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# A Hybrid Model for Resolving Customary Land Disputes in Papua's Indigenous Communities

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## Abstract

This study examines customary land disputes among indigenous communities in Papua, focusing on the alignment of existing legal mechanisms with the justice values held by these communities. Employing a normative legal approach and socio-legal analysis, this research explores the philosophical, cultural, and legal dimensions of the land, emphasizing its communal and spiritual significance. Findings reveal that Indonesia's formal legal framework, grounded in individual ownership and state-centric policies, often overlooks indigenous rights, causing unresolved conflicts and cultural disenfranchisement. The research proposes a hybrid dispute resolution model integrating customary practices with state recognition, including specialized customary land tribunals and mandatory consultation processes. This model seeks to bridge the gap between formal and customary laws, promoting equitable dispute resolution and safeguarding the cultural heritage of Papua's indigenous communities. Recommendations aim to enhance legal recognition and foster sustainable land management in Papua.

**Keywords:** *Hybrid Model, Customary, Land, Dispute*

## Abstrak

Penelitian ini mengkaji sengketa tanah adat di kalangan masyarakat adat Papua, dengan fokus pada keselarasan mekanisme hukum yang ada dengan nilai-nilai keadilan yang dipegang oleh komunitas tersebut. Dengan menggunakan pendekatan hukum normatif dan analisis sosio-legal, penelitian ini mengeksplorasi dimensi filosofis, budaya, dan hukum dari tanah, serta menekankan pentingnya tanah secara komunal dan spiritual. Temuan menunjukkan bahwa kerangka hukum formal Indonesia, yang didasarkan pada kepemilikan individual dan kebijakan berpusat pada negara, seringkali mengabaikan hak-hak masyarakat adat, sehingga menimbulkan konflik yang tidak terselesaikan dan kehilangan identitas budaya. Penelitian ini mengusulkan berbagai model penyelesaian sengketa yang mengintegrasikan praktik-praktik adat dengan pengakuan negara, termasuk pengadilan tanah adat khusus dan proses konsultasi wajib. Model ini bertujuan untuk menjembatani kesenjangan antara hukum formal dan hukum adat, mendorong penyelesaian sengketa yang adil, serta melindungi warisan budaya masyarakat adat Papua. Rekomendasi ditujukan untuk meningkatkan pengakuan hukum dan mendorong pengelolaan tanah yang berkelanjutan di Papua.

**Kata kunci:** *Integrasi Model, Adat, Tanah, Sengketa*

## 1. INTRODUCTION

Indonesia is a diverse archipelago with over 1,300 ethnic groups, each with distinct customs, legal traditions, and deep-rooted connections to land. Among these groups, the indigenous communities of Papua hold “tanah ulayat”, or customary land, as a fundamental aspect of their cultural and spiritual life. For these communities, land is not merely a resource; it embodies their heritage, spiritual beliefs, and social identity, representing an irreplaceable connection to their ancestors. However, as Indonesia’s national legal and economic frameworks expanded, conflicts between customary land rights and state interests became increasingly common, leading to land disputes that challenge both local and national governance.<sup>1</sup>

Customary law in Papua recognizes the land as communally held land, meaning that ownership and stewardship are vested in the entire community rather than individuals. This perspective contrasts sharply with Indonesia’s national agrarian laws, which approach land rights through the lens of individual ownership and state regulation. The enactment of Law No. 5 of 1960 on Basic Agrarian Principles, known as UUPA, was initially seen as a promising step in protecting indigenous land rights by acknowledging customary land laws. The UUPA stipulates that Indonesia’s national agrarian law is grounded in customary law, provided it does not conflict with national interests. However, the vagueness of these conditions has often allowed state interests to override customary rights, particularly in regions with valuable natural resources<sup>2</sup>, as seen in Papua.

