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Rethinking Dispute Resolution: Moi Customary Law within Indonesia's Legal Pluralism

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Abstract

This study aims to analyze the process of resolving customary land disputes among the Moi indigenous community and to identify the obstacles faced within the framework of legal pluralism in Indonesia.

This study employs a normative legal research approach (doctrinal legal research), focusing on the analysis of legal norms, principles, and doctrines related to customary law and national law. Data were collected through literature review, including primary, secondary, and tertiary legal materials, and analyzed using a qualitative normative method with interpretive and comparative approaches.

The novelty of this study lies in the development of a reimagined dispute resolution approach by integrating Moi customary law into the discourse of Indonesian legal pluralism, which highlights normative and socio-cultural dimensions.

The results of the study indicate that dispute resolution among the Moi community prioritizes non-litigious mechanisms based on deliberation, the principles of restorative justice, and local wisdom values, with the Customary Institution (LMA Malamoi) playing a central role. However, this process faces significant obstacles, including emotional factors, low legal awareness, unclear land boundaries, overlapping ownership claims, and external intervention.

This study concludes that while customary mechanisms are effective in maintaining social harmony, their interaction with the formal legal system poses challenges within the context of legal pluralism. Therefore, harmonization between customary law and state law, strengthening customary institutions, and enhancing public legal awareness are crucial for achieving fair, effective, and sustainable dispute resolution.

Keywords: Customary Law; Land Dispute; Moi Tribe; Legal Pluralism; Dispute Resolution

Abstrak

Penelitian ini bertujuan untuk menganalisis proses penyelesaian sengketa tanah adat di kalangan masyarakat adat Moi serta mengidentifikasi hambatan yang dihadapi dalam kerangka pluralisme hukum di Indonesia.

Metode Penelitian ini menggunakan pendekatan penelitian hukum normatif (penelitian hukum doktrinal), dengan fokus pada analisis norma-norma hukum, prinsip, dan doktrin yang berkaitan dengan hukum adat dan hukum nasional. Data dikumpulkan melalui penelitian pustaka, termasuk bahan hukum primer, sekunder, dan tersier, serta dianalisis menggunakan metode normatif kualitatif dengan pendekatan interpretatif dan komparatif.

Kebaruan penelitian ini terletak pada pengembangan pendekatan penyelesaian sengketa

yang dipikirkan ulang dengan mengintegrasikan hukum adat Moi ke dalam wacana pluralisme hukum Indonesia, yang menyoroti dimensi normatif dan sosio-budaya.

Hasil penelitian menunjukkan bahwa penyelesaian sengketa di kalangan masyarakat Moi memprioritaskan mekanisme non-litigasi berdasarkan musyawarah, prinsip keadilan restoratif, dan nilai-nilai kearifan lokal, dengan Lembaga Adat (LMA Malamoi) memainkan peran sentral. Namun, proses tersebut menghadapi hambatan signifikan, termasuk faktor emosional, rendahnya kesadaran hukum, batas-batas tanah yang tidak jelas, klaim kepemilikan yang tumpang tindih, dan intervensi eksternal.

Penelitian ini menyimpulkan bahwa meskipun mekanisme adat efektif dalam menjaga keharmonisan sosial, interaksinya dengan sistem hukum formal menimbulkan tantangan dalam keragaman hukum. Oleh karena itu, harmonisasi antara hukum adat dan hukum negara, penguatan lembaga adat, serta peningkatan kesadaran hukum masyarakat sangat penting untuk mencapai penyelesaian sengketa yang adil, efektif, dan berkelanjutan.

Kata kunci: Hukum Adat; Sengketa Tanah; Suku Moi; Keragaman Hukum; Penyelesaian Sengketa

1. INTRODUCTION

Global legal developments over the past two decades have shown a growing recognition of customary law as part of the “living law” system within societies, particularly in the context of protecting the rights of indigenous peoples and community-based dispute resolution.¹ In various jurisdictions, such as Canada, New Zealand, and African countries, customary law is not only recognized symbolically but is also integrated into both formal and informal dispute resolution mechanisms.² This phenomenon demonstrates that community-based approaches are becoming increasingly relevant in addressing the limitations of the state’s legal system, which is often overly formalistic and unresponsive to local values.³ In the Indonesian context, recognition of customary law is also enshrined in the constitution and various sectoral regulations, but its implementation still faces structural and normative challenges.

