments to be creative in developing public services. A forward-thinking regional government can issue Regional Regulations or policies that: Establish and fund a community mediation center at the sub-district or village level, Train and certify community mediators, create formal or informal channels for cases from the police or local courts to be referred to community mediation programs (a form of "court-annexed mediation" at the community level).<sup>23</sup>

It frames conflict resolution as a core public service. Just as the government provides health and education services, it can also provide accessible, affordable, and effective dispute resolution services to its citizens through community mediation.<sup>24</sup> This is the idea that matters should be handled by the smallest, lowest, or least centralized competent authority. This law supports resolving conflicts at the lowest possible level (the community) rather than automatically escalating them to the district police or court.<sup>25</sup>

3. *Prosecutor's Regulation No. 15 of 2020 and Police Regulation No. 8 of 2021*, which encourage the application of the principle of restorative justice in resolving criminal cases, can be used as the basis for a similar approach in minor civil cases.

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<sup>22</sup> Barda Nawawi Arief, "Mediasi Pidana (Penal Mediation) Dalam Penyelesaian Sengketa/Masalah Perbankan Beraspek Pidana Di Luar Pengadilan," *Law Reform* 2, no. 1 (2006): 1–13, <https://doi.org/https://doi.org/10.14710/lr.v2i1.12221>.

<sup>23</sup> Maria Silvy E Wangga, "Implementation of Restorative Justice in Criminal Cases in Indonesia," *Law and Humanities Quarterly Reviews* 1, no. 3 (2022): 109–15, <https://doi.org/10.31014/aior.1996.01.03.25>.

<sup>24</sup> Roger Fisher, William L. Ury, and Bruce Patton, *Getting to Yes: Negotiating Agreement Without Giving In* (New York: Penguin Books, 2011), p. 56.

<sup>25</sup> Adwi Mulyana Hadi, Anik Ifitah, and Syahrul Alamsyah, "Restorative Justice Through Strengthening Community Legal Culture in Indonesia: Challenges and Opportunity," *Mulawarman Law Review* 8, no. 1 (2023): 32–44, <https://doi.org/https://doi.org/10.30872/mulrev.v8i1.1140>.



These two regulations are pivotal in the Indonesian legal system's shift towards Restorative Justice. They provide guidance for prosecutors and police to halt the processing of minor criminal cases at the investigation and prosecution stages. Instead of pursuing punitive measures (jail, fines), they are encouraged to facilitate a process that focuses on repairing the harm caused to victims and the community.

While these regulations explicitly target criminal cases, their normative value is immense for civil community mediation for several reasons such as philosophical alignment, procedural precedent, and creating a culture of dialogue. *Philosophical alignment*, both restorative justice and community mediation share the same core philosophy: (a) Punitive vs. Repair: Moving from punishment (or winning/losing in court) to repairing relationships and restoring harmony; (b) Stakeholder Involvement: Involving the victim, the offender, their families, and the community in the solution, rather than having the state impose a solution; and (3) Voluntary Agreement: The outcome is based on a mutually agreed-upon resolution, which leads to higher compliance and satisfaction.<sup>26</sup> *Procedural Precedent*, these rules establish a structured route for rerouting matters outside of the official legal system. This creates a strong precedent that can be used to support arguments in small civil suits. A community leader might, for instance, use the spirit of these very rules to support mediation as a means of resolving a neighbor's property dispute.<sup>27</sup> *Creating a Culture of Dialogue*, police and prosecutors are more likely to see the benefits of restorative practices (such as dialogue and mediation) for civil cases as they grow more accustomed to them. They may even start sending suitable cases to community mediators.<sup>28</sup>

Referring to the legal framework, the establishment of a village mediation institution is a progressive step that not only has a socio-cultural basis but can also be developed legally through regional legal instruments such as the Mayor's Regulation. This is the main urgency of this research.

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<sup>26</sup> Bambang Sutyoso, *Hukum Arbitrase Dan Alternatif Penyelesaian Sengketa* (Yogyakarta: Gama Media, 2008), p. 89.

<sup>27</sup> Syahrizal Abbas, *Mediasi Dalam Hukum Syariah, Hukum Adat, Dan Hukum Nasional* (Jakarta: Kencana, 2009), p. 67.

<sup>28</sup> Muhammad Abdulkadir, *Hukum Dan Penelitian Hukum* (Bandung: Citra Aditya Bakti, 2004), p. 134.