Historically, land policies in Indonesia were largely driven by the state’s development agenda, often marginalizing local communities.<sup>3</sup> During the New Order period, centralized governance enforced a strict approach to land acquisition, often prioritizing state or corporate interests without adequate consultation or compensation for affected indigenous communities.<sup>4</sup> The onset of the Reformation Era in 1998 brought about shifts in governance and decentralization, but the entrenched challenges around land rights persisted, particularly in resource-abundant areas like Papua. Here, state-backed economic initiatives—such as large-scale mining, agriculture, and forestry—have frequently been prioritized over indigenous land claims, leading to land disputes that remain unresolved.

In Papua, these issues are exacerbated by the historical context of resource extraction by foreign and domestic investors, with backing from the national government. Projects by entities such as PT. Freeport Indonesia and other corporate interests have often led to the displacement of indigenous communities from their ancestral lands. For the Papuan people, these developments not only represent a loss of physical territory but also a

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<sup>1</sup> Muslim Lobubun, *Hukum Pengelolaan Sumber Daya Alam: Studi Terhadap Sumber Daya Alam Tambang Dan Hutan Papua* (Yogyakarta: Litera, 2022).

<sup>2</sup> Rodd Myers et al., “Claiming The Forest: Inclusions and Exclusions Under Indonesia’s ‘New’ Forest Policies on Customary Forests,” *Land Use Policy* 66 (2017): 205–13, <https://doi.org/10.1016/j.landusepol.2017.04.039>.

<sup>3</sup> Willem van der Muur, “Forest Conflicts and The Informal Nature of Realizing Indigenous Land Rights in Indonesia,” *Citizenship Studies* 22, no. 2 (2018): 160–74, <https://doi.org/10.1080/13621025.2018.1445495>.

<sup>4</sup> Ricco Andreas, Luthfi Kalbu Adi, and Sri Sulastuti, “The Effect of Colonialism on Implementation of Agrarian Reform in Indonesia,” *Fiat Justitia: Jurnal Ilmu Hukum* 13, no. 2 (2019): 101–14, <https://doi.org/10.25041/fiatjustitia.v13no2.1565>.

profound disruption of cultural and social structures that are intrinsically tied to their lands.<sup>5</sup> The alienation of the land in favor of commercial interests has fostered resentment and, in some cases, led to protests, creating a tense relationship between indigenous communities and state authorities.

Philosophically and sociologically, the concept of land in Papuan customary law is embedded in a cosmic framework where land is viewed as a living entity with religious and spiritual dimensions. This view recognizes the interconnectedness of humans, nature, and the divine<sup>6</sup>, which is at odds with the secular and economic-driven perspective of national agrarian policies. The traditional Papuan view of land rights, which are communally upheld and safeguarded through oral traditions and community practices, conflicts with the formal legal requirements for land ownership documentation under Indonesian law.<sup>7</sup> Consequently, many land claims are not recognized in the formal legal system, leaving indigenous groups vulnerable to expropriation and marginalization.

The tension between customary and state law underscores the need for a comprehensive legal framework that can harmonize the state's authority over land with indigenous rights. Current legal mechanisms, rooted in positivist legal frameworks, fail to address the complexity of indigenous claims to land, often focusing narrowly on economic development.<sup>8</sup> These challenges are further compounded by ambiguous terms within the UUPA that prioritize national interests without clearly defining the boundaries of state authority over customary lands. As a result, legal protections for the land remain limited, leading to frequent conflicts over land ownership and usage in Papua.

This research aims to explore the fundamental principles underlying customary land dispute resolution among Papua's indigenous communities, analyze the extent to which current dispute resolution processes reflect the indigenous community's sense of justice, and propose an ideal model for resolving the land disputes. By examining the limitations of existing legal frameworks and proposing an integrated approach that respects customary laws, the study seeks to contribute to the development of a fairer, more inclusive land governance system in Indonesia.

