

Integration Of Customary Legal Values And Modern Mediation In The Framework Of Land Dispute Resolution

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ABSTRACT

This study delves into the integration of customary law values with modern mediation in resolving land disputes in Indonesia, often marked by tensions between individual and communal interests and between customary law and national law. Employing a normative legal research methodology, this investigation explores relevant regulations, including the Basic Agrarian Law (UUPA) and the Law on Arbitration and Alternative Dispute Resolution, to understand how to harmonize the principles of customary law and mediation without undermining the supremacy of law at the national level. The research identifies two core issues: how distributive and procedural justice can be realized through this integration. Findings indicate that formal recognition of customary mediation outcomes and a comprehensive regulatory framework are crucial for establishing a fair and effective dispute resolution mechanism. This study advocates for developing regulations that celebrate legal diversity, positioning land dispute resolution as a process that interweaves human values with local wisdom while reinforcing the legitimacy of customary law within the national legal framework.

Keywords: *Customary Law; Modern Mediation; Distributive Justice; Procedural Justice; Land Disputes.*

INTRODUCTION

In the ever-growing maze of legal complexities, land dispute resolution in Indonesia emerges as a pressing challenge, demanding in-depth attention from legal academics and practitioners. These disputes are often rooted in overlapping ownership, land rights, and land use, creating clashes of interests between individuals and institutions. In this context, the importance of effective, fair, and community-based dispute resolution methods becomes increasingly apparent. One interesting approach to explore in this normative legal research is the integration of customary law values with modern mediation. This approach offers a rich and relevant alternative, prioritizing local wisdom while respecting the principles of *ubi jus ibi remedium* and *pacta sunt servanda*, as stipulated in Article 18B of the 1945 Constitution. Thus, this research explores the potential synergy between tradition and innovation in creating inclusive and sustainable solutions to these protracted conflicts.

Customary law in Indonesia has been recognized as one of the sources of law that is alive and developing in society. Recognition of the existence of customary law is reflected in various

regulations, including in Article 18B of the 1945 Constitution which affirms the recognition of the unity of customary law communities and their rights, as long as they are still alive and by the development of society (Neununy, 2024). In land dispute resolution, customary law plays a vital role, often recognized and respected by local communities as a more efficient and faster mechanism than formal justice. However, applying customary law inland dispute resolution is not free from challenges, especially in harmonizing with the national legal system. This challenge urgently requires a framework to bridge the two legal systems, local values can function synergistically in a broader legal context. This integration is important to achieve justice and ensure that dispute resolution reflects the social justice desired by the community.

Regional cultural elements have the potential to be local genius because they have proven their ability to survive. These elements are able to withstand foreign cultures, can accommodate foreign cultural elements, can integrate foreign cultural elements into native culture, can control, and can provide direction to cultural development (Tumiran, 2024).

Mediation, as one of the alternative dispute resolution (adr) methods, has been widely used in modern legal systems to resolve various types of disputes, including land disputes (Nugroho, 2019). Mediation has emerged as a beacon of hope in land dispute resolution, offering a more flexible, participatory approach that focuses on achieving mutually beneficial agreements. In this context, mediation provides a space for the disputing parties to find a way out without getting caught up in a lengthy and expensive court process. Although it has been recognized in the Indonesian legal system, as stipulated in law no. 30 of 1999 concerning arbitration and alternative dispute resolution, the success of mediation is highly dependent on the acceptance and active participation of all parties involved. Thus, mediation is not just an alternative, but a collaborative art that requires commitment and openness, creating a space for dialogue that allows for a resolution that is not only fair, but also rooted in humanitarian values and social justice.

The integrating of customary law values and modern mediation in land dispute resolution offers a new paradigm in normative legal studies. This approach emphasizes local values that live in indigenous communities and recognizes the importance of more efficient dispute resolution methods that align with national and international legal principles (Lesaman, 2020). By combining the two, it is hoped that a solution can be found that is not only legally fair, but also socially acceptable to indigenous peoples and related parties. This concept encourages an in-depth study of how the two systems can be harmonized within the Indonesian legal framework. This harmonization process must involve constructive dialogue that considering values and national legal principles, bridging tradition and modernity. Thus, this integration is not only technical, but also cultural, embracing local wisdom and prioritizing comprehensive justice for all elements of society.

Settlement of land disputes through integration of customary law and modern mediation requires normative studies to understand the extent to which the two approaches can go hand in hand. In the framework of normative research, the role of doctrine, legal principles, laws and regulations becomes crucial to analyze (Lesaman, 2020). This study aims to explain how customary law can be recognized in the modern legal system, and institutionalize mediation as a legitimate and effective mechanism for resolving land disputes. Thus, normative analysis

of the harmonization between customary law and modern mediation is relevant to enriching legal literature and providing significant contributions to the development of law in Indonesia.

The issue of harmonization in the context of legal globalization, which links customary and modern legal systems, is not new; it opens up a broader perspective on how Indonesia can create a legal framework that is inclusive and adaptive to legal pluralism, especially in the context of land dispute resolution. In addition, it is important to understand the position of customary law in the hierarchy of laws and regulations in Indonesia, so that its role and recognition can be determined in the larger legal structure, creating synergies that are beneficial to all parties involved.

