



MODEL FOR SETTLING ULAYAT RIGHTS CONFLICTS BASED ON TRADITIONAL LAW IN HITULAMA STATE LEIHITU DISTRICT CENTRAL MALUKU REGION

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Article Info

Received : 30/05/2022

Approved : 21/07/2022

Keywords:

Customary land disputes,
customary law, dispute
resolution, interest conflicts, the
role of customary heads.

Abstract

There are still various institutions outside the court in addressing Ulayat land issues in Hitulama state, Leihitu district, Central Maluku area. There are many customary lands in this area that belong to customary law communities, which frequently leads to interest conflicts. Indigenous peoples set the King as the head of the customary alliance, symbol, as well as the system and model of customary law itself in resolving disputes over customary rights of indigenous peoples. The aim of this study is to define the model for settling customary rights disputes based on customary law and to see if the model used in Hitulama state, Leihitu district, Central Maluku region meets the principles of justice. The methodology employed is an empirically grounded, legally descriptive analytic approach. Study participants include local officials, elders, and members of the community who have been involved in land conflicts. This study's sample, selected using a non-random method, consists of natives living in Hitulama. Primary data were collected through in-person interviews. The basic legal materials are the laws and regulations directly pertaining to the issue of study; the secondary legal materials are books and scholarly articles; and the tertiary legal materials are dictionaries in Indonesian and English. Afterward, a qualitative analysis was performed on the collected data.

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I. INTRODUCTION

State/village is a legal community unit that has territorial boundaries that are authorized to regulate and manage the interests of the local community, based on local origins and customs that are recognized and respected in the government system of the Unitary State of the Republic of Indonesia. Therefore, the autonomy that the village has is genuine autonomy, which has autonomy based on local origins and customs. In reality, there will always be various kinds of diversity, both in terms of names, government structures, and geographical forms. More specifically, there are special circumstances that differ from one another. This is actually the principle of "diversity" that exists and develops significantly in society. Therefore, in real terms, rights, origins and customs must be respected.

Juridically the existence of customary law is recognized by the state as a form of law whose existence is recognized in the life and legal culture of the Indonesian people, the state's recognition and respect for customary law is stated in the 1945 Constitution of the Republic of Indonesia article

18B verse (2) which reads: "The state recognizes and respects customary law community units 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, which are regulated by law." The existence of indigenous peoples is inextricably linked to the customary rights (Ulayat rights) that were acknowledged prior to Indonesia's independence. Since Ulayat rights and customary law communities existed prior to the 17 August 1945 founding of the Unitary State of the Republic of Indonesia, recognition of Ulayat rights is natural. In customary law, there is a cosmic-magical-religious tie between humans and land, which means that this relationship is not only between persons and land, but also between members of a customary law alliance in respect to Ulayat rights (Rasyad, M., 2019).

The Ulayat rights of indigenous peoples are an authority, which according to customary law is owned by customary law communities in relation to certain areas which are the environment of their citizens. With this authority it allows the community to take advantage of natural resources, including land in the area for their survival. The community and the resources in question have an outward and inward, hereditary and uninterrupted relationship between the customary law community and the territory concerned (Salindeho, J., 2004). The area of customary rights of customary law communities has a very important meaning for each individual. In addition to having economic value that can be reserved as a source of support for human life in the future, the area of customary rights of customary law communities also contains spiritual aspects in the environment and its survival. The area of customary rights of customary law communities is a place of settlement, a place to carry out human activities (Murad, R., 1991).

This customary land problem often occurs in areas that are far from the center of government or central government power, where there are still many people who adhere to customs, one of which is Hitulama state, Leihitu district, Central Maluku region, Maluku Province. The Ulayat land dispute that occurs is caused by the fact that the area of Maluku Province is mostly the sea that stretches out lined up with small islands, one of which is the island of Ambon. The state of Hitulama, Leihitu district, Central Maluku region is located right on the island of Ambon which is none other than the capital of the Maluku province, so that the hustle and bustle of expansion and development of urban areas reaches up to the customary rights area of the Hitu state.

The area of Ulayat rights of the indigenous peoples of the land of hitulama has been used for generations as an economic support, consisting of land, plantations, and fisheries. The problem of dispute over customary rights or conflicts and contradictions is unavoidable in humans, both as personal beings and especially as social beings. Indirectly, the indigenous peoples of Hitulama state have positioned themselves as a community with social differences in accordance with their duties and responsibilities toward customs and religion. These social divisions may include the role of a person who represents his group (marga/clan) in front of customs and religion, which was originally

established by the King as a servant who fulfills his obligations and responsibilities from generation to generation.

