

Legal Pluralism in Adat Land Conflict Resolution: A Case Study of Eastern Indonesia

Linda Yanti Sulistiawati*

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* Associate Professor of Law, Director of Center for Asia Pacific Studies, University Gadjah Mada of Law (Yogyakarta, Indonesia).

Tel: +62-27-4649-1054, Email: lindayanti@ugm.ac.id.

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Abstract

This article examines legal pluralism in Indonesia relating to customary '*Adat*' law. The case study research was conducted in the Manggarai area of Eastern Indonesia where *Adat* law is prevalent in resolving conflicts, alongside the national legal system. The article discusses in-depth, whether Indonesia's legal system effectively acknowledges the plural systems of law in use. By examining how these two systems of law are implemented, the article shows how customary systems are being used to resolve land conflict in the case of Manggarai. This study combines both a qualitative review of the literature and a case approach method to examine the five types of *Adat* land conflict in Manggarai in East Indonesia. The research findings show that in both theoretical literatures, as well as in the case studies of Manggarai, *Adat* law is acknowledged by the Indonesian legal system and also in the local community. This research is a useful reference for land conflicts in other areas where legal pluralism is in use.

Keywords: Legal Pluralism, *Adat* Law, *Adat* Land, Customary Law, Customary Land, Land Conflict, Conflict Resolution

I. Introduction

There is a significant amount of literatures covering the legal pluralism at play in Indonesia. However, none of the literatures has discussed the legal pluralism in terms of land conflict resolution options. This research therefore attempts to define legal pluralism in terms of customary *Adat* law and national law in Indonesia and the role of *Adat* in resolving conflict on *Adat* governed land areas.

The first section of the paper introduces the concept of legal pluralism including research questions and methodology used for the research. The second section focuses on describing the history, theories, and practice of legal pluralism in Indonesia, concerning *Adat* and national law. The third section responds to the research questions and discusses the research analysis, drawing on legal pluralism theory and case studies on *Adat* land conflict resolutions in Eastern Indonesia. These conflicts range across several different topics in *Adat* land areas. Covering issues such as inheritance, land ownership, and the transfer of land ownership, as well as tribal land distribution and government intervention on *Adat* customary lands. Lastly, the fourth section provides a conclusion of the research.

Legal pluralism has been discussed extensively in the social sciences. The early work was developed from the scholars' realization that indigenous people prior to colonization held their own indigenous legal systems, long before colonial law was superimposed. The early twentieth century studies examined the indigenous legal mechanisms amongst tribal and village peoples in colonized societies in Africa, Asia, and the Pacific.¹ Scientists realized that imperial laws introduced under colonial rule were vastly different from indigenous law. Merry² highlighted that the imperial laws focused on industrially related activities and regulations, whereas indigenous law focused on day-to-day private lives and person-to-person relations. For over five decades, experts have attempted to define legal pluralism, as yet, without conclusion. Tamanaha,³ for example, attempts to define legal pluralism as existing wherever social actors identify more than one source of 'law' within a social arena. The definition used here is the most widely taken one that legal pluralism exists as a situation in which two or more legal systems coexist in the

1) Sally Engle Merry, *Legal Pluralism*, 22 *L. & Soc'y Rev.* 869-896 (1988).

2) *Id.*

3) Brian Z. Tamanaha, *Understanding Legal Pluralism: Past to Present, Local to Global*, 29 *Sydney L. Rev.* 63 (2007).

same social.⁴ Benda-beckmann explains legal pluralism as the theoretical possibility whereby more than one legal order or mechanism operates within one socio-political space.⁵ Although customary and religious sources of normative ordering are usually seen distinct from and broader than official legal systems, they also can contain a subset of norms that have specific 'legal' status. These subsets of norms can be taken: (1) through the recognition by the official legal system, or (2) on their own terms.⁶ The norms described by the official legal system acknowledge that customary norms and institutions and religious norms and institutions form a part of the legal system.

The Dutch colonized Indonesia for 350 years until 1945 when Indonesia gained independence. Western colonial law played a major role in many activities in Indonesia, especially trading and business during the Dutch era. However, there are also two other strands of law that are fundamentally used throughout Indonesia: Islamic law and *Adat* law.

Questions arise on how these overlaps of laws within local communities are interpreted and used. In the case study described here as example from East Indonesia, these interpretations are examined in the instance of resolving conflict in *Adat* ancestral land areas. In such cases, which law should prevail? Does legal pluralism in Indonesia help resolve local conflicts?

A. Research Questions

This research aims to find the relationship between Indonesia's national legal system and *Adat* customary law in *Adat* ancestral land area conflict resolution. The research questions for this paper are: (1) As a legal pluralist country, how is *Adat* law recognized in the Indonesian legal system? (2) What are the benefits and challenges of using *Adat* law in a pluralist legal system in land conflicts?

4) John Griffiths, What is Legal Pluralism? 18 *The Journal of Legal Pluralism and Unofficial Law* 1, 55 (1986); L. Pospisil, *The Anthropology of Law: A Comparative Theory of Law*, PAGE NUMBER44-89 (Harper and Row 1971); S. F. Moore, *Law as a Process: An Anthropological Approach*, PAGE NUMBER259-262 (Routledge & Kegan Paul 1978).