According to Stufenbau's theory, the legal system has a hierarchical structure in which lower regulations must comply with higher legal norms (Yamin, 2019). In this context, customary law is often in a lower position compared to national law. However, the recognizing of customary law in various laws and regulations, such as in the Basic Agrarian Law and the Village Law, shows that customary law has its own legitimacy in regulating land rights. This normative study aims to describe the extent to which customary law can be combined with modern mediation principles without violating the provisions of applicable national law. Through this analysis, it is hoped that a deeper understanding can be built on how these two systems can complement each other, creating a resolution mechanism that is not only legally valid, but also relevant and rooted in local wisdom that is upheld by the community.

The modern mediation approach, which is essentially rooted in the principles of negotiation and voluntary agreement between the disputing parties, must be adapted to customary law's characteristics (Afoeli, 2023). In the realm of customary law, dispute resolution often involves traditional figures or community leaders who function as mediators, creating a harmonious atmosphere based on local wisdom. Although similar to modern mediation, this mechanism has significant differences in its processes and procedures. This normative research will examine the synergy between the two approaches, exploring how they can complement each other without sacrificing the fundamental principles of each legal system. By combining traditional values and modern innovations, it is hoped that a new path can be found towards a resolution that is not only legally fair, but also able to reflect the social justice desired by the community, creating a bridge between the old and the new in a pluralistic legal order.

From a normative legal perspective, modern mediation must to be viewed from the perspective of its constitutionality. Law No. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution provides a legal basis for the use of mediation in resolving disputes outside the courts (Triana, 2022). However, applying mediation in the context of land disputes involving customary law requires deeper adjustments to remain in line with national legal principles. This study focuses on how modern mediation can be integrated into land dispute resolution without ignoring the essence of recognizing customary law.

Through normative analysis, we will explore the legality aspect of decisions made through mediation in this context. One crucial issue that often arises is the binding force of mediation results; in customary law, decisions of customary leaders are usually final and socially binding, while in the national legal system, mediation decisions must meet certain

requirements to obtain legal legitimacy. This study will examine how mediation decisions, arising from the process of integration between customary law and modern mediation, can be given legally recognized binding force, creating a solid bridge between tradition and modernity in the pluralistic Indonesian legal system.

Harmonization between customary law and modern mediation in resolving land disputes also touches on distributive and procedural justice aspects (Arsyad & Samsiar, 2019). Distributive justice focuses on how dispute resolution outcomes are distributed fairly among the parties involved, while procedural justice emphasizes how the resolution process itself proceeds fairly.

This study explores how these two approaches can realize justice, in terms of the substance of the results and the resolution process. Given that land disputes in Indonesia involve various interests and different legal perspectives, finding a fair and effective solution is important. The issue of land disputes in Indonesia is increasingly complex due to the overlap between the national legal system and customary law, which is recognized and implemented in local communities. Although the Basic Agrarian Law (UUPA) recognizes the existence of customary law, its implementation often encounters obstacles when harmonizing with a more formal modern mediation system. This study will integrate of the two approaches to realize distributive and procedural justice. By referring to John Rawls' theory of distributive justice, which emphasizes the fair distribution of resources (Mardani, 2024) and the theory of procedural justice which demands transparency and equality in the process (Alexy, 2022). This research seeks to create a synergistic framework between local values and formal procedures in land dispute resolution, filling existing gaps and offering a new approach focusing on broader justice aspects.

This study also refers to several previous studies that are relevant to this topic. Several studies have examined the resolution of land disputes, such as research highlighting local wisdom has a significant and effective role in resolving land dispute cases that are not criminal acts. They also revealed that mediation and local wisdom and the desire to find mutually beneficial solutions are useful in developing a comprehensive strategy to resolve land disputes that are still piling up in North Sumatra (Siregar, et al, 2023). In addition, research that examines the recognition of local wisdom contained in customary law in indigenous communities faces various challenges, especially when the legitimacy of customary law itself is questioned, especially regarding forest protection (Helmi et al, 2023).

While this study aims to investigate the potential for harmonization of customary law and modern mediation, it should be noted that the limitation of this study lies in the scope of the prioritized normative analysis. This study does not involve direct empirical studies of land dispute cases in the field, but instead focuses on theoretical and normative analysis of how the two legal systems can be integrated within the Indonesian legal framework. In addition, this research is more focused on the context of land disputes, so it does not discuss in depth disputes in other sectors that may also involve customary law, such as civil disputes outside of agrarian affairs. These limitations are intended to narrow the scope of the study and provide a clearer focus on land dispute resolution.

In general, this research is expected to contribute to developing agrarian law in Indonesia, especially in terms of recognizing and strengthening customary law within the national legal

framework. By integrating customary law values and modern mediation procedures, it is hoped that a dispute resolution mechanism will be created that is efficient, effective fair and acceptable to all parties involved. This study also offers a new perspective for policymakers and legal practitioners to be more open to the potential of customary law as an integral part of the national legal system, especially in efforts to create more inclusive and sustainable justice (Erp, 2017).

METHODS

This study uses a normative legal research method that analyzes of relevant legal rules, doctrines, and concepts. This approach does not involve empirical field data collection, but rather relies on theoretical analysis of written legal regulations and applicable legal theories. The approach used includes legislative analysis, focusing on various laws, such as the Basic Agrarian Law (UUPA) No. 5 of 1960 and Law No. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, to understand the legal basis related to the integration of customary law and modern mediation.

