



## **SETTLEMENT OF INHERITANCE DISPUTES BY A MEDIATOR THROUGH MEDIATION AT THE BIMA RELIGIOUS COURT**

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### **Abstract**

This study examines the mediation of inheritance disputes by mediators at the Bima Religious Court. Inheritance disputes often lead to ongoing debates due to differences in interests, understanding of Islamic inheritance law, and the influence of customs and family relationships. Therefore, mediation is considered a solution that can foster harmony and maintain relationships between heirs. This study aims to analyze how mediation is conducted, the factors that contribute to its success, and the factors that cause its failure in resolving inheritance disputes at the Bima Religious Court. This study uses empirical methods. Data were collected through interviews, observations, and documentation involving judge mediators, non-judge mediators, and other related individuals. The results show that the mediation process occurs in several stages: pre-mediation steps, mediation, and implementation of mediation results in accordance with PERMA Number 1 of 2016. The success of mediation is influenced by the mediator's neutrality, ability to facilitate communication, and the sincere intentions of the participants. However, mediation may be unsuccessful due to a lack of participants or the mediator's lack of understanding of the issues at hand. Therefore, increasing the effectiveness of mediation requires strengthening the role of the mediator and increasing the parties' recognition of the value of achieving a peaceful resolution.

**Keywords:** Mediation; Inheritance Disputes; Mediator Judges; Religious Court; Islamic Inheritance Law.

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## A. Introduction

Inheritance disputes are a family law issue that arises not only in Indonesia but also in various parts of the world, particularly in countries whose legal systems are influenced by religious teachings and customary norms. Globally, the rise in conflict is driven by an increase in family wealth, changes in nuclear and extended family patterns, and growing individual awareness of their legal rights. Many countries have developed out-of-court settlement mechanisms, such as mediation, which are considered effective in reducing the burden of court cases while maintaining harmonious family relationships. In Indonesia, a predominantly Muslim country, dispute resolution for Muslims falls under the jurisdiction of religious courts. This makes inheritance cases one of the most dominant issues in religious courts (Subrata et al., 2025).

Inheritance disputes under Islamic law are governed by specific *faraidh* rules explained in the Quran and established in the Compilation of Islamic Law (KHI). This often creates challenging situations where heirs have differing views and ideas about justice (Aziza, 2021). However, resolving inheritance issues through mediation presents several legal complications. First, the mediator lacks the authority to alter the inheritance portion stipulated by Sharia, which limits the potential for reaching a compromise. Second, any mediation agreement must comply with Islamic inheritance laws; if it conflicts with the provisions of the Compilation of Islamic Law (KHI), the agreement is not legally enforceable. Finally, differences in views and interests between heirs can hinder the mediator's efforts to reach a just and acceptable resolution under Islamic law (Hariati, 2024).

Based on observations (Mr. Yusuf Munajat, S.H., interviewed on May 4, 2026), inheritance cases at the Bima Religious Court demonstrate the success or failure of mediation. The 2025 annual report shows that 26 inheritance cases were resolved through mediation, with 11 cases resulting in settlement and 15 cases ending in unsuccessful mediation. This suggests that the effectiveness of mediation in resolving inheritance issues requires significant attention. The implementation of mediation in court is regulated by Supreme Court Regulation Number 1 of 2016, which discusses Mediation Procedures in Court. This regulation requires that all civil settlements, including those related to inheritance, must first go through mediation before proceeding to the main case examination stage (Fahri, 2025).

The Bima Religious Court, one of the religious courts in the West Nusa Tenggara region, has unique characteristics in handling inheritance cases. The Bima community is known for its close kinship ties and strong adherence to customary values in social life, including in the distribution of inherited property. Differences in perceptions between customary law, Islamic law, and positive law often trigger disputes among heirs. Inheritance disputes often escalate into protracted conflicts that damage family ties

(Rosdianti et al., 2025). In such situations, mediation is a crucial instrument for reconciling the interests of the parties through deliberation. Therefore, the success of mediation depends heavily on the role and capacity of the mediator.

