

Violation of Legally Binding Peace Agreements Legal Implications and Resolution Solutions

Hans Karyose^{1*} | Muhammad Ansari¹ | Ade Saptomo¹

1. Universitas Borobudur, Indonesia

Coressponding author;
Hans Karyose, Universitas Borobudur, Indonesia
Email: hanskaryose@gmail.com

Abstract. Disputes arise between two or more parties when one party feels dissatisfied or harmed. Fundamentally, disputing parties are granted the freedom to determine their preferred dispute resolution mechanisms. According to Laura Nader and Harry F. Todd, disputes evolve through three stages: (1) Pre-conflict, characterized by underlying dissatisfaction; (2) Conflict, when the parties become aware of the dissatisfaction; and (3) Dispute, where the conflict is openly expressed or involves a third party. Legally binding peace agreements are crucial instruments for resolving disputes across various legal domains, including civil, criminal, and administrative law. However, in practice, there are frequent instances where one party fails to uphold the terms of a court-ratified peace agreement. This paper examines the legal aspects of violations of legally binding peace agreements, their implications, and the potential solutions to ensure the sustainable implementation of such agreements.

Keywords: Violations; agreements; resolution solutions

INTRODUCTION

L. J. Van Apeldoorn posits that the primary purpose of law is to regulate social interactions peacefully. Law seeks to promote peace, an idea encapsulated in the prologue of ancient Germanic folk law, “Franka Salis,” written approximately 500 years BCE. In ancient Germania, legal order was synonymous with peace (Vrede). Judicial decisions were referred to as Vredeban or Vredegebod, while crimes were seen as violations of peace (Vredebrek), and criminals were labeled as Vredeloos, meaning “outlawed” or excluded from legal protection.

Law safeguards peace among individuals by protecting certain human interests—such as dignity, freedom, life, and property—from harm. Individual and group interests, however, often conflict, leading to disputes and even wars if left unresolved by the law. Law maintains peace by carefully balancing conflicting interests, creating equilibrium, and achieving fairness. Only through equitable regulation can the law fulfill its purpose of ensuring a harmonious social order, where everyone receives a fair share. In Indonesia’s civil law system, disputes can be resolved through litigation (court proceedings) or non-litigation (out-of-court mechanisms). One widely utilized non-litigation method is the peace agreement (amicable settlement).

Peace agreements hold a significant position as a faster, more cost-effective alternative to court proceedings while preserving the relationship between disputing parties. These agreements represent mutual decisions by disputants to end their conflict voluntarily. Typically documented in written form, peace agreements bind the parties to comply with the terms. In civil law contexts, such agreements are recognized and protected by law as a legitimate method of dispute resolution.

The importance of peace agreements in civil dispute resolution warrants further study due to their potential to create win-win solutions. A comprehensive understanding of their legal standing can enhance

the effectiveness and efficiency of Indonesia's civil justice system. The legal foundation for peace agreements in Indonesian civil law is supported by Article 1851 of the Civil Code (KUHPerdata), which defines a settlement as an agreement where parties commit to certain terms to resolve or prevent disputes.

In judicial practice, peace agreements are also known as mediation. The Supreme Court of Indonesia issued Regulation No. 1 of 2016 concerning Mediation Procedures in Courts, mandating mediation before civil case examinations. This demonstrates Indonesia's legal system's emphasis on amicable settlement.

Peace agreements have legal force equivalent to final court rulings (Inkracht van Gewijsde). Once agreed upon, they are binding and enforceable, allowing for execution if either party defaults on their obligations. However, it is important to note that not all civil cases can be resolved through peace agreements. Issues involving personal legal status or public interests must still proceed through litigation.

Despite the advantages, there are instances where parties breach the terms of a peace agreement they previously signed. Such violations raise questions about applicable sanctions and legal mechanisms to enforce compliance. Amicable settlements aim to avoid lengthy, costly court processes. Once achieved, these agreements are often formalized in a contract and ratified by a court, granting them permanent legal force. Nonetheless, breaches by one party necessitate recourse to appropriate legal measures to uphold the agreement and ensure justice.

LITERATURE REVIEW

Peace Agreements in the Indonesian Legal System

Peace agreements, as regulated under Indonesian law in both civil and criminal cases, play a significant role in resolving disputes more effectively and efficiently. In the civil context, peace agreements are governed by Article 1851 of the Indonesian Civil Code (KUHPerdata), which stipulates that a legitimate agreement carries binding legal force.

Implementation of Legally Binding Peace Agreements

Once a peace agreement is approved by the relevant parties and ratified by the court, it becomes a legally binding mandate that must be executed by the parties involved. Legally binding peace agreements are considered final and cannot be contested, except under specific legal grounds that justify their annulment.