## 2. RESEARCH METHODOLOGY

This study utilizes a normative legal research approach, focusing on analyzing legal principles, regulations, and doctrines that underlie the resolution of customary land disputes within Papua's indigenous communities. Normative legal research allows for a thorough examination of laws and theoretical perspectives relevant to customary land

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<sup>5</sup> Muslim Lobubun, "Efforts to Improve the International Status of Biak Frans Kaisiepo Airport," *Jurnal Ilmu Hukum Kyadiren* 1, no. 1 (2019): 1–13, <https://doi.org/10.46924/jihk.v1i1.117>.

<sup>6</sup> Leni Sipra Helen Rahakbauw, "Preserving Tradition and Harmony: Customary Law's Role in Resolving Ulayat Land Disputes," *Jurnal Ilmu Hukum Kyadiren* 5, no. 1 (2023): 12–23, <https://doi.org/10.46924/jihk.v5i1.177>.

<sup>7</sup> Kasim Abdul Hamid, "The Traditional Law as Alternative Dispute Resolution in Papua," *Jurnal Ilmu Hukum Kyadiren* 1, no. 1 (2019): 56–64, <https://doi.org/10.46924/jihk.v1i1.121>.

<sup>8</sup> Chairul Fahmi et al., "Defining Indigenous in Indonesia and Its Applicability to the International Legal Framework on Indigenous People's Rights," *Journal of Indonesian Legal Studies* 8, no. 2 (2023): 1019–64, <https://doi.org/10.15294/jils.v8i2.68419>.

rights. Additionally, this research incorporates a socio-legal approach, considering the social and cultural significance of the land for the indigenous communities of Papua. This approach helps to bridge the understanding of customary law practices with the legal frameworks imposed by the state. The research focuses on the Province of Papua, an area rich in natural resources and home to diverse indigenous communities with strong customary ties to land. Papua has a high frequency of land disputes, particularly related to the land, due to extensive government-backed development projects and corporate resource extraction initiatives. This location provides a relevant context for examining the interaction between state and customary land laws.

Document Analysis, Interviews, and Observation were employed in this research. This method involves examining laws, legal documents, and academic literature relevant to the study, gathering perspectives of customary law leaders, legal practitioners, and government officials on the effectiveness of current dispute resolution mechanisms and better understanding the real-life application of customary land rights and the interactions between community members and state authorities. The data gathered is analyzed qualitatively, employing a legal interpretation approach that compares and contrasts the principles of customary law with the provisions of formal land law in Indonesia. The analysis involves Legal Interpretation and Systematization, Comparative analysis was also conducted to assess similarities and differences between Indonesian agrarian laws and customary Papuan practices to highlight areas of conflict and alignment, and Contextual and Philosophical Analysis.

### **3. RESEARCH RESULT AND DISCUSSION**

#### **3.1. Understanding the Nature of Customary Land Dispute Resolution among Indigenous Communities in Papua**

Customary land is central to the cultural, spiritual, and social identity of Papuan indigenous communities. Unlike the Western concept of land ownership, it is seen as a communal resource shared by the community and guided by long-standing customs and spiritual beliefs. The indigenous worldview in Papua perceives land as an ancestral heritage that should be protected, respected, and preserved for future generations. This deep-rooted bond means that disputes over the land have complex socio-cultural and spiritual implications that go beyond simple land ownership conflicts.

Indigenous communities in Papua resolve the land disputes through a consensus-based approach, emphasizing dialogue, reconciliation, and communal harmony. This process often involves community elders, traditional leaders, or customary councils who have authority to interpret customary laws and make binding decisions. Customary dispute resolution is rooted in the principle of restoring harmony rather than punishing wrongdoers. This reflects a holistic approach, wherein the resolution of a dispute includes reconciling the relationships between individuals and their environment.

The typical process of resolving the land disputes in Papua includes several stages; mediation by elders, negotiation and dialogue, community gathering, and rituals or ceremonies. Disputes are first mediated by senior members or elders within the community who understand the customary laws and have the community's respect. Both parties are encouraged to share their perspectives openly. This dialogue is facilitated by elders who act as neutral parties and work toward an agreement that respects customary norms and values. Often, a larger community gathering is convened to witness and support the resolution. This not only reinforces the legitimacy of the decision but also binds the entire community to the agreed-upon outcome. In many cases, rituals or traditional ceremonies are performed to symbolize the reconciliation and reinforce the community's spiritual connection to the land.