DISCUSSION

Harmonization Between Customary Law Principles and Modern Mediation

In a complex and diverse legal landscape, integrating customary law values with modern mediation opens a new chapter in land dispute resolution in Indonesia. This is where two worlds meet: one rich in tradition and local wisdom, and the other adhering to strict and procedural rules. This harmonization process aims not only to find agreement between *ius naturale* and *ius positivum*, but also to explore the depths of the human values that underlie both systems. With an inclusive approach, every voice—both from indigenous communities and parties involved in mediation—can come together to create a just and sustainable solution. This emphasizes that justice is not only the end result, but also a process that values every step taken and every story carved in this long journey.

Furthermore, this study invites us to reflect on the meaning of justice itself. In a dynamic legal framework, human rights must be a non-negotiable foundation, ensuring that every individual and community receives equal protection. This is where we find the call to strengthen the legitimacy of customary law in the national legal order, creating space for diversity and legal pluralism to breathe. In other words, this harmonization is a promise—a promise to embrace the richness of our culture while still affirming the commitment to universal principles that protect human dignity. Now is the time for the law to grow and develop, to become a reflection of true social justice.

Basically, customary law is a legal system that is living law, or law that lives and develops in certain customary communities. As a law that develops dynamically based on local social and cultural norms, customary law tends to be more flexible and can be adapted to local conditions. The customary law principles, especially in resolving land disputes, often center on communal justice, which emphasizes common interests over individual interests (Badriyah, 2022).

In the process of resolving land disputes, the interaction between customary law and modern mediation creates a dynamic dialogue rich in meaning, where deliberation with customary

leaders reminds us of the principle of peaceful negotiation in modern mediation. However, challenges arise because the flexibility of customary law is not always in line with the rigid procedures of the formal mediation system, creating a bridge that must be crossed with openness and innovation in responding to existing norms. The national legal framework, regulated in Law No. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, provides the basis for a structured mediation process that prioritizes mutually beneficial outcomes, where the mediator acts as a neutral liaison who creates a space for productive and inclusive dialogue. Recognizing customary law and local values is crucial so that every step in resolving disputes not only meets formal legal demands, and respects the community's traditions and wisdom. Thus, this integration is not just a challenge, but an opportunity to build a more just and sustainable legal system, where each party feels recognized and appreciated in the long journey towards justice.

Modern mediation is a faster, more efficient, and more participatory process compared to resolving disputes through the courts. However, the advantage of modern mediation lies in the formality of the procedure in accordance with positive law, including the recognition of the results of mediation which can be stated in the form of a decision that has permanent legal force. Therefore, harmonization between modern mediation and customary law must consider how informal procedures in customary law can be legitimized within the national legal framework (Salim, 2024).

In the context of national law's supremacy, customary law must still be subject to the principles of national law that are higher in the legal hierarchy. According to the Stufenbau theory or Hans Kelsen's legal pyramid, lower regulations must align with higher regulations, and customary law is subordinate to the constitution and national laws (Bacharuddin, 2024).

harmonizing customary law and modern mediation must be carried out carefully, ensuring that the basic principles of national law are maintained. The protection of human rights, which is deeply rooted in the Indonesian constitution, is a fundamental pillar that must be respected. Although rich in local traditions and values, customary law must not conflict with individual rights guaranteed by the constitution, including the right to land ownership and the right to receive fair treatment in the legal process. In this context, Integrating of these two systems offers an opportunity to create a more inclusive and equitable approach, where justice is not just a jargon, but is also implemented in the daily lives of the community. Presenting mediation that respects and recognizes the uniqueness of customary law while adhering to human rights principles will enrich the legal experience in Indonesia, making every step towards dispute resolution a harmonious and meaningful journey.

The issue of human rights protection is becoming increasingly important in resolving land disputes because the parties involved often have different interests, including in terms of access to land as a source of livelihood (Basyarudin, 2021). Land rights are recognized as an integral part of human rights, as stipulated in various international instruments, including the International Covenant on Economic, Social and Cultural Rights (ICESCR), Indonesia has ratified. In the context of land dispute resolution through customary law, there is often a risk violating of individual rights, especially when the resolution prioritizes communal interests over individual interests. Therefore, it is very important for the state to ensure that dispute resolution mechanisms based on customary law remain in line with human rights principles,

including land rights and protection against discrimination. Thus, integratin local values and universal legal norms can create a fair balance, where each individual feels respected and their rights are protected in every dispute resolution process.

The harmonization process also needs to be noted that customary law and modern mediation must complement each other, not contradict each other. Customary law can provide social legitimacy to mediation results, while modern mediation can provide a more formal and legally binding legal framework. In many cases, the results of land dispute resolution through customary law often only have social legitimacy in the local community, but do not have legal force recognized by the state (Isa et al., 2022).

One of the main challenges in harmonizing customary law and modern mediation is to provide legal recognition to the results of dispute resolution carried out through customary law, so that they can be accepted in the national justice system. This can be achieved by ratifying the results of customary mediation in the form of a legally recognized peace deed, so that the results have legitimacy in the context of formal law. In addition, this harmonization must be seen from the perspectives procedural and distributive justice. Procedural justice highlights the importance of a resolution process that takes place fairly and transparently, while distributive justice focuses on the fair distribution of dispute resolution results among the parties involved. In the context of customary law, distributive justice often prioritizes communal interests, while modern mediation emphasizes achieving a balanced agreement for both parties. Therefore, harmonizing these two systems must ensure that procedural and distributive justice principles can be realized without harming one of the disputing parties, creating a resolution process that is not only legally valid but also substantively fair.

