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DOI: 10.46924/jihk.v7i1.306



Legal Remedies for Resolving Land Disputes under Indonesia's Positive Law: An Evaluation of Effectiveness and Justice

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How to cite

Moa, Fransiskus Rifandy., &
Djajaputra, Gunawan. 2025. Legal
Remedies for Resolving Land
Disputes under Indonesia's
Positive Law: An Evaluation of
Effectiveness and Justice. *Jurnal
Ilmu Hukum Kyadiren* 7(1), 407-430.
<https://doi.org/10.46924/jihk.v7i1.306>

Original Article

Abstract

Land disputes in Indonesia represent a complex structural issue, shaped by overlapping legal frameworks, weak administrative systems, and the limited recognition of indigenous peoples' rights. This study aims to analyze the mechanisms for resolving land disputes based on positive law, identify key obstacles to their implementation, and evaluate their effectiveness in ensuring both legal certainty and substantive justice. Employing a normative legal approach and qualitative-descriptive analysis, the study draws on legal texts, court decisions, and relevant academic literature. The findings indicate that although positive law offers a formal framework for dispute resolution, its practical effectiveness is constrained by bureaucratic inefficiencies, unequal access to justice, and the marginalization of customary law. In contrast, alternative mechanisms—such as mediation and customary law-based processes—have demonstrated greater adaptability to local contexts and socio-cultural realities. The study concludes that an integrative approach, combining the normative structure of positive law with non-litigation mechanisms rooted in local values, is essential for developing an effective and equitable land dispute resolution system in Indonesia.

Keywords: *Land Disputes, Litigation, Non-Litigation, Positive Law, Customary Rights*

Abstrak

Sengketa pertanahan di Indonesia merupakan persoalan struktural yang kompleks, dipengaruhi oleh tumpang tindih regulasi, lemahnya sistem administrasi, serta kurangnya pengakuan terhadap hak-hak masyarakat adat. Penelitian ini bertujuan untuk menganalisis mekanisme penyelesaian sengketa tanah berbasis hukum positif, mengidentifikasi hambatan implementasinya, serta mengevaluasi efektivitasnya dalam menjamin kepastian hukum dan keadilan substantif. Dengan menggunakan pendekatan yuridis normatif dan analisis kualitatif-deskriptif, data dikaji melalui studi dokumen hukum, putusan pengadilan, dan literatur akademik terkait. Hasil penelitian menunjukkan bahwa meskipun hukum positif menyediakan struktur penyelesaian sengketa yang formal, hambatan birokrasi, ketimpangan akses keadilan, dan minimnya pengakuan terhadap hukum adat menghambat efektivitasnya. Pendekatan alternatif seperti mediasi dan mekanisme adat terbukti lebih responsif terhadap konteks lokal. Disimpulkan bahwa integrasi antara hukum positif dan sistem penyelesaian non-litigasi berbasis nilai lokal perlu dikembangkan guna menciptakan sistem penyelesaian sengketa tanah yang efektif.

Kata kunci: *Sengketa Tanah, Hukum Positif, Litigasi, Non-Litigasi, Hak Ulayat.*

1. INTRODUCTION

Land is a strategic resource with multidimensional significance—economic, social, cultural, political, and legal—that fundamentally shapes the trajectory of national development. In Indonesia, land is not merely an economic asset generating state revenue through property taxes, land rents, and business use rights, but also serves as a foundation of social identity and a symbol of power. However, rapid population growth, infrastructure expansion, and increasing demand for residential and commercial space have contributed to land scarcity, particularly in urban and densely populated areas. This scarcity intensifies pressure on existing land and simultaneously escalates land-related conflicts. The growing reduction of idle land, unauthorized encroachments, and illegal land control without clear legal basis have exacerbated disparities in land access and ownership.

Despite the strategic importance of land, the resolution of land disputes in Indonesia remains challenged by overlapping regulations, weak law enforcement, and limited recognition of indigenous rights. The proliferation of land conflicts—ranging from minor to large-scale disputes—has generated legal uncertainty and undermined socio-economic stability. Issues such as unclear land titles, duplicate certificates, and the proliferation of land mafia practices demonstrate the inadequacies of the existing legal framework in delivering certainty and justice. The enactment of Law No. 5 of 1960 on Basic Agrarian Principles (UUPA) marked a significant legal milestone by upholding principles of social justice and respect for customary law. Yet, despite its progressive values—such as communalism, collectivism, and pro-people orientation—the UUPA's implementation has been hampered by a positivistic legal approach that often neglects local socio-cultural contexts, thereby widening the gap between legal ideals and actual practice.