While effective within indigenous communities, customary dispute resolution often faces challenges when interfacing with the formal Indonesian legal system. The state's recognition of land is typically based on documented ownership or certification, which is in contrast to the unwritten and communal nature of the claims. The lack of formal recognition for these traditional practices can also result in state or corporate encroachment on the land, often without proper negotiation or consent from the indigenous communities. This leads to a breakdown in local dispute resolution processes as indigenous people face external pressures that disregard customary norms.

Based on the finding, customary dispute resolution in Papua is effective in maintaining communal harmony and ensuring that land disputes are resolved in a way that respects indigenous beliefs and values. This system is inclusive and aligns with the community's expectations for justice, prioritizing collective well-being over individual gain. However, the lack of integration between customary and state legal systems creates challenges. Formal legal procedures and the requirement for land certificates to establish ownership often ignore the communal nature of the land.<sup>9</sup> Without formal recognition, customary decisions may lack the legal authority needed to prevent state or corporate entities from infringing on these lands.

Strengthening legal recognition for the land and incorporating indigenous dispute resolution practices into national law could help bridge the gap between state and customary legal systems.<sup>10</sup> Developing a hybrid model that allows customary councils to work alongside formal legal institutions could also enhance the protection of the land while preserving the cultural integrity of Papua's indigenous communities. In addition, by examining the unique characteristics of the land dispute resolution among Papua's indigenous people, this research underscores the importance of preserving customary practices and the need for a legal framework that accommodates these practices within Indonesia's formal land law system.

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<sup>9</sup> Rury Mutia Dewi and Mella Ismelina Farma Rahayu, "Legality of Ownership Rights through Land Certificates Issued by the Village Head," *Journal of Law, Politic and Humanities* 4, no. 4 (2024): 695–700, <https://doi.org/10.38035/jlph.v4i4.415>.

<sup>10</sup> Setiawan Widiyoko and Agus Prasetya Wiranto, "The Strengthening Customary Land Rights: Promoting Agrarian Law Reform in Indonesia," *Jurnal Akta* 11, no. 2 (2024): 416–23, <http://dx.doi.org/10.30659/akta.v11i2.36816>.

### 3.2. Current Legal Mechanisms for the Land Dispute Resolution

The Indonesian legal framework provides some recognition of customary land rights, as outlined in the Basic Agrarian Law (UUPA) of 1960 and regional autonomy laws, particularly Law No. 21 of 2001 on Special Autonomy for Papua. These laws acknowledge indigenous rights in principle and encourage respect for local customs in land management. In practice, however, formal mechanisms prioritize state authority and economic interests, often bypassing indigenous consultation or disregarding their traditional claims. Formal land dispute resolution is typically handled through administrative or judicial processes, which require documented proof of ownership that indigenous communities frequently lack.

For indigenous Papuan communities, the concept of justice is deeply intertwined with the land as a shared heritage and source of cultural identity. Justice in this context means respecting communal rights, preserving traditional ties to the land, and ensuring fair access and protection of resources for current and future generations. Many Papuan communities perceive the state's legal mechanisms as insufficient and biased toward corporate and governmental interests, which they believe threatens their way of life and their fundamental rights to their land. While the UUPA acknowledges the role of customary law in agrarian matters, it restricts indigenous land rights by stipulating that they must align with the "national interest" — a broadly defined term that often serves as a basis for prioritizing state projects or economic development over indigenous rights.

The requirement for formal land registration and certification, essential under Indonesian law for legal protection, contradicts indigenous systems that do not rely on written documentation. As a result, even when indigenous claims to the land are well-established within their community, they lack enforceability in the state's legal system, leaving them vulnerable to expropriation. Customary justice emphasizes restoration, respect for collective rights, and preservation of cultural practices, while formal legal processes prioritize individual ownership, economic development, and adherence to documented legal procedures. Indigenous communities often view the formal legal system as imposing, unfamiliar, and ineffective in addressing their needs, as it prioritizes judicial procedures that are disconnected from customary practices. For instance, court-based resolutions are seen as punitive rather than restorative, conflicting with the Papuan preference for reconciliation and community-based solutions.