In a theoretical context, legal pluralism serves as the primary framework for understanding the interaction between state law and customary law.⁴ Legal pluralism not only acknowledges the existence of various legal systems, but also emphasizes the importance of interaction and negotiation among these systems in the practice of dispute resolution.⁵ In the context of the Moi tribe, legal pluralism is evident in the coexistence of customary law, state law, and the community’s evolving social practices.

Empirically, the Moi indigenous community has a dispute resolution mechanism based

¹ Mark Bennett, “Indigenous Legal Orders and the State: Bridging the Gap,” *International Journal of Law in Context* 1717, no. 3 (2021): 315–32, <https://doi.org/10.1017/S1744552321000197>.

² Giselle Corradi, “Customary Law and Dispute Resolution in Hybrid Legal Systems,” *The Journal of Legal Pluralism and Unofficial Law* 54, no. 2 (2022): 145–162, <https://doi.org/10.1080/07329113.2022.2037421>.

³ Janine Ubink, “Customary Justice Systems and Their Role in Dispute Resolution,” *World Development* 16, no. 1 (2023), <https://doi.org/10.1016/j.worlddev.2022.106098>.

⁴ Werner Menski, “Legal Pluralism and the Future of Law,” *Asian Journal of Comparative Law* 17, no. 1 (2022): 1–20, <https://doi.org/10.1017/asjcl.2021.32>.

⁵ Franz von Benda-Beckmann, “Rethinking Legal Pluralism,” *The Journal of Legal Pluralism and Unofficial Law* 54, no. 1 (2022): 1–20, <https://doi.org/10.1080/07329113.2022.2027615>.

on the values of deliberation, consensus, and the restoration of social relations.⁶ This mechanism is often more effective in maintaining social harmony than the adversarial formal judicial system. However, the existence of this mechanism is often not fully recognized within the national legal system, leading to tensions in dispute resolution practices.

On the other hand, the obstacles to resolving customary land disputes among the Moi people are not only normative in nature, but also structural and political. Conflicts between investment interests, state policies, and the rights of indigenous communities often lead to the marginalization of customary law.⁷ This indicates that dispute resolution cannot be separated from the context of power and public policy.

Furthermore, a rethinking of dispute resolution is essential to address the limitations of the existing legal system by integrating local values into the national legal framework. This approach focuses not only on the outcome of dispute resolution but also on an inclusive and participatory process.⁸ Thus, the customary law of the Moi tribe can serve as an alternative model for the development of dispute resolution systems in Indonesia.

Previous research indicates that the approach of rethinking dispute resolution within the framework of legal pluralism has become a major focus in contemporary legal scholarship, particularly in accommodating customary legal systems in dispute resolution.⁹ Studies in South Africa and Ghana show that customary mechanisms are able to resolve land disputes more quickly and are more widely accepted by the community than the formal court system.¹⁰ In Indonesia, several studies have highlighted the importance of customary law in resolving disputes over communal lands, including among communities in Papua and Maluku, indicating that the customary approach places greater emphasis on deliberation and restorative justice.¹¹ However, studies that specifically link the customary law of the Moi tribe to the framework of legal pluralism remain very limited.

Although there has been extensive research on customary law and dispute resolution, there remains a significant research gap regarding how the customary law of the Moi people is situated within the framework of Indonesia's legal pluralism, both conceptually and in practice.¹² Most studies remain descriptive in nature and have not yet developed a critical approach that treats customary law as an integral part of the national legal system. Furthermore, few studies have conducted an in-depth examination of structural barriers, such as conflicts of jurisdiction, formal legality, and the marginalization of customary law in agrarian

⁶ Yance Arizona, "State Law vs Customary Law in Indonesia.," *Indonesia Law Review* 11, no. 3 (2021): 355–72, <https://doi.org/10.15742/ilrev.v11n3.689>.

⁷ Noer Fauzi Rachman, "Land Conflicts and Customary Law in Indonesia.," *Forest Policy and Economics* 138 (2022), <https://doi.org/10.1016/j.forpol.2022.102698>.

⁸ Bennett, "Indigenous Legal Orders and the State: Bridging the Gap."

⁹ Menski, "Legal Pluralism and the Future of Law."

