

## RECONSTRUCTION OF PEACE AGREEMENT IN INHERITANCE CASES (CASE STUDY OF THE ROLE OF MEDIATORS IN BONDOWOSO RELIGIOUS COURT)

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### Abstract :

*Inheritance disputes are a common form of family dispute, particularly regarding the distribution of assets inherited by the testator. Differences of opinion among heirs often lead to conflict that has the potential to damage family relationships. Therefore, mediation is one dispute resolution method that can be used to reach a peaceful agreement. This study aims to determine the model for reconstructing a peaceful agreement in inheritance cases based on Islamic legal principles and religious court regulations, the role of the mediator in facilitating a peaceful agreement, and the supporting and inhibiting factors in achieving a peaceful agreement in inheritance cases at the Bondowoso Religious Court. This study used a qualitative research method with a case study approach. Data were obtained through interviews with the mediator and data collection from relevant sources. The results indicate that the ideal model for reconstructing a peaceful agreement in inheritance cases is achieved through a mediation approach that combines the principles of deliberation with an understanding of Islamic inheritance law, particularly through the science of faraid. In this process, the mediator acts as a facilitator, helping the parties understand the rights of each heir, establishing good communication, and encouraging the achievement of a mutual agreement. Furthermore, the success of mediation in inheritance cases is influenced by several factors, including the good faith of the parties, an understanding of Islamic inheritance law, and the mediator's ability to create a conducive mediation atmosphere. Conversely, frequently encountered inhibiting factors include long-standing family conflicts, a lack of understanding regarding inheritance distribution, and a lack of cooperation between the parties during the mediation process. Therefore, mediation plays a crucial role in assisting in the peaceful resolution of inheritance disputes and maintaining family relationships between the disputing parties.*

**Keywords :** Mediation, Inheritance Dispute, Mediator, Peace Agreement, Religious Court.

### INTRODUCTION

Inheritance cases are one of the most common forms of family disputes in society (Apryano et al., 2024). These disputes usually arise due to differences of opinion among heirs regarding the distribution of a deceased person's estate. In many cases, such differences in perspective can trigger prolonged conflicts and even have the potential to damage previously harmonious family relationships (Fatahullah et al., 2023). In the Indonesian legal system, particularly for Muslim



communities, the settlement of inheritance disputes falls under the jurisdiction of the Religious Courts. However, resolving cases through litigation often takes a considerable amount of time and may sometimes create new tensions among the disputing parties.

To reduce such prolonged conflicts, the courts provide mediation as an alternative mechanism for peaceful dispute resolution (Herda et al., 2025). Mediation is a negotiation process between disputing parties facilitated by a neutral and impartial mediator. In this process, the mediator plays a role in helping the parties find common ground and encouraging the achievement of a mutual agreement. Through mediation, it is expected that disputes can be resolved in a simpler, faster, and more cost-effective manner compared to lengthy court proceedings (Saputra et al., 2024).

In inheritance cases, mediation plays a crucial role because the disputes typically involve close family relationships, such as those between siblings, parents and children, or other relatives (Muklisin, 2024). If such disputes are resolved solely through judicial decisions without efforts toward reconciliation, there is a concern that family relationships may become increasingly strained. Therefore, mediation is highly relevant as it emphasizes deliberation and mutual agreement, thereby helping to preserve family harmony.

Currently, mediation has become an integral part of the dispute resolution process in courts. Every civil case submitted to the court must, in principle, undergo a mediation stage before proceeding to litigation. Nevertheless, in practice, not all mediation processes result in a settlement agreement. This may be influenced by various factors, such as significant differences in interests among the parties, a lack of willingness to reconcile, and inadequate communication during the mediation process (Silawati et al., 2025).

On the other hand, there are also cases demonstrating that mediation can successfully produce agreements acceptable to all parties (Akil & Hasriani, 2023). In this regard, the role of the mediator is crucial in facilitating dialogue, exploring the interests of the parties, and helping to identify mutually acceptable solutions. The success of mediation is determined not only by existing regulations but also by the mediator's ability to build effective communication and create a conducive atmosphere throughout the mediation process (Rois & Qomaro, 2023). Therefore, a more in-depth study is needed to examine how the reconstruction of peace agreements in inheritance disputes is carried out and how the mediator's role contributes to achieving reconciliation among disputing parties.