This research is scientifically urgent because inheritance disputes are not only related to legal aspects but also involve family relationships and social stability issues. Mediation, as a dispute resolution instrument, is expected to maintain relationships among heirs through deliberation and peace-making. From an Islamic legal perspective, the concept of mediation aligns with the principle of *Islah*, which emphasizes peaceful conflict resolution to maintain social harmony. Therefore, the effectiveness of the mediator's role in inheritance cases requires in-depth study to contribute to strengthening mediation practices within the religious courts (Khairuddin, 2025)

Based on this description, this study aims to analyze the implementation of mediation by judge-mediated mediators in resolving inheritance disputes at the Bima Religious Court. This research is expected to contribute to the development of legal science, particularly in the area of inheritance dispute resolution through mediation within the religious courts. Furthermore, the results of this study are expected to serve as an academic and practical reference for increasing the effectiveness of mediation as a dispute resolution mechanism oriented toward justice and peace.

## **B. Method**

This study uses an empirical approach. This method relies on real-world data as the primary source for understanding how law functions and is used in society (Handini, 2020). This method not only examines legal rules from a theoretical perspective but also analyzes how the law is enforced in real-life situations, particularly in relation to inheritance dispute mediation at the Bima Religious Court.

The data used consists of primary and secondary data. Primary data were obtained directly from judge mediators as key informants, while secondary data were obtained from books, journals, and related literature (Sugiyono, 2013).

This study was conducted by collecting information directly through interviews, observations, and documentation with individuals involved in the mediation process, including two judge mediators, as well as relevant parties at the Bima Religious Court (Auliya et al., 2020). Consequently, this study aims to provide a clear understanding of the effectiveness of mediation in resolving inheritance disputes at the Bima Religious Court.

## C. Findings and Discussion

### 1. Arrangement of mediation by the judge mediator at the Bima Religious Court

Mediation arrangements conducted by judge-mediated mediators to resolve inheritance disputes are primarily based on judicial procedural law and specific regulations relating to court mediation. In the Supreme Court of the Republic of Indonesia, mediation follows the guidelines set out in Supreme Court Regulation Number 1 of 2016 concerning Procedures for Mediation in Court (PERMA No. 1 of 2016) (Nahda et al., 2025). This regulation serves as the basis for implementing mediation in all civil cases, including inheritance matters, at the Bima Religious Court.

According to Article 3 paragraph (1) of PERMA No. 1 of 2016, every judge, mediator, party, and/or legal representative must participate in the mediation process before the case can be reviewed further (Purba, 2018). This requirement demonstrates that mediation is a crucial step in resolving civil cases, including inheritance matters, at the Bima Religious Court.

Based on an interview with (Mr. Rajabuddin S.H.I., mediator and judge at the Bima Religious Court, Class 1 A, April 24, 2026), mediation at the Bima Religious Court involves several stages in resolving inheritance disputes, including pre-mediation, mediation, and mediation results.

The above discussion aligns with Syahrizal Abbas's mediation theory, which describes the mediator as a neutral individual whose role is to assist the parties in communicating, create a positive environment, defuse tensions, and guide them toward a peaceful resolution through discussion. This theory is evident in the initial stages of mediation, where the mediator introduces himself, outlines the mediation process, and allows the parties to address key issues related to the inheritance dispute (Syahrizal Abbas, 2018).

Furthermore, during the mediation phase, the mediator allows the parties to share their views and desires regarding inheritance distribution and explains the Islamic inheritance law (*faraidh*) and the Compilation of Islamic Law. According to Syahrizal Abbas' theory, a mediator functions not only as a mediator but also as a facilitator, helping the parties understand the issues and identify common interests to reach a mutual agreement. At the mediation outcome stage, if an agreement is reached, the settlement is documented in a written agreement and submitted to the judge as a record. Conversely, if mediation is unsuccessful because of the absence or ineffectiveness of one of the parties, the case proceeds to a conference.