¹⁰ Kojo Amanor, "Customary Land Tenure and Conflict Resolution in Africa," *Land Use Policy* 102 (2021), <https://doi.org/10.1016/j.landusepol.2020.105239>.

¹¹ Rachman, "Land Conflicts and Customary Law in Indonesia."

¹² Daniel. Fitzpatrick, "Legal Pluralism and Land Conflict in Southeast Asia," *Modern Asian Studies* 57, no. 4 (2023): 1123–45, <https://doi.org/10.1017/S0026749X22000345>.

policy.¹³ Therefore, a new approach is needed that can reestablish the place of customary law within the national legal system.

This study offers a novel approach by rethinking dispute resolution through an analysis of the customary law of the Moi tribe within the framework of Indonesian legal pluralism. Unlike previous studies, which tended to be either normative or partially empirical, this study combines normative, sociological, and conceptual analyses to comprehensively understand the dynamics of customary dispute resolution.¹⁴ In addition, this study specifically examines the process of resolving customary land rights disputes and the obstacles faced by the Moi indigenous community, thereby making a significant empirical contribution to the literature on customary law in Indonesia.

The objective of this study is to conduct an in-depth analysis of the process of resolving customary land rights disputes among the Moi indigenous community and to identify obstacles in resolving customary land disputes within the framework of Indonesia's legal pluralism. Based on this objective, the research questions posed are: how does the process of resolving customary land rights disputes among the Moi indigenous community work, and what obstacles are encountered in resolving customary land disputes within the Moi community? These questions are crucial for addressing the need for a more inclusive and context-specific dispute resolution model within Indonesia's legal system.

Finally, this study is expected to make theoretical and practical contributions to the development of customary law and legal pluralism in Indonesia. Theoretically, this study enriches the literature on legal pluralism by incorporating specific local perspectives. Practically, the findings of this study are expected to serve as a basis for formulating policies that are more inclusive of customary law in dispute resolution in Indonesia, particularly in the context of the Moi indigenous community.

2. METHOD

This study employs a normative legal research or doctrinal legal research approach, which focuses on the analysis of legal norms, principles, and doctrines within a legal system to understand the construction of dispute resolution within the framework of legal pluralism. This approach was chosen because the study aims to examine, from a conceptual and normative perspective, the process of resolving customary land rights disputes as well as the obstacles within the Moi Tribe's customary law within the Indonesian legal system. Furthermore, this approach allows for the integration of customary law as a living law with state law within the framework of legal pluralism.¹⁵

Data collection was conducted through a literature review (legal research) that included

¹³ Arizona, "State Law vs Customary Law in Indonesia."

¹⁴ Ubink, "Customary Justice Systems and Their Role in Dispute Resolution."

¹⁵ Nunuk Febriananingsih Muhammad Faiz Aziz, "MEWUJUDKAN PERSEROAN TERBATAS (PT) PERSEORANGAN BAGI USAHA MIKRO KECIL (UMK) MELALUI RANCANGAN UNDANG-UNDANG TENTANG CIPTA KERJA," *Jurnal Rechts Vinding Media Pembinaan Hukum Nasional* 9, no. 1 (2020): 1–14, <http://dx.doi.org/10.33331/rechtsvinding.v9i1.405>.

primary, secondary, and tertiary legal sources.¹⁶ Primary legal sources include legislation related to the recognition of indigenous communities and customary land rights, such as the 1945 Constitution and sectoral agrarian regulations. Secondary legal sources consist of articles from reputable international journals, books, and research findings related to customary law and dispute resolution. Meanwhile, tertiary legal materials include legal dictionaries and encyclopedias to clarify key concepts.

Conceptually, the research location is focused on the territory of the Moi indigenous community in Sorong City, specifically within the context of the Malamoi Indigenous Community Institution (LMA) as the institutional representative of indigenous customs. Although this research is normative in nature, the local context is still used as an analytical framework to understand how customary legal norms operate in practice. Thus, the research location serves as a contextual legal setting that enriches the normative analysis.