Lately, the indigenous peoples of the Hitulama land often have disputes or conflicts in terms of ownership, management interests and land tenure. Disputes that often arise are civil disputes relating to the issue of customary land rights among its citizens in terms of economic interests and the interests of land ownership and control rights. Customary rights disputes in the community are increasing every year. Land cases that often occur when viewed from the conflict of interest of the parties in land disputes include (Government Data, 2019):

1. Indigenous peoples face bureaucracy.
2. Indigenous peoples interact with state-owned businesses.

Every dispute or conflict, the Hitu customary law community in Hitulama state always uses a non-litigation approach in resolving land disputes that occur between them. In this dispute resolution effort, the King has an important role because the King's position is considered a source of law (a person who is all-knowing and elder by the community). The king will be a neutral party in the process of resolving land disputes that occur as well as being an intermediary judge. People who are subject to customary law give full trust to the King to be able to help two conflicting parties to be reconciled and find solutions to their problems to achieve balance and justice.

The king as the head of the indigenous community of Hitulama is a symbol as well as a system and model of customary law itself in resolving disputes over the rights of the Hitu indigenous people in the Hitulama state. Therefore, in dealing with any disputes in the community, the King is a motivator, facilitator, and mediator. The people of the Hitulama state prefer to position the Hitu customary law as a living law to be defended and place the King as the source of the law and the judge of any dispute over Hitu's customary land rights.

II. RESEARCH METHODS

The method used in this study is to use an empirical juridical approach. Empirical research, initially identifying secondary data, as above and then continuing with research on primary data in the field or on the community or parties involved in the conflict. It is said to be primary data because what is being researched is a model for resolving disputes over the customary rights of the indigenous peoples of Hitulama state. The type of research above is used because it remembers that the problems studied are related to the King's way of resolving Ulayat land disputes through alternative dispute resolution. There are two kinds of theories being used as literature review and conceptual development.

2.1. Theory of Legal Justice

The theory of justice as a middle range theory is the foundation of the study concept building. Basically, the purpose of the king's role in regulating dispute resolution outside the court is to create a

sense of justice for the benefit of the community (Currie, E., 2019; Lacey-Barnacle, M. Et. al., 2020). Aristotle's view of justice is found in his work *nichomachean ethics*, politics, and rhetoric. More specifically, in the book *nicomachean ethics*, the book is entirely devoted to justice which, based on Aristotle's general philosophy, must be considered as the core of his legal philosophy, because law can only be established in relation to justice. What is very important from his view is the opinion that justice must be understood in terms of equality (De Silva, B. M. et. al., 2020).

The theory of justice is used in analyzing the model of settlement of customary rights disputes in the view of indigenous peoples, which is nothing but to maintain a balance towards justice for indigenous peoples. According to Aristotle, virtue, is obedience to the law (policy law at that time, written and unwritten) is justice. In other word justice is a virtue and this is general. De Silva, B.M. et. al. (2020) explains about justice according to Aristotle in addition to general virtues, as well as justice as a special moral virtue, which is related to human attitudes in certain fields, namely determining good relations between people, and the balance between two parties. The measure of this balance is numerical and proportional similarity. Aristotle's perspective views justice in terms of equality. In numerical similarity, every human being is equated in one unit. For example, everyone is equal before the law. Then proportional equality is to give everyone what is their right, according to their abilities and achievements.

Justice is indeed an abstract concept. However, the concept of justice contains the meaning of protecting rights, equality, and position before the law, as well as the principle of proportionality between individual interests and social interests. The abstract nature of justice is because justice cannot always be born from rationality, but is also determined by the social atmosphere which is influenced by other values and norms in society. Therefore, justice also has a dynamic nature which sometimes cannot be accommodated in positive law (Bocarejo, D., 2020). Fair essentially means putting something in its place and giving to anyone what is due. Justice is based on the principle that all people are equal before the law. Emphasis that tends to be more on the principle of justice can mean having to consider the law that lives in society, which consists of customs and unwritten legal provisions. Judges in their legal reasons and considerations must be able to accommodate all provisions that live in society in the form of habits and unwritten legal provisions, when choosing the principle of justice as the basis for deciding cases at hand (Wantu, F. M., 2012)..