Several cases in Papua illustrate the impact of these conflicting justice paradigms, for example, the Amungme and Kamoro Land Disputes with PT Freeport Indonesia and palm oil expansion in Merauke. These indigenous groups have longstanding claims to lands now occupied by mining operations. Despite efforts to assert their land rights, the lack of formal land documentation and the prioritization of national economic interests have rendered their customary claims insufficient in court. In Merauke, indigenous communities faced displacement as large-scale palm oil plantations expanded. Local governments issued land-use permits to corporations without community consultation, reflecting a prioritization of

economic development over indigenous land rights. The lack of formal recognition of the land further marginalized these communities.

Existing laws lack clarity on how indigenous land claims should be documented and verified, creating obstacles for communities that rely on oral traditions and collective ownership. Without written records or official certification, indigenous groups struggle to substantiate their claims legally. Indigenous communities frequently encounter bureaucratic hurdles, with lengthy processes and requirements that conflict with the informal, consensus-driven nature of customary dispute resolution. State-backed development projects, driven by national or regional economic interests, often receive preferential treatment in land disputes, limiting indigenous communities' ability to reclaim or defend their land. This economic emphasis undermines the equitable treatment of the land claims.

The state's focus on land as an economic asset contrasts sharply with the indigenous view of land as a communal and spiritual entity. Formal mechanisms often fail to account for the non-material values of the land, undermining the community's sense of justice. Effective justice, from the indigenous perspective, includes a meaningful role in decision-making and land management.<sup>11</sup> Current mechanisms do not incorporate customary leaders or community elders in the dispute resolution process, leading to outcomes that are seen as unjust or illegitimate by the local population. To achieve justice that respects indigenous values, a hybrid framework integrating customary practices into formal legal processes is necessary. This approach would involve acknowledging oral traditions, communal claims, and indigenous decision-making structures in land dispute cases.

State laws could incorporate policies that mandate consultation with indigenous communities before approving land-use permits or other development projects on the land. Such reforms would align with the communities' desire for self-determination and respect for their cultural and legal traditions.<sup>12</sup> Formal recognition of the land as legally enforceable would provide indigenous communities with stronger protection against expropriation. This could be achieved through amendments to the UUPA that specifically define and protect customary lands.<sup>13</sup> Creating joint tribunals that include customary leaders and state representatives would ensure that indigenous perspectives are integral to resolving the land disputes. These tribunals could operate in both rural and urban areas, enabling indigenous voices in cases involving corporate or government land interests.<sup>14</sup>

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<sup>11</sup> Samy Andres Leyton-Flor and Kamaljit Sangha, "The Socio-Ecological Impacts of Mining on The Well-Being of Indigenous Australians: A Systematic Review," *The Extractive Industries and Society* 17 (2024): 101429, <https://doi.org/10.1016/j.exis.2024.101429>.

<sup>12</sup> Valentina Vadi, "The Protection of Indigenous Cultural Heritage in International Investment Law and Arbitration," in *The Inherent Rights of Indigenous Peoples in International Law*, ed. Antonietta Di Blase and Valentina Vadi (Roma Tre Press, 2020), 203–52.

<sup>13</sup> Lolita Lolita et al., "The Existence of Customary Law Community's Rights (Hak Ulayat) Over Land in Kalimantan," in *Proceedings of the Borneo International Conference on Islamic Higher Education* (Borneo International Conference of Islamic Higher Education, 2023), 403–13, <https://journal.iaisambas.ac.id/index.php/bicibe/article/view/2062>.

