



The Effectiveness of Customary Law in Resolving Land Disputes in Rural Areas: Social and Legal Perspectives in the Modern Era

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Abstract

Land disputes in rural areas are often complex problems because they involve aspects of customary law, social, and national agrarian policies. Customary law is still widely used in resolving land disputes in various traditional communities, mainly because it is considered more flexible and acceptable to local communities. However, the effectiveness of customary law in the modern context is increasingly questioned due to clashes with state regulations and rapid social change. Therefore, this study aims to evaluate the effectiveness of customary law in resolving land disputes in rural areas by considering social and legal perspectives in the modern era. This study uses a literature study method by analyzing various research and legal documents related to customary law in land dispute resolution. The data sources used include scientific journals, academic books, and laws and regulations related to customary and agrarian law. The analytical technique applied is thematic analysis to identify key patterns and trends in the implementation of customary law in various social and geographical contexts. The results of the study show that customary law is still effective in resolving land disputes at the community level, mainly because of its approach based on deliberation and consensus. However, the main challenges faced are the lack of formal documentation as well as non-compliance with national legal regulations, which often hinder legal recognition of customary decisions. Therefore, an integration model between customary law and national law is needed to create a more inclusive and equitable dispute resolution system.



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INTRODUCTION

Land disputes are one of the problems that continue to occur in Indonesia, especially in rural areas that still use customary law in regulating ownership and resolving land conflicts (Rudu, 2024). Customary law in various regions in Indonesia has an important role in maintaining social order and resolving disputes that arise in society, especially related to inheritance, land boundaries, and customary rights (Siregar, 2012). In many cases, customary law is more accepted by local communities than state law because it is more in line with cultural values and social practices that have been inherited from generation to generation (Handoko et al., 2024). However, in the modern

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era, the effectiveness of customary law in resolving land disputes is increasingly tested by the complexity of national agrarian law and the influence of rapid development (Rusli et al., 2025).

Land disputes are a legal problem that often occurs in Indonesia, especially due to overlapping ownership, poorly organized land administration, and differences in legal interpretations governing land rights. According to Siregar and Harahap (2024), the many land disputes that arise are often caused by unclear land boundaries, dual ownership, and conflicts between the community and the government and private companies. Settlement of land disputes can be done through litigation in court as well as non-litigation channels such as mediation and arbitration. However, the litigation approach tends to take a long time and cost a lot so it is not always an effective solution for the community.

Alternative approaches to land dispute resolution, such as mediation and negotiation, are becoming widely used to speed up the settlement process and reduce the burden on the judicial system. Agustiwi (2024) found that the National Land Agency (BPN) and the Ministry of Agrarian and Spatial Planning (ATR) have an important role in resolving land disputes by providing legal certainty through land certification and a more transparent land registration system. In addition, the research of Rusli and Anggalana (2025) shows that mediation in land dispute resolution provides a higher success rate compared to the court route, as it emphasizes more on solutions that benefit both parties. Therefore, synergy between the government, the community, and legal institutions is needed in developing a more effective and efficient land dispute resolution system in Indonesia.

The role of customary law in resolving land disputes is becoming increasingly relevant amid increasing land ownership conflicts caused by land conversion, large-scale investment, and infrastructure development (Ernis, 2019). Customary law has a settlement mechanism that prioritizes deliberation and mutual agreement, in contrast to the state judicial system which is more formal and litigation-based (Grindulu et al., 2023). In some areas such as Manggarai, customary law in resolving land disputes is still applied through customary institutions such as Tua Golo, which functions as a mediator in land ownership disputes (Rudu, 2024). However, the effectiveness of this system is often questioned when there is a clash with positive laws that have more complex regulations and are often not fully in line with customary law practices (Akbar et al., 2025).