This discussion is further supported by previous studies conducted by (HAFID & ARKHAN, 2023). This study described mediation as a dispute resolution method aimed at achieving a harmonious outcome (a win-win solution). However, its effectiveness depends on the mediator's skills, the interaction between the individuals involved, and

their understanding of Islamic inheritance law. The findings of this study align with mediation practices at the Bima Religious Court, which views judges as mediators who help foster peace among heirs.

## **2. Implementation of Mediation by Judge-Mediators at the Bima Religious Court**

The process of resolving inheritance disputes in Bima, specifically those related to inheritance disputes at the Bima Class 1 A Religious Court, was based on an interview with (Mr. Rajabuddin S.H.I., judge-mediator at the Bima Class 1 A Religious Court, April 23, 2026), that both parties requested a summary or outline of the issues that arose, as well as the identities of the parties wishing to mediate. This summary was then provided to the mediator. The Class 1 A Religious Court then requested that all heirs and related parties gather at Class 1 A Bima Religious Court. In this inheritance dispute resolution process, the mediator acts as a leader/mediator in the deliberations and is tasked with opening the deliberations and explaining the duties of the invited mediators. The mediator at the Class 1 A Bima Religious Court asked the disputing parties questions regarding the inheritance dispute. Afterward, the mediator explained Islamic inheritance law/faraid law to the parties and provided advice on how to build comfortable communication so that the inheritance dispute could be resolved through deliberation. In this case, the stages of mediation carried out by the mediator in inheritance disputes at the Class 1 A Bima Religious Court can be seen as divided into several stages, namely:

### **a. Pre-Mediation Stage**

Based on an interview with (Mr. Rajabuddin S.H.I., mediator and judge at the Bima Class 1 A Religious Court, April 23, 2026), the initial stage is where the mediator develops a number of steps and prepares before mediation. During this stage, the mediator takes several steps, including building confidence, focusing on the mediation process, calming both parties, seeking solutions to the problems, determining the parties' goals, and creating a conducive environment for both parties.

In inheritance disputes, the disputing parties request the mediator to mediate and assist in resolving the inheritance dispute. The mediator then invites the disputing parties to the Bima Class 1 A Religious Court to resolve the issues they are experiencing in an effort to reach a settlement and resolve the inheritance dispute.

These stages align with the mediation theory proposed by Syahrizal Abbas, which states that the mediator acts as a neutral party who helps the parties establish communication, creates a conducive atmosphere, reduces tensions, and guides them toward finding a peaceful resolution to the dispute through deliberation. According to Syahrizal Abbas, the success of mediation is greatly influenced by the mediator's ability to build trust and foster good communication between the parties (Djuhrijjani, 2024).

Similarly, research conducted by (Abdur Rahman Adi Saputera, Umar Jaya, Annisa Podungge, 2021) regarding mediation practices, PERMA Number 1 of 2016 explains that the mediator acts as an assistant who helps align the interests of the parties involved, ensures smooth communication, and guides the mediation process toward achieving a peaceful resolution.

#### **b. Mediation Implementation Stage**

Based on an interview with (Mrs. Uswatun Hasanah S.H.I., mediator and judge at the Class 1 A Religious Court, April 30, 2026), during the mediation implementation stage, the Class 1 A Religious Court requested all heirs and relevant parties to gather at the Class 1 A Bima Religious Court. Subsequently, the parties went to the mediation room.

