

Settlement of the Malamoi Community Customary Land Dispute in Sorong Regency: A Review of Legal and Social Aspects

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Abstract: The resolution of land disputes in Sorong Regency, West Papua, highlights the complexity of issues involving the Malamoi indigenous community and other parties. This research uses an empirical approach to understand the dispute resolution process and the obstacles faced. The results showed that the settlement was conducted through out-of-court peaceful channels, known as Alternative Dispute Resolution (ADR), such as mediation and deliberation. Although court institutions exist, the ADR approach is more in line with the values and needs of indigenous peoples, who tend to prioritize harmonization and quick resolution. However, there are internal and external barriers, such as emotional temperament and third-party interference, which affect the resolution process. Overcoming these obstacles requires awareness of the importance of deliberation in dispute resolution, as well as the active role of all parties. Land dispute resolution in Sorong Regency requires an inclusive and adaptive approach, combining formal institutions and alternative methods to achieve broader justice for all parties involved.

Keywords : Land Dispute; Indigenous Peoples; Malamoi; Southwest Papua.

Abstrak: Penyelesaian sengketa tanah di Kabupaten Sorong, Papua Barat, menyoroti kompleksitas masalah yang melibatkan masyarakat adat Malamoi dan pihak lain. Penelitian ini menggunakan pendekatan empiris untuk memahami proses penyelesaian sengketa dan kendala yang dihadapi. Hasil penelitian menunjukkan bahwa penyelesaian dilakukan melalui jalur perdamaian di luar pengadilan, dikenal sebagai Penyelesaian Sengketa Alternatif (ADR), seperti mediasi dan musyawarah. Meskipun lembaga pengadilan ada, pendekatan ADR lebih sesuai dengan nilai-nilai dan kebutuhan masyarakat adat, yang cenderung mengutamakan harmonisasi dan penyelesaian yang cepat. Namun, terdapat hambatan internal dan eksternal, seperti temperamen emosional dan campur tangan pihak ketiga, yang mempengaruhi proses penyelesaian. Untuk mengatasi hambatan tersebut, diperlukan kesadaran semua pihak akan pentingnya musyawarah dalam penyelesaian sengketa, serta peran aktif dari semua pihak. Penyelesaian sengketa tanah di Kabupaten Sorong membutuhkan pendekatan inklusif

dan adaptif, menggabungkan lembaga formal dan metode alternatif untuk mencapai keadilan yang lebih luas bagi semua pihak yang terlibat.

Kata Kunci : Sengketa Tanah; Masyarakat Adat; Malamoi; Papua Barat Daya.

INTRODUCTION

Hak Ulayat is a legacy from the ancestors of the local indigenous community since ancient times, which is a form of ancient and traditional rights that are hereditary and collective in an area owned by the indigenous community. This right is recognized and respected by the state in accordance with the constitutional provisions contained in Article 18 B of the 1945 Constitution, and is further regulated in Law No. 32 of 2004 in conjunction with Law No. 12 of 2008 on Regional Government. This recognition and appreciation of traditional rights reflects that Ulayat rights have been recognized as an integral part of the entity's existence before the establishment of the Indonesian state. Therefore, Hak Ulayat is not a right granted by the state, but is an inherent right of customary law communities. As with other fundamental rights such as the right to life, the right to property, and the right to family, the revocation of Ulayat Rights would be contrary to the constitution.¹

In the context of customary law,² There is a very close relationship between customary law communities as a unit and the land they inhabit. This relationship stems from a view that has a religio-magical dimension. This strong and religio-magical attachment gives the customary law community the right to control and utilize the land, as well as collect the products of the plants that grow there and also hunt the animals that live around the customary land.³

As land plays an important role in human life, it is often a source of disputes between individuals. This is due to the increasing human need for land that is not proportional to its limited availability.⁴ Every year, land disputes are increasing and spread across various regions in Indonesia, both in urban and rural areas. Land dispute cases often involve conflicts of interest between parties such as:

¹ Fathul Hamdani and Ana Fauzia, "Fathul Hamdani Dan Ana Fauzia Tradisi Merariq Dalam Kacamata Hukum Adat Dan Hukum Islam TRADISI MERARIQ DALAM KACAMATA HUKUM ADAT DAN HUKUM ISLAM MERARIQ TRADITION IN CUSTOMARY LAW AND ISLAMIC LAW PERSPECTIVE," *Jurnal Hukum Lex Generalis*, 2022 - *Rewangrencang.Com* vol 3 No 6 (2022) (2022): 433–47, <https://jhlq.rewangrencang.com/>.