Justice has a broad scope, ranging from ethical, philosophical, legal, to social justice. Many people think that acting justly and unfairly depends on the strength and power they have, to be fair it looks easy enough, but of course this is not the case in human life. Justice is an inseparable part of the purpose of the law itself, in addition to legal certainty and expediency. Seeing that there are several legal problems that have occurred in Indonesia, which are then stated in several judges' decisions, it leads to a reflection that the terminology of justice which actually exists in the study of philosophy can be used as a major part in achieving legal goals, given the abstract concept of justice so that an

understanding is needed. in the philosophy of law that will explain the basic value of the law philosophically so that it can build the actual law (Dwisvimiari, I., 2011).

2.2. Dispute Resolution Theory

Dispute resolution theory is a theory that examines and analyzes the categories or classifications of disputes or conflicts that arise in society, the factors that cause disputes and the ways or strategies used to end the dispute. Pruitt, D. G., & Kugler, K. G. (2014) explains the theory of dispute resolution. There are 5 (five), as follows:

- a. Contending (competing): trying to implement a solution that is preferred by one party over the other.
- b. Yielding (giving in): lowering one's own aspirations and being willing to accept the shortcomings of what is actually desired.
- c. Problem solving (problem solving): that is looking for a satisfactory alternative from both parties.
- d. Withdrawing: is choosing to leave a disputed situation, both physically and psychologically.
- e. In action (silent): i.e do nothing.

Dispute Resolution Theory is also known as Conflict Theory. Conflict in the Indonesian dictionary is squabble, dispute, and different perspectives on a problem. Conflict is a difference of opinion and disagreement between two parties regarding rights and obligations at the same time and under the same circumstances. Understanding Conflict is a perception of perceived divergence of interest, or a belief that the aspirations of the conflicting parties are not achieved simultaneously.

Legal anthropologists express their opinions on ways to resolve disputes that occur in society, both in traditional and modern societies. There are 7 (seven) ways of resolving disputes in the community (Nader, L., & Todd, J., 1978):

a. Lumping it (leave it alone), by the party who feels unfair treatment, fails to pursue his claim. He decides to just ignore the problem or issues that give rise to his claim and he continues his relationships with those he feels are detrimental to him. This is done because of various possibilities such as lack of information on how to process complaints to the court, lack of access to judicial institutions or intentionally not being processed in court because it is estimated that the losses are greater than the profits, both predicted from a material and psychological perspective.

b. Avoidance is characterized as an aggrieved party reducing or severing contacts with the offending party; for instance, this could occur in a business partnership. By dodging, complaints-causing situations are avoided. In contrast to the first option (lumping it), in which the relationship remains, only the issue is regarded as resolved in this alternative. In contrast, in the second kind (avoidance), the aggrieved party avoids the situation. In the first type of settlement, the relationship

between the disputing parties is maintained, whereas in the second type, the link between the disputing parties may be fully or partially severed.

c. Coercion, one party imposes a solution on the other, this is unilateral. Coercive actions or threats to use force generally reduce the chances of a peaceful resolution.

d. In negotiations, the decision-makers are the two sides facing each other. They reached an agreement without a third party's intervention in order to resolve their concerns. Both parties are attempting to persuade the other, so they create their own norms and do not violate the existing ones.

e. Mediation, the meaning is a third person who assists disputing parties in reaching an agreement. This third party can either be chosen by the disputing parties or designated by the appropriate authority. Whether the mediator is chosen by both parties or appointed by a person in a position of authority, both parties to the disagreement must agree to utilize the services of a mediator in an effort to reach a resolution. In small communities (paguyuban), it is feasible for mediators to also serve as arbitrators and judges.

f. Arbitration, is that two disputing parties agree to ask a third-party intermediary, the arbitrator and from the beginning have agreed that they will accept the decision of the arbitrator.

g. Adjudication (judicial), is a third party who has the authority to interfere in problem solving, regardless of the wishes of the disputing parties. The third party also has the right to make decisions and enforce that decision, meaning that the third party strives that the decision is implemented.

These seven methods can be divided into three ways of resolving disputes, namely traditional, alternative dispute resolution (ADR) and courts. The traditional way is lumping it, avoidance (dodge) and coercion (coercion). These three methods cannot be found in the legislation. Included in dispute resolution using ADR are negotiation, mediation and arbitration. These three methods are contained in Constitution Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution Options, while dispute resolution in court is known as procedural law.