Mediation in the mediator's notes may not be held outside the court, by bringing a letter of appointment of the mediator by the panel of judges along with a resume such as offers from the parties, offers from the defendant so that a solution/common ground can be found so that it can be resolved amicably and then submitted to the relevant mediator. In the process of resolving this inheritance dispute, the mediator acts as a leader/mediator in deliberations and is tasked with opening the deliberation session and explaining the duties of the mediator invited to the event. The mediator at the Bima Religious Court Class 1 A asked questions regarding the inheritance dispute to the disputing parties. Subsequently, the mediator explained to the parties about Islamic inheritance law/*faraid* law and also provided advice to build comfortable communication so that the inheritance dispute problem could be resolved through deliberation. Subsequently, the mediator studied the contents of the lawsuit in depth and prepared a solution to reconcile the parties. Based on an interview with (Mrs. Uswatun Hasanah, S.H.I., mediator and judge at the Bima Religious Court, Class 1 A, April 30, 2026), she stated that if one of the parties is absent and is represented by an attorney, the mediator must ensure that they have a valid power of attorney to affirm their right to participate in the mediation process. Some types of power of attorney are:

##### 1) Special Power of Attorney to accompany

A special power of attorney to accompany is a power of attorney granted by one party to another party, usually an advocate or legal representative, to represent their interests in a specific court case. This power of attorney is specifically drafted and clearly defines the legal actions authorized, and its function is to assist with questions regarding court proceedings.

##### 2) Special Power of Attorney

A special power of attorney is a power of attorney granted specifically to perform certain legal actions that, by law, must be expressly stated by the grantor. A special power of attorney is needed because the action has important legal consequences for the grantor; therefore, it is not sufficient to have a regular power of attorney or a special

power of attorney. Its function is for the parties to give authority to the attorney to sign, make decisions if he cannot be present in person, and if he is the principal and accompanied by an advocate, there is no need to make a special power of attorney.

According to Supreme Court Regulation No. 1 of 2016, the required time for mediation is 30 days. If an agreement cannot be reached, the judge can extend the period. This depends on the mediator's report on the mediation results. Similarly, (Ms. Uswatun Hasanah, S.H.I., a mediator at the Bima Religious Court, Class 1 A, on April 30, 2026), the mediation process requires a period of 30 working days "during working hours," excluding holidays or public holidays. The panel of judges can also grant more time if a party requests additional time for a specific reason.

This discussion aligns with the mediation theory proposed by Syahrizal Abbas, who states that having a specific duration for mediation is important for making the dispute resolution process effective, clear, and offering legal clarity for the parties involved. Syahrizal Abbas believes that mediators must effectively utilize the mediation period to reach an agreement without hindering the judicial process.

This research, similar to that conducted by (Abdur Rahman Adi Saputera, Umar Jaya, Annisa Podungge, 2021), states that the 30-day time limit in mediation is not always strictly followed. In reality, judges may grant longer time based on the circumstances of the case and the opportunity for a peaceful resolution.

### **c. Implementation Stage of Mediation Results**

#### **1) Report of Failed Mediation**

Based on an interview (by Ms. Uswatun Hasanah, S.H.I., mediator and judge at the Bima Religious Court, Class 1 A, April 30, 2026), it was stated that if the mediation process failed and no agreement was reached between the parties, the mediator had the authority to declare the mediation process failed by issuing a report to the panel of judges examining the case. Therefore, this inheritance case will proceed to the main case examination stage by the panel of judges on the next hearing day.

This discussion aligns with the mediation theory proposed by Syahrizal Abbas, which states that the mediator acts as an impartial individual who helps disputing parties reach a settlement. However, the mediator does not have the authority to force the parties to agree to any terms. If the parties fail to reach a settlement, the mediation can be deemed unsuccessful, and the conflict can be resolved through legal action in court.

This discussion is also supported by previous research conducted by (NURHIDAYAH, 2020), on the effectiveness of mediation in religious courts, which stated that mediation failure is generally caused by a lack of good faith from the disputing parties, prolonged conflict, and a strong desire by each party to defend its position. The study explained that if mediation fails, the case proceeds to litigation by a panel of judges.