² Lastuti Abubakar, "Revitalisasi Hukum Adat Sebagai Sumber Hukum Dalam Membangun Sistem Hukum Indonesia," *Jurnal Dinamika Hukum* 13, no. 2 (2013): 319–31, <http://dinamikahukum.fh.unsoed.ac.id/index.php/JDH/article/view/213>.

³ Emanuel Boho dkk, "Kepastian Hukum Mengenai Hak Pengelolaan Hutan Masyarakat Adat Moskonah Di Kabupaten Teluk Bintuni," *Journal of Law Justice* xx, no. 1 (2023): 1–17.

⁴ Elwi Danil, "Konstitusionalitas Penerapan Hukum Adat Dalam Penyelesaian Perkara Pidana," *Jurnal Konstitusi* 9, no. 3 (2016): 583, <https://doi.org/10.31078/jk938>.

1. People dealing with bureaucracy.
2. People dealing with state-owned companies.
3. People dealing with private companies.
4. Conflicts between people.

This situation reflects the complexity of land issues that need to be taken seriously to prevent conflict escalation and find fair solutions for all parties involved.⁵ In almost every region where there is a land dispute, the parties involved and authorized to deal with the issue have tried various means of settlement. Two common ways of settlement that have been pursued are through the courts (litigation) and out-of-court settlements (non-litigation).

In the juridical dimension, land tenure and ownership require strong legal protection. This means that civil rights related to land ownership must be protected, and fair treatment of land ownership must be ensured.⁶

Protracted and unresolved land disputes may encourage aggrieved parties to file a lawsuit in court. This court process allows the disputants to fight for their rights before an authorized legal institution.⁷ Through the court, the parties can present their evidence and arguments, and the judge will make a decision based on the applicable law as well as the facts presented.

However, it is important to remember that litigation can also be time-consuming and costly.⁸ Therefore, out-of-court settlements, such as mediation or negotiation, are often sought first to reach an agreement without having to go through the lengthy and expensive process of litigation. However, if the out-of-court settlement does not yield results, then the court becomes the alternative to seek justice in the land dispute.⁹

It is true that while there is an opportunity to file a lawsuit through the courts, many lay parties tend to avoid it. This is due to the notion in society that litigation tends

⁵ Muhammad Dahlan, "Rekognisi Hak Masyarakat Hukum Adat Dalam Konstitusi," *Undang: Jurnal Hukum* 1, no. 2 (2019): 187–217, <https://doi.org/10.22437/ujh.1.2.187-217>.

⁶ Asliani Harahap, "Pembaharuan Hukum Pidana Berbasis Hukum Adat," *Jurnal Edutech* 4, no. 2 (2018): 1–9, <http://jurnal.umsu.ac.id/index.php/edutech/article/view/2268>.

⁷ Zaka Firma Aditya, "Romantisme Sistem Hukum Di Indonesia : Kajian Atas Kontribusi Hukum Adat Dan Hukum Islam Terhadap Pembangunan Hukum Di Indonesia," *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 8, no. 1 (2019): 37, <https://doi.org/10.33331/rechtsvinding.v8i1.305>.

⁸ Nurul Hakim, "Konflik Antara Al-'Urf (Hukum Adat) Dan Hukum Islam Di Indonesia," *Jurnal EduTech* 3, no. 2 (2017): 54–63.

⁹ Irfan Ramli, Wahab Aznul Hidayat, and Muharuddin Muharuddin., "'Penghentian Perkara Berdasarkan Restorative Justice Dalam Perkara Tindak Pidana Pencurian Di Kota Sorong,'" *Journal of Law Justice (JLJ)* 1, no. 2 (2024): 89–108.

to be expensive, time-consuming and often convoluted.¹⁰ Therefore, people tend to seek dispute resolution through non-litigation channels.

Settlements through the courts aim to achieve justice and legal certainty, while out-of-court settlements are more focused on peace between the disputing parties. The goal is not only to find who is right or wrong, but rather to reach an agreement that is beneficial to all parties involved.