<sup>14</sup> Usman Marham, La Ode Husen, and Askari Razak, "The Constitutionality of Customary Courts in Dispute Resolution for Indigenous Communities in Tana Toraja Regency," *Al-Isblab: Jurnal Ilmiah Hukum* 26, no. 1 (2022): 48–63, <https://doi.org/10.56087/aijih.v26i1.453>.

### 3.3. Proposing an Ideal Model for the Land Dispute Resolution

One of the main issues is the limited formal acknowledgment of the land by the Indonesian legal system. Although the Basic Agrarian Law (UUPA) theoretically recognizes customary rights, these rights are only protected when they align with “national interest,” which is often interpreted in favor of economic or development projects.<sup>15</sup> The Indonesian state legal system operates primarily on documented, individual land ownership, while indigenous Papuan communities view the land as communal and spiritual land without formal written titles. This disconnect makes it difficult for indigenous communities to defend their land claims within the formal legal framework. Indigenous leaders and customary councils are often excluded from formal dispute resolution processes, resulting in decisions that do not reflect community values and lack legitimacy among local populations.

The model should legally recognize customary land rights and establish the land as a protected form of communal land within the formal land management framework. Customary laws should be upheld in cases of the land disputes, particularly in rural areas where traditional governance remains strong. Indigenous community leaders, including elders and customary councils, should play a key role in dispute resolution, especially in determining ownership boundaries and the validity of land claims. A hybrid model that incorporates both formal and customary dispute resolution practices would bridge the gap between indigenous justice values and state legal requirements, offering a balanced approach to addressing the land conflicts.

The proposed model should establish a clear legal framework within which the land is recognized as a legitimate form of communal land ownership. This could be achieved by amending the UUPA to define the land explicitly and establish protective regulations. A registry for the land could be created, allowing indigenous communities to formally register their land based on customary claims. This registry would not require traditional land certificates but would record community boundaries as defined by indigenous councils and recognized by the state. For any government or corporate activity on the land, permits would only be granted with the explicit consent of the indigenous community, preserving their decision-making power over land use. A specialized tribunal system should be created to handle the land disputes, consisting of a panel that includes representatives from both the government and indigenous communities. These tribunals would operate under dual jurisdiction, blending state and customary legal principles to ensure fair outcomes.

The tribunal would include customary leaders, legal experts on agrarian law, and representatives from government bodies familiar with indigenous rights. These representatives would ensure that any decisions consider both the legal standards of Indonesia and the traditional values of the indigenous communities. In the tribunal, decisions related to the land disputes would follow community-based consensus and

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<sup>15</sup> Try Widiyono and Md Zubair Kasem Khan, “Legal Certainty in Land Rights Acquisition in Indonesia’s National Land Law,” *Law Reform* 19, no. 1 (2023): 128–47, <https://doi.org/10.14710/lr.v19i1.48393>.



respect traditional rituals or practices that signify land ownership or boundaries. Dispute resolution should prioritize mediation and reconciliation to maintain communal harmony, a core value in Papuan customary law. These procedures would allow both parties to share perspectives and work towards a mutually acceptable solution, with indigenous values of peace and reconciliation at the forefront. Mediation would occur in structured sessions led by customary leaders, with the option to involve government mediators if disputes reach an impasse. Indigenous communities often perform rituals or symbolic acts to settle disputes, reaffirm peace, and establish mutual respect. These practices would be integrated into the mediation process to strengthen the cultural validity of resolutions.

By formally recognizing the land and respecting the indigenous legal processes, this model promotes cultural integrity and reinforces indigenous rights, giving communities a legal standing that aligns with their values. The inclusion of a hybrid dispute resolution mechanism would reduce instances of unresolved conflicts, as indigenous communities would have a recognized pathway for resolving disputes within their cultural framework. Indigenous land stewardship is often tied to environmental conservation. By involving indigenous communities in land management, the model supports sustainable land use practices that balance economic development with ecological protection.