This study is important to understand how mediation in inheritance cases is implemented and how mediators assist parties in reaching peace agreements, particularly at the Religious Court of Bondowoso. In addition, this research aims to identify the factors that support the success of mediation in resolving inheritance disputes.

## **RESEARCH METHOD**

This study employs a qualitative approach with a case study design (Kusumastuti & Khoiron, 2019). The qualitative approach is selected to enable an

in-depth understanding of the reconstruction of peace agreements in inheritance disputes and the role of mediators in facilitating dispute resolution at the Religious Court of Bondowoso. The case study design allows for an intensive exploration of the phenomenon within its real-life context, thereby producing a holistic, contextual, and nuanced understanding of mediation practices (Septiana & Khoiriyah, 2024). The research site is purposively selected at the Religious Court of Bondowoso due to its experience in handling inheritance cases and its implementation of mediation as an integral part of dispute resolution. The research subjects include judge-mediators, disputing parties (plaintiffs and defendants), as well as other relevant actors such as court clerks and administrative staff.

Data collection is conducted through multiple complementary techniques to ensure comprehensive and in-depth findings. In-depth interviews are carried out using a semi-structured format with mediators, disputing parties, and other relevant informants to explore the mediation process, mediator strategies, and the dynamics influencing the success or failure of mediation. In addition, non-participant observation is undertaken to directly examine mediation sessions, allowing the researcher to capture patterns of communication, interactions among parties, and the procedural stages of mediation in an objective manner. Documentation techniques are also employed to gather secondary data, including official records such as mediation reports, court decisions, and relevant regulatory frameworks. Furthermore, a library research approach is utilized to review scholarly literature, including academic journals, books, and legal regulations, in order to strengthen the theoretical foundation of the study.

Data analysis in this study follows the interactive model proposed by Miles and Huberman, which consists of data reduction, data display, and conclusion drawing and verification. Data reduction involves selecting, focusing, and simplifying raw data obtained from various sources to ensure alignment with the research objectives, followed by categorization into key themes such as mediation processes, the role of mediators, and factors contributing to mediation success. The reduced data are then systematically presented in a descriptive narrative form to facilitate the identification of patterns and relationships. The process of drawing conclusions is conducted iteratively and continuously, accompanied by verification procedures to ensure the consistency and accuracy of the findings.

To ensure the validity and reliability of the data, this study employs triangulation techniques, including both source triangulation and methodological triangulation. Source triangulation is conducted by comparing data obtained from different informants, while methodological triangulation involves cross-verifying findings derived from interviews, observations, and documentation. Additionally, member checking is performed with informants to confirm the accuracy of the collected data and its alignment with actual conditions in the field. These measures are undertaken to enhance the credibility, dependability, and scientific rigor of the research, ensuring that the findings are both trustworthy and capable of contributing meaningfully to the study of

inheritance dispute resolution through mediation.

## **FINDINGS AND DISCUSSION**

### **The Ideal Model for Reconstructing Peace Agreements in Inheritance Disputes Based on Islamic Legal Principles and Religious Court Regulations**

The findings of this study indicate that the ideal model for reconstructing peace agreements in inheritance disputes is grounded in the integration of normative Islamic legal principles, particularly the science of *faraid*, with a sociological approach through family-based deliberation (*musyawarah*). The application of *faraid* provides an objective legal framework in determining the proportional rights of each heir, thereby minimizing subjectivity and potential conflict. From the perspective of *maqashid al-shariah*, inheritance distribution in accordance with *faraid* reflects the principles of justice (*al-'adl*) and the protection of property (*hifz al-mal*). Meanwhile, the deliberative approach embodies the value of *tasaluh* (amicable settlement), allowing the parties to reach voluntary agreements without coercion. This model aligns with the theory of interest-based negotiation (Fisher & Ury), which emphasizes focusing on underlying interests rather than rigid positions.