Non-litigation dispute resolution, known as Alternative Dispute Resolution (ADR), is regulated in Law Number 9 Year 1999 on Arbitration and Alternative Dispute Resolution.¹¹ It falls under the category of cooperative dispute resolution, with the aim of achieving a win-win solution for all parties involved. ADR was developed by legal practitioners and academics as a more accessible and equitable alternative to dispute resolution.

In the beginning, most of the area in Sorong Regency was a forest area overgrown with shrubs.¹² Later, local people or migrants cleared and cultivated this land to grow food crops, especially tubers, sago, fruits and others. These land rights were acquired by the community through the process of clearing forest land for gardens.¹³

Initially, the farm was run as a "Gelet/Keret" enterprise, where each family had a share that was worked on independently. Within the framework of adat administration, everything related to these activities belongs to the "Gelet/Keret". As a result, the head of the Gelet/Keret has the right and authority to determine the use, ownership and utilization of land in the "Gelet/Keret" area. The head of the Gelet/Keret is responsible for determining the time and location where all residents together open the land for farming activities.¹⁴

In the Malawor area of Sorong Regency, land is considered the property of the Gelet or Ulisio in the local language. The head of the Gelet, called "Ulisio", divides the land among the adult male members. Land owned by a father is then divided among his sons and daughters when they marry or after the father dies.

Even if the plantation is left abandoned by the owner, or not taken care of because the owner left for a while, according to Gelet custom, he still maintains the right

¹⁰ Wahab Aznul Hidayat, "Penerapan Diversi Dalam Sistem Peradilan Pidana Anak," *Justisi* 5, no. 2 (2019): 84–96, <https://doi.org/10.33506/js.v5i2.543>.

¹¹ Abubakar, "Revitalisasi Hukum Adat Sebagai Sumber Hukum Dalam Membangun Sistem Hukum Indonesia."

¹² Nurul Hakim, "Konflik Antara Al-'Urf (Hukum Adat) Dan Hukum Islam Di Indonesia."

¹³ Kristi W Simanjutak and Rajab Hukum, Lestahulu, "Peranan Seksi Pengendalian Dan Penanganan Sengketa Hak Atas Tanah Di Kabupaten Nabire," *Journal of Law Justice (JLJ)* 1, no. 1 (2023): 52–57.

¹⁴ Harun Salfie, Rajab Lestahulu, and Muharuddin Muharuddin, "Dowry Giving in the Customary Marriage of Kofalit Village, Salkma District, South Sorong Regency," *Journal of Law Justice (JLJ)* 2, no. 1 (2024): 53–66.

relationship to the land. In the community's understanding of customary land in Sorong District, there are two types of customary land, namely land that is still communal (controlled jointly) and customary land that is already individual, which is generally controlled by the Gelet Chief.¹⁵

In these areas, there have been frequent land disputes relating to land ownership and control. These disputes are generally civil disputes between local residents related to land issues, both related to land ownership and control. The source of disputes often comes from customary land or its objects.

In addition to inter-community disputes, there have also been disputes between indigenous peoples and the government related to land acquisition for transmigration settlement sites by the Sorong District Government.

In resolving the problems they face, people have their own ways that they consider more effective. Although there are court institutions provided by the government to resolve disputes, they prefer out-of-court or non-litigation settlements.¹⁶ Non-litigation settlements are chosen because they are considered faster, more affordable, and peaceful resolution through deliberation. Historically, Indonesian culture highly values deliberation and consensus approaches.¹⁷

Based on the description above, two main problems can be drawn: (1) Dispute Resolution Process by the Malamoi Community: How is the customary land dispute resolution process carried out by the Malamoi Community? This includes the concrete steps taken by the community in resolving land disputes, including the use of customary mechanisms, deliberation, or other non-litigation approaches. This question addresses how local communities manage land disputes in accordance with their traditions and culture. (2) Obstacles to Land Dispute Resolution in Sorong District: What are the obstacles to land dispute resolution in Sorong District? This covers obstacles that may arise during the dispute resolution process, such as differences in views between the disputing parties, insufficient regulations, economic, social and political factors, and challenges in accessing the justice system.