Implementing a model that recognizes the land will require legislative changes and significant adjustments in land administration policies. Government agencies and local governments must adopt policies that respect customary land boundaries and facilitate indigenous participation. Some communities may require additional resources or training to effectively participate in formal dispute resolution, particularly in areas like land mapping, legal documentation, and administrative processes. Ensuring that national development priorities do not overshadow indigenous rights requires careful policy balancing. Economic projects must incorporate social and environmental impact assessments that include consultations with affected indigenous communities to prevent exploitative practices. Similar models have been adopted in countries like New Zealand, where the Treaty of Waitangi Tribunal gives the Maori people a formal mechanism to resolve land disputes and assert their traditional rights. This model could serve as a reference for Indonesia, as it demonstrates how legal recognition and indigenous participation can lead to fair and sustainable outcomes. The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) offers a framework for ensuring indigenous communities' rights to land, territory, and resources, which could guide the integration of customary law into Indonesia's formal legal system.

## CONCLUSION

This research highlights the complexities and challenges of customary land disputes within Papua's indigenous communities, shaped by both the unique cultural significance of land and the conflicting legal frameworks between customary and state laws. The study draws several key conclusions. For indigenous Papuan communities, the land embodies more than just property; it represents a deep cultural, spiritual, and communal connection to

their heritage. Disputes over the land therefore affect not only property rights but also community identity and cohesion. The Indonesian legal system, while offering some recognition to customary rights through laws like the Basic Agrarian Law (UUPA), often prioritizes national economic interests over indigenous claims. The formal legal framework, which is primarily based on individual land ownership and documented titles, conflicts with the communal and oral traditions of the land, leaving indigenous land claims vulnerable. Formal dispute resolution mechanisms fail to meet indigenous communities' sense of justice, which emphasizes reconciliation, communal harmony, and respect for traditional customs. Current legal processes are viewed as alienating and punitive, undermining the indigenous concept of justice and further complicating land conflicts. An ideal model for the land dispute resolution must bridge the gap between customary practices and state law. A hybrid model incorporating customary mediation, community consensus, and formal legal protections would offer a more inclusive, respectful, and effective framework for resolving disputes.

To address the ongoing challenges of the land disputes and protect indigenous rights, the following recommendations are proposed: Amending the Basic Agrarian Law (UUPA) to explicitly recognize the land as a legally protected category of land, acknowledging its communal and cultural significance, developing a registry specifically for the land to document community boundaries and ensure legal recognition without the need for traditional land certificates, allowing indigenous communities to formalize their claims within the legal system, establishing specialized tribunals that blend customary and state legal principles for resolving the land disputes. These tribunals should include indigenous leaders, legal experts, and government representatives to ensure balanced, culturally informed decisions, strengthening legal requirements for government and corporate entities to consult with indigenous communities before granting permits for development on the land. Community consent should be mandatory, ensuring that indigenous communities have a voice and control over the use of their ancestral lands, creating avenues for indigenous representation in regional and national land policy discussions to ensure that policies reflect the values, needs, and rights of indigenous communities, providing training and resources to indigenous councils to equip them with the legal and administrative tools needed to navigate and engage with the formal legal system. This includes training in land mapping, legal documentation, and dispute resolution, and strengthening the role of customary councils, indigenous communities can engage more effectively in legal disputes and protect their land rights within the state legal framework.

## REFERENCES

### Journals

Andreas, Ricco, Luthfi Kalbu Adi, and Sri Sulastuti. "The Effect of Colonialism on Implementation of Agrarian Reform in Indonesia." *Fiat Justisia: Jurnal Ilmu Hukum* 13, no. 2 (2019): 101–14. <https://doi.org/10.25041/fiatjustisia.v13no2.1565>.

