


Juridical Analysis of Customary Land Disputes and Their Resolution through Mediation in North Lombok Regency

Muhammad Syahroni^{1*}, Rina Susilawati¹, Muhammad Izhar²

¹ Department of Law, University of Mataram, Indonesia

² Department of Law, Universiti Malaya, Malaysia

* Corresponding author: Syah00roni@gmail.com

ARTICLE INFO	ABSTRACT
<p>Article history</p> <p>.....</p> <p>Received: April 06, 2025 Revised: April 09, 2025 Accepted: May 015, 2025 Published: May 23, 2025</p> <p>Keywords</p> <p>Customary Land Disputes Juridical Analysis Mediation Customary Law North Lombok</p> <p></p> <p>License by CC-BY-SA Copyright © 2025, The Author(s).</p>	<p>Customary land disputes are recurring issues in various regions, including North Lombok Regency, which is rich in local wisdom and customary legal values. This study aims to analyze the juridical aspects of customary land disputes and examine the effectiveness of their resolution through mediation. The research employs a normative and empirical juridical approach by reviewing relevant legislation and conducting interviews with key stakeholders, such as traditional leaders, community members, and law enforcement officials. The findings reveal that resolving customary land disputes through mediation offers a more equitable and sustainable solution, as it accommodates local wisdom and community aspirations. However, challenges remain in implementation, including the lack of synergy between customary and positive law, as well as the limited capacity of mediators to fully understand local customary contexts. Therefore, strengthening regulations and institutional capacity is essential to promote more effective and just resolutions of customary land disputes.</p>

How to cite: Syahroni, M., Susilawati, R., & Izhar, M. (2025). Juridical Analysis of Customary Land Disputes and Their Resolution Through Mediation in North Lombok Regency. *Justicia Insight*, 1(2), 33-38. <https://doi.org/10.70716/justin.v1i2.157>

INTRODUCTION

Land holds a vital position in the lives of Indonesian people, functioning not only as an economic resource but also as a pillar of social and cultural identity, particularly among indigenous communities. Customary land (tanah adat) is often viewed as an ancestral legacy, collectively owned by customary law communities rather than by individuals. This concept of communal ownership is deeply rooted in the spiritual and cultural relationships between indigenous peoples and their territories, making land an intrinsic part of their identity and survival (Sumardjono, 2008).

In North Lombok Regency, customary land possesses strong symbolic and historical significance. Many areas in the region still maintain traditional community-based social structures, especially in the distribution of land, management of natural resources, and conflict resolution mechanisms. The existence of living customary law, passed down through generations, frequently clashes with the formal national legal system, which is more rigid and positivistic. This legal dualism is a key factor contributing to the emergence of customary land disputes (Soepomo, 2003).

Typically, land conflicts in North Lombok arise due to overlapping claims between indigenous communities and external actors such as private individuals, corporations, or the government. In many instances, land certificates issued by the state disregard longstanding customary rights, thereby fueling legal uncertainty and conflict potential. The national legal framework often fails to recognize or integrate adat (customary) principles, creating a gap between formal law and local realities (Mulyani, 2014).

The formal litigation process has proven to be inadequate in addressing such disputes due to its procedural rigidity, time-consuming nature, and limited cultural sensitivity. Courts tend to apply positive law strictly, with little consideration for the collective and historical context of customary claims. As a result,

judicial decisions often exacerbate tensions and create perceptions of injustice within affected communities (Rahardjo, 2009).

Given these challenges, alternative dispute resolution (ADR) methods—particularly mediation—present a more inclusive and culturally sensitive solution. Mediation enables disputing parties to reach voluntary agreements with the assistance of a neutral third party. This process allows for the accommodation of customary norms and local wisdom, making mediation an effective bridge between customary law and the formal legal system in agrarian conflicts (Hilman, 2016).

Although mediation is legally recognized in Indonesia, its application in customary land disputes faces significant barriers. A primary concern is the limited understanding of customary law among mediators, many of whom are outsiders unfamiliar with local traditions and values. Moreover, the absence of specific procedural guidelines for mediating customary land disputes complicates implementation and reduces effectiveness (Afriani, 2018).

In North Lombok, both formal court-annexed mediation and informal community-based mediation have been utilized to resolve land conflicts. Outcomes vary widely, depending on the willingness of parties to listen and respect one another's values and interests. In some cases, mediation has led to sustainable peace agreements; in others, it has failed due to power imbalances or external intervention (Nasution, 2012).

This study seeks to analyze how mediation can be effectively utilized in resolving customary land disputes in North Lombok. The research emphasizes juridical aspects, including the legality of mediation, the interaction between customary and positive law, and the role of mediation institutions in harmonizing these systems. The goal is to provide both academic and practical contributions to the development of culturally grounded agrarian dispute resolution mechanisms.

Methodologically, this research employs a combination of normative and empirical juridical approaches. The normative component involves the analysis of relevant legal frameworks, such as Law No. 5 of 1960 on Basic Agrarian Principles (UUPA) and Supreme Court regulations on mediation. The empirical component involves qualitative fieldwork, including interviews with traditional leaders, community members, government officials, and legal practitioners (Marzuki, 2010).

