



IMPLEMENTATION OF LAND DISPUTE RESOLUTION THROUGH CUSTOMARY LAW IN THE ACEH TAMIANG COMMUNITY

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ABSTRACT

This study examines the implementation of land dispute resolution through customary law mechanisms in Aceh Tamiang, focusing on their effectiveness, obstacles, and strengthening strategies. Using an empirical juridical approach, data were obtained through in-depth interviews, participatory observation, and documentation studies of customary leaders, village officials, the community, and official documents. The results indicate that customary law mechanisms, through village-level mediation and customary deliberations by the imam mukim (village leader), remain a fast, inexpensive, and harmony-oriented means of resolving disputes. However, their effectiveness is hampered by weak formal legitimacy, limited institutional capacity, and shifting social values. Strengthening efforts include the development of specific district-level regulations (qanun), capacity building of customary officials, revitalization of deliberation values, and synergy with formal institutions. These findings emphasize the strategic role of customary law in maintaining social cohesion while promoting contextual national legal pluralism.

Keywords: Land disputes, customary law, implementation, Aceh Tamiang, legal pluralism

1. INTRODUCTION

From the perspective of Indonesian society, particularly in rural areas, land is viewed not only as an economic commodity but also as a symbol of identity, dignity, and cultural heritage, with strong emotional and spiritual ties (Hadikusuma, 2011). In Aceh Tamiang, land has a dual meaning: as a source of livelihood and a marker of a community's social and cultural existence. Therefore, land disputes not only raise formal legal issues but also touch on aspects of substantive justice and social harmony (M. Nasir, 2021).

Normatively, the Indonesian legal system recognizes the existence of customary law as part of the national legal system. Article 18B paragraph (2) of the 1945 Constitution affirms state recognition of customary law communities and their

traditional rights as long as they remain alive and in keeping with current developments. In Aceh, this recognition is reinforced by Law Number 11 of 2006 concerning the Governance of Aceh, which authorizes customary institutions, such as the *imum mukim* and *tuha peut*, to play a role in dispute resolution, including land disputes (Government of Aceh, 2008).

However, the reality on the ground shows a significant gap between legal norms (*das sollen*) and practice (*das sein*) in the implementation of land dispute resolution through customary law in Aceh Tamiang. Some customary decisions lack sufficient enforceable power when confronted with formal litigation, especially if one of the disputing parties possesses greater administrative evidence or political-economic power (Eko Sugiarto, 2020). This has undermined some community confidence in the effectiveness of customary law as a mechanism for resolving agrarian conflicts.

This phenomenon is reinforced by a case in Alur Manis Village, Rantau District, where an inherited land dispute between two related extended families could not be resolved through customary deliberation. Although the village head and traditional leaders had decided on a fair land distribution according to local justice principles, the losing party rejected the decision and opted for court action. As a result, the formal decision worsened social relations between the two families and disrupted village community cohesion (Interview, June 7, 2025).

Previous research has examined land dispute resolution through customary law in various regions of Aceh. Siti Aminah (2021) emphasized the role of village customary institutions as mediators in East Aceh, while Muhammad Rizki (2020) highlighted the speed and efficiency of customary mechanisms in Lhokseumawe. Cut Rahmawati (2019) focused her study on the implementation of the Aceh Qanun in Aceh Besar. However, these studies have not specifically addressed the structural obstacles and opportunities for harmonizing customary law with formal law in Aceh Tamiang.

Based on these research gaps, this study was conducted to comprehensively analyze the implementation of land dispute resolution through customary law in Aceh Tamiang, identify the normative, structural, and cultural obstacles encountered, and formulate strategies to strengthen the effectiveness and legitimacy of customary law. The research problem formulation includes: (1) how is the implementation of land dispute resolution through customary law mechanisms in the Aceh Tamiang community; (2) what obstacles are faced; and (3) what efforts can be made to increase the effectiveness and legitimacy of customary law. This research is expected to contribute to strengthening the national legal system that is pluralistic, contextual, and responsive to the needs of local communities (Soerjono Soekanto & Mamudji, 2004).

2. RESEARCH METHOD

This research uses an empirical juridical approach (socio-legal research), a method that combines normative legal analysis with empirical studies of social realities on the ground (Marzuki, 2016). This approach was chosen to understand not only the written legal norms governing land dispute resolution through customary law, but also the practices, dynamics, and social interactions that accompany it in the Aceh Tamiang community.

The research was conducted in Aceh Tamiang Regency, Aceh Province, focusing on the districts of Rantau, Karang Baru, and Bandar Pusaka. These areas were selected purposively because they still maintain active customary legal structures, particularly in the resolution of agrarian disputes, and because they have ethnic diversity that influences the application of customary law (M. Nasir, 2021).