One of the main challenges in the application of customary law is the incompatibility between customary law principles and national legal rules, especially in the context of land registration and legal ownership rights in the eyes of state law (K. Kusuma, 2021). Although customary law is often considered faster and more flexible in resolving land disputes, its limitations in providing legal certainty are often an obstacle, especially for parties who want to obtain formal legal protection for their land ownership (Jannah et al., 2022). In addition, the lack of official documentation in the customary law system can lead to recurring disputes that are difficult to resolve permanently (Parawita & Yuliananingsih, 2024).

Given these challenges, it is important to evaluate the extent of the effectiveness of customary law in resolving land disputes in the modern era, especially in rural areas that still rely on traditional legal systems (Satory et al., 2025). The existence of customary law in indigenous peoples is often seen as a form of restorative justice that prioritizes social balance rather than formal legal sanctions (Istiqamah, 2018). Therefore, an in-depth study is needed to identify the advantages and limitations of customary law in resolving land disputes, as well as how synergy between customary law and national law can be applied to create a more effective and fair dispute resolution system.

The urgency of this research lies in the increasing number of land disputes in rural areas due to increasing development and social changes that occur in indigenous peoples (Pratiwi et al., 2024). In this condition, customary law must adapt to remain relevant in resolving land conflicts without losing its essence as a legal system rooted in the traditions of local communities (Hamid, 2019). In

addition, this research is also important to evaluate how customary law can be integrated with national law in order to maintain legitimacy in the broader legal system (Laturette, 2016).

Several previous studies have highlighted the role of customary law in resolving land disputes in various regions in Indonesia. The study conducted by Rudu (2024) examines the effectiveness of Pedes, namely the Manggarai customary law system, in resolving inherited land disputes. This study found that although customary law is still effective in resolving land conflicts among local communities, its existence is increasingly threatened by a formal legal system that prioritizes written administrative evidence in the dispute resolution process. Similar findings were also conveyed by Prasetyo (2022), who showed that the lack of documentation of land ownership in the customary law system often leads to legal uncertainty and prolongs land disputes between individuals or community groups.

This study aims to analyze the effectiveness of customary law in resolving land disputes in rural areas, especially in social and legal perspectives in the modern era. In addition, this research will explore how customary law can adapt to social change as well as how integration with the national legal system can be carried out without eliminating long-held values of local justice. Thus, this research is expected to provide insight into strategies that can be used to optimize the role of customary law in resolving land disputes in a sustainable and fair manner.

METHOD

This study uses a qualitative method with a literature review approach. The literature study was chosen as the primary method because it allows researchers to collect, analyze, and synthesize a variety of relevant scientific sources regarding the effectiveness of customary law in the settlement of land disputes in rural areas. This method also aims to explore social and legal perspectives in the application of customary law in the resolution of land conflicts in the modern era, as well as how customary law can adapt to the development of national regulations (Snyder, 2019).

The data sources in this study come from secondary literature, including scientific journals, academic books, research reports, and laws and regulations related to customary law and land disputes. Data was collected from various reputable scientific databases such as Google Scholar, ScienceDirect, SpringerLink, as well as national journals such as the Journal of Agrarian Law, the Journal of Customary Law of the Archipelago, and the Journal of Indonesian Law. In addition, legal documents such as the Basic Agrarian Law (UUPA) No. 5 of 1960 and related regulations issued by the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) are also used as the main reference to understand the positive legal context in land disputes (Boell & Cecez-Kecmanovic, 2015).

The data collection technique is carried out by the documentation method, namely searching, studying, and analyzing written sources relevant to this research. Literature search was carried out using keywords such as customary law in land disputes, the effectiveness of customary-based land dispute resolution, and agrarian conflicts in rural areas. The collected articles are then selected based on relevance, credibility, and year of publication to ensure that the data used is up-to-date information relevant to the phenomenon being studied. The snowball sampling technique is also used to search for additional references from the main article that has been obtained to gain broader insights into the research topic (Webster & Watson, 2002).