As part of the harmonization effort, it is also important to examine how the role of mediators in modern mediation can be adapted to the role of traditional leaders in resolving land disputes through customary law (Elmayanti, 2017). In modern mediation, the mediator serves as a neutral party who facilitates the achievement of an agreement between the disputing parties. In contrast, in the context of customary law, customary leaders act as mediators with social and moral authority recognized by the community. Although both roles have the same goal, namely achieving a peaceful resolution, the striking difference lies in the legitimacy and source of their authority. Therefore, conducting an in-depth normative study on how to synchronize the roles of mediators and customary leaders within a harmonious legal framework is very important, so that the dispute resolution process can effectively combine local values and modern legal principles.

Harmonization must also consider the aspect of recognition of customary law in legislation. National laws such as Law No. 5 of 1960 concerning Agrarian Principles and Law No. 6 of 2014 concerning Villages provide recognition of the existence of customary law, including in the resolution of land disputes (Elmyanti, 2017).

Although recognition of customary law has existed, reality it still needs to be fully integrated into the national legal system. Therefore, it is urgent to formulate more comprehensive regulations, which not only provide space for the integration of customary law with modern mediation in formal land dispute resolution, but also maintain the integrity of national law. In addition, harmonization between the two systems must pay attention to aspects of supervision

and evaluation. The process of resolving land disputes through customary law must be supervised by the competent authorities, to ensure that every step taken does not violate national legal provisions or human rights principles. In this context, the government has a strategic role as a facilitator, by providing clear guidance and regulations on how customary law can be integrated into the national legal system. Strict supervision is essential to prevent potential abuse of authority by certain individuals or groups who seek to exploit customary law for personal gain.

Effective harmonization between customary law and modern mediation requires a deeply interdisciplinary approach. Going beyond legal studies, we must enter the social, cultural and economic realms to capture the dynamics that drive indigenous communities. In this context, traditional values must be aligned with contemporary principles in mediation, so that the harmonization process is not only legally valid, but also resonates with local needs and values. This interdisciplinary approach plays an important role in identifying potential conflicts between customary values and national law, as well as formulating innovative solutions to bridge the existing differences.

Legal education emphasizing legal pluralism is crucial to realize more effective harmonization. Law enforcers, including judges, lawyers, and mediators, need to be equipped with a deep understanding of the diversity of legal systems in Indonesia, including customary law. This education serves as a tool to appreciate and integrate customary law principles into the national legal framework, without ignoring the supremacy of law and human rights. In this framework, the provisions of the Basic Agrarian Law (UUPA) No. 5 of 1960 are important pillars, providing a legal basis for the recognizing of customary law and affirming its relevance in the context of resolving land disputes through mediation. By utilizing articles that recognize the existence of customary law, we have the potential to pave the way for a harmonious integration between local values and modern legal systems, creating a just and sustainable future for all parties involved.

Article 5 of the UUPA confirms that the agrarian law applicable to land, water and space in Indonesia is customary law, as long as it does not conflict with national interests and higher laws and regulations (Neununy, 2024). Customary law plays a crucial role in regulating land rights, including resolving local disputes. Articles in the Basic Agrarian Law (UUPA) provide a basis for recognizing customary law as an integral part of the Indonesian agrarian legal system, while also emphasizes its relationship to mediation based on local values. However, customary law must still function within the framework of national interests and be subject to higher regulations, so that any attempt to resolve disputes through customary law must align with national law and not contradict the basic principles stipulated in the constitution, including the protection of human rights.

In Article 3 of the UUPA, the government recognizes the customary rights of indigenous peoples and similar rights, on the condition that these rights are still relevant and their implementation must be in line with national interests and laws and regulations. Recognition of customary rights shows that customary law, including traditional dispute resolution mechanisms, has legitimacy before the state. Customary mediation, as one form of resolution that is often rooted in customary rights, can be legitimate if it continues to pay attention to the principles of national law. However, in practice, dispute resolution through customary rights

must not harm the public interest or conflict with broader principles of justice, especially regarding protecting of individual and group rights. Thus, the balance between tradition and modernity must be maintained, so that all parties can feel complete justice.

The relationship between customary law and modern mediation is further clarified in Article 6 of the UUPA, which emphasizes that all land rights have a social function. This emphasis shows that land use, including the dispute resolution process, does not only focus on individual rights, but also on the welfare of society as a whole. In the context of modern mediation, this concept of social function is in line with the principles of mediation that prioritize mutually beneficial agreements, while maintaining broader social interests. Therefore, integration between customary law-based mediation and modern mediation is very important, considering that customary law often views land as a communal asset that needs to be managed for the common good. This synergy allows for the creation of social welfare without sacrificing individual rights.

Furthermore, Article 56 of the UUPA emphasizes that agrarian disputes must be resolved in a manner that ensures justice and does not conflict with the public interest. This provision provides a legal basis for alternative dispute resolution such as mediation, where peaceful resolution is prioritized over a long and complicated litigation process. Thus, both customary law-based and more modern mediation can be considered as settlement methods that are in line with these provisions. The recognition of customary rights in the UUPA provides space for harmonization with modern mediation, although challenges arise in ensuring that the results of dispute resolution can be recognized by the national legal system and meet the requirements of legality. This is where Law No. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution plays an important role, providing a legal framework that gives strength to the results of mediation. The integration between the UUPA and the law offers a path for more comprehensive harmonization, combining local values with modern legal practices in resolving land disputes.