ADR, or alternative dispute resolution, is a method of resolving disputes outside of court that is based on the consent of the parties. Because of this, neither side or the other party may compel the ADR parties to agree to anything. The agreement they have formed, however, must be abided by because it is a type of agreement (alternative conflict resolution). There is no universally applicable formula for all applicable legal norms, even to the extent that the agreement to settle disputes outside of court is enforceable under the relevant positive legal system. Di negara-negara yang sudah maju (developed countries) maupun negara-negara industri baru (new industrialized countries) telah menempatkan ADR sebagai the first resort dan pengadilan sebagai the last resort.

There are modest distinctions between industrialized and developed economies and developing ones when it comes to the history of ADR use. In developed nations, this is a result of unhappiness with the legal system, whereas in nations that uphold the non-adversarial origins of their

cultures, it is done to retain a non-adversarial culture in order to promote social stability and access to justice (a fast, cheap, and simple examination process). The legal system is viewed as a system that falls short of the aforementioned requirements.

In the United States, there are numerous arbitration mechanisms available, including the mandatory arbitration system, mediation, conciliation, and minitrials, as well as summary jury trials and settlement conferences. In Japan, however, there is the Japan Commercial Arbitration Association (JCAA), as well as the Labor Commission, the Environmental Disputes Coordination Commission, the Local Bar Association Arbitration Center, and the Center for Handling Traffic Accident Disputes. These organizations frequently use arbitration, conciliation, and mediation processes. Hong Kong is well-known for its use in adjudication, mediation, and arbitration (specialized in construction disputes). Singapore has a Court Mediation Center, and the Singapore Subordinate Court is where ADR is institutionalized. Alternative dispute resolution (ADR) procedures in Indonesia can be broadly categorized as consultation, negotiation, mediation, conciliation, or expert judgment (Article 1 point 10 of Act 30 of 1999).

The Indonesian people have actually been using ADR for a very long time. Specifically, they have been using customary courts or village courts, which have a philosophical foundation for deliberation and consensus in case resolution. Confrontational and cooperative ideals in conflict or dispute settlement can evolve, particularly in traditional communities. The Batak community, which is comparatively more devout, continues to rely on the traditional *runggun* forums, which are essentially forums for resolving disputes through discussion and kinship. The institution of Minangkabau peace judges, which often serves as a mediator and conciliator, is well-known throughout the Minangkabau community.

Similar to Java, the principle of decision-making in village meetings is based on the entire group present as a single entity (*menang tanpo ngasorake*/win but not belittle others), rather than on a majority vote. Both the majority and the minority can condense their viewpoints to agree with one another. The idea behind such discussion is consistent with the modern negotiation strategy known as the interest-based bargaining technique, which is popular and used in many different nations.

In Indonesia, the phenomenon of using alternative dispute resolution processes is growing stronger in tandem with the expansion of the business world. ADR is regarded as an essential component of the business and is thought to be appropriate for the business sector due to its quick and private settlement. ADR, however, can only be supported by strong business ethics. ADR cannot function without this foundation because, after all, it is not a regular court with the authority to compel compliance. Only non-governmental groups with “extra judicial” domiciles may use alternative dispute resolution.

Construction services (UU 18/1999), Arbitration and Alternative Dispute Resolution (UU 30/1999), Patents (UU 14/2001), Brands (UU 15/2001), and Employment (UU 13/2003), among

others, are among the laws and regulations that legitimate arbitration and alternative forms of dispute resolution as an institution that serves to resolve disputes outside of court. Due to the existence of these laws and regulations, it is now easier to use alternative conflict resolution procedures (especially the usage of mediation institutions), and the range of issues that can be resolved through these institutions is wider.

