

Causes and Resolution of Buleleng Bali Customary Land Disputes

Sheila Ananda Siregar¹, Dilla Elfira Damanik², Albert Lodewyk Siahaan^{3*}

¹⁻³Universitas Pelita Harapan Medan, Indonesia
Email: ¹⁾ albertlodewyksiahaan@gmail.com

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Abstract

This study aims to examine the causal factors and mechanisms for resolving customary land disputes in Buleleng Regency, Bali. This research uses a qualitative method by collecting information from various sources such as legal regulations, previous research results, and literature studies. The novelty of this research lies in its focus on the role of Pakraman village as a customary institution in resolving disputes through mediation based on customary law (*Awig-awig*), as well as the collaborative approach between the community, customary institutions, and the government in handling land conflicts. The results show that customary land disputes in Buleleng are triggered by various factors including community ignorance of the legal status of customary land, unclear land boundaries, and increasing economic value of land. Conflict resolution is carried out through customary mediation with the stages of verification of reports, summoning parties and witnesses and custom-based decision-making. The conclusion of this research is that legal education, participatory mapping, land certification, and strengthening local regulations are very important to prevent conflicts and realise legal certainty for indigenous peoples in the management of customary land.

Keywords: Awig-awig, Customary Land Dispute, Customary Mediation, Indigenous Land Rights.

1. Introduction

Land plays a vital and multifaceted role in human life. Beyond being a physical space for housing and livelihood activities, it constitutes a central pillar of national development, socio-cultural identity, and ecological balance (Wang & Zhang, 2024). Land is a fundamental asset in economic development, serving as the basis for agriculture, tourism, industry, infrastructure, and investment (Bacior & Prus, 2018). The ownership, use, and control of land determine access to resources and influence patterns of wealth, power, and opportunity within society (Alting, 2013). As a non-renewable and immovable resource, land holds both tangible (economic and productive) and intangible (cultural, historical, and spiritual) value (Akujuru & Ruddock, 2014). It can be inherited and passed down through generations, contributing to intergenerational equity and family stability (Goodnow & Lawrence, 2010). It is also commodified in formal markets and increasingly subject to financial speculation, especially in urban and peri-urban areas (Leitner et al., 2023).

In many societies, including Indonesia, land has a deeply rooted symbolic and spiritual significance (Prasetyo, 2023). For indigenous and customary law communities, land is not merely a physical asset but a sacred entity intertwined with ancestry, identity, and tradition (Klug, 1995). It is used not only for settlement and agriculture but also as a site for traditional rituals, community gatherings, and ancestral worship (Zhang et al., 2017). Loss of land in such



communities can thus lead to cultural disintegration (Pradnyadana & Tanaya, 2023) and social disempowerment (Willow, 2014).

However, the value of land has increasingly been contested in the face of growing pressures. Indonesia, like many developing countries, is experiencing rapid population growth, urbanization, and economic transformation, all of which drive increasing demand for land (Arfanuzzaman & Dahiya, 2019). Urban sprawl and infrastructure expansion, particularly in areas designated for tourism, industry, and housing, have escalated land conversion and competition (Wei & Ewing, 2018). This has contributed to a surge in land conflicts, particularly in regions like Buleleng Regency, Bali, where traditional land systems coexist with modern land markets and state regulatory frameworks (Suartika, 2007).

These overlapping systems often result in legal ambiguities, tenure insecurity, and competing claims over land ownership and use (Kalabamu, 2019). The absence of clear documentation, lack of formal recognition of customary land rights, and weak enforcement of land laws exacerbate tensions (Peters, 2013). Furthermore, land grabbing by elites or corporations (often facilitated by weak governance or corruption) has marginalized indigenous and rural communities, deepening social inequalities and triggering resistance movements (McKeon, 2013). In Bali, the tourism industry adds another layer of complexity (Mudana et al., 2018), as high demand for land near coastal or culturally significant areas places intense pressure on customary territories (Law et al., 2016).

These dynamics highlight a fundamental tension in land governance: the challenge of balancing economic development with social justice and cultural preservation. In many cases, state-led development projects have failed to adequately consult or compensate indigenous communities (Sikor & Müller, 2009), leading to legal disputes, protests, and long-term grievances. The rise in land disputes across Indonesia has prompted both policy reforms and academic attention, emphasizing the need for more inclusive, participatory, and rights-based approaches to land management (Berenschot, 2022).

In many regions, particularly those with strong customary law traditions, land is not merely viewed as a commodity but as an inseparable part of cultural identity and heritage. For indigenous communities in Buleleng, customary land represents their ancestral legacy, communal identity, and primary source of livelihood. It is used for housing, farming, rituals, and even as sacred burial grounds. However, the coexistence of national land law with customary (*adat*) law often leads to legal ambiguity, overlapping claims, and a lack of legal recognition. This situation becomes even more complex when private interests, development projects, or government programs intersect with indigenous land tenure systems (Mahendra & Yustiawan, 2023).