Although Indonesia's Constitution, specifically Article 18B(2) of the 1945 Constitution, recognizes customary law as a living legal system, its implementation in practice is often inadequate. Without efforts to harmonize customary and national legal systems, conflicts are likely to persist and may even intensify with the expansion of development and investment into indigenous territories (Wahyuni, 2020).

It is essential to understand that resolving customary land disputes goes beyond legal technicalities and involves broader concerns of social justice, cultural identity, and indigenous rights. As a flexible and consensual method, mediation offers an avenue for integrating these diverse perspectives into the resolution process (Fauzi, 2019).

The success of mediation largely depends on the legitimacy and cultural proximity of the mediator. Mediators with an understanding of local values and traditions are more likely to gain trust and resolve disputes effectively. Therefore, the active involvement of traditional leaders or customary institutions as mediators should be prioritized in resolving agrarian conflicts in indigenous territories (Lubis, 2015).

One of the main obstacles in integrating mediation outcomes into the formal legal system is the limited recognition of customary law as a legitimate legal source. Many legal practitioners still perceive it merely as a set of social norms, which makes it difficult for customary-based mediation agreements to be legally binding unless formally registered (Hadjon, 2007).

This paper argues for an integrative and context-sensitive approach to resolving customary land disputes, with mediation as a strategic instrument. However, this requires adequate regulatory frameworks, well-trained mediators, and a shared commitment to recognizing customary law as part of the national legal system. Through a combined analysis of field cases and legal norms, this study aims to highlight both the opportunities and challenges in promoting culturally grounded, effective land dispute resolution in North Lombok.

RESEARCH METHOD

This study employs both normative juridical and empirical juridical approaches simultaneously to obtain a comprehensive overview of the resolution of customary land disputes through mediation. The normative juridical approach is used to examine various legal provisions related to land rights, indigenous

legal communities, and dispute resolution mechanisms through mediation. These include, among others, Law Number 5 of 1960 concerning Basic Agrarian Principles (UUPA), Law Number 6 of 2014 concerning Villages, and Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Court. This research also analyzes legal doctrines, expert opinions, and relevant court decisions.

Meanwhile, the empirical juridical approach is employed to understand how the law is applied in practice, particularly in the context of indigenous communities in North Lombok Regency. Empirical data is gathered through in-depth interviews with various informants, including traditional leaders, community members involved in disputes, local government officials, and mediators involved in the conflict resolution process. Field observations are also conducted to directly observe the social dynamics and ongoing mediation processes.

This research is descriptive-analytical in nature, aiming to depict the actual situation regarding customary land disputes and their resolution methods, and to analyze them based on applicable legal theories and norms. Data collection techniques include library research to obtain secondary data and field research to collect primary data. The collected data is then analyzed qualitatively by interpreting the findings to answer the research questions and draw logical and systematic conclusions.

RESULTS AND DISCUSSION

Customary land disputes in North Lombok Regency have become increasingly prevalent in recent years, in parallel with the rising economic value of land, especially in areas with tourism and agricultural potential. These disputes often involve indigenous communities, who claim hereditary communal rights (*hak ulayat*), and external parties such as investors or local governments who assert ownership based on formal documentation. This has created tensions stemming from the clash between legal systems—namely, local customary law rooted in communal norms and national positive law based on formal legality (Satria, 2017).

The core issue in customary land disputes in North Lombok lies in the lack of formal state recognition of indigenous land rights. Although Article 3 of the Basic Agrarian Law (UUPA) acknowledges the existence of communal rights as long as they still exist and align with national interests, the realization of this recognition remains limited due to the absence of administrative evidence that can serve as a legal basis (Maria, 2005). Consequently, customary land is often unregistered in the national land system and is thus vulnerable to third-party claims.

Within the Sasak indigenous community of North Lombok, land bears deep social and spiritual significance. It is not merely an economic asset but an integral part of communal identity. Therefore, when customary land is claimed or utilized by external actors without consent, the community perceives it not only as an economic loss but also as an affront to their dignity and existence (Wiranata, 2005). This complexity underscores the deeply social dimension of such disputes.

Litigation is often deemed ineffective in resolving these conflicts, given its lengthy, costly procedures that typically overlook customary values. Mediation has thus emerged as a more accepted alternative, emphasizing dialogue, persuasion, and the pursuit of win-win outcomes (Subekti, 2014). In North Lombok, mediation over customary land often involves traditional leaders, religious figures, and village authorities acting as intermediaries.

Based on interviews with customary leaders in Bayan Village, mediation is commonly conducted informally at traditional meeting halls, employing cultural approaches. Local values such as *begundem* (deliberation), *begawe* (collective cooperation), and *penguripan* (coexistence) serve as the foundational principles for consensus-building. In one case, a conflict between the indigenous community and a property developer was resolved through a joint-use agreement accompanied by compensation for the community (Informant A, interview, 2024).