Article 6 of the act on arbitration and ADR No. 30 of 1999, several elements can be drawn from an alternative dispute resolution (other than arbitration) desired by the law on arbitration. These elements are as follows:

1. Dispute resolution is based on the element of "good faith."
2. Settlement through court is ruled out.
3. The settlement is carried out in a direct meeting by the parties (first level effort).
4. The maximum completion time is 14 (fourteen) days
5. The results of the settlement are stated in a written agreement.
6. If the completion of the first level (directly) does not produce results, then the second level of effort can be taken.
7. The second level effort is either in the form of assistance from one or more expert advisors.
8. The second level effort entails both an effort through a mediator in addition to an expert advisor.
9. The parties' "formal agreement" for the second level effort—an expert advisor or mediator—is taken into consideration.
10. It will take 14 (fourteen) days for a settlement to be reached through the expert advisor or mediator.
11. If the second level of effort fails) within 14 (fourteen) days, then the arbitration institution or alternative conflict resolution institution takes the form of selecting a mediator as the third level of effort.
12. The mediator in this third-level effort must have made his mediation efforts within a maximum of 7 (seven) days.
13. The mediator in this third-level effort must have completed his duties within 30 (thirty) days. This means that within 30 (thirty) days an agreement must be reached between the parties in written form.
14. The written agreement between the parties is final and binding on the parties.
15. The written agreement must be registered in the district court within 30 (thirty) days.
16. The execution period of the decision in the written agreement is 30 (thirty) days from the date of registration in the district court.

17. If an agreement is not reached (in the first to third level of effort), then the parties can take the fourth level of effort, namely an attempt to settle through an arbitration institution or ad hoc arbitration.
18. The fourth level (arbitration) is submitted by the parties through written agreement.
19. The arbitration act No. 30 of 1999.
20. Even though it is not explicitly stated in Article 6 of the Arbitration Act, the parties do not have to follow the alternative procedure of dispute resolution level by level up to the fourth level, but may ignore certain levels. This is due to:
 - a. The quick and effective process of resolving disputes outside of court.
 - b. Each of these steps is not specifically mandated by law.
 - c. It remains subject to the power and discretion of the parties to contract, including their right to pick the mode of dispute resolution they desire.
 - d. For the sake of efficacy, it is not necessary to force the parties to employ any of the four stages of dispute resolution if they are no longer willing to do so. Due to the likelihood of the term, no agreement will be achieved. Thus, despite the fact that it is not explicitly stated in the arbitration law no. 30 of 1999, the four stages of dispute resolution are just regulating laws and not coercive laws (*dwingend recht*). The parties must, however, adhere to the stage once it has been agreed upon by all parties.

2.3. Model Of Settlement Of Customary Rights Disputes Between Local Governments And Indigenous Peoples

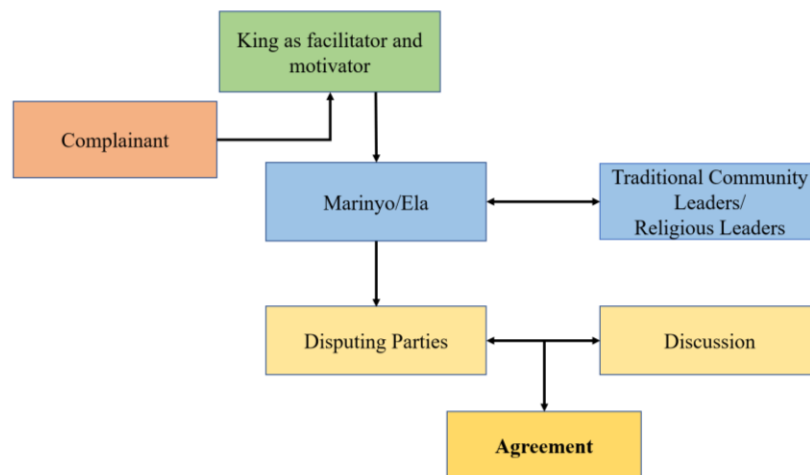
The disputes between the local government and indigenous peoples over the Hitu's customary rights did not endure long. After the local administration met with community leaders and the Hitulama Country's king, they planned to sit down together and establish a resolution in order to end all conflicts. Based on the data found from the results of interviews with one of the community leaders, he stated that the model or method of dispute resolution carried out was the same as usual which had been carried out for generations as follows: "Before the time was determined for mediating efforts with the local government, the King issued an edict to *marinyo* or *ela* (servants of the king) whose duty was to convey messages or invitations to traditional leaders who had direct interest in the settlement of customary disputes consisting of: *Maulana*/high priest of the Hitulama state, *Latu helu* (customary head), *Tukang ela* (leader of the craftsmen), *head of Dati* and *Saniri* (a legislative body) to then study the disputed area, hear opinions, convey information about the position of the land."