A key instrument for achieving legal certainty in the land sector is the land registration system, as regulated under Government Regulation No. 24 of 1997. While land certificates are legally recognized as valid and binding proof of ownership, the system has yet to be fully accessible, especially to indigenous peoples and marginalized groups. Moreover, Article 32(2) of this regulation—which prohibits challenges to land certificates after five years—raises further issues, particularly when indigenous rights are administratively unrecognized.

Numerous studies have analyzed land conflicts in Indonesia from various perspectives. Wulandari et al. attribute conflicts to land grabbing, unlawful transfers, and weak indigenous legal standing, calling for harmonization between customary and statutory law.¹ Anggriawan et al. highlight document validity and administrative

¹ Ratna Wulandari et al., “Mekanisme Penyelesaian Sengketa Tanah Perbuatan Melawan Hukum (PMH) Melalui Peradilan Adat Dan Jalur Hukum Positif,” *Jurnal Sains Student Research* 2, no. 6 (2024): 132–45, <https://doi.org/10.61722/jssr.v2i6.2944>.

weaknesses as major causes of disputes.² Anggita emphasizes the role of registration, pointing out its limited reach and bureaucratic opacity.³ Meiranda et al. underscore the severity of customary land conflicts in Riau and advocate for negotiation-based approaches.⁴ Boboy et al. explore mediation as an effective out-of-court alternative.⁵ Pramesti & Rahmadani critique overlapping regulations caused by sectoral policies and autonomy, suggesting a justice-centered approach.⁶ Myaskur & Wahyudiono promote legal integration of customary practices⁷, and Susanti identifies procedural flaws due to insufficient legal knowledge.⁸ Sukmawati stresses the importance of mediation and law enforcement integrity in mitigating land disputes.⁹

While these studies contribute significantly to understanding agrarian conflicts, most remain localized or comparative in scope. Few offer a comprehensive national-level evaluation of the effectiveness of positive law in resolving land disputes, particularly when structural barriers such as bureaucratic rigidity, legal formalism, and exclusion of indigenous values are at play. This study addresses this gap by critically examining the application of positive law in land dispute resolution and proposing systemic and contextual legal reforms. The objectives of this study are to:

- 1) Analyze the legal mechanisms and procedures for land dispute resolution in Indonesia, with a focus on the application of positive law;
- 2) Identify key barriers in implementing these legal frameworks, including administrative complexity, inequality in access to justice, and insufficient recognition of indigenous rights;
- 3) Evaluate the effectiveness of positive law in delivering legal certainty and substantive justice, in comparison to alternative mechanisms such as mediation and customary dispute resolution models.

² Rianedo Anggriawan et al., "Upaya Pemerintah Dalam Penataan Hukum Terhadap Sengketa Kepemilikan Tanah Di Indonesia," *Future Academia: The Journal of Multidisciplinary Research on Scientific and Advanced* 2, no. 4 (2024): 838–846, <https://doi.org/10.61579/future.v2i4.215>.

³ Anggita Anggita, "Penyelesaian Sengketa Konflik Kepemilikan Tanah Dengan Pendekatan Litigasi Di Pengadilan Tata Usaha Negara," *Savana: Indonesian Journal of Natural Resources and Environmental Law* 1, no. 1 (2024): 24–38, <https://doi.org/10.25134/savana.v1i01.30>.

⁴ Ayu Meiranda et al., "Upaya Hukum Terhadap Penyelesaian Sengketa Tanah Ulayat Di Kabupaten Kampar Guna Menjaga Keamanan Nasional," *Jurnal Analisis Hukum* 6, no. 1 (2023): 99–114, <https://doi.org/10.38043/jah.v6i1.4232>.