¹⁵ Serena Ghean Niagara and Candra Nur Hidayat, "Penyelesaian Sengketa Nonlitigasi Ditinjau Dari Undang-Undang Nomor 10 Tahun 1998 Tentang Perbankan Dan Undang-Undang Nomor 30 Tahun 1999 Tentang Arbitrase Dan Alternatif Penyelesaian Sengketa," *Jurnal Surya Kencana Dua: Dinamika Masalah Hukum Dan Keadilan* 7, no. 1 (2020): 75–99.

¹⁶ Dewi Tuti Muryati and B. Rini Heryanti, "Pengaturan Dan Mekanisme Penyelesaian Sengketa Nonlitigasi Di Bidang Perdagangan," *Jurnal Dinamika Sosbud* 13, no. 1 (2011): 49–65.

¹⁷ Firda Ainun Fadillah and Saskia Amalia Putri, "Alternatif Penyelesaian Sengketa Dan Arbitrase (Literature Review Etika)," *Jurnal Ilmu Manajemen Terapan* 2, no. 6 (2021): 744–56, <https://doi.org/10.31933/jimt.v2i6.486>.

METHOD

This research uses an empirical approach to examine the settlement of customary land disputes of the Malamoi community in Sorong Regency, West Papua. Conducted in Malagasi Village, Makbon District, Sorong Regency, an area known for land conflicts, this research collects primary data through direct interviews with landowners in dispute and related parties in the field, accompanied by secondary data collection from various indirect sources such as laws and regulations, previous research results, scientific books, and internet media. Data collection techniques include literature studies for secondary data and field studies for primary data, focusing on interviews with parties involved in the dispute as well as related agencies such as the Sorong Regency Government and the Sorong Regency Defense Agency. The data analysis carried out is descriptive type with a qualitative approach, where the data generated from primary and secondary sources provide a clear and real picture of the problem of land disputes presented descriptively in accordance with field reality.

DISCUSSION

A. The Process of Settlement of the Malamoi Community's Customary Land Dispute

From the results of research conducted by the author, there were 11 cases of land disputes that occurred in Sorong Regency during 2021. The disputes involved various parties, including disputes between the Malamoi community and migrants, as well as internal disputes between the Malamoi community itself.

This suggests that the issue of land disputes in the area is significant and complex, involving a variety of different factors and parties. This emphasizes the importance of effective and sustainable dispute resolution to prevent further conflict and ensure peace and justice for all parties involved.

Table I. Data on the number of disputes received in 2021

No	DESCRIPTION					Problem
	Reporter	Reporting	Location	Broad	Status	
1	Donny Pramudya Mahardi on behalf of Yonzipur 20/PPA Sorong	Jenie Grace wowiling, Silfia, Mintje Paus, Budi Yanto Tios	Klabinain Village, Aimas Subdistrict	200.000 M ²	Right of use	Mediation is completed, Settlement is returned to the parties

Regency							
2.	Sulasih	Nur Asmi	Klaben Village, Mariat Gunung Subdistrict	720.000 M ²	Customary Land	Mediation completed, Settlement is returned to the parties	is
3.	Iriyanti	Rustam	Malawili Village, Aimas Subdistrict	486 M ²	Property Rights	Mediation completed, Settlement is returned to the parties	is
4.	Damus Usmany on behalf of Dolfince Sarce Haurissa	PT. PLN Persero	Malawili Village, Aimas Subdistrict	337 M ²	Property Rights	Mediation completed, Settlement is returned to the parties	is
5.	Damus Usmany on behalf of Kartini Umasangadji and Retna Purbawati and Setia Perangin-Angin	Retna Purbawati and Setia Perangin-Angin	Makbusun Village, Mayamuk Subdistrict	10.000 M ²	Property Rights	Mediation completed, Settlement is returned to the parties	is
6.	Ehut Kalaibin	Orpa Kodey	Aimas Village, Aimas Sub-district	5.471 M ²	Property Rights	Mediation completed, Settlement is returned to the parties	is
7.	Muhammad Rizal on behalf	Puji Santoso	Malawele Village,	2.500 M ²	Property Rights	Mediation completed,	is