The relationship between customary law, modern mediation, and Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 14 of 2024 further strengthens the foundation for fair and sustainable land dispute resolution. This regulation specifically regulates customary land rights of customary law communities, which are located in areas controlled by communities that are not bound by other land rights. Thus, the 2024 ATR Regulation not only strengthens the recognition of local community rights, but also bridges customary law practices with a more formal national legal framework. In this case, Article 6 of the UUPA which emphasizes the social function of land rights can be harmonized with the provisions in the ATR Regulation which encourage community participation in land resource management, considering that customary rights often reflect communal interests.

Furthermore, the 2024 ATR Regulation emphasizes the importance of fair and transparent dispute resolution, in line with the principles of mediation stipulated in Law No. 30 of 1999. This regulation provides clear guidelines for integrating customary law into mediation practices, creating space for resolution that respects individual rights and communal interests. An interdisciplinary approach that encompasses social, cultural, and economic aspects is

increasingly relevant in the process of harmonization between customary law and modern mediation, especially in the context of Indonesia's diverse society.

The alignment between the UUPA, the Law on Arbitration, and the 2024 Permen ATR creates a solid synergy in the framework of land dispute resolution, with a focus on procedural and distributive justice. Through this comprehensive regulation, it is hoped that every result of dispute resolution can be legally recognized, strengthening the legitimacy of customary law in the national legal system, and ensuring that the settlement mechanisms applied are not only efficient, but also fair and inclusive for all parties involved. This is an important step towards a more just legal system, where the rights of customary law communities are respected on the journey towards sustainable and harmonious resolution.

Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 15 of 2024 focuses on land management and spatial planning, providing more detailed guidance on how land resource management is carried out sustainably and integrated. The coherence between this regulation and customary law and modern mediation lies in the effort to create a system that not only respects individual rights, but also pays attention to communal interests and social and environmental sustainability.

One important aspect of Permen ATR 15/2024 is the emphasis on the need for community participation in land management. This is in line with customary law principles that prioritize the involvement of local communities in decision-making regarding land use and management. By recognizing the rights of customary law communities, this regulation provides a platform for more inclusive mediation, where the voices of local communities are recognized and valued.

Furthermore, Permen ATR 15/2024 also strengthens the principle of distributive justice by stipulating that land management must be carried out with attention to the welfare of society as a whole. This creates synergy with Article 6 of the UUPA which emphasizes the social function of land rights. In the context of modern mediation, this approach supports dispute resolution that does not only focus on individual interests, but also on the broader social impacts of each decision taken.

Thus, the coherence between the Regulation of the Minister of ATR No. 15 of 2024, customary law, and modern mediation creates a comprehensive framework for sustainable land dispute resolution. This regulation not only provides a legal basis for the integration of customary values into modern practices, but also emphasizes the importance of a holistic approach to land management, leading to greater justice for all parties involved.

In the context of land dispute resolution, the UUPA emphasizes that national interests and public welfare are invaluable primary guidelines. This shows that in the harmonizing of customary law and modern mediation, the protection of human rights and public interest must be the main focus. Dispute resolution is aimed at bringing justice to the parties involved and maintaining broader social harmony, considering the impact of each decision. The principles in the UUPA call for a comprehensive approach that combines local values with modern principles in a harmonious symphony of resolution. Referring to Article 33 of the 1945 Constitution, which emphasizes that the state controls the land, water, and natural resources for the prosperity of the people, we find a strong foundation for the protection of

individual and communal rights. In this case, resolving land disputes through customary law must align with the state's goal of achieving justice and collective prosperity. Thus, harmonizing customary law and modern mediation must ensure that the results of the resolution do not harm the public interest, adhering to a constitutional framework that prioritizes social justice. Each step towards this integration is a step towards a more just, inclusive, and sustainable legal system—a journey that celebrates local wisdom while remaining committed to universal values.

Integration of Customary Law Values and Modern Mediation in Land Dispute Resolution

Distributive justice and procedural justice are two fundamental principles that must be considered in any land dispute resolution, especially when integrating customary law values and modern mediation. Distributive justice refers to how the results of dispute resolution are distributed fairly among the disputing parties, while procedural justice emphasizes the importance of a fair, transparent, and participatory dispute resolution process (Quilty & Murphy, 2018). In the framework of land dispute resolution in Indonesia, the combination of customary law and modern mediation offers an opportunity to weave holistic justice, while also presenting challenges that require in-depth and careful analysis. Ensuring a balance between customary values prioritizing social harmony and modern mediation adhering to fair legal procedures is a non-negotiable necessity.

In this integration process, every step must be taken with precision so that justice is not only felt by individuals, but also penetrates to the wider community, building solidarity and collective justice. So, this journey is not just about harmonizing two legal systems, but about creating an ecosystem of justice that embraces local wisdom, adapts modern principles, and affirms a commitment to the welfare of society as a whole. Herein lies the beauty and challenge of integrating customary law values and modern mediation, which ultimately contribute to achieving more inclusive and sustainable justice.