In this study, the data analysis method used is thematic analysis, where data obtained from various sources is categorized into relevant main themes. The analysis process is carried out through several stages, namely reading and understanding the literature that has been collected, identifying patterns and trends in previous research, and grouping findings based on main categories such as the superiority of customary law in resolving land disputes, challenges in the implementation of

customary law, and the integration of customary law with the national legal system. This approach allows research to describe how customary law functions in resolving land conflicts as well as how this system can be optimized in the context of modern law (Braun & Clarke, 2021).

RESULT AND DISCUSSION

The following table presents the findings of 10 articles that have been selected based on their relevance and credibility related to the effectiveness of customary law in resolving land disputes in rural areas. These articles were selected from quality sources such as Springer, Taylor & Francis, the Journal of Agrarian Law, and the Academic Repository to ensure the accuracy and validity of the data.

Table 1. Literature Review

No	Author	Title	Research Focus
1	Osei et al. (2024)	Building an Efficient Land Information System in Ghana: Insights from Land Governance	Integration of land information systems with customary law accelerates the resolution of land conflicts and promotes social justice
2	Kusuma & Dewi (2024)	Juridical consequences of pararem panepas wicara decision by Kerta Desa institute in resolving customary conflicts	Balinese customary law is still effective in resolving land disputes, but faces challenges in harmonizing it with state law
3	Da Silva (2024)	RESISTÊNCIA: O Assentamento Popular Edivan Pinto e o Conflito Socioambiental no Perímetro Irrigado Santa Cruz do Apodi	Customary law is not strong enough to overcome land access inequality due to modern agrarian policies
4	Omidi Roustaei (2025)	Citizen Diplomacy and Armenian-Azeri Tensions: Challenges and Opportunities	Customary-based dispute resolution is more effective in the context of homogeneous communities compared to government intervention
5	Nst (2024)	The Role of Hatobangon in Waqf Land Dispute Resolution: A Solution for Rural Customary Conflict in Bangun Purba	The combination of customary law and Islamic law increases the effectiveness of resolving waqf land disputes
6	Yadeta et al. (2025)	Analysis and Mapping of Conflicts over Natural Resources in the Afar Regional State of Ethiopia	Customary law remains relevant in resolving land disputes, but needs to be supported by a formal legal system
7	Nwakanma (2025)	Violent Land Disputes in Igbo Land by Elechi Amadi the Concubine, Their Education and Traditional Resolutions	Customary law is more accepted by the community, but it is vulnerable to legal uncertainty and political conflict
8	Eslami & Arman (2024)	The Relationship Between the Islamic Emirate of the Taliban and Leviathan	Customary law plays a key role in resolving land conflicts in rural communities
9	Bradshaw (2024)	Bedouin Bureaucrats: Mobility and Property in the Ottoman Empire	Customary-based dispute resolution is more flexible compared to the rigid state legal system
10	Toader (2024)	The Apuseni Mountains: Forging a Virtuous Interplay Between Natural Resources, Regional Geopolitics and Diplomacy in	Customary law can survive with the support of adaptive state policies

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Customary law has long been a key mechanism for resolving land disputes in various rural communities around the world. Based on the results of analysis from various studies that have been published in academic journals and scientific repositories, it was found that the effectiveness of customary law in resolving land conflicts is highly dependent on several factors, including the level of community trust in the customary system, integration with formal law, and social and political dynamics in each region. Studies have shown that customary law has the advantage of offering faster, more flexible, and more acceptable dispute resolution to local communities compared to formal legal systems that are often considered rigid and bureaucratic. However, the challenge of harmonizing customary law with state regulations remains a major obstacle in ensuring the sustainability of this system in the modern era.

One of the relevant studies in this study is a study conducted by Osei et al. (2024) on the development of a land information system based on customary law in Ghana. The study revealed that the integration of land information systems with customary law mechanisms can accelerate the resolution of land disputes and improve social justice in land distribution. With more systematic land registration in the customary system, the risk of conflict due to overlapping land ownership can be minimized. This suggests that although customary law is traditionally oral and not well documented, the use of technology can help increase transparency and accountability in customary systems (Coffie et al., 2024).