	of Muhammadiyah		Aimas Subdistrict			Settlement is returned to the parties
8.	Markus Ramba	Yohanis Gifelem, Karel Gifelem, Decky Mainolo, Anthonia P. Siwabessy, Maizar, Fuad Firmansyah, Luther Kokmala, Yance Kokmala, Hengky	Makbusun Village, Mayamuk Subdistrict	120.000 M ²	Property Rights	Mediation is completed, Settlement is returned to the parties
9.	Sutikno	Pasha Heri Kabianto	Makbalim Village, Mayamuk Subdistrict	17.500 M ²	Customary Land	Mediation is completed, Settlement is returned to the parties
10	Dorika Naa	Risto	Klasmelek Village, Mayamuk Subdistrict	20.000 M ²	Customary Land	Mediation is completed, Settlement is returned to the parties
11	Wesley Turisman Ngohal on behalf of PT	Herkanus Makmini	Malawele Village, Aimas Subdistrict	7.500 M ²	Property Rights	Mediation is completed, Settlement is

PLN (Persero)

returned to the
parties

Source: Dispute, Conflict and Case Management Section of Sorong District Land Office, Southwest Papua Province.

In the cases mentioned, dispute resolution is done through an out-of-court settlement, known as Alternative Dispute Resolution (ADR). This out-of-court settlement is recognized in Indonesian legislation.

First, in the explanation of Article 3 of Law No. 4/2004, which has been revised by Law No. 48/2009 on the Basic Provisions of Judicial Power, it is stated that "Settlement of cases outside the court, on the basis of peace or through a referee (arbitration), is still allowed".¹⁸

Second, in Law Number 30 Year 1999 on Arbitration and Alternative Dispute Resolution, Article 1 point 10 explains that "Alternative Dispute Resolution is an institution for resolving disputes or differences of opinion through procedures agreed upon by the parties, namely out-of-court settlement by means of consultation, negotiation, mediation, or expert judgment."¹⁹

As such, ADR is recognized as a legitimate method of resolving disputes outside of court, and various forms of ADR such as mediation, negotiation, and expert judgment can be used to achieve peace and solutions that are acceptable to all parties involved.²⁰

The data obtained shows that Alternative Dispute Resolution (APS) is still very necessary and effective in dispute resolution in Sorong Regency, especially in the context of land disputes between the Sorong Regency Government and the Malamoi indigenous community regarding land acquisition for transmigration settlements.

For example, through mediation involving mediators from the National Land Agency (BPN) and the Malamoi Indigenous People's Consultative Council (Lemasa), an agreement was reached whereby the Sorong District Government was able to obtain permission to clear land for transmigration settlements by providing compensation to the Malamoi indigenous people.

This data highlights that although the courts established by the government aim to realize justice in society, in some cases, such as land disputes between indigenous

¹⁸ Nurbaedah Nurbaedah, "Penyelesaian Sengketa Sumber Daya Agraria Pada Tanah Perkebunan Bekas Hak Guna Usaha," *DIVERSI: Jurnal Hukum* 6, no. 2 (2020): 220, <https://doi.org/10.32503/diversi.v6i2.1350>.

¹⁹ Januar Ramadhani, "Konflik Sengketa Tanah Antara Warga Kelurahan Pacar Keling Dengan PT. Kereta Api Indonesia Daop 8 Kota Surabaya," *E-Journal Hukum Universitas Airlangga*, 2018, 2–16, https://repository.unair.ac.id/75011/3/JURNAL_Fis.P.58_18_Ram_k.pdf.

²⁰ 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.

communities and the government, the courts have not been able to fully meet the needs of the community in creating justice.²¹

In this context, APS, such as mediation, provides a faster, more effective and culturally appropriate alternative to the needs of local communities in dispute resolution. This demonstrates the importance of an inclusive and adaptive approach to dispute resolution, incorporating both formal institutions such as courts and alternative methods such as mediation to achieve broader and sustainable justice for all parties involved.²²

The non-litigation dispute resolution or ADR approach is very much in line with the character and lifestyle of a family-based society.²³ In contrast to court settlements that are often confrontational and emphasize the concept of winning and losing, alternative settlements pay more attention to social and familial aspects of society.