## B. Legal Framework and Institutional Dynamics of Village-Level Mediation in Indonesia

The types of disputes that most frequently arise at the sub-district level based on field experience and interviews with sub-district heads in Malang City include: (1) Land Boundary Disputes: Generally occur due to discrepancies in the physical boundaries of land between residents who do not have certificates or are only based on letter C. When there is physical construction such as fences or buildings, there are often overlapping claims; (2) Inheritance and Family Disputes: These conflicts arise from unclear or undocumented inheritance distribution, and usually involve emotional conflict between siblings; (3) Disturbances to Neighborhood Order: Includes disputes resulting from noise, disruptive drainage, pets, or road access; and (4) Debts and Informal Transactions: Often occur without a written agreement, making them difficult to resolve when there is a default.

Informal mediation practices by the village head are usually carried out in a family manner by inviting the parties to the village office, involving the Neighborhood Unit (RT) / Community Unit (RW), and using a deliberation approach. However, this process does not yet have a standard, is not officially documented, and does not have binding legal force. As a result, if one party does not carry out the agreement, the process must be continued to the formal legal path.

The main weaknesses in terms of structure and legitimacy in this informal mediation practice include: Lack of formal legal basis or institutional legality. Mediation by the village head does not yet have a specific legal basis that protects the process and its results.<sup>29</sup> It is not included in Regulation of the Supreme Court of the Republic of Indonesia No. 1 of 2016 concerning Mediation Procedures in Court, which only applies in court. This is a matter of formal legitimacy. The Indonesian legal system, as a civil law system, places a strong emphasis on the principle of legality. Every action or institution that wishes to be recognized and have legal consequences must have a clear legal basis (*grundnorm*). The practice of mediation by village heads, although generally mandated by the Village Law, lacks specific operational technical regulations. It falls within a legal "grey area." Supreme Court Regulation No. 1/2016 creates a clearly institutionalized formal

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<sup>29</sup> Nabilla Farah Quraisyta and Ilham Dwi Rafiqi, "Legal Protection for Persons with Disabilities Due to Work Accidents After the Job Creation Law," *Hang Tuah Law Journal* 7, no. 2 (2023): 189–205, <https://doi.org/10.30649/htlj.v7i2.162>.

mediation system. It regulates mediator qualifications, a code of ethics, process stages, and most importantly, the binding force of agreements. Agreements made under this Regulation can be directly enforced by the courts (Article 24). Village mediation lacks this mechanism, thus losing its legal standing. The challenge is finding a balance. Providing an overly rigid legal framework can actually stifle the flexibility and creative space that are the lifeblood of community mediation. The solution may not be to impose Regulation of the Supreme Court of the Republic of Indonesia on villages, but to create a specific legal framework that respects the uniqueness of community mediation while recognizing its results.

There is no standard operating procedure (SOP). Each sub-district runs the process ad-hoc and depends on the leadership style of the sub-district head.<sup>30</sup> The lack of SOPs raises issues of legal certainty and procedural justice. Any fair process requires consistency and clarity of procedures. Reliance on the village head's leadership style makes the process highly variable and vulnerable to subjectivity, bias, and even abuse of authority. The impacts include: Unpredictability: The parties don't know what to expect. Potential Inequity: A non-standardized process can violate basic mediation principles such as party independence, confidentiality, and equality. Mediator Quality: Without standardized procedures (SOPs) guaranteeing minimum training, the mediator's competence is questionable. SOPs for community mediation don't have to be as complex and rigid as Regulation of the Supreme Court of the Republic of Indonesia. These SOPs should be adaptive guidelines, not rigid instructions. They should establish minimum principles such as neutrality, confidentiality, and record-keeping procedures, without eliminating the opportunity for cultural approaches and local wisdom.

There is no system for recording mediation results. Many agreements are not recorded or officially signed.<sup>31</sup> This is an administrative weakness that affects the law of evidence. In law, what is not written is considered non-existent. Oral agreements are highly susceptible to being forgotten, denied, or interpreted differently at a later date. Impact: Agreements Become Weak: The absence of a written document signed by the parties makes agreements easy to

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<sup>30</sup> Suyud Margono, *Penyelesaian Sengketa Bisnis: Alternative Dispute Resolutions (ADR)* (Bogor: Ghalia Indonesia, 2010), p. 78.