The research data consists of: Primary data, obtained from in-depth interviews and participant observation with: Customary leaders (imum mukim, tuha peut) authorized in customary mediation processes; Village officials (keuchik, village secretary) directly involved in recording and reporting disputes; Residents who have been involved in or are parties to land disputes; Local government officials with authority in the land sector; Law enforcement officials involved in the resolution of agrarian disputes.

Inclusion criteria included individuals with direct experience or in-depth knowledge of customary law mechanisms in Aceh Tamiang, while exclusion criteria included those unwilling to provide information or lacking relevant involvement.

Secondary data, including legal documents (Article 18B paragraph (2) of the 1945 Constitution, Law No. 11 of 2006, Aceh Qanun No. 9 of 2008), customary decision documents, minutes of deliberations, minutes of village meetings, previous research results, and relevant scientific literature (Hadikusuma, 2011; Eko Sugiarto, 2020).

Data collection was conducted through: In-depth interviews with semi-structured guidelines to provide respondents with flexibility in explaining their experiences (Patton, 2002). Participatory observation, in which researchers directly observed customary deliberation processes, interactions between parties, and the role of customary leaders in decision-making (Spradley, 1980). Documentation studies included the collection of legal documents, minutes, village archives, and related literature (Miles & Huberman, 1992).

Data were analyzed using descriptive-qualitative analysis methods (Miles et al., 2014), which included: Data reduction, which sorted relevant data according to the research focus. Data presentation, which organized findings narratively and thematically. Conclusion drawing, which interpreted field data by linking customary law theory, regulations, and the local social context.



Data validity was ensured through triangulation (Denzin & Lincoln, 2009): Source triangulation, which compared data from various informants. Technical triangulation, which compared interview results, observations, and documentation. Temporal triangulation, to ensure consistency of findings over time. The use of this method ensures that the research findings are not only empirically accurate, but also have a strong theoretical basis and practical relevance for strengthening the role of customary law in Aceh Tamiang.

3. RESULT AND ANALYSIS

Implementation of Land Dispute Resolution Through Customary Law in Aceh Tamiang

Research results indicate that land dispute resolution mechanisms in Aceh Tamiang still rely heavily on customary law institutions as the primary means of resolution. This process generally takes place in two stages. The initial stage involves mediation at the village level led by the village head or tuha peut. If no agreement is reached, formal customary deliberations are held under the leadership of the imum mukim (Government of Aceh, 2008).

The main strength of this customary mechanism lies in its speed, affordability, and orientation toward restoring social relations (M. Nasir, 2021). The principle of deliberation and consensus upheld in customary dispute resolution aligns with the concept of restorative justice, which emphasizes the restoration of relationships and social harmony rather than solely punishment (Zehr, 2015). This approach reflects a substantive justice orientation, where the focus is not solely on legal certainty but also on the sustainability of social relations and community cohesion. However, despite its social effectiveness, this mechanism has formal limitations. Many customary decisions are recorded only in simple archives at the village office and lack enforceable power in court. This means that those with formal ownership documents, such as land title certificates, can often overturn customary decisions during litigation (Eko Sugiarto, 2020). This situation highlights the tension between formal legality and social legitimacy (Griffiths, 1986). Within the framework of legal pluralism, customary law in Aceh Tamiang is socially recognized, but its position within the national legal system remains subordinate to state law.

This analysis shows that the social power of customary law has not been balanced by adequate legal power. However, if the results of customary deliberations could be integrated into formal legal mechanisms through administrative recognition or official registration with land institutions, their effectiveness would be significantly increased. Thus, the problem arises not from the quality of the customary deliberation process itself, but rather from the institutional gap between the customary legal system and formal state law.

Normative, Structural, and Cultural Barriers

The most prominent normative barrier is the lack of a positive legal basis at the district level that specifically grants binding legal force to customary decisions. Although Article 18B paragraph (2) of the 1945 Constitution and Law No. 11 of 2006 recognize the existence of customary law, this recognition has not been translated into operational mechanisms that can be implemented at the agrarian court level (Marzuki, 2016). The absence of regional legal instruments governing the execution of customary decisions creates a regulatory gap between normative recognition and practical implementation. In the context of legal pluralism, this situation indicates that the formal legal system has not granted equal footing to customary law, so the social legitimacy of customary law does not automatically translate into formal legal force (Griffiths, 1986).