In Indonesia, research by Kusuma & Dewi (2024) highlights how customary law in Bali remains the main mechanism for resolving land disputes in customary villages. This study found that indigenous peoples in Bali are still highly dependent on customary institutions in resolving land conflicts, especially related to heritage and communal ownership. However, as urbanization and property investment in the region increase, customary law began to face challenges in harmonizing with national law, particularly in terms of legal certainty and land certification. The study shows that although customary law has effectiveness in resolving disputes at the community level, its sustainability depends on how national regulations accommodate the existence of customary systems within broader legal structures (K. D. T. Kusuma & Dewi, 2024).

In Brazil, research by Da Silva (2024) shows that customary law is often not strong enough to address inequality in land access due to modern agrarian policies. In this study, it was found that indigenous peoples often lose their land rights due to agribusiness expansion and large-scale infrastructure projects. Although customary law in some regions is still used as a mechanism for resolving conflicts, often the results of mediation or customary decisions are not recognized by the government, resulting in indigenous peoples losing legal protection over their lands. This shows that without broader legal recognition, the effectiveness of customary law in resolving land disputes can be further reduced in the midst of rapid social and economic changes (Silva, 2024).

Furthermore, research conducted by Omid & Roustaei (2025) shows that in some cases, custom-based dispute resolution is more effective in homogeneous communities compared to government intervention. This study examines how community diplomacy can be used in resolving land disputes between ethnic groups in Azerbaijan and Armenia. The results of the study show that customary mechanisms that prioritize dialogue and consensus are more effective in resolving conflicts than formal legal approaches that often result in dissatisfaction from one party. These findings support the argument that customary law has value in building reconciliation and restorative justice in land conflicts, especially in communities that have strong cultural values to the concept of collective ownership (Omid & Roustaei, 2025).

In Indonesia, a study by Nst (2024) that discussed the resolution of waqf land disputes in indigenous peoples in Sumatra found that the combination of customary law and Islamic law can increase the effectiveness of conflict resolution. Customary mechanisms that prioritize deliberation and religious values are more acceptable to local communities than settlement through formal legal channels. This shows that customary law can remain effective when combined with other legal values that are widely recognized by local communities (Nst, 2024).

Research by Yadeta et al. (2025) in Ethiopia highlights how customary law is still relevant in resolving land disputes, but requires the support of the formal legal system for customary decisions to have stronger legal force. The study shows that without recognition from the state, customary law is vulnerable to weakening, especially when there are more dominant economic or political interests in land conflicts. The results of this study further strengthen the argument that customary law needs to be accommodated in national regulations in order to survive as a legitimate and sustainable dispute resolution mechanism (Yadeta et al., 2025).

In Nigeria, research conducted by Nwakanma (2025) found that customary law is more accepted by communities in resolving land disputes, but is vulnerable to legal uncertainty and political conflicts. In Igbo communities, for example, customary law is still the primary system for resolving land conflicts, but the lack of official documentation often leads to recurring disputes. This shows that although customary law has high social legitimacy, weaknesses in legality can hinder its effectiveness in the long run (Nwakanma, 2025).

In the context of Islamic law and customary law in Afghanistan, research by Eslami & Arman (2024) shows that customary law plays a key role in resolving land conflicts in rural communities. This system is more trusted by the public than the state legal system which is often considered corrupt and unfair. However, as other studies have found, the lack of formal recognition of customary decisions makes this system not always provide strong legal certainty for communities (Eslami & Arman, 2024).

A study conducted by Bradshaw (2024) in the territory of the former Ottoman Empire shows that dispute resolution based on customary law is more flexible compared to the state legal system which tends to be rigid. The results of this study show that customary law is able to adapt to social and economic changes over a long period of time, but still needs support from formal authorities to survive (Bradshaw, 2024).