<sup>31</sup> Musahadi Ham, *Mediasi Dan Resolusi Konflik Di Indonesia : Dari Konflik Agama Hingga Mediasi Peradilan* (Semarang: Walisongo Mediation Centre, 2007), p. 92.

renege on. Barriers to Access to Formal Justice: If one party reneges, the injured party will have difficulty proving the existence of a prior agreement in court. Courts cannot use oral agreements as a strong legal basis. Record-keeping is the perfect balance between informal flexibility and formal requirements. Creating mediation minutes and a simple written agreement signed by the parties, the mediator, and witnessed by village officials can resolve this issue without sacrificing the essence of mediation.

The results of mediation cannot be legally executed if violated. Agreements resulting from informal mediation cannot be immediately executed. If one party defaults, the other party must still sue in court.<sup>32</sup> This is the logical implication of the three weaknesses above. Executorial power is the pinnacle of the pyramid of legal certainty. In legal theory, a mediation deed requires executorial power to be enforceable. This power can only be granted by law or its implementing regulations (such as Regulation of the Supreme Court of the Republic of Indonesia). Impact: Reduced Deterrence: Bad-intentioned parties know that violating the village agreement will not immediately result in legal consequences. They still have a "second chance" to litigate in court. Inefficiency: The mediation process is futile if it ultimately has to be resolved in court. This undermines the primary purpose of the APS, which is to expedite dispute resolution and reduce the burden on the courts.

Lack of Guarantee of Mediator Neutrality and Quality Assurance.<sup>33</sup> The principle of mediator neutrality is a *sine qua non* (absolute element) in any fair mediation process. In community mediation, the mediator (often the village head or traditional elder) is not strictly neutral. They are part of the community's social structure, potentially having kinship, political, or hierarchical ties to the disputing parties. Conflict of Interest: A Village Head is both the head of government and a mediator. His decisions in mediation may be influenced by political considerations or maintaining the stability of his power, rather than solely seeking the best solution for the parties. Uneven Quality: Without quality assurance mechanisms such as standardized training, certification, and supervision, mediator

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<sup>32</sup> Witanto, *Hukum Acara Mediasi: Dalam Perkara Perdata di Lingkungan Peradilan Umum Dan Peradilan Agama Menurut PERMA No. 1 Tahun 2008 Tentang Prosedur Mediasi Di Pengadilan* (Bandung: Alfabeta, 2011), p. 56.

<sup>33</sup> Christopher W. Moore, *The Mediation Process: Practical Strategies for Resolving Conflict* (San Francisco: Jossey-Bass, 2014), p. 123.

competencies vary widely. Untrained mediators may dominate the process, be unable to manage imbalanced power dynamics, or even impose solutions (directive facilitative), which is contrary to the philosophy of mediation. Potential Abuse of Power: In communities with highly hierarchical social structures, there is a risk that mediation becomes merely an extension of the power of local elites, which can perpetuate injustice.

Limited Scope of Disputes and Inability to Handle Complex Cases.<sup>34</sup> Community mediation is effective for relatively simple disputes involving long-term relationships between parties. However, it often lacks the substantive capacity and tools to handle complex disputes. Multidimensional Disputes: Disputes involving complex legal aspects (e.g., disputed land certificates, inheritance cases involving multiple heirs, or disputes with legal entities such as limited liability companies) often require technical legal expertise that community mediators lack. Limited Reach: Village mediation struggles to handle disputes where one of the parties is an outsider or a corporation. The mediator's legitimacy is not recognized by these outsiders. Overlap with National Law: Cases that actually meet the elements of a crime (e.g., minor assault or fraud in transactions) are often "downplayed" in village mediation to maintain harmony, even though this can undermine the law enforcement process and protect victims. This raises ethical questions about the boundaries between mediation and impunity.

The village heads strongly support the establishment of an official mediation institution in the village because,<sup>35</sup> Increasing the legitimacy of dispute resolution through legal recognition (for example through a Mayoral Regulation) will increase public trust and provide a strong position for the village head as a neutral facilitator.<sup>36</sup> Can help reduce the burden of cases in court. Disputes that can be resolved at the sub-district level do not need to be taken to court, by the spirit of Article 4 paragraph (2) of Law Number 48 of 2009 concerning Judicial Power: "The courts assist those seeking justice and strive to overcome all obstacles to achieving simple, fast and low-cost justice."<sup>37</sup> By the

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<sup>34</sup> Stephen P. Robbins, *Organizational Behavior: Concepts, Controversies, Applications* (University of Minnesota: Prentice Hall, 1996), p. 89.