⁵ Juwita Tarochi Boboy, Budi Santoso, and Irawati Irawati, "Penyelesaian Sengketa Pertanahan Melalui Mediasi Berdasarkan Teori Dean G.Pruitt Dan Jeffrey Z. Rubin," *Notarius* 13, no. 2 (2020): 803–18, <https://doi.org/10.14710/nts.v13i2.31168>.

⁶ Nita Andinia Tri Pramesti and Nazwa Rizqita Rahmadani, "Jalur Alternatif Sebagai Penyelesaian Sengketa Tanah," *Jurnal Ilmiah Multidisiplin Ilmu* 1, no. 4 (2024): 49–52, <https://doi.org/10.69714/cpw8t016>.

⁷ Myaskur Myaskur and Tri Wahyudiono, "Aspek Hukum Penyelesaian Sengketa Tanah Adat," *Islamic Law: Jurnal Sijyasah* 9, no. 2 (2024): 97–110, <https://doi.org/10.53429/iljs.v9i1.593>.

⁸ Zulфина Susanti, "Penyelesaian Sengketa Hak Atas Tanah," *Wasaka Hukum: Jendela Informasi Dan Gagasan Hukum* 11, no. 2 (2023): 35–45, <https://ojs.stihsa-bjm.ac.id/index.php/wasaka/article/view/93>.

⁹ Putu Diva Sukmawati, "Hukum Agraria Dalam Penyelesaian Sengketa Tanah Di Indonesia," *Jurnal Ilmu Hukum Sui Generis* 2, no. 2 (2022): 89–102, <https://doi.org/10.23887/jih.v2i2.1015>.

2. RESEARCH METHODOLOGY

This study employs a normative legal approach combined with a qualitative-descriptive method to examine written legal norms governing land dispute resolution in Indonesia. Law is conceptualized as a normative system embedded within society, serving as a tool to assess the effectiveness, certainty, and enforceability of prevailing legal provisions. The primary focus lies on analyzing relevant principles and doctrines of agrarian law, particularly in evaluating whether the existing positive legal framework ensures protection and justice—especially in cases involving indigenous peoples or local communities.

This research adopts a doctrinal legal methodology, emphasizing the analysis of statutes, legal doctrines, jurisprudence, and judicial decisions. Data sources are categorized into three types: (1) primary legal materials, including the Basic Agrarian Law (UUPA), Government Regulation No. 24 of 1997, Ministerial Regulations from the ATR/BPN, and relevant court rulings; (2) secondary legal materials, such as scholarly literature, academic journals, research findings, and institutional reports from bodies like the National Land Agency (BPN) and the National Human Rights Commission (Komnas HAM); and (3) tertiary legal materials, encompassing legal dictionaries, encyclopedias, and indexes.

Data were collected through an extensive literature review and supported by jurisprudential analysis of decisions from the Administrative Court (PTUN), the Supreme Court (MA), and the Constitutional Court (MK). The analysis was conducted using a qualitative-deductive method to interpret and evaluate the consistency between legal norms and their practical implementation. A legal hermeneutic approach was employed to contextualize legal norms within their historical and socio-cultural backgrounds, while an analytical-critical perspective was used to assess the law's effectiveness in addressing the land conflict.

3. RESEARCH RESULT AND DISCUSSION

3.1. The Mechanisms and Procedures for Resolving Land Disputes in Indonesia Through a Positive Legal Approach

This study seeks to analyze the mechanisms and procedures for resolving land disputes in Indonesia, with particular emphasis on the positive legal approach as the primary legal foundation. Based on a comprehensive examination of statutory regulations, legal doctrines, and jurisprudence, it is evident that the Indonesian legal system provides two principal avenues for land dispute resolution: non-litigation (extrajudicial) and litigation (judicial). Both pathways are recognized and institutionalized within the framework of Indonesian positive law, drawing upon Law No. 30 of 1999 concerning Arbitration and

Alternative Dispute Resolution, as well as procedural codes such as the HIR, RBg, and specific provisions regulating general and administrative courts.

Non-litigation mechanisms in Indonesia encompass various methods, including consultation, negotiation, mediation, conciliation, and arbitration. Each has distinct features and functional roles. Consultation typically involves informal, non-binding expert opinions sought by disputing parties to guide decisions and avoid conflict escalation. While not legally enforceable, consultation serves a critical role in clarifying legal positions. Negotiation, characterized by direct interaction without third-party involvement, emphasizes principles of equality, openness, and mutual agreement.¹⁰ It is valued for its flexibility, speed, and cost-effectiveness but relies heavily on the good faith of the parties involved.