Distributive justice in customary law is often based on the principles of mutual cooperation and communal welfare. In many indigenous communities, land is not only seen as a personal asset, but also as part of a communal identity that cannot be separated from the social and spiritual values of the community (Fauzani, 2024). Therefore, the resolution of land disputes in the context of customary law is often oriented towards restoring social balance within the community, where individual interests often have to be set aside for the sake of the common good. This marks a significant difference with the distributive justice approach in modern mediation, which places more emphasis on individual rights and reaching mutually beneficial agreements for both parties. This is where the biggest challenge arises: how these two systems can be integrated to achieve a harmonious balance between individual rights and collective welfare. This integration process requires precision and innovation, ensuring that justice does not only belong to a few people, but also creates space for the community to develop and function harmoniously.

Settlement by means of modern mediation, distributive justice is realized through negotiations aimed at reaching a mutual agreement that is fair to all parties to the dispute. Mediation provides space for the parties to actively engage in the dispute resolution process

and determine the final outcome that they consider fair. The main principle in modern mediation is voluntary agreement, where the parties independently determine the distribution of their rights.

In the context of land disputes, agreement on land ownership or use rights—including compensation for the injured party—is the essence of the resolution. However, there is a profound challenge behind the desire to achieve this solution: the principle of distributive justice in customary law, which views land as collective property, potentially conflicts with the individualistic approach that often appears in modern mediation. The attachment of land to community identity and togetherness becomes an obstacle to the separation of individual rights, and this is where the uniqueness and complexity of the conflict begin to appear.

To realize distributive justice in the integration of customary law and modern mediation, an approach that respects the essence of both legal systems is needed. The results of land dispute resolution must consider individual rights protected by national law, while still recognizing the communal interests that are the foundation of customary law. One way that can be taken is to open up space for participation for indigenous peoples in the mediation process, so that the decisions taken reflect a balance between individual and collective interests. This approach not only strengthens the legitimacy of the mediation results, but also reduces the potential for future conflict, considering that the decision is based on a more inclusive consensus. In line with that, Permen ATR Number 14 of 2024 strengthens the recognition of local community rights, bridging customary law practices with the national legal framework, while Permen ATR Number 15 of 2024 emphasizes the need for community participation in land management, building a solid bridge towards more comprehensive and sustainable justice.

In the framework of land dispute resolution, procedural justice emerges as a bright light that guides every step, affirming that the process is not only about the outcome, but also about how the outcome is achieved. In the realm of modern mediation, procedural justice is rooted in the principles of transparency, participation, and impartiality, where the mediator, as a neutral arbitrator, serves as a bridge that ensures that all parties, without exception, have space to voice their arguments and aspirations. This process is carried out in an atmosphere free from pressure, where the final agreement is born from a sincere and voluntary consensus. Meanwhile, in the tradition of customary law, procedural justice is realized through deliberation, led by traditional figures or community leaders—figures who are not only respected, but also based on strong moral authority to resolve disputes wisely and peacefully. It is here, at the meeting of these two streams, that a promising synergy is born, weaving justice with reason, and placing social harmony as the ultimate goal, where every voice, both individual and collective, contributes to knitting together sustainable and inclusive solutions. The main difference between procedural justice in customary law and modern mediation lies in the formality of the process. In customary law, the dispute resolution process is often more informal and not bound by the strict procedural rules that exist in modern mediation. Customary deliberations are usually conducted in a more flexible atmosphere, where the disputing parties are encouraged to reach an agreement based on customary values and local wisdom (Nugroho, 2019).

Nevertheless, process's core remains rooted in procedural justice elements, where participation and transparency are the main pillars. In every interaction, all parties are allowed to speak and listen, creating a fertile space for dialogue. In the context of modern mediation, procedural justice is strictly formulated, colored by formal procedures and clear standards to ensure justice. To weave harmony between procedural justice in customary law and modern mediation, a wise adjustment is needed—a bridge that encapsulates the unique characteristics of these two legal systems. For example, formalizing the elements of customary deliberation by recording the results of agreements and preparing legal documents recognized by national law. Through this step, procedural justice in customary law can be strengthened without losing its local soul, while procedural justice in modern mediation is maintained through the principles of transparency and achieving fair consensus. Thus, the results of mediation not only resonate in the hearts of the parties, but also gain binding legal force, ensuring that this resolution journey closes the door to future conflicts and celebrates the peace that has been created.

In addition, the creation of control and supervision mechanisms in this integration process is very crucial to ensure that procedural and distributive justice can be realized in real terms. The government and legal authorities are required to play an active role in supervising every step of mediation involving customary law, ensuring that no party is harmed or forced to accept unfair results. This supervision not only protects individuals, but also ensures that decisions made in customary mediation are in line with national legal principles, including the protection of human rights and legitimate land ownership rights. In this context, modern mediators connect customary law with the national legal framework, ensuring that every mediation process runs according to established standards. With this role, mediators not only maintain justice, but also carve out synergy between tradition and modernity, creating harmony in dispute resolution based on local wisdom and universal values.

Distributive justice in terms of recognizing the communal rights of indigenous peoples must also be formally recognized in the results of mediation. The results of mediation based on customary law must recognize the existence of customary rights or communal rights of indigenous peoples to land, as regulated in Article 3 of the UUPA (Santoso, 2017). Recognition of indigenous peoples' rights is essential to ensure that distributive justice does not only focus on individual rights, but also takes into account collective rights that have long been recognized in customary law (Vollenhoven, 2018). In the context of modern mediation, this principle can be integrated through a legally binding written agreement, in which the disputing parties agree to respect and protect existing communal rights (Glendenning, 2020). Furthermore, the integration between distributive justice and procedural justice can be achieved through a participatory approach, where all stakeholders, including indigenous peoples, are given space to be involved in the mediation process. In this case, modern mediators need to have a deep understanding of customary law and the values that live in local communities, so that mediation does not only function as a means of resolving disputes, but also as an effort to strengthen social ties between the parties (Wong, 2020).