From a structural perspective, most customary institutions in Aceh Tamiang face limited human resources, minimal administrative capacity, and weak documentation of decisions. This situation results in low-quality evidence when disputes progress to the formal legal realm (Hadikusuma, 2011). The lack of training and assistance from local governments exacerbates the situation, as customary institutions struggle to implement administrative procedures that comply with formal legal standards. This reflects an institutional gap, where customary institutions function socially but lack adequate technical support and legal infrastructure to strengthen their standing under state law.

Cultural barriers also play a significant role. The ethnic plurality in Aceh Tamiang, comprising Acehnese, Malay, and Gayo communities, leads to differing interpretations of customary law regarding land ownership. These differences often lead to conflicting interpretations of inheritance principles or land management. Furthermore, modernization and shifting values have eroded social cohesion, which previously served as a strong foundation for accepting customary decisions (Soerjono Soekanto & Mamudji, 2004). In some cases, parties with economic power or political connections prefer formal channels, perceived as providing administrative legal certainty and strategic advantages. This phenomenon indicates a paradigm shift in conflict resolution from a communal value-based approach to a preference for the state legal system, which is considered legally more final, despite its potential to undermine social harmony.

This finding aligns with Cut Rahmawati's (2019) study, which asserted that customary plurality and weak institutional capacity are the dominant factors hindering the effectiveness of customary law in Aceh. However, this study expands on these findings by demonstrating that resistance to customary decisions in Aceh Tamiang is not solely driven by customary differences but also influenced by local power structures, where actors with economic and political capital tend to have greater bargaining power to reject the outcomes of customary deliberations. This analysis indicates that obstacles to the implementation of customary law are not



merely technical or cultural issues, but also a matter of power relations that require a more comprehensive and inclusive policy approach.

Strategies for Strengthening the Effectiveness and Legitimacy of Customary Law

Based on the analysis, there are four strategic steps to enhance the role of customary law in resolving land disputes:

1. Strengthening local regulations through the development of district regulations (qanun) that detail the mechanisms for resolving land disputes, including administrative recognition of customary decisions (Government of Aceh, 2008).
2. Increasing the capacity of customary institutions through training in mediation, administrative recording, and understanding of positive law, so that customary decisions can be formally accounted for (Patton, 2002).
3. Revitalizing the value of deliberation through the promotion of a culture of peace and consistent family resolution, to strengthen the social legitimacy of customary law (Zehr, 2015).
4. Synergizing with formal institutions, for example, through the recording of customary decisions at land offices or courts, so that they have administrative power recognized by the state (Eko Sugiarto, 2020).

This strategy aligns with M. Nasir's (2021) view that strengthening customary law requires an institutional integration approach, where customary and formal institutions complement each other, not negate each other.

The findings of this study reinforce the framework of legal pluralism, which recognizes the coexistence of more than one legal system within a society (Griffiths, 1986). In the Aceh Tamiang context, customary law and formal state law do not operate in parallel but often compete.

The results also indicate that the effectiveness of customary law depends on social legitimacy and formal institutional support. This finding aligns with Eugen Ehrlich's (1936) theory of living law, which emphasizes that law that lives within a society is effective law, regardless of its formality. In the Aceh Tamiang context, customary law remains the living law, but to maintain its existence, it requires the legitimacy of positive law.

Thus, this study not only confirms the relevance of customary law in resolving agrarian disputes but also proposes a strengthening model that combines the advantages of speed and local wisdom of customary law with the certainty of formal law. This model is expected to minimize prolonged conflict and strengthen social cohesion in Aceh Tamiang.

4. CONCLUSION

This study concludes that land dispute resolution through customary law mechanisms in Aceh Tamiang still plays a central role as a fast, affordable, and socially rehabilitative alternative. The settlement process is generally carried out in stages, starting with mediation at the village level by the village head (keuchik) or tuha peut, followed by formal customary deliberations led by the imum mukim (village head). The principles of deliberation and substantive justice form the basis for decision-making, which aligns with restorative justice values.

However, the effectiveness of this mechanism is limited by normative, structural, and cultural barriers. Normative barriers arise from the lack of a positive legal basis that grants enforceable power to customary decisions. Structural barriers include the low administrative and documentation capacity of customary institutions, while cultural barriers relate to shifting social values, customary plurality, and resistance from those with economic and political power.

Based on these findings, strengthening customary law in Aceh Tamiang requires strategic steps that include: (1) drafting a district qanun that specifically regulates the mechanisms and execution of customary land dispute decisions; (2) increasing the human resource capacity of customary institutions through technical training and an understanding of positive law; (3) revitalizing the value of deliberation in society through ongoing outreach; and (4) institutional synergy between customary institutions and formal institutions through administrative recognition of customary decisions.