After the meeting, the Secretary of State served as moderator to regulate the course of *tatolo adat* (placing adat) to determine attitudes. The king will state his intentions and goals then be agreed by the traditional leaders and there is no difference of opinion with the king because everything that is

ordered is for the sake of justice and the benefit of society, both indigenous peoples and the general public, and the king will truly mediate between the warring parties.

Chart 1.

The Process of Resolving Ulayat Rights Disputes Between Local Government and Indigenous Peoples



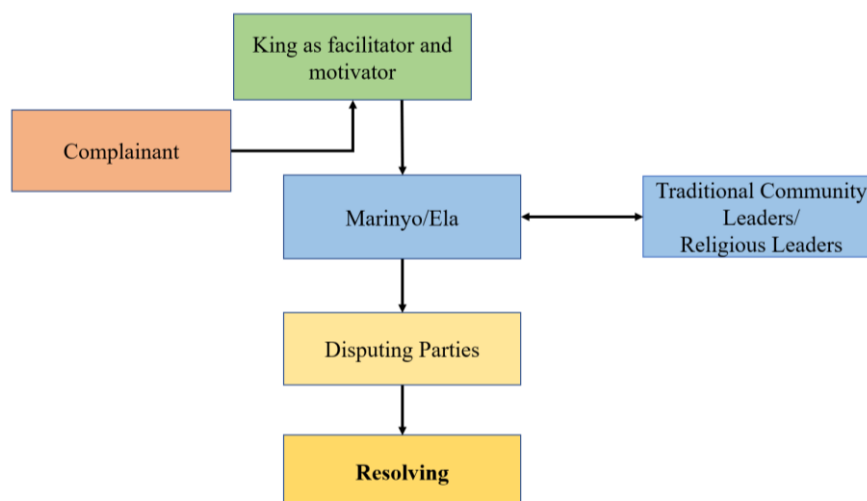
In the series of processes as described above, the mode of settlement of customary rights disputes between indigenous peoples and local governments, the King places himself as a facilitator and motivator to provide a place, thoughts, and togetherness in consensus with the aim of creating justice and benefit and prosperity of society in general. After the process of *tatolo adat* to determine his attitude, the King invited parties related to the object of the dispute, namely the head of *Dati* who controlled the location with the local government. That as the data found from the results of an interview with one of the traditional community leaders explained that "the King mediates those who are in dispute and then each agrees to end all disputes peacefully without winning or losing, each benefiting from the other and the principle of benefit for the community is more the customs of the *Hitulama* state in particular and in the public interest."

The method of settlement by means of mediation is a process of resolving disputes between two or more parties through negotiation or consensus with the assistance of a neutral party who does not have the authority to decide. The neutral party is called a mediator with the task of providing procedural and substantial assistance. The visualization of the process of resolving *ulayat* rights disputes between local governments and indigenous peoples can be illustrated in Chart 1.

2.4. Model Of Settlement Of Customary Rights Disputes Between Indigenous Peoples And Immigrant Communities

Chart 2.

The Process of Resolving Ulayat Rights Disputes Between Indigenous Peoples and Immigrant Communities



In explaining the customary rights disputes between indigenous peoples and migrant communities, the settlement model used is the same as that which has been carried out for generations, and is not much different from the settlement of disputes between indigenous peoples and local governments, as based on the data that the author summarizes from the results of interviews with one of the one religious figure of the state of Hitulama as follows: “When it was revealed that the immigrant community had constructed a new dwelling without the Dati hamlet owner's knowledge, the Dati hamlet owner began by reprimanding and then reported the matter to the King. According to the report, before the time for calling the parties is determined, the King will summon the head of the hamlet (head of the immigrant community) and issue a decree to the King's marinyo or ela, whose job it is to convey messages or invitations to traditional leaders with direct interest. In the settlement of customary disputes, the Maulana/high priest of the Hitulama state, the Latu helu (customary head), Tukang ela (leader of the craftsmen), the head of Dati, and Saniri (a legislative body) deliberate and determine the actions and attitudes that must be determined in relation to the dispute. customary rights between indigenous and immigrant groups.”

After the preparatory meeting for deliberation, through marinyo or ela, convene the disputing parties to resolve any conflicts by deliberation and consensus and to discover a solution together. When deliberation and consensus are underway, the monarch, in his role as lawgiver and arbitrator, is more likely to govern and counsel, as well as influence the agreement and decide. In the paradigm for settling disputes over customary rights between indigenous peoples and immigrant populations, in the

series of processes mentioned above, the monarch acts as a mediator rather than mediating those in dispute. Conciliation is an alternative dispute resolution method involving one or more third parties, with the third party participating in settling the disagreement being a reputable expert. The people of Hitulama like to view the Hitu customary law as a living law that must be defended, and they view the King as the source of the law and judge of any disputes about the rights to Hitu customary lands in Hitulama.