2) Report on Mediation Success

An interview with (Mrs. Uswatun Hasanah, S.H.I., mediator judge at the Bima Religious Court Class 1A, April 30, 2026) stated that mediation is successful if an agreement or contract is reached between the two parties. If the mediation process is successful, the mediator submits a report to a panel of judges. Afterward, the parties sign a peace deed or peace agreement, and the panel of judges issues a peace decision, as the parties have reached an agreement and a deed of mutual agreement has been drawn up. According to Article 1851 of the Criminal Code, peace (*dading*) is an agreement in which both parties, by handing over, promising, or withholding an item, end an ongoing case or prevent a case from arising (Andri et al., 2022).

This discussion aligns with the theory proposed by Nurnaningsih Amriani, who states that successful mediation is characterized by the voluntary achievement of an agreement between the parties, formalized in a legally binding peace agreement or deed. With a deed, previously disputed disputes can be resolved amicably without resorting to a full trial (Ramadhani, 2022).

This discussion is similar to that of (Yusuf & Dahlan, 2025) in a journal entitled "The Legal Strength of a Mediation Deed as Part of a Divorce Decision at the Tebing Tinggi Religious Court." This study clarifies that if mediation succeeds in reaching a peace agreement, the agreement is documented in a deed of peace (*deed of van dading*). This document is legally binding and must be complied with by the parties involved, similar to court decisions. Furthermore, this study verifies that the deed of peace reflects the implementation of Supreme Court Regulation Number 1 of 2016 concerning Court Mediation Procedures.

Based on the results of the interview with (Mr. Yusuf Munajat S.H, as case analyst at the Bima Religious Court Class 1 A) the data on success and failure in the mediation process at the Bima Religious Court Class 1 A in 2026 are as follows:

Data on Success and Failure in Inheritance Cases in The Bima Religious Court Class 1/A				
No	Years	Success	Failure	Total
1.	2026 JANUARY-APRIL	3 CASES	5 CASES	8 CASES

The data outlined in the table above show the success and failure rates of inheritance mediation at the Bima Class 1A Religious Court. From January to April 2026, three cases were successfully mediated and five cases failed.

**3. Factors Influencing the Success and Failure of Mediation in Resolving Inheritance Disputes at the Bima Religious Court**

**a. Factors for the Success of Inheritance Disputes at the Bima Religious Court**

1) Role of a Neutral Mediator.

Based on an interview with Mr. Rajabuddin, S.H.I., mediator judge at the Bima Class 1 A Religious Court, April 23, 2026, he stated that a neutral mediator is crucial for the success

of mediation in inheritance disputes at the Bima Religious Court. The mediator's responsibility is to assist the parties involved in finding solutions without taking sides. A skilled mediator can foster effective communication, maintain a peaceful mediation environment, and reduce stress and emotions among the heirs. In addition, the mediator uses a family-oriented approach and Islamic principles to highlight the importance of maintaining harmonious relationships rather than fueling conflict. The mediator also clarifies the rights and share of each heir based on Islamic law/faraid, which allows the parties to fairly understand their legal standing.

2) Establishing good communication is essential

Establishing good communication is the primary responsibility of a mediator when bringing together parties involved in an inheritance dispute at the Bima Religious Court to resolve their disputes. In inheritance disputes, conflict is often influenced by emotions, feelings of injustice, and strained family relationships. Therefore, the mediator's role is to create a calm, open, and respectful communication atmosphere. The mediator provides equal opportunities for each heir to express their opinions, complaints, and desires without blaming each other. Furthermore, the mediator strives to calm the emotions of the parties involved, avoid comments that could escalate tensions, and direct the conversation toward a mutually agreeable solution. By establishing good communication, the parties are better able to understand each other's perspectives and interests, thereby increasing the likelihood of a peaceful resolution and maintaining family ties.

The discussion on the role of a neutral mediator and establishing good communication aligns with the mediation theory proposed by Syahrizal Abbas. Syahrizal Abbas stated that a mediator is an impartial and fair third party whose role is to assist the parties involved in reaching a peaceful resolution to a conflict through effective communication and discussion. The mediator does not have decision-making authority in the case, but contributes to creating a positive environment, maintaining a balanced communication process, defusing emotional tension, and motivating the parties to reach a mutual agreement. The effectiveness of mediation depends heavily on the mediator's skills in promoting strong communication, building mutual trust, and guiding the parties toward a fair and beneficial outcome for all involved (Rahmadhani, 2025).