The research procedure was conducted systematically through several stages: identification of legal issues, collection of legal materials, classification of legal materials, normative analysis, and drawing conclusions. The first stage involved formulating legal issues related to the resolution of customary land rights disputes among the Moi indigenous community. The second stage involved collecting relevant legal materials from primary and secondary sources. The third stage involves classifying legal materials based on themes and relevance. The fourth stage involves conducting a normative analysis using interpretive and comparative approaches. The final stage is drawing conclusions that answer the research questions. The data analysis technique employed is normative qualitative analysis using an interpretive (legal interpretation) and argumentative approach. The analysis was conducted by interpreting legal norms using grammatical, systematic, and teleological methods of interpretation to understand the meaning and purpose of customary law in dispute resolution. Additionally, a comparative analysis was used to compare the customary law of the Moi Tribe with the principles of national law.

3. DISCUSSION

3.1. Resolution of Customary Land Rights Disputes Among the Moi Indigenous Community: A Legal Study

The process of resolving customary land rights disputes among the Moi indigenous community cannot be understood narrowly within the framework of positive law alone; rather, it must be placed within a broader context as part of the living law system within the community. Customary rights, as an ancestral legacy, possess collective, hereditary, and inherent characteristics tied to the existence of the indigenous community; thus, their existence is not merely related to ownership but also to the social, cultural, and spiritual identity of the community.¹⁷ From this perspective, land is not merely a legal object, but a symbolic entity that represents the relationship between humans, nature, and ancestors.

¹⁶ Muhaimin, *Metode Penelitian Hukum* (Nusa Tenggara Barat: Mataram University Press, 2020).

¹⁷ Abdul Rahman Hamid and Asep Suryana, "Dinamika Konversi Hak Atas Tanah Ulayat (Studi Kasus Tanah Ulayat Di Bali)," *Jurnal Kolaboratif Sains* 7, no. 12 (2024): 4739–50, <https://doi.org/10.56338/jks.v7i12.6527>.

Constitutionally, the recognition of customary land rights as stipulated in Article 18B(2) of the 1945 Constitution indicates that the state legitimizes the existence of customary law communities and their traditional rights.¹⁸ However, this recognition is conditional, namely as long as it remains in force and is consistent with societal developments and the principles of the Unitary State of the Republic of Indonesia. This condition reflects an ambivalence in the legal framework, wherein, on the one hand, the state recognizes customary law, but on the other hand, continues to place it within a framework of subordination to state law.¹⁹ In this context, the customary rights of the Moi people can be understood as original rights that do not derive from a grant by the state, but rather from the historical existence of the indigenous community itself.

From the perspective of customary law, the relationship between the Moi people and their customary lands is integral and inseparable. This relationship is based on a religious-magical worldview that regards the land as sacred and possessing a spiritual dimension. The land is not only a source of livelihood but also an existential space that connects the present generation with ancestors and future generations. Therefore, land tenure in indigenous communities cannot be separated from the moral and social responsibility to maintain balance between humanity and nature.²⁰

This relationship also reflects the fact that customary rights are not merely rights in the individualistic sense, but rather a manifestation of collective responsibility.²¹ Traditional leaders not only have the authority to regulate land use, but also have a duty to safeguard the well-being of the community and prevent conflicts. In this context, the concepts of rights and duties are not strictly separated, but are intertwined within a single, cohesive whole. This differs from modern legal concepts, which tend to distinguish between subjective rights and legal obligations.

The complexity of the land tenure system among the Moi indigenous community is reflected in the concept of *tegas te moi*, which classifies land rights into various categories, such as *eges finun*, *subey*, *sukban*, *woti*, and *somala*. This classification demonstrates that the customary legal system has a complex structure that adapts to the social needs of the community. Each type of right has its own distinct function and meaning, which are not only related to economic aspects but also to social and cultural relations.²² Thus, a formal legal approach that tends to reduce the concept of land ownership to individual rights is not fully

¹⁸ Safrin Salam et al., "PENGAKUAN HAK ATAS TANAH ULAYAT MASYARAKAT HUKUM ADAT DI UNDANG-UNDANG NOMOR 11 TAHUN 2020 TENTANG CIPTA KERJA : PERSPEKTIF TEORI HUKUM KRITIS," *Jurnal Interpretasi Hukum* 4, no. 3 (2023): 721–32, <https://doi.org/10.55637/juinhum.5.1.7166.721-732>.