Violations of Legally Binding Peace Agreements

Violations of legally binding peace agreements can occur when agreed-upon obligations, such as payments, the return of goods, or other commitments, are not fulfilled. In such cases, the aggrieved party is entitled to demand enforcement of the agreement through legal mechanisms.

METHOD

The research methodology employed in this study is the Empirical Juridical Method, which views law as a societal phenomenon, functioning as a social institution or patterned behavior. This approach represents a type of sociological legal research and is often referred to as field research. It examines both the applicable legal provisions and their practical implementation in societal life.

DISCUSSION

Legal Basis for Implementing Peace Agreements

Under Indonesian law, once a peace agreement is ratified by the court and gains legal force, it cannot be annulled or modified by the involved parties except for specific reasons stipulated in the

legislation. A violation of such an agreement with legal force is considered a breach of contract (wanprestasi).

Sanctions for Breach of Peace Agreements

Violations of peace agreements may attract various legal sanctions, including civil and criminal penalties. In civil law, the non-compliant party can be sued for damages or, in certain cases, be subjected to a court execution to enforce the agreement. Additionally, if the breach involves a specific obligation, the aggrieved party can request a court order for its enforcement.

Dispute Resolution Mechanisms for Violating Peace Agreements

Various steps can address disputes arising from violations of peace agreements, including:

- a. Mediation or Renegotiation

Despite the binding nature of peace agreements, parties may attempt dialogue or renegotiation to find a mutually beneficial resolution.

- b. Court Execution

If mediation fails, the aggrieved party can petition the court to enforce the agreement through legal compulsion, such as asset seizure.

Violations of peace agreements not only affect the legal relationship between the disputing parties but also have the potential to impact social and economic aspects. The legal uncertainty caused by such violations can erode public trust in the judicial system, which may reduce participation in resolving disputes through peaceful means.

Economically, violations of peace agreements can result in financial losses for the aggrieved party and impose additional burdens such as litigation costs and wasted time in seeking alternative resolutions. Parties who fail to comply with legally binding peace agreements must face strict and effective sanctions to ensure the enforcement of court decisions and uphold the integrity of the judicial system. Furthermore, dispute resolution through peaceful approaches remains an important option, despite the challenges in its implementation. Therefore, a stronger mechanism is needed to ensure the enforcement of peace agreements, whether through mediation, court execution, or other legal measures.

The Role of Mediators in Handling Criminal Cases for Restorative Justice Dispute Resolution
Indonesian criminal law generally does not recognize mediation as a mechanism for resolving criminal cases. However, certain criminal cases can be resolved amicably, such as:

- a. Complaint offenses that can be terminated if a peace agreement is reached between the perpetrator and the victim, and the victim withdraws their complaint.
- b. Juvenile criminal cases.
- c. Through the discretion of law enforcement officials.
- d. Through customary institutions.

Mediation in criminal law is a process of resolving criminal cases by bringing together the perpetrator and the victim to reach a mutual agreement. According to Article 130(2) of the Indonesian Civil Procedure Code (HIR), a peace deed has the same legal force as a final and binding court decision, against which no appeals or cassation can be filed. Because it is final and binding, such a peace deed immediately has executory force. The Akta van Dading is a peace deed regulated under Article 1851 of the Indonesian Civil Code and Article 130 of the HIR. Article 1851 of the Civil Code explains that the legal force of a peace deed is equivalent to a regular judge's decision and is enforced in the same manner. However, it cannot be appealed or cassated. A peace deed or Akta van Dading may be annulled if its contents contradict the law. If any party violates or breaches the agreement, it can be enforced by the court because the deed has been registered with the District Court. In Indonesian law, if one party fails to fulfill their obligations under a peace agreement established through mediation and possessing binding legal force, the legal basis may refer to several provisions as follows:

1. Indonesian Civil Code (KUHPPerdata):

a. Article 1338 of the Civil Code

Stipulates that all legally made agreements serve as law for the parties who made them. If one party fails to fulfill the agreement, the other party may demand its enforcement.

b. Article 1243 of the Civil Code

States that if the debtor fails to meet their obligations, the creditor may claim compensation after formal notification (summons).

2. Legal Provisions for Breach of Mediation Agreements:

a. Law Number 30 of 1999 on Arbitration and Alternative Dispute Resolution (Arbitration Law):

If mediation is conducted as part of the alternative dispute resolution process governed by this law, the mediation results, once agreed upon and documented in writing, are binding on the parties. Any breach of the agreement may be brought to court for enforcement.

c. Court Decisions with Permanent Legal Force (Inkracht):

If a peace agreement is ratified by the court, a breach may be considered a violation of the court's decision. In this case, the aggrieved party may file an enforcement application with the court under Article 196 of the HIR or Article 207 of the RBg.

d. Supreme Court Regulation (PERMA) Number 1 of 2016 on Court Mediation Procedures:

Successful mediation typically results in a peace deed approved by a judge. This deed has executorial force and can be directly enforced if any party fails to comply.