From interviews with local community leaders, it was concluded that the Malamo indigenous community chose settlement through deliberation as the first option before considering legal channels.²⁴ The rationale behind this choice is that alternative solutions prioritize harmonization in community life and take into account the diverse interests that exist in a heterogeneous society.²⁵

Dispute resolution through deliberation is also in line with indigenous values, which are based on a sense of solidarity, communalism, and willingness to sacrifice for the common good.²⁶ In addition, settlement through deliberation is considered cheaper and faster than litigation, which is costly and time-consuming.

²¹ Made Oka Cahyadi Wiguna, "Peluang Penyelesaian Sengketa Perdata Tentang Tanah Melalui Alternative Dispute Resolution," *Masalah-Masalah Hukum* 47, no. 1 (2018): 47, <https://doi.org/10.14710/mmh.47.1.2018.47-55>.

²² Leonardo Richo Soemarto, "Jurnal Darma Agung PENYELESAIAN SENGKETA PADA BILATERAL INVESTMENT TREATIES (BITS) YANG MELIBATKAN INDONESIA Fakultas Hukum Universitas Indonesia , Jakarta , Indonesia Corresponding Author : Leonardo Richo Soemarto 1), Mediasi Dan Konsiliasi Sebagai Alternatif Penyelesaian Sengketa Pada Bilateral Investment Treaties (Bits) Yang Melibatkan Indonesia Menjamin Perlindungan Pelaksanaan PMA Adalah Dengan Adanya Implementasi Bertujuan Untuk Melindungi Dan Mendorong Investasi Di Antara Negara-Negara Yang BITs Sejak Dibuatnya Konvensi International Centre for Settlement of Investment Disputes (ICSID) Atau Disebut Sebagai Konvensi ICSID Pada Tahun 1965 (Herian , 2020). Sengketa," 2023, 176–87.

²³ Made Oka Cahyadi Wiguna, "Peluang Penyelesaian Sengketa Perdata Tentang Tanah Melalui Alternative Dispute Resolution Dengan Asas-Asas Hukum Perjanjian Di Dalamnya," *Jurnal Hukum & Pembangunan* 48, no. 3 (2018): 506, <https://doi.org/10.21143/jhp.vol48.no3.1743>.

²⁴ Tuti Muryati and Rini Heryanti, "Pengaturan Dan Mekanisme Penyelesaian Sengketa Nonlitigasi Di Bidang Perdagangan."

²⁵ Chrisna Bagus Edhita Praja, Budi Agus Riswandi, and Khudzaifah Dimiyati, "Urgensi Mediasi Sebagai Alternatif Penyelesaian Sengketa Hak Cipta," *Kertha Patrika* 43, no. 3 (2021): 275, <https://doi.org/10.24843/kp.2021.v43.i03.p04>.

²⁶ Tanah Di, Desa Gandatapa, and Kabupaten Banyumas, "Pelatihan Pengurusan Kepemilikan Dan Penyelesaian Sengketa" 4 (2022): 258–63.

In addition, there is a belief in the community that settlement through the courts will only benefit parties who have relatively high power and wealth. Therefore, people tend to avoid court settlements and prefer non-litigation approaches.²⁷

This shows that in the context of indigenous peoples in Sorong Regency, alternative dispute resolution is not just an option, but a way that is in accordance with the values and needs of local communities.²⁸ Although not based on a classification of dispute types, this approach still follows the basics of dispute resolution rules, both in process and in applicable material law, taking into account the characteristics and needs of indigenous peoples holistically.²⁹

In resolving land disputes through non-litigation or alternative means, there are several stages that must be passed:³⁰

1. Deliberation Stage:
 - a. Preparation: Determine the mediator/intermediary, understand the dispute, determine the place and time of deliberation, and prepare other necessary matters.
 - b. Opening: Listening to the testimonies of the disputing parties and witnesses.
 - c. Closing: Summarizing the discussion, drafting a statement of peace, and signing the agreement by the disputing parties.
2. Implementation Stage of the Consultation Results: The parties implement the agreement that has been reached voluntarily.
3. Closing Stage of the Deliberation: The deliberation is closed by the competent party.

Based on the experiences and information from respondents, there is a process of complaints from Malamoi communities to the customary deliberation body (Lemasa). The head of Lemasa will study the dispute and try to find a solution. If the dispute is complex, it is likely that the mediator will not be just one person, and the deliberation will involve all interested parties.