Mediation introduces a neutral third party to facilitate dialogue and help parties reach a consensus. Although mediators do not render binding decisions, they play a crucial role in fostering constructive communication.¹¹ Conciliation, closely related to mediation, involves a more active role for the conciliator, who may offer non-binding recommendations to assist the parties. Arbitration, in contrast, is a binding non-litigation mechanism wherein disputes are resolved by an arbitrator or panel based on a prior agreement.¹² Arbitration decisions are final and enforceable, offering a more efficient path to legal certainty, particularly in high-value or commercial land disputes, despite their relatively higher cost.

Litigation follows a formal judicial process, beginning with a lawsuit and potentially progressing through multiple levels of legal recourse, including objection, appeal, cassation, and judicial review. While court rulings are legally binding and enforceable by the state, litigation often involves complex procedures, prolonged timelines, and significant costs. Furthermore, the adversarial nature of litigation can deteriorate social relationships between disputing parties.

This study finds that Indonesia's positive legal framework provides a relatively comprehensive normative structure for resolving land disputes through both litigation and non-litigation channels. However, the practical effectiveness of this framework is contingent on several factors, including institutional capacity, the competence of legal practitioners, and public legal awareness. Challenges such as overlapping institutional authority, bureaucratic inefficiencies, weak enforcement mechanisms, and the limited effectiveness of court decisions remain substantial obstacles to achieving equitable and efficient dispute resolution.

¹⁰ Muhammad Yahya Harahap, *Hukum Acara Perdata: Tentang Gugatan, Persidangan, Penyitaan, Pembuktian, Dan Putusan Pengadilan* (Jakarta: Sinar Grafika, 2016).

¹¹ Bambang Sugeng Riyadi, Holijah Holijah, and Mulyadi Tanzili, "Mediation Challenges in Civil Dispute Resolution A Case Study of Civil Case Number 72/Pdt.Plg/2023 at the Palembang District Court," *Jurnal Ilmu Hukum Kyadiren* 6, no. 2 (2025): 197–210, <https://doi.org/10.46924/jihk.v6i2.250>.

¹² Priyatna Abdurasyid, *Arbitrase Dan Alternatif Penyelesaian Sengketa: Suatu Pengantar* (Jakarta: Fikahati Aneska, 2002).

Consistent with the findings of Meiranda et al., non-litigation mechanisms remain underutilized due to insufficient public knowledge about available procedures.¹³ Pramesti and Rahmadani also note that litigation is often perceived as a last resort, believed to offer more definitive justice.¹⁴ Studies by Lestari and Sukisno and Matheus further indicate that arbitration is favored in high-value disputes due to its binding and expedited nature, although accessibility remains limited to legally informed parties.¹⁵

These findings suggest a persistent gap between the normative structure of positive law and its implementation in practice. Non-litigation mechanisms, which are intended to serve as early filters for disputes, have not functioned effectively due to inadequate legal education and limited facilitator capacity. Meanwhile, litigation, though providing legal certainty, often fails to deliver substantive justice owing to procedural rigidity and unequal access. As Kumara et al. observe, positive law in Indonesia tends to prioritize legal formalism over a holistic approach that incorporates the social and cultural dimensions of land conflicts.¹⁶

To address these limitations, institutional strengthening and regulatory reform are essential. This includes revitalizing deliberation-based dispute resolution through community legal education, mediator and conciliator training, and simplifying litigation procedures. Moreover, government agencies responsible for land governance must coordinate more effectively to eliminate overlapping jurisdictions that contribute to legal uncertainty. Ultimately, the positive legal approach must evolve into a more adaptive and inclusive system—not only as a normative structure but also as a responsive and functional instrument capable of accommodating dynamic notions of social justice and legal certainty.