3. Legal Steps If a Peace Agreement Is Breached:

a. Summons (Written Warning): Issue a summons to remind the defaulting party to promptly fulfill their obligations.

b. Filing for Enforcement in Court:

If the peace agreement has been ratified in a peace deed or as part of a court decision, the aggrieved party may submit an enforcement application to the court.

c. Claiming Damages: If the breach causes losses, the aggrieved party may file a civil lawsuit to claim compensation.

In law, if one party fails to comply with a peace agreement reached during mediation and holding permanent legal force (usually ratified in the form of a peace deed by the court), the aggrieved party may take the following legal steps:

1. Enforcement of Peace Agreements

If the peace agreement has been ratified by the court (as part of a court decision or documented in an executorial deed), it can be enforced like a court ruling.

a. The aggrieved party may file an enforcement application with the court that ratified the agreement.

b. The court will order the execution of the agreement's content in accordance with legal procedures.

2. Breach of Contract Lawsuit

If the peace agreement is not ratified by the court (merely an informal agreement), the aggrieved party may file a breach of contract (wanprestasi) lawsuit in court.

a. The legal basis for this lawsuit is Articles 1238 and 1243 of the Indonesian Civil Code (KUHPer), which regulate the obligation to fulfill agreements and the consequences of breach of contract.

b. The aggrieved party may demand fulfillment of the agreement, compensation, or annulment of the agreement, depending on the circumstances.

3. Mediation Compliance Review

If mediation is conducted formally and facilitated by an official mediator, the court typically monitors the implementation of the agreement. If a non-compliant party breaches the agreement, the court has the authority to take further actions to enforce compliance.

4. Potential Sanctions

In certain cases, if the peace agreement involves specific legal obligations (e.g., debt payment or return of goods) and the defaulting party commits a significant breach, such a violation may result in additional sanctions, such as asset confiscation through the court.

CONCLUSION

Peace agreements play a crucial role in resolving civil disputes in Indonesia. These agreements, referred to as “Perdamaian” or “Dading,” offer a prudent, economical, and conciliatory alternative to court proceedings. This is recognized in various laws and regulations, particularly the Indonesian Civil Code (KUHPerdata) and Supreme Court Regulations (PERMA). Peace agreements ratified by the court hold the same legal force as binding court decisions and cannot be appealed. This ensures legal clarity for the disputing parties and can be enforced if one party fails to fulfill their commitments. However, the application of peace agreements is limited to cases that do not concern a person's legal status or matters of public interest, which must be decided by the court. Therefore, peace agreements serve as a vital mechanism to enhance the efficiency and effectiveness of dispute resolution within the framework of Indonesian civil law. The aggrieved party has the right to pursue legal avenues according to the legal status of the peace agreement. If the agreement has permanent legal force, court enforcement is the most effective step. If not, a breach of contract lawsuit is a viable option. It is advisable to consult a lawyer to ensure the legal process proceeds accurately and efficiently.

REFERENCE

Ali, A. (2004). *Sosiologi hukum: Kajian empiris terhadap pengadilan* (pp. 1, 29). STIH IBLAM.

Bagenda, C. (2023). *Hukum perdata*. Widina Bhakti Persada.

Friedman, L. M. (1975). *The legal system: A social science perspective* (pp. 3–4). Russell Sage Foundation.

Indonesian Civil Code (KUHPer).

Law on Arbitration and Alternative Dispute Resolution of Indonesia, Law No. 30, LN.No.138 of 1999, TLN No. 3872, Article 1 Point 10.

Lestari, J. T., & Suwondo, D. (2022). Kekuatan hukum perjanjian perdamaian secara mediasi terhadap korban kekerasan psikis dan hubungan pacaran. *Konstelasi Ilmiah Mahasiswa Unissula*, 7, 72–89.

Lie, C., Natasha, Clarosa, V., Yonatan, Y. A., & Hadiati, M. (2023). Pengenalan Hukum Kontrak dalam Hukum Perdata Indonesia. *Jurnal Kewarganegaraan*, 7(1). Doi: <https://doi.org/10.31316/jk.v7i1.4831>

Mansyurin, M. R., & Putra, P. S. (2023). Pertanggungjawaban perdata dalam akta perdamaian (Studi Putusan PN Karawang Nomor 81/PDT.G/2022 PN Kwg). (*Unpublished manuscript or article—please clarify if it's a journal, thesis, etc.*)

Mertokusumo, S. (2009). *Hukum acara perdata Indonesia*. Liberty.

Salim, H. S. (2018). *Penyelesaian sengketa dan pelaksanaan keputusan pengadilan*. Refika Aditama.

Suherman, A. (2020). *Penyelesaian sengketa melalui kesepakatan damai di Indonesia*. Pustaka Hukum.

Supreme Court Regulation (PERMA) Number 1 of 2016.