According to the Decision Letter of the Director of BPN RI No. 3 of 2011, land disputes in Buleleng are classified not merely as administrative issues but as disputes that have wide-ranging impacts such as socially, economically, and culturally. These disputes are commonly triggered by unclear land boundaries, unregistered customary land, lack of public understanding of legal processes, and weak coordination among stakeholders. The tension between indigenous land claims and state-recognized land titles frequently leads to prolonged conflicts, legal battles, and social unrest. Based on the background described above, several problems can be formulated as follows:

- a. What efforts can be made to improve indigenous peoples' understanding of the legal status of customary land?
- b. What steps can be taken to clarify the boundaries of customary land and privately owned land to reduce the potential for conflict?

One of the core issues is the limited understanding among indigenous communities regarding the legal status of customary land under the national legal system (McCarthy et al., 2022). This knowledge gap hampers their ability to assert rights, participate in land registration processes, and engage with formal legal institutions. Moreover, the absence of clear and recognized boundaries between customary and privately owned land creates fertile ground for conflict, as overlapping claims are difficult to resolve without formal documentation or agreed-upon maps.

Despite government efforts to resolve these issues, such as through participatory mapping and legal education, challenges persist due to limited resources, weak institutional support, and resistance from both local elites and external stakeholders. There remains a significant gap between policy and implementation, particularly in ensuring that indigenous perspectives are respected and integrated into land governance frameworks.

Based on the issues highlighted above, this research aims to:

- a. Examine efforts to improve indigenous peoples' understanding of the legal status of customary land, including education on land rights and obligations, socialization of customary and national legal systems, and promotion of land registration and recognition mechanisms.
- b. Explore concrete steps to clarify the boundaries between customary and privately owned land, such as participatory mapping initiatives, land certification programs, reinforcement of local regulations, and collaborative coordination among customary institutions, local governments, and the National Land Agency.

Further, this research aims to propose actionable solutions to reduce land conflicts in Buleleng Regency and to empower indigenous communities in securing their land rights within the broader national legal framework.

2. Methods

This research uses qualitative methods with complementary normative and sociological approaches. The normative approach is used to analyze laws and regulations governing customary land and dispute resolution in the national legal system (Ibrahim, 2010). This approach aims to examine how the written law applicable in Indonesia, particularly in relation to customary land, provides the basis for dispute resolution.

The sociological approach is applied to understand how legal norms are applied in community life, especially indigenous communities in Buleleng Regency, Bali. This approach focuses on the interaction between individuals, communities and legal norms that exist in society, as well as how customary law (*Awig-awig*) plays a role in land dispute resolution at the local level.

The data in this research was collected through a desk study, by reviewing various written sources such as scientific journals, law books, laws and regulations, academic articles, and other relevant documents. This literature study aims to identify the common causes of customary land disputes as well as dispute resolution mechanisms carried out through customary institutions, which are based on customary law applicable in the local community.

The data collected is then analyzed descriptively-analytically, to describe in depth the dynamics of customary land disputes and dispute resolution mechanisms carried out by indigenous peoples through customary institutions and existing rules (*Awig-awig*). By combining normative and sociological approaches, this research provides a comprehensive

picture of the importance of collaboration between state law and customary law in resolving agrarian conflicts in customary territories.

This research also emphasizes the importance of cooperation between state law and customary law in resolving customary land disputes. This collaborative approach is expected to provide a more equitable solution that is in accordance with local wisdom, and reduce the potential for conflicts arising from the unclear legal status of customary land. Overall, the combination of these two approaches provides a deeper understanding of how agrarian conflicts in customary areas can be resolved by involving customary institutions and state legal institutions, in order to achieve effective and social justice-based settlements.

3. Results and Discussion

3.1. Factors Causing Customary Land Disputes in Bungkulan Village, Sawan District, Buleleng Regency

Factors that cause customary land disputes in Bungkulan Village, Sawan District, Buleleng Regency are:

- 1) Disputes between villagers and Pakraman Village (customary institution in Buleleng)
The lack of understanding of customary law communities regarding the status of customary land is the main trigger. Most people do not know that customary land is part of the Pakraman village's wealth that cannot be transferred to individual property rights. The status of customary land also stipulates that the land may not be traded by the customary community, due to its function as a village asset. Ignorance of these rules often leads to misunderstandings, which in turn triggers conflicts between residents and Pakraman village over ownership and management rights of customary land.
- 2) Lack of Clarity on Ownership Status
Lack of official documentation or ownership of customary land leads to confusion and overlapping claims between disputing parties.
- 3) Economic Factors
Economic factors also play a role in the occurrence of customary land disputes. Along with the advancement of civilisation, land is increasingly considered a valuable asset that is desired by many people, so its selling value increases significantly. Ask individuals who make land as a form of investment.
In Buleleng Regency, the increasing population growth is inversely proportional to the increasingly limited availability of land. This condition encourages the spoiling of land prices, including customary land. Higher land values lead to competition in land ownership and control. People who own high-value land tend to maintain their ownership rights and are unwilling to relinquish them. This triggers disputes and conflicts over customary land, making economic factors one of the main causes of land disputes in the region.
- 4) Unclear boundaries between privately owned land and customary land
Defining land boundaries is essential to prevent conflicts between neighbouring landowners. If ownership boundaries are not clearly defined, there can be claims of overlap between individuals or between communities and the Pakraman Village. This situation is further complicated if the land is adjacent to Ulayat land, because it has the potential to cause disputes related to ownership rights and land tenure.
- 5) Misunderstanding between Residents and Pakraman Village
Differences in interpretation or understanding of land rights and boundaries between individuals or groups and customary village authorities can lead to conflict.

6) Lack of Clarity in Land Regulations

The lack of clear regulations regarding the registration of customary land rights leads to legal uncertainty and potential disputes.

7) Obstacles to Dispute Resolution

Factors such as the egoism of the disputing parties, difficulties in finding evidence and witnesses and weak sanctions can hinder the resolution of customary land disputes (Suriati, 2020).

3.2. Dispute Resolution

The mediation process in the settlement of land disputes in Buleleng district is carried out through the following stages.

- 1) Implementation of Mediation: Mediation is led by the Pakraman Village that has or is experiencing a dispute, if there is a report from an aggrieved party. The dispute can be horizontal (between individuals) or vertical (between groups and certain authorities) depending on the situation on the ground.
- 2) Verification of the Report: After receiving the report, the Pakraman Village will check the reported case to ensure that it is consistent with the conditions on the ground.
- 3) Submission of Official Report: Usually, reports from aggrieved parties are submitted verbally. However, the complainant is still required to make an official statement addressed to the village head or Kelian adat.
- 4) Dispute Evaluation: If the results of the investigation prove that a dispute exists, the Pakraman Village will form a special team or group to review the report received and evaluate the issue.
- 5) Dispute Resolution Planning: The team formed is tasked with developing a settlement strategy based on customs, applicable regulations, and Awig-Awig in the village.
- 6) Summoning the Disputing Parties: The Pakraman Village will send summonses to the parties involved in the dispute. Each party must bring proof of land ownership, such as a certificate to clarify the ownership status of the disputed land.
- 7) Summoning Witnesses: In addition to the parties to the dispute, the mediator will also call witnesses to provide additional information to clarify the issue.
- 8) Decision Making: After the mediation is completed, the village head makes a decision based on the Awig-Awig that applies in the village. If possible, the decision is made on the same day. However, if additional time is required, the village head will conduct further data checks before making a final decision.

Following efforts can be made to improve indigenous peoples' understanding of the legal status of customary land.

- 1) Legal education and outreach: conduct education and training programmes for indigenous communities to improve their understanding of their land rights and the applicable laws. This counselling aims to make communities more aware of their existing land status and the legal procedures that must be followed. For example, in Bali, socialisation was conducted through the law-aware village movement which emphasised the importance of recognising Ulayat land and its legal procedures (Girinatha & Putri, 2024).
- 2) Integration of customary law into national law: harmonising customary law with the national legal system so that the rights of indigenous peoples receive stronger recognition and protection. This step includes legalising Ulayat land through official registration and strengthening the position of customary law in national regulations, so

that indigenous peoples have legal certainty in managing and maintaining their land rights (Rai et al., 2022).

- 3) Participatory mapping: involving indigenous peoples in the process of mapping their territories to ensure land boundaries are well-documented. For example, indigenous communities conduct mapping and patrols to protect their territories from land grabbing (Van Uhm & Grigore, 2021).
- 4) Empowerment through information technology: using information technology, such as mobile applications or online platforms, to disseminate information and education on the legal status of customary land.

Following steps can be taken to clarify the boundaries of customary and private land to reduce the potential for conflict.

- 1) Land registration and certification: encouraging communities to register and certify their land to obtain legal certainty of ownership In Indonesia's legal constellation, the existence of indigenous peoples and customary land is recognised in the 1945 Constitution Article 18B paragraphs (2) and (3) which states that the state recognises and respects the unity of customary law communities and their traditional rights (Sibot et al., 2023).
- 2) Mediation and dispute resolution through customary institutions: using traditional dispute resolution mechanisms through customary institutions to resolve land boundary conflicts. For example, land dispute resolution through mediation in Kahayan Tengah Sub-district, Pulang Pisau District, is conducted by the customary chief.
- 3) Drafting local regulations (Perda): Develop local regulations that specifically regulate customary land boundaries and dispute resolution mechanisms.
- 4) Capacity building of government officials: Train government and law enforcement officials on cultural sensitivity and customary law to ensure fair handling of land disputes.
- 5) Development and dissemination of guidelines: Develop guidelines or manuals on land boundary demarcation and confirmation procedures that can be accessed by communities.