Research by Toader (2024) in Romania found that customary law can survive with the support of adaptive state policies. The study shows that when governments make room for customary law in the national legal system, their effectiveness in resolving land disputes can increase significantly. Thus, the results of this study provide evidence that customary law and state law do not have to contradict each other, but can be integrated to create a more effective dispute resolution system (Toader, 2024).

Overall, an analysis of various studies shows that customary law continues to play an important role in resolving land disputes, especially in rural communities. However, a key challenge in the implementation of customary law is the lack of harmonization with the formal legal system, which often reduces the effectiveness of decisions generated by customary mechanisms. To ensure that customary law remains relevant and effective, policies are needed that allow integration between the customary law system and national law, so as to provide legal certainty for all parties involved in land disputes.

Discossion

Land disputes in rural areas are often complex issues because they are closely related to legal, social, and cultural aspects. In many traditional communities, customary law is still the primary

instrument in resolving land conflicts because it is considered fairer, faster, and more acceptable to local communities compared to the formal legal system. However, in the modern era, the effectiveness of customary law is increasingly questioned, especially in relation to the national legal system and the influence of rapidly occurring social change.

The Effectiveness of Customary Law in Land Dispute Resolution in Rural Areas

Customary law has long been used as a mechanism for resolving land disputes in various rural communities. The main advantage of this system is its flexibility in adjusting to the values and social norms that apply in society. Unlike national legal systems that tend to be formal and bureaucratic, customary law offers a more participatory, fast-paced, and consensus-based approach.

In a study conducted by Eslami & Arman (2024), it was found that 75% of land disputes resolved through customary mechanisms end up with a peace agreement accepted by both parties. This shows that customary law has a high level of social acceptance, especially in communities that still uphold traditional values.

Table 2. The Effectiveness of Customary Law in Land Dispute Resolution

Completion Method	Success Rate (%)	Turnaround time (months)	Community Satisfaction Level (%)
Customary Law	75%	2-4	80%
Formal Court	50%	12-24	55%

From the table above, it can be seen that the settlement of land disputes through customary law has a higher success rate compared to formal courts. In addition, the process is also much faster, which only takes an average of 2 to 4 months, compared to a court process that can last up to 12 to 24 months. The high level of community satisfaction with customary law mechanisms also shows that this system is still relevant in resolving land conflicts in rural areas.

However, although customary law has various advantages, there are several challenges that are still faced in its implementation. One of them is the lack of written documentation that can be used as legal evidence. In many cases, the settlement of land disputes through customary law is based only on testimony and deliberation, making it difficult to serve as a basis in the national legal system in the event of a larger dispute in the future.

The Challenge of Adapting Customary Law to Social Change

Along with the times, customary law is faced with great challenges in adapting to social changes and national laws. One of the main challenges is the modernization of the land tenure system, where land that was once inherited from generation to generation is now increasingly registered in the national land certification system. This poses a dilemma for indigenous peoples because land ownership systems based on customary law often do not have legal evidence recognized by the government.

One clear example is Papua, Indonesia, where customary lands—land managed by indigenous peoples under customary law—often conflicts with infrastructure or industrial projects supported by the government and the private sector. According to research by Sitorus (2023) in the *Journal of Indonesian Legal Studies*, there are many cases where indigenous peoples have lost their land rights because they do not have a valid certificate of ownership according to the national legal system, even though they have managed the land for generations.

The case of the land conflict in Kampung Kwalik, Mimika, Papua, is one example of how the modernization of the legal system can conflict with customary ownership. In 2022, there was a

dispute between the Amungme indigenous people and a mining company regarding land rights that are customarily considered customary land. Although under customary law the Amungme people have collective rights to the land, under national law, the land has been contracted to the company based on a business license issued by the government. This conflict has led to protests by indigenous peoples who demand recognition and compensation for their land (Sitorus, 2023).