This discussion is also supported by previous research conducted by (HAFID & ARKHAN, 2023), which highlighted the important role of mediators in maintaining justice and encouraging good communication between parties involved in inheritance conflicts. This study showed that mediators who can create a relaxed and transparent environment help achieve peaceful resolutions and reduce ongoing disputes among family members.

Furthermore, the mediator's ability to explain Islamic inheritance law is a key element of effective mediation.

**b. Factors contributing to the failure of inheritance mediation in the Bima Religious Court.**

1) Absence of the parties

Based on the researcher's interview with (Mrs. Uswatun Hasanah, S.H.I., a mediator judge at the Bima Religious Court Class 1 A, April 30, 2026), she stated that PERMA No. 1 of 2016 states that if a party is known to be absent, the mediator can file a report that cannot be implemented. If one party is unable to attend, an agreement cannot be reached to determine a decision.

2) Mediator's inability to understand the material of the lawsuit

Based on the researcher's interview with (Mr. Rajabuddin, S.H.I., a mediator judge at the Bima Religious Court Class 1 A, April 23, 2026), he stated that mediators who do not understand the subject matter of the case, the dispute, and the relationship between the parties, experience difficulties in effectively directing the inheritance mediation process.

This discussion aligns with the mediation theory proposed by Syahrizal Abbas, which suggests that the effectiveness of mediation is greatly influenced by the sincerity of the parties involved and the mediator's ability to understand the core of the conflict. Syahrizal Abbas emphasized that the presence of the parties in mediation is crucial because mediation aims to foster dialogue, align interests, and reach mutual agreements through discussion. The absence of one party can hinder the communication process and render the mediation unproductive (Yuliana et al., 2023).

This study aligns with the research conducted by (NURHIDAYAH, 2020). The study showed that the primary reason for mediation failure is the absence of the parties and a lack of a genuine willingness to participate in the mediation process. The study highlighted that if the parties are absent, discussions cannot proceed effectively, complicating the mediator's efforts to facilitate a peaceful resolution.

Furthermore, research by (Abdur Rahman Adi Saputera, Umar Jaya, Annisa Podungge, 2021) indicates that a mediator's ability to understand the details of the case is crucial for the success of mediation. When mediators do not fully understand the nature of the dispute and the legal obligations between the parties involved, they have difficulty guiding the conversation and proposing solutions that are acceptable to all parties.

## **D. Conclusion**

Based on the results of research on the resolution of inheritance disputes by mediators through mediation at the Bima Class 1A Religious Court, it can be concluded that mediation in inheritance cases is conducted in accordance with the provisions of PERMA Number 1 of 2016. The mediation process includes several stages: pre-mediation, implementation of mediation, and mediation results generation. During these stages, the mediator acts as a

neutral party, assisting the parties in establishing communication, providing an understanding of Islamic inheritance law (*faraidh*), and guiding the parties toward a peaceful resolution through deliberation. If mediation is successful, a legally binding settlement deed (deed of settlement) is prepared. If mediation fails, the case proceeds to the main case examination stage by a panel of judges.

The results also indicate that the success of inheritance mediation at the Bima Religious Court is influenced by several factors, including the mediator's neutral role, the mediator's ability to establish good communication, and the parties' good faith in amicably resolving the case. Conversely, mediation failure is influenced by the parties' absence from the mediation process and the mediator's lack of understanding of the subject matter of the lawsuit and the object of guardianship being mediated. Based on case data from January to April 2026, eight inheritance cases were mediated, three of which were successfully resolved and five failed. These data indicate that the effectiveness of mediation in inheritance resolution still needs to be improved by enhancing mediator competence, understanding Islamic inheritance law, and strengthening the parties' awareness of the importance of peaceful resolution to maintain family relationships.

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