Furthermore, within the framework of religious court regulations in Indonesia, mediation constitutes a mandatory stage in the resolution of civil disputes, as stipulated in the Supreme Court Regulation on mediation procedures. This demonstrates that the reconstruction of peace agreements is not only normatively rooted in Islamic values but also possesses formal juridical legitimacy. Accordingly, the ideal model identified in this study is an integrative mediation model that combines legal certainty through *faraid* with social flexibility through deliberation. This approach enables the achievement of agreements that are not only legally valid but also socially just and sustainable, particularly in preserving familial relationships.

### **The Role of Mediators in Facilitating Peace Agreements in Inheritance Disputes at the Religious Court of Bondowoso**

The findings further reveal that mediators play a strategic and multidimensional role in the mediation process of inheritance disputes. Mediators function not merely as neutral third parties but also as facilitators of communication, legal educators, and conflict managers. From the perspective of mediation theory, this role is consistent with the facilitative mediation model, in which mediators assist disputing parties in identifying their interests, improving communication, and encouraging mutually acceptable solutions. In practice at the Religious Court of Bondowoso, mediators provide equal opportunities for all parties to express their views while ensuring that the dialogue remains constructive and non-escalatory.

In addition, mediators play a crucial role in enhancing the legal literacy of the parties by explaining the rules of inheritance distribution based on *faraid*. This educational function is particularly important, as many inheritance disputes stem from a lack of understanding or misinterpretation of each party's rights. In this context, mediators also perform a transformative function, as described in

the transformative mediation theory (Bush & Folger), by fostering mutual understanding and recognition among the parties. The mediator's ability to manage both communication dynamics and the emotional conditions of the parties especially in disputes involving close family relationships serves as a key determinant in creating a conducive and productive mediation environment.

### **Supporting and Inhibiting Factors in Achieving Peace Agreements in Inheritance Disputes**

The success of mediation in inheritance disputes is influenced by a range of interrelated factors, both internal and external. Key supporting factors include the presence of good faith among the disputing parties, an adequate understanding of Islamic inheritance law, and the mediator's competence in managing the mediation process. From the perspective of collaborative problem-solving theory, successful conflict resolution depends significantly on the willingness of the parties to cooperate and engage in constructive dialogue. A sound understanding of faraid contributes to a shared perception of justice, thereby facilitating acceptance of mutually agreed outcomes.

Conversely, several inhibiting factors may hinder the effectiveness of mediation, including prolonged family conflicts, low levels of trust among the parties, and limited legal literacy. These conditions often lead to rigid positions, making compromise difficult to achieve. Additionally, uncooperative behavior such as failure to attend mediation sessions or refusal to follow the mediator's guidance constitutes a significant obstacle. From a socio-legal perspective, these challenges reflect a gap between legal norms and social realities. Therefore, the success of mediation is contingent upon the synergy between structural factors (such as legal frameworks and mediator competence) and cultural factors (such as attitudes and legal awareness), ensuring that the mediation process operates effectively and results in sustainable peace agreements.

### **CONCLUSION**

This study concludes that the ideal model for reconstructing peace agreements in inheritance disputes at the Religious Court of Bondowoso is an integrative mediation model that combines Islamic inheritance law (faraid) with a family-based deliberative approach (musyawarah). This integration ensures both legal certainty and social justice, enabling disputing parties not only to reach amicable agreements but also to understand the normative foundations of inheritance distribution. The model proves effective in reducing conflict and preserving familial relationships, in line with the principles of maqashid al-shariah.

Furthermore, the success of mediation is strongly influenced by the strategic role of the mediator as a facilitator, legal educator, and conflict manager, as well as by supporting and inhibiting factors. Key supporting factors include the good faith of the parties, their understanding of Islamic inheritance law, and the mediator's competence, while major obstacles involve prolonged conflict, low trust, and limited legal awareness. Therefore, optimizing mediation in inheritance disputes requires strengthening mediator capacity, enhancing legal

literacy, and ensuring adaptive regulatory implementation to achieve sustainable and equitable dispute resolution.

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