3.2. Obstacles in the Implementation of Land Dispute Resolution Through a Positive Legal Approach

This study aims to identify the various challenges encountered in implementing land dispute resolution mechanisms within the framework of positive law in Indonesia. It focuses on three critical issues: bureaucratic complexity, inequality in access to justice, and the limited recognition of indigenous peoples' rights. By juxtaposing the existing normative legal framework with the actual conditions on the ground, this study seeks to

¹³ Meiranda et al., “Upaya Hukum Terhadap Penyelesaian Sengketa Tanah Ulayat Di Kabupaten Kampar Guna Menjaga Keamanan Nasional.”

¹⁴ Pramesti and Rahmadani, “Jalur Alternatif Sebagai Penyelesaian Sengketa Tanah.”

¹⁵ Rika Lestari and Djoko Sukisno, “Kajian Hak Ulayat Di Kabupaten Kampar Dalam Perspektif Peraturan Perundang-Undangan Dan Hukum Adat,” *Jurnal Hukum Ius Quia Iustum* 28, no. 1 (2021): 94–114, <https://doi.org/10.20885/iustum.vol28.iss1.art5>; Juan Matheus, “E-Arbitration: Digitization of Business Dispute Resolution Pada Sektor E-Commerce Dalam Menyongsong Era Industri 4.0 Di Tengah Pandemi Covid-19,” *Lex Renaissance* 6, no. 4 (2021): 692–704, <https://doi.org/10.20885/JLR.vol6.iss4.art4>.

¹⁶ I Made Citra Gada Kumara, I Ketut Kasta Arya Wijaya, and Luh Putu Suryani, “Kepastian Hukum Pemegang Hak Atas Tanah Dalam Sistem Hukum Pertanahan Di Indonesia,” *Jurnal Preferensi Hukum* 2, no. 3 (2021): 560–63, <https://doi.org/10.22225/jph.2.3.4013.560-563>.

assess the extent to which the current legal system can facilitate fair, efficient, and inclusive dispute resolution processes.

Findings from this study indicate that the most significant barriers to resolving land disputes stem from regulatory overlap and weak institutional coordination. The 1960 Basic Agrarian Law (UUPA), as the foundational legal instrument in the land sector, is frequently subject to varying interpretations by law enforcement and judicial actors. The proliferation of sectoral regulations at both the national and regional levels further complicates the legal landscape. Jurisdictional overlap between civil, criminal, and administrative courts adds to the confusion experienced by individuals seeking legal recourse.

The land administration process remains mired in lengthy and opaque procedures. Disputes often arise due to inconsistent land ownership records, duplicate land certificates, or administrative decisions that exceed legal authority. The negligence of Land Deed Officials (PPAT) in performing their duties further contributes to conflict. These issues are compounded by the weak internal oversight mechanisms within the National Land Agency (BPN) and persistent collusive practices that disproportionately disadvantage marginalized groups. Such structural weaknesses not only hinder the resolution of existing disputes but also generate new ones.

Inequitable access to justice remains a pressing concern, particularly for communities in remote areas and indigenous populations. High litigation costs, inadequate legal aid services, and low levels of legal literacy prevent these groups from effectively defending their rights. In some instances, customary land has been expropriated by private entities with state backing, often without meaningful consultation or appropriate compensation. Although Article 18B(2) of the 1945 Constitution and the UUPA formally recognize customary rights, in practice, positive law has yet to fully protect indigenous land tenure systems.

These findings reinforce earlier research, which concludes that land disputes in Indonesia are not solely legal in nature but are also deeply rooted in structural, cultural, and institutional dynamics.¹⁷ This study highlights that many conflicts arise due to a fundamental disconnect between the state legal system and prevailing social norms or customary laws. The rigidity of positive law, when applied without sensitivity to local values and in the absence of dialogue, often exacerbates and prolongs disputes.

The results reveal that Indonesia's positive legal framework has not yet succeeded in delivering substantive justice. When legal procedures are overly bureaucratic, formalistic, and elitist, they fail to address the real needs of the communities involved. Accordingly, comprehensive legal reform is necessary, including regulatory

¹⁷ Anggita, "Penyelesaian Sengketa Konflik Kepemilikan Tanah Dengan Pendekatan Litigasi Di Pengadilan Tata Usaha Negara"; Meiranda et al., "Upaya Hukum Terhadap Penyelesaian Sengketa Tanah Ulayat Di Kabupaten Kampar Guna Menjaga Keamanan Nasional"; Myaskur and Wahyudiono, "Aspek Hukum Penyelesaian Sengketa Tanah Adat"; Sukmawati, "Hukum Agraria Dalam Penyelesaian Sengketa Tanah Di Indonesia."

simplification, procedural streamlining, and enhanced access to legal aid for vulnerable populations. Explicit recognition of indigenous land rights and meaningful participation of indigenous peoples in policy-making are essential to preventing the escalation of future agrarian conflicts.