This research's contribution is twofold: theoretically, it strengthens the legal framework of pluralism by affirming the role of customary law as living law that remains relevant within the national legal system; and practically, it provides policy recommendations that can be implemented by local governments and customary institutions to strengthen the legitimacy of customary law in resolving agrarian disputes. Thus, customary law is not only a complement to formal law but also a crucial pillar in building an inclusive, contextual, and equitable dispute resolution system.

References

- Cut Rahmawati. Implementasi Qanun Aceh tentang Adat Istiadat dalam Penyelesaian Sengketa Tanah di Aceh Besar. Skripsi. Fakultas Syari'ah dan Hukum, UIN Ar-Raniry Banda Aceh, 2019.
- Data dokumentasi Pemerintahan Gampong Alur Tani I, Kecamatan Tamiang Hulu, 2024.
- Denzin, Norman K. & Lincoln, Yvonna S. Handbook of Qualitative Research. California: Sage Publications, 2009.
- Dokumen putusan Pengadilan Negeri Kuala Simpang Nomor



- 23/Pdt.G/2022/PN.Ksp, tanggal 14 Februari 2024.
- Eko Sugiarto. "Dualisme Hukum dalam Penanganan Sengketa Tanah Adat." *Jurnal Konstitusi*, Vol. 14 No. 4 (2020).
- Hadikusuma, Hilman. *Pengantar Ilmu Hukum Adat Indonesia*. Bandung: Mandar Maju, 2011.
- Lexy J. Moleong. *Metodologi Penelitian Kualitatif, Edisi Revisi*. Bandung: PT Remaja Rosdakarya, 2017.
- M. Nasir. *Hukum Adat dan Sengketa Agraria di Aceh*. Banda Aceh: Ar-Raniry Press, 2021.
- Marzuki, Peter Mahmud. *Penelitian Hukum*. Jakarta: Kencana, 2016.
- Miles, Matthew B. & Huberman, A. Michael. *Qualitative Data Analysis*. Jakarta: UI Press, 1992.
- Muhammad Fadli. "Hukum Adat dan Penyelesaian Konflik Agraria di Aceh." *Jurnal Hukum Ius Quia Iustum*, Vol. 28 No. 1 (2021).
- Muhammad Rizki. *Efektivitas Penyelesaian Sengketa Tanah Adat melalui Hukum Adat di Kecamatan Lhokseumawe*. Skripsi. Fakultas Hukum, Universitas Malikussaleh, 2020.
- Patton, Michael Quinn. *Qualitative Research & Evaluation Methods*. California: Sage Publications, 2002.
- Pemerintah Aceh. *Qanun Aceh Nomor 9 Tahun 2008 tentang Pembinaan Kehidupan Adat*.
- Siti Aminah. *Peran Lembaga Adat Gampong dalam Penyelesaian Sengketa Tanah di Kecamatan Peureulak Kabupaten Aceh Timur*. Skripsi. Fakultas Syari'ah dan Hukum, UIN Ar-Raniry Banda Aceh, 2021.
- Soerjono Soekanto & Sri Mamudji. *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*. Jakarta: Rajawali Pers, 2004.
- Sugiyono. *Metode Penelitian Kualitatif, Kuantitatif, dan R&D*. Bandung: Alfabeta, 2016.
- Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, Pasal 18B ayat (2).
- Undang-Undang Nomor 5 Tahun 1960 tentang Peraturan Dasar Pokok-Pokok Agraria, Penjelasan Umum Angka V.
- Undang-Undang Republik Indonesia Nomor 11 Tahun 2006 tentang Pemerintahan Aceh, Lembaran Negara Republik Indonesia Tahun 2006 Nomor 62.
- Wawancara dengan Imum Mukim Kampung Alur Manis, Kecamatan Rantau, Aceh Tamiang, 7 Juni 2025.
- Wawancara dengan Imum Mukim Kecamatan Rantau, Aceh Tamiang, 20 Juni 2025.
- Wawancara dengan Keuchik Kampung Tanjung Karang, Kecamatan Karang Baru, 12 Juni 2025.
- Wawancara dengan Keuchik Kampung Tanjung Seumantoh, Kecamatan Karang Baru, 10 Juni 2025.
- Wawancara dengan staf Dinas Pemberdayaan Masyarakat Gampong Kabupaten

Aceh Tamiang, 18 Juni 2025.

Wawancara dengan tokoh adat Kampung Alur Manis, Kecamatan Rantau, 22 Juni 2025.

Wawancara dengan tokoh masyarakat Kampung Alur Manis, 5 Juni 2025.

Wawancara dengan tokoh masyarakat Kampung Alur Manis, 22 Juni 2025.

Wawancara dengan Tuha Peut Kampung Sungai Liput, Kecamatan Kejuruan Muda, 15 Juni 2025.