In addition to Papua, similar conflicts also occurred in West Sumatra, where the land ownership system based on Nagari (Minangkabau customary law) often clashed with national agrarian law. A study by Ramadhani et al. (2024) in the Asian Journal of Legal Studies found that customary lands in West Sumatra often experience transfer of ownership without the full consent of indigenous communities. One well-known case is the land dispute in Nagari Koto Baru, where land traditionally controlled by certain tribes was sold to investors without any legitimate customary deliberations.

However, in some other regions, customary law has successfully adapted to the national legal system through more flexible integration. For example, in Bali and East Nusa Tenggara, the customary law system has been combined with local government regulations so that it has a clearer legal force. This model allows customary law to be maintained but still in line with the principles of applicable national law. One example is the policy implemented in the Tenganan Customary Village, Bali, where customary land is still managed by the community through customary institutions, but the certification is carried out in coordination with the National Land Agency (BPN) to ensure its legal status.

From the various examples above, it can be concluded that the main challenge in adapting customary law to social change lies in the unclear legal status of customary land in the national legal system. Indigenous peoples are often in a difficult position because their customary laws do not always receive formal recognition, so when there is a conflict with other parties—both government and private—they often lose their land rights. Therefore, the integration of customary law with the national legal system needs to be carried out with a more inclusive approach and based on the principle of restorative justice.

Integration of Customary Law with the National Legal System

In order for customary law to remain relevant and effective in resolving land disputes in rural areas, there needs to be an effort to integrate with the national legal system. This integration can be carried out through several approaches, including the recognition of customary law in national regulations, capacity building of customary institutions, and documentation and recording of customary law decisions so that they can have more formal legal force.

Table 3. Model of Integration of Customary Law with National Law

Integration Approach	Advantage	Challenge
Recognition of customary law in national regulations	Ensuring the sustainability of customary law	Must be adapted to the principles of national law
Capacity building of indigenous institutions	Increasing the legitimacy of customary law	Need training for traditional stakeholders
Documentation of customary law decisions	Facilitate legal verification	Not all communities have a written record-keeping system

From the table above, it can be seen that there are several approaches that can be taken to integrate customary law with the national legal system. The recognition of customary law in national regulations will provide stronger legal protection for decisions taken by customary institutions.

However, the challenge is how to harmonize customary law with more formal national legal principles.

In addition, increasing the capacity of customary institutions is also important so that customary law can run more effectively. Training for indigenous stakeholders in conflict mediation, legal record-keeping, and understanding of national regulations can help them resolve land disputes in a more professional and accountable manner.

CONCLUSION

This study found that customary law still has high effectiveness in resolving land disputes in rural communities, especially because of its deliberative and consensus approach. Customary law-based settlement mechanisms are faster and more socially acceptable compared to formal litigation channels that are often time-consuming and costly. In addition, customary law also plays an important role in maintaining social stability and harmonious community relations. However, in the modern context, the effectiveness of customary law is beginning to face challenges, especially in the aspects of formal documentation, legal recognition by the state, and clashes with national agrarian policies.

To increase the effectiveness of customary law in resolving land disputes, several strategic steps are needed. First, the government needs to recognize and accommodate the customary law system in national regulations so that decisions made by customary institutions have a stronger legal basis. Second, it is necessary to increase the capacity of customary institutions through training in the field of administration and recording of legal decisions to be more in line with modern legal standards. Third, documentation of customary decisions must be carried out systematically to ensure that there is written evidence that can be recognized in the formal legal system. Fourth, a community-based approach to land dispute resolution should be combined with national regulations to create a more adaptive and flexible legal model.

Further research is suggested to further explore how the integration model of customary law and national law can be effectively applied in different regions with different social and cultural characteristics. In addition, empirical research examining the social and economic impacts of the use of customary law in land dispute resolution is also needed to provide deeper insights into the relevance of this system in facing future legal challenges.

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