This study affirms that land dispute resolution through a positive legal approach in Indonesia still faces profound challenges. Without substantial structural reforms, positive law risks becoming a vehicle for legitimizing injustice. Therefore, policy formulation in this area must be grounded in the principles of social justice, the protection of indigenous rights, and the operational efficiency of the legal bureaucracy. These measures are vital not only for achieving agrarian justice but also for preserving long-term social cohesion and political stability.

3.3. Evaluating the Effectiveness of the Positive Legal Approach in Resolving Land Disputes

This study aims to evaluate the effectiveness of Indonesia's positive legal approach in resolving land disputes, particularly in upholding the two core pillars of a modern legal system: legal certainty and substantive justice. It also compares the formal legal framework with alternative mechanisms—such as mediation and customary law-based dispute resolution—to assess the extent to which these approaches can address the gaps and limitations of the formal legal system. The central concern is whether the legalistic, procedural orientation embedded in positive law can adequately respond to the pluralistic, complex, and historically rooted nature of land ownership in Indonesia's agrarian society.

The findings reveal that, normatively, the Basic Agrarian Law of 1960 (UUPA) and its implementing regulations provide a relatively comprehensive legal framework governing land right, land registration, and dispute resolution. Legal certainty is supported by the existence of a registration system, formal documentation (such as land certificates), and adjudicative mechanisms through civil, administrative, and criminal courts—particularly in cases involving fraud or forgery. However, the practical effectiveness of this framework depends heavily on institutional capacity, the integrity of legal actors, and consistency in the enforcement of regulations.

In practice, litigation remains the most commonly used method for resolving land disputes. Nevertheless, this process faces significant challenges, including procedural complexity, high costs, lengthy timelines, and inconsistent execution of court decisions. Many rulings provide only procedural justice while overlooking substantive fairness, particularly for individuals and groups who are economically, socially, or politically marginalized. These limitations have eroded public trust in the formal legal system, as evidenced by frequent failures in enforcement and widespread rejection of court rulings perceived as socially or morally unjust.

In contrast, alternative mechanisms such as mediation and customary law-based dispute resolution offer a more participatory, flexible, and substantively just approach. Mediation allows disputing parties to actively engage in formulating mutually acceptable solutions, facilitated by a neutral third party. In many instances, mediation has proven effective in preserving social relationships, preventing conflict escalation, and producing outcomes that are acceptable to all stakeholders. However, the success of mediation depends significantly on the integrity of the mediator, the commitment of the parties involved, and institutional support—particularly through court-facilitated or government-supported programs.

Customary mechanisms also show strong potential, particularly in areas where traditional social structures remain influential. Within customary law, land ownership is often collective and carries sacred cultural significance, leading to dispute resolution processes that emphasize deliberation, moral values, and the preservation of social harmony. Decisions rendered by customary institutions tend to enjoy voluntary compliance because they align with local norms. However, these mechanisms face challenges due to the lack of formal legal recognition, limited documentation, and the absence of integration into the national legal system.

These findings are consistent with previous research, which indicates that while positive law provides formal legal certainty, it often fails to address the community's sense of substantive justice.¹⁸ Scholars such as Sumardjono have criticized the national legal system for inadequately protecting marginalized groups¹⁹, while Soekanto has highlighted the success of customary institutions in resolving disputes peacefully by emphasizing consensus and communal values.²⁰ These perspectives reinforce the idea that alternative approaches can complement and correct the deficiencies of rigid, bureaucratic formal legal systems.

This study affirms that while positive law plays a vital role in establishing legal certainty, it remains insufficient in delivering substantive justice. This shortfall is primarily due to the legal system's procedural orientation, which prioritizes legality over the restoration of rights and social relationships. Legal certainty often benefits only those with sufficient access to legal institutions, legal counsel, or economic resources. In contrast, indigenous peoples, smallholder farmers, and low-income groups lack the capacity to effectively navigate the formal system, thereby exacerbating structural inequality.