¹⁹ Ikhsan Lubis et al., "Integrasi Hukum Adat Dalam Sistem Hukum Agraria Nasional : Tantangan Dan Solusi Dalam Pengakuan Hak Ulayat," *Tunas Agraria* 8, no. 2 (2025): 143–58, <https://doi.org/10.31292/jta.v8i2.401>.

²⁰ Muhammad Irfan Hilmy, "Prospek Tanah Adat Dalam Pembangunan Nasional," *Waskita: Jurnal Pendidikan Nilai Dan Pembangunan Karakter* 4, no. 1 (2020): 41–57, <https://doi.org/10.21776/ub.waskita.2020.004.01.4>.

²¹ V Hari Supriyanto, "Kontradiksi Hak Komunal Dan Hak Ulayat Dalam Hukum Pertanahan Indonesia : Tinjauan Yurisprudensi Dan Regulasi Indonesia," *Tunas Agraria* 8, no. 3 (2025): 380–400, <https://doi.org/10.31292/jta.v8i3.483>.

²² Samun Ismaya, "Kajian Teoritik Dualisme Kepentingan Dan Fungsi Sosial Hak Atas Tanah," *Wijaya Putra Law Review* 4, no. 2 (2025): 243–70, <https://doi.org/10.38156/wplr.v4i2.318>.

capable of accommodating such complexity.

In practice, the growing demand for land has sparked various land disputes within the traditional territories of the Moi people. These conflicts are caused not only by internal factors—such as unclear territorial boundaries and a lack of legal awareness—but also by external factors, such as the influx of economic interests and investments. In this context, disputes over customary land have become a battleground where various, often conflicting, interests collide, making their resolution increasingly complex.²³

Within the framework of Papuan customary law, the existence of two models of land ownership—communal and individual (based on lineage)—demonstrates the plurality of the land tenure system. Communal ownership, based on clans or villages, reflects the social structure of indigenous communities, while individual ownership remains within a collective framework through genealogical ties.²⁴ This indicates that the concept of ownership in customary law cannot be understood in isolation from the social structure of the community.

The role of the Malamoi Indigenous Community Institution (LMA) in resolving customary land disputes demonstrates that customary institutions still hold a strategic position within the local legal system. The LMA functions not only as a mediator but also as a normative authority with the legitimacy to determine the validity of land claims. In this context, the authority of the customary chief to issue customary release letters becomes a crucial instrument in the process of transferring land rights. However, this study indicates that such authority also carries the potential to spark conflicts, particularly in cases of dual land rights releases or the abuse of authority. This situation highlights weaknesses in the oversight and accountability mechanisms within the customary institution.²⁵ Although customary law has the advantage of flexibility and close ties to the community, institutional strengthening is still needed to prevent abuses.

When it comes to dispute resolution, the Moi indigenous community tends to prioritize non-litigious mechanisms through deliberation. This approach reflects local wisdom that emphasizes social harmony and peaceful conflict resolution. Deliberation serves not only as a forum for reaching agreements but also as a space for rebuilding social relationships that have been strained by conflict.²⁶

The use of historical evidence, such as heirlooms, in the evidentiary process demonstrates that the customary legal system takes a different approach from formal law.²⁷ In

²³ Riska Kurnia Ningsih and Hadi Tuasikal, "Challenges and Solutions in the Implementation of Mediation as an Alternative for Land Dispute Resolution," *Journal of Dual Legal Systems* 2, no. 1 (2025): 70–89, <https://doi.org/10.58824/jdls.v2i1.323>.

²⁴ Najwa Faridillah Lubabin Nawval Muhammad, Mohammad Hikmal Akbar, "Struktur Sosial Dan Dinamika Persekutuan Hukum Adat Di Indonesia: Kajian Terhadap Kekerabatan, Ketetangaan, Dan Keorganisasian," *TARUNALAW: Journal of Law and Syariah* 03, no. 02 (2025): 131–41, <https://doi.org/10.54298/tarunalaw.v3i02.462>.

²⁵ M Khairu Mamnun and Aulia Iqlima Viutari, "DALAM POLITIK HUKUM NASIONAL (Integrasi Untuk Penguatan Pluralisme Hukum)," *Tanjungpura Law Journal* 9, no. 2 (2025): 197–219, <https://doi.org/10.26418/tlj.v9i2.92745>.