2.5. Model Of The Dispute Resolution Process For Customary Rights Among Indigenous Peoples

In a series of processes in the settlement of customary rights disputes among indigenous peoples, the king acts as a facilitator and motivator to provide a place, thoughts, and togetherness in consensus with the aim of creating justice and benefiting the welfare of society in general.

The king arbitrated their disputes, and then each agreed to end all disputes peacefully without winning or losing. Each party benefits from each other and the rest is the principle of benefit for the indigenous people of the Hitulama Country in particular and for the public interest. In the process of resolving customary rights disputes between indigenous peoples and fellow indigenous peoples, the king acts as a mediator to mediate those who are in dispute. The illustration of the image in dispute resolution for fellow indigenous peoples is the same as Chart 1.

III. CONCLUSION

The description of the explanation of the dispute or conflict that has been discussed regarding the settlement of disputes in the country of Hitulama can be concluded as follows:

1. The dispute resolution model for the customary rights of the Hitu indigenous peoples in the Hitulama state places the King as the head of the Hitulama state community's customary law alliance as a living legal symbol in dealing with any disputes in the community, namely mediating and conciliation in the process. The King is a motivator, facilitator, and mediator.

2. An alternative/non-litigation model of dispute resolution on the customary rights of the Hitu indigenous peoples in Hitulama state as a fair dispute resolution process besides being able to maintain the continuity of the relationship between the two litigants so that in turn they are able to create balance, justice and benefit.

The implication of this study is to provide a description of the existence of customary law from a region in Indonesia that has cultural diversity. Customary law is still preserved as a source of out-of-court dispute resolution. Therefore, future studies will explore how the response of indigenous peoples to the enactment of the law in their respective areas is. It can also be developed with a survey method with a questionnaire in order to get good accuracy about the use of customary law in conflict resolution in the community.

BIBLIOGRAPHY

1. Books

Government Data on Hitulama State year 2019

Murad, R. (1991). *Penyelesaian Sengketa Hak Atas Tanah*. Bandung: Mandar Maju.

Nader, L., & Todd, J. (1978). Introduction: The disputing process. In *The disputing process—Law in ten societies* (pp. 1-40). Columbia University Press.

Pruitt, D. G., & Kugler, K. G. (2014). Some research frontiers in the study of conflict and its resolution. In P. T. Coleman, M. Deutsch, & E. C. Marcus (Eds.), *The handbook of conflict resolution: Theory and practice* (pp. 1087–1109). Jossey-Bass/Wiley.

Salindeho, J. (2004). *Manusia, tanah, hak dan hukum*. Jakarta: Sinar Grafika.

2. Journal Articles

Bocarejo, D. (2020). Cultivating Justice beyond Law. *PoLAR: Political and Legal Anthropology Review*, 43(2), 304-318.

Currie, E. (2019). Market, crime and community: Toward a mid-range theory of post-industrial violence. In *The Crime Conundrum*, Routledge, 17-44.

De Silva, B. M., Higdon, D. M., Brunton, S. L., & Kutz, J. N. (2020). Discovery of physics from data: universal laws and discrepancies. *Frontiers in artificial intelligence*, 3, 25.

Dwisvimiar, I. (2011). Keadilan dalam perspektif filsafat ilmu hukum. *Jurnal Dinamika Hukum*, 11(3), 522-531.

Lacey-Barnacle, M., Robison, R., & Foulds, C. (2020). Energy justice in the developing world: a review of theoretical frameworks, key research themes and policy implications. *Energy for Sustainable Development*, 55, 122-138.

Rasyad, M. (2019). Pembuatan Akta Perdamaian Dalam Penyelesaian Sengketa Tanah Ulayat Melalui Notaris Dikabupaten Agam. *Soumatera Law Review*, 2(1), 135-149.

Wantu, F. M. (2012). Mewujudkan Kepastian Hukum, Keadilan dan Kemanfaatan dalam Putusan Hakim di Peradilan Perdata. *Jurnal Dinamika Hukum*, 12(3), 479-489.