¹⁸ Boboy, Santoso, and Irawati, "Penyelesaian Sengketa Pertanahan Melalui Mediasi Berdasarkan Teori Dean G.Pruitt Dan Jeffrey Z. Rubin"; Myaskur and Wahyudiono, "Aspek Hukum Penyelesaian Sengketa Tanah Adat"; Sukmawati, "Hukum Agraria Dalam Penyelesaian Sengketa Tanah Di Indonesia"; Susanti, "Penyelesaian Sengketa Hak Atas Tanah."

¹⁹ Maria S.W. Sumardjono, *Tanah: Dalam Perspektif Hak Ekonomi Sosial Dan Budaya*, 1st ed. (Jakarta: Yayasan Obor Indonesia, 2008).

²⁰ Soerjono Soekanto, *Hukum Adat Indonesia* (Jakarta: PT Raja Grafindo Persada., 2013).

Although the UUPA recognizes customary rights and indigenous legal communities, this normative recognition has yet to be consistently implemented. Many regions still lack regional regulations (Perda) necessary for formally recognizing indigenous communities, thereby preventing the registration of customary land in the national land system. Consequently, such land remains vulnerable to claims from the state, private investors, or parties wielding greater legal influence. In this context, positive law has not succeeded in becoming an equitable instrument for all segments of society.

These findings underscore the urgent need to reform Indonesia's land dispute resolution framework. Necessary reforms include: (1) harmonizing cross-sectoral agrarian regulations to reduce legal overlaps; (2) enhancing judicial and institutional understanding of agrarian socio-cultural dynamics; (3) formally institutionalizing mediation and customary resolution mechanisms within the national legal system; and (4) expanding access to justice through legal aid and community-based legal education for marginalized populations. These measures are essential not only to improve procedural efficiency, but also to restore public confidence in the rule of law.

In conclusion, while the positive legal approach has provided a foundational structure for legal certainty, it has yet to meet the broader demands of substantive justice. Addressing land disputes in Indonesia requires an integrative and pluralistic model in which formal legal mechanisms, mediation processes, and customary institutions operate synergistically. Such integration will enhance the legitimacy of dispute resolution outcomes, foster community participation, and extend equitable legal protection—especially for the structurally disadvantaged—thus advancing a more inclusive and socially responsive legal system.

4. CONCLUSION

This study aims to analyze the mechanisms and procedures for resolving land disputes in Indonesia by emphasizing the positive law approach as the primary legal foundation, identifying the key obstacles to its implementation, and evaluating its effectiveness in ensuring legal certainty and substantive justice. In doing so, it also compares this approach with alternative mechanisms such as mediation and customary law-based resolutions. Overall, Indonesia's positive legal framework—particularly through the Basic Agrarian Law (UUPA), the land registration system, and formal dispute resolution pathways via general and administrative courts—has provided a relatively comprehensive normative and procedural structure.

However, the findings indicate that the implementation of positive law in land dispute resolution remains hindered by serious structural challenges. Bureaucratic complexity, overlapping and conflicting regulations, unequal access to legal assistance, and limited recognition of indigenous rights constitute the primary barriers. Moreover,

while positive law offers formal legal certainty, it has yet to adequately deliver substantive justice, particularly for marginalized groups such as indigenous communities and the economically disadvantaged. In contrast, alternative mechanisms—such as mediation and customary dispute resolution—have demonstrated greater responsiveness to local realities and a stronger alignment with principles of social justice.

This study offers a valuable foundation for the development of agrarian policies that are more equitable, inclusive, and grounded in legal pluralism. Nonetheless, its limitations include a narrow geographical scope and the absence of empirical legal analysis of court decisions. Future research is therefore recommended to explore the comparative implementation of positive law and customary mechanisms across diverse regions and to assess the long-term effectiveness of judicial rulings. For meaningful reform, the government should adopt an integrative legal policy that combines the strengths of formal legal institutions with the revitalization of customary practices and the institutionalization of mediation as legitimate components of a responsive land dispute resolution system.

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