If an agreement cannot be reached, the dispute will proceed to the Kelurahan or Sub-district Office. The kelurahan official will receive the report and collect the necessary information. Subsequently, the kelurahan official will act as a mediator or form a team of

²⁷ Nurbaedah, "Penyelesaian Sengketa Sumber Daya Agraria Pada Tanah Perkebunan Bekas Hak Guna Usaha."

²⁸ Nurul Hakim, "Konflik Antara Al-'Urf (Hukum Adat) Dan Hukum Islam Di Indonesia."

²⁹ Hamdani and Fauzia, "Fathul Hamdani Dan Ana Fauzia Tradisi Merariq Dalam Kacamata Hukum Adat Dan Hukum Islam TRADISI MERARIQ DALAM KACAMATA HUKUM ADAT DAN HUKUM ISLAM MERARIQ TRADITION IN CUSTOMARY LAW AND ISLAMIC LAW PERSPECTIVE."

³⁰ Sagoni, Rahmi, and Hijrah, "Efektivitas Hukum Terhadap Mediasi Dalam Penyelesaian Sengketa Tanah Di Kelurahan Cina, Kecamatan Pammana, Kabupaten Wajo."

mediators if the dispute is considered complex. This deliberative process considers many interests and respects the trust of all parties involved in the resolution of the land dispute. This shows that the Malamoi community prioritizes peaceful dispute resolution through non-litigation channels in accordance with their family values and gotong royong.³¹

B. Obstacles in the Dispute Resolution Process

Obstacles in resolving land disputes, both through litigation and non-litigation channels, can come from internal and external factors:³²

1. Internal Factors:

- a. **Temperament:** The emotional attitude of the parties to the dispute can hinder the deliberation process. If one or both parties rely more on emotion than logic, deliberation becomes unproductive as neither party is willing to give in.
- b. **Education Level:** The low education level of most indigenous people involved in a dispute can make it difficult to understand the focus of the dispute, complicating resolution.
- c. **Discipline:** The discipline of the parties in the dispute resolution process is also important. Most of the time when signing an agreement, one of the parties refuses because they do not understand the contents of the previous agreement.
- d. **Unclear Land Boundaries:** The unclear determination of land boundaries can also hamper the deliberation process because the benchmark used from the start is unclear, causing difficulties in determining land boundaries.

2. External Factors:

Third Party Interference: Third parties, such as family members who intervene in the dispute, can influence one of the parties to the dispute. This is sometimes triggered by issues of compensation or intervention from outside parties.

To overcome these obstacles, it is necessary for all parties to understand the importance of deliberation in resolving disputes. In addition, the active role of all parties in helping to resolve disputes is also very important in order to achieve a settlement that benefits all parties.

CONCLUSION

Malamoi Community Land Dispute Resolution Process: There were 11 cases of significant and complex land disputes in Sorong District in 2021, involving various parties including

³¹ Sagoni, Rahmi, and Hijrah.

³² Ramadhani, "Konflik Sengketa Tanah Antara Warga Kelurahan Pacar Keling Dengan PT. Kereta Api Indonesia Daop 8 Kota Surabaya."

Malamoi and migrants, as well as internal disputes among the Malamoi themselves. Dispute resolution is conducted through out-of-court Alternative Dispute Resolution (ADR), such as mediation, negotiation and deliberation. ADR is recognized as an effective and necessary method in dispute resolution in Sorong Regency, especially in the context of land disputes between the Sorong Regency Government and the Malamoi indigenous community. The ADR approach, particularly through deliberation, is in accordance with the values and needs of the Malamoi indigenous people, who tend to prioritize harmonization, communalism, and quick and cheap settlements. Meanwhile, the obstacles in the Dispute Resolution Process are there are internal and external obstacles in resolving land disputes, such as emotional temperament, low education level, discipline, and unclear land boundaries. External factors, such as third party interference, can also affect the dispute resolution process. To overcome these obstacles, all parties need to be aware of the importance of deliberation in dispute resolution, as well as the active role of all parties to achieve a settlement that benefits all parties. Overall, land dispute resolution in Sorong Regency requires an approach that is inclusive, adaptive and incorporates both formal institutions such as the courts and alternative methods such as ADR to achieve broader and sustainable justice for all parties involved.

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