<sup>35</sup> Mansyur Achmad, *Manajemen Dan Tata Kelola Pemerintahan Desa: Perspektif Regulator Dan Aplikatif*, ed. Ashariana and Masriadi Patu (Jakarta: Balai Pustaka, 2018), p.34.

<sup>36</sup> F Sugeng Istanto, *Penelitian Hukum* (Yogyakarta: CV Ganda, 2007), p. 12-13.

<sup>37</sup> Subekti, *Pokok-Pokok Hukum Perdata* (Jakarta: Intermas, 2003), p. 67.

spirit of Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution which encourages dispute resolution outside the court. This law opens up wide space for dispute resolution outside the court (non-litigation), including through community mediation.<sup>38</sup>

In line with the principles of restorative justice as stipulated in the Prosecutor's Regulation No. 15 of 2020 and the Police Regulation No. 8 of 2021. Especially when juxtaposed with the Prosecutor's Regulation No. 15 of 2020 and the Police Regulation No. 8 of 2021 concerning restorative justice, this institution brings the resolution closer to just and harmonious social values.<sup>39</sup> More efficient in terms of time, cost, and social relations of the community. With a clear structure and trained mediators, village mediation can be a fast track to conflict resolution, without high costs and formal legal tension.<sup>40</sup> With the support of appropriate regulations such as Mayoral Regulations, professional mediator training, and a neat documentation system, sub-district mediation institutions can be an effective complement to the national justice system.

Institutional Design of Mediation in the Sub-district. Based on field findings and academic studies, the mediation model that is suitable for implementation at the sub-district level includes four main pillars:<sup>41</sup> *Appointment of Community Mediators who have been trained and supported by the Malang City Government*. Community mediators should ideally come from community figures who have integrity and are widely known by residents, such as RT/RW heads, religious leaders, or traditional leaders. However, to be effective, they need to receive special training on mediation techniques, non-conflictual communication, ethics, and basic civil law. Local governments together with universities and legal training institutions should

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<sup>38</sup> Khotibul Umam, *Penyelesaian Sengketa Diluar Pengadilan* (Yogyakarta: Pustaka Yustisia, 2010), p. 45.

<sup>39</sup> Rizqullah Abimanyu and Fanny Rifkat Mukarramah, "Analisis Pelaksanaan Restorative Justice Di Kelurahan Bedoyo Gunung Kidul Dalam Rangka Pemenuhan Keadilan Bagi Masyarakat Desa," *Binamulia Hukum* 12, no. 1 (2023): 25–38, <https://doi.org/10.37893/jbh.v12i1.449>.

<sup>40</sup> Teguh Hariyono, "Mediasi Penal Sebagai Alternatif Upaya Penyelesaian Perkara Pidana Di Luar Pengadilan," *Jurnal Penegakan Hukum Dan Keadilan* 2, no. 1 (2021): 1–18, <https://doi.org/https://doi.org/10.18196/jphk.v2i1.8731>.

<sup>41</sup> Sulaeman Sagoni, Rahmi, and Sitti Hijrah, "Efektivitas Hukum Terhadap Mediasi Dalam Penyelesaian Sengketa Tanah Di Kelurahan Cina, Kecamatan Pammana, Kabupaten Wajo," *Legal: Journal of Law* 2, no. 1 (2023): 79–90, <https://jurnal.lamaddukelleng.ac.id/index.php/legal/article/view/51>.

become facilitators of this training. With these provisions, mediators can carry out their functions professionally and credibly, strengthening the legitimacy of the mediation process in the eyes of residents.

*Legal ratification through the Mayor's Regulation.* For the sub-district mediation institution to have a strong legal basis, it is necessary to ratify it through a Mayoral Regulation. This Mayoral Regulation will regulate the organizational structure, work procedures, mechanisms for appointing and evaluating mediators, as well as budget management and activity reporting. The presence of this Mayoral Regulation is very important to make the sub-district mediation institution part of a dispute resolution system that is recognized administratively and legally, as well as being a formal legal reference for the disputing parties.

*Clear Standard Operating Procedures and Referring to Regulation of the Supreme Court of the Republic of Indonesia No. 1 of 2016 concerning Mediation Procedures in Court.* The preparation of standard operating procedures (SOP) is a must so that every mediation process has a systematic, fair, and accountable flow. This SOP should refer to the principles and stages in Regulation of the Supreme Court of the Republic of Indonesia No. 1 of 2016 concerning Mediation Procedures in Court, such as joint sessions, separate sessions, drafting agreements, and recording mediation results. The SOP must also regulate the rights and obligations of the parties, the principle of confidentiality, and the independence of the mediator. With clear SOPs, the quality of mediation services in each sub-district can be maintained consistently.