The process of resolving customary land disputes in Buleleng Regency through mediation by Pakraman Villages reflects the existence of customary law that is still alive and functionally carried out by indigenous peoples. Based on the normative approach, the existence of customary law is explicitly recognized in Article 18B paragraph (2) of the 1945 Constitution, which states that "*The State recognizes and respects the unity of customary law communities and their traditional rights as long as they are still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia.*"

The process undertaken by the Pakraman Village in the mediation stage - from verification of the report, formation of a team, summoning parties and witnesses, to decision-making based on *Awig-Awig* - is a reflection of the structured application of customary law norms. Customary law (*Awig-Awig*) in this context functions as an instrument of conflict resolution, replacing the role of formal courts, and prioritizing the principles of consensus and restorative justice.

However, in a normative review, there is still a disconnect between the results of customary mediation and the national legal system, especially in the land domain. According to Law No. 5/1960 on Basic Agrarian Principles (UUPA), the recognition of customary land

rights (*hak ulayat*) is regulated in Article 3, which states that *"The implementation of customary land rights and similar rights of customary law communities, as long as in reality they still exist, must be in such a way that it is in accordance with national and state interests, which are based on national unity, and must not conflict with higher laws and regulations."*

This means that although customary law is recognized, its implementation must be in accordance with the principles of the rule of law, including through the process of legalization and recording in the national land administration system. This has not fully occurred in Buleleng, where the results of customary mediation are not always followed by the process of certifying land rights through the National Land Agency (BPN). As a result, social customary decisions have not yet obtained administratively binding legal force.

From a sociological approach, customary mediation mechanisms in Pakraman Villages reflect the high social legitimacy of customary institutions in resolving conflicts. The mediation process is conducted with the direct involvement of the community, customary leaders, and the disputing parties, resulting in decisions that have moral and cultural binding power. In this context, customary law is not only understood as a set of rules, but also as part of the Balinese value system and collective identity.

However, the community's low understanding of formal law and land administration often leads to difficulties in proving legal land ownership in the eyes of state law. Most cases are reported orally, and proof of ownership is often oral inheritance or undocumented customary evidence. This reinforces the finding that agrarian conflicts often stem from paradigm differences between customary and state legal systems.

To strengthen the synergy between customary law and national law in land dispute resolution, several strategic steps need to be taken. First, through community legal education and extension programs, such as the law-aware village movement in Bali, to improve indigenous peoples' legal literacy regarding land status and formal legal procedures. Second, through registration and certification of customary land, which can be done with a collective recognition scheme of customary rights based on Permendagri No. 52/2014 on Guidelines for Recognition and Protection of Customary Law Communities. Third, it is important to conduct participatory mapping involving indigenous communities to document their territories to prevent overlapping claims, as exemplified in several studies by Van Uhm & Grigore (2021).

Furthermore, to avoid land boundary conflicts between indigenous peoples and private landowners, it is necessary to develop a Regional Regulation (Perda) that specifically regulates customary boundaries and settlement procedures. In addition, the capacity of government and law enforcement officials also needs to be improved through training that emphasizes cultural sensitivity and understanding of customary law. Finally, the development of practical guidelines on mediation and customary land boundaries will also assist communities and governments in establishing a fair and efficient dispute resolution system.

4. Conclusion

This study reveals that land disputes in Buleleng Regency arise from unclear ownership status, inheritance issues, economic factors, and a lack of understanding of customary law. Customary land, which should be managed as a village asset, is often claimed as private property, triggering conflicts between local communities and Pakraman villages. Mediation by Pakraman villages serves as the primary method of dispute resolution, although if mediation fails, the conflict may proceed to formal legal channels.

Resolving land disputes requires a better understanding of the legal status of customary land, the creation of clear boundary maps, and the certification of privately owned land to

prevent overlapping claims. Legal education for the community and the strengthening of regulations through regional ordinances and customary village policies are crucial to creating legal certainty and reducing conflicts.

Local governments and Pakraman villages need to enhance public awareness regarding the legal status of customary land, employ modern technologies for boundary mapping, and facilitate land certification to prevent future disputes. Pakraman villages must take an active role in protecting customary land assets, and the mediation process must be more transparent, involving neutral parties such as customary leaders and government representatives. Strengthened coordination between customary communities, Pakraman villages, the government, and legal institutions is necessary for more effective dispute resolution. This study is limited to the Buleleng Regency and does not cover the entirety of Bali, hence the generalization of its findings may be limited. Additionally, the study has not yet deeply examined the practical implementation of the recommended policies in the field.

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