²⁶ Resti Amanda and Uni Safitri, "Peran Kebudayaan Dalam Membentuk Persepsi Dan Orientasi Masyarakat Terhadap Hukum Di Indonesia : Studi Tentang Nilai Lokal , Legitimasi , Dan Praktik Sosial," *Journal of Law and Social Change Review (JLSCR)* 4, no. 1 (2025): 64–73, <https://jurnal.sshpublikasi.com/index.php/JLSCR/article/view/96>.

²⁷ Lukas Patrick Hutajulu, "Strategi Integrasi Hukum Adat Dalam Sistem Hukum Nasional," *HARISA: Jurnal Hukum, Syariah, Dan Sosial* 2, no. 1 (2025): 124–39, <https://ejournal.eddhucenter.com/index.php/harisa/article/view/67>.

customary law, legitimacy is determined not only by written documents, but also by social recognition and the cultural values that are alive within the community.²⁸ This indicates that the concept of proof in customary law is more flexible and context-dependent.

This traditional dispute resolution mechanism is fundamentally consistent with the concept of Alternative Dispute Resolution (ADR) within the national legal system. The recognition of ADR in Law No. 30 of 1999 and Law No. 48 of 2009 demonstrates that the state allows for dispute resolution outside the courts. However, in practice, the integration between customary mechanisms and formal ADR has not yet been fully realized.

If resolution through customary channels fails to reach an agreement, the Moi indigenous community will pursue litigation through the formal judicial system. This situation highlights the dualism of dispute resolution mechanisms within the framework of legal pluralism. On one hand, customary law remains the primary choice as it is considered more aligned with local values, while on the other hand, state law serves as an alternative when customary mechanisms prove ineffective.

This dualism demonstrates that legal pluralism in Indonesia does not always operate harmoniously but often gives rise to tensions between customary law and state law. Therefore, efforts are needed to build better integration between these two legal systems, so that they can complement rather than conflict with one another.

Theoretically, the findings of this study suggest that a "rethinking dispute resolution" approach must take into account the social and cultural context of the community. An effective dispute resolution model cannot rely solely on formal legal approaches but must also accommodate the local values embedded within the community. In this regard, the customary law of the Moi Tribe can serve as an alternative model for developing a more inclusive and sustainable dispute resolution system.

Practically, this research implies the need for harmonization between customary law and state law in the regulation of customary land rights and dispute resolution mechanisms. The state must not merely provide normative recognition but must also ensure operational integration through policies responsive to the needs of indigenous communities. Strengthening indigenous institutions, enhancing community capacity, and ensuring transparency in the management of customary land rights are crucial steps toward realizing a more just legal system. Thus, the process of resolving customary land rights disputes among the Moi indigenous community reflects the complexity of the interaction between customary law and state law within the framework of legal pluralism. The integration of these two systems is key to creating dispute resolutions that not only provide legal certainty but also ensure social justice and the sustainability of indigenous communities' way of life.

3.2. Challenges in Resolving Customary Land Disputes Among the Moi Tribe

Research findings indicate that the resolution of customary land rights disputes among the Moi indigenous community cannot be reduced to a mere formal legal mechanism; rather,

²⁸ Amanda and Safitri, "Peran Kebudayaan Dalam Membentuk Persepsi Dan Orientasi Masyarakat Terhadap Hukum Di Indonesia : Studi Tentang Nilai Lokal , Legitimasi , Dan Praktik Sosial."

it must be understood as a social practice deeply rooted in the communal, spiritual, and cultural values that are alive within the community. In this context, customary land rights function not only as an instrument of land tenure but also as the foundation of a collective identity that represents the existence of the indigenous community. Land is not positioned as a mere economic object but as a social entity that connects the community to its ancestors, history, and the sustainability of future generations.²⁹ Therefore, every dispute involving customary land has a multidimensional nature that simultaneously involves legal, social, cultural, and spiritual aspects.

Within this framework, customary dispute resolution mechanisms that prioritize deliberation exhibit a very strong character of restorative justice. Dispute resolution is not aimed at determining a winner or loser, but rather at restoring the social balance disrupted by the conflict. Deliberation serves as the primary instrument for reaching an agreement that is not only substantively fair but also socially acceptable to all members of the community. This approach reflects that justice in indigenous communities is relational and oriented toward harmony, not merely formal legal certainty. However, in practice, this approach does not proceed entirely without obstacles, especially when confronting increasingly complex modern social dynamics.