*Integrated Monitoring and Evaluation System.* To maintain the accountability and effectiveness of mediation institutions, it is necessary to establish a monitoring and evaluation (money) system that is carried out periodically by the city government or independent partner institutions. Periodic reports on the number of cases, success rates, field obstacles, and recommendations for improvement must be collected and analyzed. This money is also important as a basis for policy-making, preparation of further training, and regulatory updates if necessary. With good money, the management of sub-district mediation institutions can continue to develop adaptively and responsively to community needs.



Implementation opportunities and challenges. The establishment of a mediation institution at the sub-district level has several major opportunities that can encourage its success because: First, there is strong support from the community. A survey conducted shows that more than 70% of residents in urban areas such as Malang prefer to resolve conflicts through deliberation rather than the courts. This is reinforced by BPS data (2021) which noted that 64% of residents stated that they had high trust in village officials as dispute mediators. This social trust is an important asset that is not possessed by the formal justice system.

Second, this model is in line with the principle of restorative justice which has become the direction of national policy, as reflected in the Prosecutor's Regulation Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice and the Regulation of the Republic of Indonesia Police Number 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice. Restorative justice emphasizes the restoration of social relations, not just punishment. At the village level, this principle is easier to apply because of the close social relations between residents and local values such as deliberation, cooperation, and strong customary wisdom.

Third, this institution has great potential in reducing the burden of cases in court. Based on the Annual Report of the Supreme Court of the Republic of Indonesia (2023), it was recorded that more than 60% of civil cases in district courts are minor cases that can actually be resolved through mediation.<sup>42</sup> If the sub-district mediation institution functions optimally, the court will focus more on strategic or large-scale cases, increasing the efficiency of the national legal system.

However, several serious challenges need to be anticipated: First, there is legal ambiguity. Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution does recognize the existence of out-of-court dispute resolution but does not explicitly regulate mediation institutions at the sub-district level. Without a specific legal basis from the local government such as a Mayor's Regulation, the legitimacy of this mediation institution will be weak and potentially questioned in formal forums.

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<sup>42</sup> Supreme Court of the Republic of Indonesia, "Executive Summary 2023 Annual Report" (Jakarta, 2023).



Second, the issue of budget allocation is also an obstacle. A study by the State Administration Institute (2020) shows that more than 75% of sub-districts in Indonesia do not have a special budget for non-physical programs such as mediation or community legal services. The budget is needed for mediator training, procurement of mediation rooms, administration, and activity reporting.

Third, there is a need for training and capacity building for mediators. Based on the training experience conducted by the Indonesian Mediation Institute (2021), only around 30% of training participants from community elements have a basic understanding of civil law and conflict communication. This shows the need for a continuous training system and an adaptive curriculum so that village mediators are truly competent.

Fourth, the emergence of resistance from formal legal institutions such as courts or prosecutors. In several FGD forums that we conducted in 2023, there were concerns that the legalization of non-judicial mediation institutions would give rise to jurisdictional conflicts. Therefore, it is important to build a collaborative approach, such as a memorandum of understanding between the City Government and the District Court, so that this institution is placed as a complement, not a substitute for the formal justice system.

## Conclusion

This study conclusively establishes the urgent need to institutionalize village-based mediation in Malang City, presenting it as a strategic socio-legal intervention to bridge the significant gap between formal court mechanisms and the community's need for accessible, culturally-grounded, and restorative dispute resolution. The findings demonstrate that a *kelurahan* mediation institution, rooted in local wisdom and legally fortified through a Mayor's Regulation, can significantly enhance access to justice, alleviate court caseloads, and foster a culture of dialogue and social harmony.

To realize this potential, it is recommended that the Malang City Government immediately drafts and enacts a specific Mayor's Regulation to provide a strong legal foundation and operational clarity for the institution. Furthermore, a collaborative effort involving the local government, district court, legal academia, and professional mediation bodies is essential to develop a comprehensive training program for community mediators and establish a robust monitoring

and evaluation system to ensure the institution's sustainability and effectiveness.

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There is no conflict of interest in the publication of this article.

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All authors declared that this work is original and has never been published in any form and in any media, nor is it under consideration for publication in any journal, and all sources cited in this work refer to the basic standards of scientific citation.