Documenting the results of mediation is also a crucial aspect in realizing procedural justice. In modern mediation, dispute resolution results are stated in a written agreement that has permanent legal force, which needs to be applied in customary law-based mediation. By

formally documenting the results of customary mediation, procedural justice is guaranteed, because all parties have valid legal evidence regarding the agreement that has been reached (Ong, 2021). This will minimize the risk of future re-disputes and ensure their legitimate recognition by the national legal system. Overall, the integration of customary law values and modern mediation holds great potential to realize distributive and procedural justice in land dispute resolution in Indonesia. However, this process requires a careful approach, considering the different characteristics of the two legal systems. The active involvement of all parties—indigenous communities, mediators, and legal authorities—in designing an inclusive and transparent mediation process is vital. With these steps, this integration will not only produce a just solution to land disputes but also strengthen the legitimacy of customary law within the broader national legal framework (Faizal 2022).

The first challenge, the implementation of the integration of customary law values and modern mediation in resolving land disputes faces significant challenges due to the differences in the characteristics of the two systems. Flexible and evolving customary law often conflicts with more formal and rule-based modern mediation. This gap creates confusion regarding the authority of decisions, between customary law respected in the community and legally valid mediation results. To overcome this challenge, regulations are needed that recognize the results of customary law-based mediation as part of the national legal system. By giving legitimacy to customary leaders and formalizing the results of customary deliberations, we can create a bridge that strengthens this integration, so that the decisions taken are not only recognized socially, but also have formal legal force.

In the context of land dispute resolution, the challenge that arises from the integration of customary law values and modern mediation is the striking difference between the two legal systems. Customary law, which is rooted in tradition and flexibility, is often unwritten and develops according to the dynamics of local communities. On the other hand, modern mediation operates within stricter boundaries, structured by national legal norms and standard procedural rules. This inconsistency creates confusion in the field, especially when assessing which authority is stronger—customary law decisions driven by community leaders or mediation results recognized by positive law. In the midst of this, the legitimacy of dispute resolution outcomes becomes a challenge in itself, considering that customary law is often only recognized in the context of local communities and has no formal power in the eyes of the state (Vollenhoven, 2018).

To address this challenge, there needs to be a bridge connecting customary law with the national legal framework through more comprehensive regulations. The government and policy makers are required to design regulations that recognize the results of customary law-based mediation as a legitimate part of the dispute resolution system. One innovative step that can be taken is to provide legitimacy to customary figures or traditional mediators in the mediation process, so that the resulting decisions are recognized not only socially but also legally. This can be achieved by formalizing some aspects of the results of customary deliberations, such as recording the decisions that have been agreed upon in documents recognized by the courts or state institutions. With this approach, we not only re-establish social harmony, but also strengthen inclusive legal fabrics, where the voices of indigenous peoples resonate in the broader context of national law (Glendenning, 2020).

Second Challenge, Integrating customary law values and modern mediation in resolving land disputes in Indonesia presents significant challenges and opportunities. On the one hand, the differences in characteristics and paradigms of justice between the two systems create potential conflicts in upholding individual and communal rights. However, with an inclusive and collaborative approach, we can build a bridge that connects local and national values. Through a deep understanding of both, mediators and customary leaders can create a mediation process that is not only fair and reflects the community's wisdom. With these steps, this integration has the potential to strengthen the legitimacy of customary law and provide more sustainable solutions to land disputes, maintaining a balance between communal justice and individual rights within a broader legal framework.

the integration of harmony within the community. In contrast, modern mediation tends to prioritize individual justice, focusing on individual rights recognized and protected by positive law. This imbalance can lead to dispute resolution outcomes that may be considered fair in the context of customary law, but are perceived as detrimental to one party within the framework of modern mediation. This has the potential to create dissatisfaction among the disputing parties, especially when they come from different backgrounds in and do not the concept of justice (Vollenhoven, 2018).

To address these challenges, an inclusive and collaborative approach is needed, where both paradigms of justice can go hand in hand. Mediators involved in dispute resolution must have a deep understanding of both customary and national law, so that they are able to adapt the mediation process to the needs of the parties. A hybrid approach is an ideal solution; where communal justice is maintained through customary deliberation mechanisms, but individual rights are also recognized and protected in a formal process that follows modern mediation principles. This effort requires special training for mediators and customary leaders so that they can work together, creating fair and balanced outcomes for all parties involved (Glendenning, 2020).

The third challenge is related to the issue of legality and formal recognition of the results of dispute resolution through customary law. Many results of land dispute resolution carried out through customary law are only recognized at the community level and need binding legal force at the national level. This often causes problems when one of the aggrieved parties takes the case to a formal court, which may not recognize the results of the customary resolution. Inconsistencies between customary decisions and court decisions can create further conflict, especially if the court decides on a different outcome from what was agreed upon in the customary deliberation (Sumantry, 2020).