- Dewi, Rury Mutia, and Mella Ismelina Farma Rahayu. "Legality of Ownership Rights through Land Certificates Issued by the Village Head." *Journal of Law, Politic and Humanities* 4, no. 4 (2024): 695–700. <https://doi.org/10.38035/jlph.v4i4.415>.
- Fahmi, Chairul, Azka Amalia Jihad, Kihisa Matsuno, Faisal Fauzan, and Peter-Tobias Stoll. "Defining Indigenous in Indonesia and Its Applicability to the International Legal Framework on Indigenous People's Rights." *Journal of Indonesian Legal Studies* 8, no. 2 (2023): 1019–64. <https://doi.org/10.15294/jils.v8i2.68419>.
- Hamid, Kasim Abdul. "The Traditional Law as Alternative Dispute Resolution in Papua." *Jurnal Ilmu Hukum Kyadiren* 1, no. 1 (2019): 56–64. <https://doi.org/10.46924/jihk.v1i1.121>.
- Leyton-Flor, Samy Andres, and Kamaljit Sangha. "The Socio-Ecological Impacts of Mining on The Well-Being of Indigenous Australians: A Systematic Review." *The Extractive Industries and Society* 17 (2024): 101429. <https://doi.org/10.1016/j.exis.2024.101429>.
- Lobubun, Muslim. "Efforts to Improve the International Status of Biak Frans Kaisiepo Airport." *Jurnal Ilmu Hukum Kyadiren* 1, no. 1 (2019): 1–13. <https://doi.org/10.46924/jihk.v1i1.117>.
- Marham, Usman, La Ode Husen, and Askari Razak. "The Constitutionality of Customary Courts in Dispute Resolution for Indigenous Communities in Tana Toraja Regency." *Al-Ishlah: Jurnal Ilmiah Hukum* 26, no. 1 (2022): 48–63. <https://doi.org/10.56087/aijih.v26i1.453>.
- Muur, Willem van der. "Forest Conflicts and The Informal Nature of Realizing Indigenous Land Rights in Indonesia." *Citizenship Studies* 22, no. 2 (2018): 160–74. <https://doi.org/10.1080/13621025.2018.1445495>.
- Myers, Rodd, Dian Intarini, Martua Thomas Sirait, and Ahmad Maryudi. "Claiming The Forest: Inclusions and Exclusions Under Indonesia's 'New' Forest Policies on Customary Forests." *Land Use Policy* 66 (2017): 205–13. <https://doi.org/10.1016/j.landusepol.2017.04.039>.
- Rahakbauw, Leni Sipra Helen. "Preserving Tradition and Harmony: Customary Law's Role in Resolving Ulayat Land Disputes." *Jurnal Ilmu Hukum Kyadiren* 5, no. 1 (2023): 12–23. <https://doi.org/10.46924/jihk.v5i1.177>.
- Widiyoko, Setiawan, and Agus Prasetya Wiranto. "The Strengthening Customary Land Rights: Promoting Agrarian Law Reform in Indonesia." *Jurnal Akta* 11, no. 2 (2024): 416–23. <http://dx.doi.org/10.30659/akta.v11i2.36816>.
- Widiyono, Try, and Md Zubair Kasem Khan. "Legal Certainty in Land Rights Acquisition in Indonesia's National Land Law." *Law Reform* 19, no. 1 (2023): 128–47. <https://doi.org/10.14710/lr.v19i1.48393>.

## Proceedings

Lolita, Lolita, Salfius Seko, Chandra Maharani, Muhammad Tohir, and Herlina Herlina.

“The Existence of Customary Law Community’s Rights (Hak Ulayat) Over Land in Kalimantan.” In *Proceedings of the Borneo International Conference on Islamic Higher Education*, 403–13. Borneo International Conference of Islamic Higher Education, 2023. <https://journal.iaisambas.ac.id/index.php/bicihe/article/view/2062>.

## Books

Lobubun, Muslim. *Hukum Pengelolaan Sumber Daya Alam: Studi Terhadap Sumber Daya Alam Tambang Dan Hutan Papua*. Yogyakarta: Litera, 2022.

Vadi, Valentina. “The Protection of Indigenous Cultural Heritage in International Investment Law and Arbitration.” In *The Inherent Rights of Indigenous Peoples in International Law*, edited by Antonietta Di Blase and Valentina Vadi, 203–52. Roma Tre Press, 2020.