Nevertheless, the effectiveness of mediation largely depends on the willingness of external parties to respect customary authority. In several cases—particularly those involving land titles issued by the National Land Agency (BPN)—external parties often reject mediation outcomes, believing they possess stronger legal standing under formal law. This reflects the ongoing friction between state law recognition and the realities of customary law (Afandi, 2013).

Customary-based mediation also faces internal challenges, such as weak documentation of customary land ownership, fragmentation within traditional leadership structures, and limited legal support from village or subdistrict officials. Additionally, some local mediators lack formal training, making the process susceptible

to manipulation or domination by more powerful actors (Indrati, 2018). Despite these obstacles, communities continue striving to uphold independent dispute resolution grounded in communal solidarity and restorative justice.

This study also found that local government policies have not yet fully supported the protection of customary lands. Although some village regulations (*perdes*) recognize indigenous communities, no comprehensive regency-level regulations currently exist to formalize recognition and protection of communal land rights. This legal vacuum undermines the strength of mediation agreements, which lack formal legal standing (Bayan Village Regulation, 2021).

From a legal standpoint, strengthening mediation requires alignment with Supreme Court Regulation No. 1 of 2016 on Court-Annexed Mediation Procedures, which promotes peaceful resolution before trial. However, in customary contexts, mediation should ideally take place outside the courtroom, adhering to principles of restorative justice and ensuring equity between parties (Hutagalung, 2016).

Adopting restorative justice principles in customary land mediation is essential, as it prioritizes the restoration of social relationships over punishment. In North Lombok, this approach has proven effective in de-escalating conflicts and preventing violence. Peace agreements often encompass not only compensation but also public apologies, customary rituals, and joint commitments to preserve social harmony (Nurjaya, 2010).

The institutionalization of customary mediation can be achieved by formally recognizing customary institutions as legitimate dispute resolution bodies. This aligns with the spirit of the Village Law (Law No. 6 of 2014), which empowers villages to manage community life in accordance with local wisdom. Thus, mediation becomes not only a social practice but also a legally supported mechanism within Indonesia's legal system.

Moreover, synergy between the National Land Agency (BPN) and customary institutions is crucial to establishing a legitimate, registered database of communal land. This would prevent overlapping claims and enhance legal protection for indigenous communities. Participatory mapping projects of customary territories offer a promising long-term solution to preempt future disputes (Colchester & Chao, 2011).

Civil society organizations (CSOs) have also played a vital role in supporting mediation processes and strengthening the position of indigenous peoples. Organizations such as AMAN (Aliansi Masyarakat Adat Nusantara) have contributed legal assistance, mediation training, and policy advocacy aimed at achieving recognition of customary lands in various regions, including West Nusa Tenggara (AMAN, 2022).

Overall, the findings indicate that mediation offers a promising middle path for resolving customary land disputes in North Lombok. However, its success is shaped by a combination of social, cultural, legal, and political factors. A holistic and interdisciplinary approach is therefore essential to achieving substantive justice in such disputes (Sumbung, 2019).

Thus, customary land dispute resolution through mediation is not only a practical mechanism but also an acknowledgment of the legitimacy of indigenous legal communities. When conducted based on principles of justice, participation, and respect for customary law, mediation can serve as a foundational tool for maintaining social peace and preserving the integrity of indigenous communities amid ongoing development dynamics.

CONCLUSION

Based on the findings and analyses conducted, it can be concluded that customary land disputes in North Lombok Regency represent a complex form of agrarian conflict involving legal, social, cultural, and economic dimensions. These disputes generally arise from the lack of formal state recognition of customary lands inherited across generations by indigenous legal communities. The disharmony between customary law and national law constitutes a major factor contributing to tensions between indigenous peoples and external parties, such as investors and government authorities.

Litigation has proven to be an ineffective means of resolving these conflicts, as it often disregards local values and entails lengthy and costly processes. In contrast, dispute resolution through customary-based mediation mechanisms is considered more relevant and constructive, as it upholds deliberative consensus, local wisdom, and the restoration of social relations within the community. In practice, customary mediation in North Lombok has been capable of generating peaceful resolutions accepted by all parties, despite ongoing challenges such as weak formal legal support and a lack of documentation of customary land rights.

Mediation in the context of customary land disputes has demonstrated its potential as a middle ground that prioritizes substantive justice over procedural justice. Therefore, institutional strengthening of customary bodies, policy harmonization between local and central governments, and legal support through regional regulations that acknowledge and protect communal land rights are essential. Integrating mediation with restorative justice principles also serves as a key element in ensuring sustainable dispute resolution and the dignified safeguarding of indigenous peoples' rights.

In conclusion, resolving customary land disputes through mediation is not only a practical solution to conflict but also a manifestation of respect for legal pluralism that exists within Indonesian society. Moving forward, the active engagement of all stakeholders is crucial to promoting a fair, dignified, and locally grounded approach to customary land dispute resolution, in line with the principles of a democratic rule-of-law state.

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