The role of the Malamoi Indigenous Community Institution (LMA) as the primary actor in dispute resolution demonstrates that indigenous institutions still hold strong legitimacy within the community. The LMA functions not only as a facilitator or mediator but also as a normative authority with the power to determine the validity of claims to customary land.³⁰ In this context, traditional leaders play a strategic role in issuing relinquishments of rights as a form of legitimization for the transfer of land rights. However, this study found that this authority also has the potential to create new problems, particularly in the form of double relinquishments of rights or abuse of authority. This situation highlights an ambivalence within traditional institutions, where on one hand they function as a solution, but on the other hand they can also become a source of conflict.

Furthermore, this study reveals a dualism in dispute resolution mechanisms between the customary (non-litigation) and formal (litigation) tracks, reflecting the reality of legal pluralism in Indonesia. The Moi ethnic community generally prioritizes resolution through customary mechanisms as an initial step, as it is considered more aligned with local values, faster, and more efficient compared to formal judicial processes. The litigation route is only pursued if deliberative efforts fail to reach an agreement. This pattern indicates that customary law still holds a dominant position in local dispute resolution practices. However, the existence of this

²⁹ Leli Yulifar Mochamad Dzikri Rivaldi, "TRADITION AND MODERNITY: AN ETHNOGRAPHIC STUDY OF THE ADAPTATION OF THE CIPTAGELAR TRADITIONAL VILLAGE COMMUNITY IN THE ERA OF GLOBALIZATION," *SANTHET: (JURNAL SEJARAH, PENDIDIKAN DAN HUMANIORA)* 9, no. 3 (2025): 863–71, <https://doi.org/10.36526/js.v3i2.5400>.

³⁰ Anita Emalia Fallonne and Sri Wahyuni Handayani, "Mediasi Sebagai Alternatif Penyelesaian Sengketa Hak Atas Tanah Adat Di Badan Pertanahan Nasional," *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 3, no. 5 (2025): 7372–83, <https://doi.org/10.61104/alz.v3i5.2343>.

dualism also poses its own challenges, particularly regarding the integration of customary law and state law, which often operate in parallel without clear coordination.

In terms of obstacles, this study shows that internal factors have a significant influence on the effectiveness of dispute resolution. One of the main factors is the emotional aspect of the disputing parties. The dominance of emotions often hinders the deliberation process, as the parties tend to maintain their respective positions without leaving room for compromise. This situation makes the resolution process unproductive and risks prolonging the conflict. Additionally, the low level of education and legal understanding among the community poses a barrier to fully grasping the substance of the dispute. This results in low-quality participation in the deliberation process and difficulties in reaching a rational and sustainable agreement.

The parties' discipline in adhering to the dispute resolution process is also a factor of equal importance. In practice, it is common to encounter rejection of the agreed-upon outcome, particularly in the final stage when the agreement is to be formalized. This rejection is generally caused by a lack of understanding of the agreement's content or a shift in attitude influenced by external factors. This situation indicates that the success of dispute resolution depends not only on the mechanisms used but also on the parties' commitment to adhering to the agreement's outcomes.

In addition to internal factors, structural barriers also pose a major challenge in the resolution of customary land disputes.³¹ The lack of clarity regarding the boundaries of customary lands is one of the most common issues. In the past, land boundaries were determined based on natural landmarks such as trees or other geographical features. However, over time, many of these landmarks have disappeared or been damaged, making it difficult to identify the boundaries of disputed areas. This has led to an increased potential for conflict and difficulties in the process of establishing proof, both within customary and formal mechanisms.

Uncertainty regarding land ownership status also poses a significant obstacle. In many cases, a single plot of land may be claimed by more than one party based on different forms of evidence. Some parties possess formal documents such as certificates, while others rely on customary evidence or oral history.³² This situation creates legal uncertainty and complicates the dispute resolution process. The conflict between formal evidence and customary legitimacy highlights the tension between the state legal system and customary law, which have not yet been fully integrated.

External factors also complicate the dispute resolution process. Third-party intervention-whether from family members or outside parties with economic interests-often influences the

³¹ M Nadhif Athallah, Ida Nurlinda, and Yani Pujiwati, "Keberhasilan Dan Hambatan Program Redistribusi Tanah: Desa Muktisari Dan Nagari Padang Mentinggi," *UNES Law Review* 7, no. 3 (2025): 1025–33, <https://doi.org/10.31933/unesrev.v7i3.2374>.