One solution that can be applied to overcome this problem is integrating customary mediation results into the formal justice system through a ratification mechanism. This can be done by recording the mediation results in a peace deed or legal document that can be recognized in court. Thus, decisions taken in the customary mediation process will have the same legal force as court decisions, but still maintain the underlying customary values. This ratification will also help prevent further conflict in the future, because the disputing parties will feel more assured that the results of the settlement are recognized by the state (Fadhillah, 2022).

The fourth challenge is the difference between customary law and national law in understanding land rights. In customary law, land is often considered part of a communal

heritage that cannot be sold or transferred freely. In contrast, in national law, land is recognized as an individual right that can be traded, inherited, or transferred to another party in accordance with the provisions of agrarian law (Soehardjo, 2019). These differences can trigger tensions in resolving land disputes, especially when the parties involved have different understandings of the rights to the land in question (Prabowo, 2022).

To overcome these challenges, intensive dialogue is needed between stakeholders from various legal backgrounds, including the government, traditional leaders, and the community. This dialogue should aim to find common ground between customary law and national law views on land rights, so that all parties can recognize and accept the results of mediation (Haryanto, 2022). In addition, there needs to be a broader legal education campaign to explain to indigenous peoples about their rights within the national legal framework, while ensuring that national laws continue to respect local values that live within communities (Rachmawati, 2023).

The fifth challenge is the lack of understanding and technical skills among traditional and modern mediators in managing complex mediation processes, especially those involving customary law elements. Mediators who are only trained in the formal legal system may not have a deep understanding of the customary values underlying land disputes; and vice versa, traditional mediators may not understand the legal procedures required for mediation results to be recognized by formal law (Widiaastuti, 2023). This imbalance can cause the mediation process to be ineffective or even fail (Prabowo, 2022).

The solution to this challenge is to increase the capacity and training of mediators from both legal systems. Training programs that focus on combining customary law knowledge and modern mediation need to be developed, where mediators are taught to understand the characteristics of both systems and how to integrate them in the mediation process.³ In this way, mediators will be better prepared to handle land disputes involving both legal perspectives, and be able to produce decisions that are fair, legal, and sustainable (Anisa, 2024).

The sixth challenge is related to regulatory support that still needs to be fully adequate. Although the Basic Agrarian Law (UUPA) recognizes customary law, existing regulations still need to fully cover how integration between customary law and modern mediation can be implemented in formal land dispute resolution (Susanto, 2023). The absence of a clear regulatory framework means that the formal justice system often does not recognize customary law-based so the results cannot be implemented legally (Prasetyo, 2022). As a result, the disputing parties have no legal certainty regarding the results of the mediation (Putra, 2024).

To address these challenges, more comprehensive legal reform is needed, especially in the form of regulations that specifically regulate the integration of customary law and modern mediation. The government needs to issue regulations that provide a clearer legal basis for how customary dispute resolution outcomes can be recognized and implemented by the formal legal system (Putra, 2024). With a clear regulatory framework, customary law-based mediation can have legitimate legal force and be recognized by the courts, thus providing legal certainty for all parties involved in the dispute (Pramudito, 2023).

Facing diverse challenges, the integration of customary law and modern mediation in resolving land disputes can develop into a harmonious symphony, where each note represents the principles of justice embedded in society. In this context, cooperation and inclusivity become two main pillars, creating a dynamic collaboration between the government, indigenous communities, and trained mediators. Through a mutually reinforcing approach, every voice in this process—whether speaking in the formal language of national law or inspired by local traditions—will form an agreement that is not only legally valid, but also deeply rooted in the social values that live in the community. Thus, efforts to harmonize these two legal systems not only serve to resolve disputes, but also to re-knit the fabric of customary law that has so far been marginalized in the national legal framework, recognizing its existence as an integral part of the nation's identity. As a result, this integration is not just a legal achievement, but a monumental step towards more comprehensive and equitable justice.

CONCLUSION

In this section, the author presents brief conclusions from the research results with suggestions for advanced researchers or general readers. A conclusion may review the main points of the paper, do not replicate the abstract as the conclusion.

Not only does the author write down the major flaws and limitations of the study, which can reduce the validity of the writing, thus raising questions from the readers (whether, or in what way), the limits in his studies may have affected the results and conclusions. Limitations require critical judgment and interpretation of their impact. The author should provide the answer to the question: is this a problem with error, method, validity, and or otherwise?

Writing an academic article is a challenging but very fulfilling endeavor. The guidelines presented here will enable you to write your first academic article relatively easily. Students, however, often underestimate the time required to produce a “polished” first effort. You cannot write a proper research article in a weekend or even a week. It is, therefore, extremely important to allow yourself enough time—at least three to four weeks—to work on the successive draft.

LIMITATION

It is certain that your research will have some limitations and but it is normal. However, it is critically important for you to be striving to minimize the range of scope of limitations throughout the research process. Also, you need to provide the acknowledgement of your research limitations in conclusions chapter honestly.

It is always better to identify and acknowledge shortcomings of your work, rather than to leave them pointed out to your by your dissertation assessor. While discussing your research limitations, don't just provide the list and describe of your work's shortcomings. It is also important for you to explain how these limitations have impacted your research findings.

Your research may have multiple limitations, but you need to discuss only those limitations that directly relate to your research problems. For example, if conducting a meta-analysis of the secondary data has yet to be stated as your research objective, no need to mention it as your research limitation.

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