³² Berliant Pratiwi et al., "Peran Hukum Adat Dalam Penyelesaian Sengketa Agraria Di Indonesia: Kajian Empiris Dengan Metode Komparatif," *Hakim: Jurnal Ilmu Hukum Dan Sosial* 2, no. 4 (2024): 807–22, <https://doi.org/10.51903/hakim.v2i04.2187>.

dynamics of the conflict.³³ Such intervention can strengthen the position of one party or even trigger an escalation of the conflict. In many cases, economic interests become the dominant factor that shifts the focus of dispute resolution from communal interests to individual interests. This indicates that modernization and economic dynamics have a significant impact on customary law practices.

In the face of these various obstacles, the persuasive approach taken by the customary leader or the Chair of the LMA becomes a crucial strategy. This approach aims to defuse tensions, build constructive communication, and encourage the achievement of an agreement acceptable to all parties. However, the effectiveness of this approach depends heavily on the integrity, credibility, and legitimacy of traditional leaders. Therefore, strengthening the capacity and accountability of traditional institutions is an urgent need.

Theoretically, the findings of this study contribute to the development of the concept of “rethinking dispute resolution” within the framework of legal pluralism. This study demonstrates that dispute resolution cannot be separated from the social and cultural context of the community; thus, an effective dispute resolution model must be contextual, adaptive, and community-based. An approach that relies solely on formal law will not be able to address the complexity of customary land disputes, which are deeply rooted in local values.

Practically, this study implies the need for harmonization between customary law and state law, particularly regarding the regulation of customary land rights and dispute resolution mechanisms. The state must not only provide normative recognition of customary law but also ensure operational integration within the national legal system. This can be achieved by strengthening the role of customary institutions, enhancing community legal literacy, and developing policies that are more responsive to the needs of indigenous communities.³⁴

Thus, the resolution of customary land rights disputes among the Moi people reflects the complexity of the interaction between customary law and state law within a framework of legal pluralism. Although customary mechanisms have the advantage of maintaining social harmony, various internal and external obstacles indicate that this system still requires strengthening and adaptation. Therefore, the integration of local values and the formal legal system is key to creating dispute resolutions that are not only legally just but also socially sustainable.

4. CONCLUSION

The process of resolving customary land rights disputes among the Moi indigenous community reflects the practice of customary law as a “living law” rooted in communal and spiritual values and local wisdom, where non-litigious deliberative mechanisms are the primary choice because they preserve social harmony and satisfy the community’s sense of substantive justice. The existence of the Malamoi Indigenous Community Institution (LMA) plays a

³³ Wahyu Budiyanto, “Penyelesaian Inklusif Sengketa Tanah Adat: Interdisipliner, Hukum, Mediasi, Menyongsong Society 5.0,” in *Seminar Nasional* (Universitas Terbuka, 2024), 534–42.

³⁴ Syahril Marta and Ahmad Jais, “Penyelesaian Sengketa Tanah Melalui Alternative Dispute Resolution (ADR) Dimasyarakat Rasau Tanjung Kecamatan Kubu Raya,” *Al-Basyir: Jurnal Ilmu Pendidikan Dan Pemikiran Islam* 1, no. 1 (2025): 53–61, <https://e-jurnal.publikasiakademikgroup.com/index.php/ABJPI/article/view/44>.

strategic role as both a mediator and a normative authority in determining the validity of land claims, although in practice there remains the potential for abuse of authority, such as the granting of dual land rights, which can trigger new conflicts. On the other hand, the resolution of customary land disputes also faces various obstacles, both internal—such as emotional factors, low legal awareness, and a lack of discipline among the parties—and external—such as unclear land boundaries, overlapping ownership, and third-party intervention driven by economic interests. These conditions highlight the complexity of the interaction between customary law and state law within a legal pluralism framework that has not yet been fully and harmoniously integrated. Therefore, concrete efforts are needed in the form of strengthening customary institutions, improving community legal literacy, and harmonizing regulations between customary law and national law to create a dispute resolution system that not only provides legal certainty but also ensures social justice and sustainability for the Moi indigenous community.

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