5) Franz von Benda-Beckmann, *Who is Afraid of Legal Pluralism?* This is a paper presented at the 8th Congress of the Commission on Folk Law and Legal Pluralism in Chiangmai, Thailand on Apr. 7-10, 2002.

6) Tamanaha, *supra* note 4, at 55.

B. Methodology

The research methodology for this article combines a literature review with empirical research. The first hand data was collected by the authors for the research under a project entitled: ‘*Traditions, Land Rights and Local Welfare Creation: Studies from Eastern Indonesia*,’⁷ which was supported by the Norwegian government. The data remains valid and up to date, being continued under the second research phase entitled: ‘*Identification and Mapping of Adat Land Conflict in Manggarai Regency, Eastern Indonesia*.’ The additional data have been sourced in a review of the academic and grey literature available.⁸ The data analysis for this research involved careful analysis and triangulation of findings between the cases in order to develop the analysis. The research thereby presents the most up-to-date information based on the field research and follows the development of the East Indonesian case studies to provide an accurate description of the land conflict resolution. It must be noted however, that the research was only able to include five in-depth case studies representing the types of conflicts found in the area. This description represents a small sample taken from one area in the culturally diverse archipelago of Indonesia. It is about Indonesian *Adat* customary resolution to land conflict. The cases of conflict presented here are not uncommon in their type. The cases therefore offer learning for similar situations in the adoption of a resolution that may be useful across other cultural or country contexts where legal pluralism exists.

II. Legal Pluralism in Indonesia

There are four distinct strands of influence to the Indonesian legal system. The Indigenous kingdoms in the pre-Dutch occupation era applied a system of *Adat* (customary) law. In the late 16th and early 17th centuries, Dutch traders and colonists started to lay down a ‘western legal framework’ as the Dutch Colonial Law in Indonesia (the East Indies under the Netherlands at that time) and which lasted over 350 years until the end of the World War II. Additionally, from the 14th century onwards, *Syariah* or Islamic law traditions came increasingly to influence the content of both public law and some aspects of private law, although they rarely entirely displaced pre-existing traditions. These four

7) 52 Bulletin of Indonesian Economic Studies (BIES) volume 52, Issue 2 (2016).

8) E.g., Peer reviewed journals, or reports of international organizations’ reports

strands of *Adat* law, Dutch colonial law, Islamic law, and national law, co-exist in modern Indonesia.⁹

A. Constitutional Structure

Indonesia is a unitary republic based on the 1945 Constitution (*Undang Undang Dasar 1945*). The current prevailing Constitution of 1945 has been amended four times: in October 1999, August 2000, November 2001, and August 2002. These amendments, among others, deal with far-reaching issues such as limitations on the powers and term of office of the President; decentralization of authority from the central government to provincial and regional governments; and the creation of additional constitutional bodies such as the House of Regional Representatives (*Dewan Perwakilan Daerah*) and the Constitutional Court (*Mahkamah Konstitusi*).

The amended Constitution also provides for a number of constitutional bodies. Two of the most important are the General Assembly (*Majelis Permusyawaratan Rakyat* or MPR) and the House of People's Representatives (*Dewan Perwakilan Rakyat* or DPR). The DPR's function is to legislate and hold the President and his ministers accountable while the MPR is the only supreme state body that has the power to amend the Constitution, aside from drafting strategic plans of the country.

B. Legal Framework

According to Law No. 12/2011, Indonesia's legal framework starts with the 1945 Constitution. Other laws, such as Laws/Acts enacted by the Legislatives and President, Legislative Products, and Regional and Local Laws follow the hierarchy. In principle, the 1945 is the highest hierarchical law in Indonesia. However, in this hierarchy, *Adat* law is not mentioned.

9) David K Linnan, Indonesian Law Reform or Once More unto the Breach: A Brief Institutional History, 1 *Austl. J. of Asian L.* 5-33 (1999).

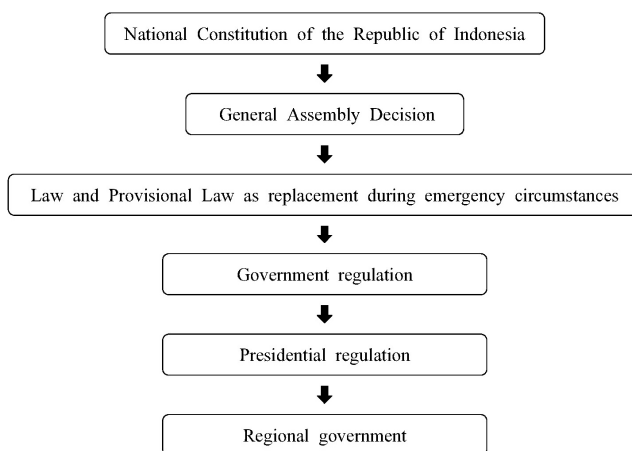


Table 1. Hierarchy of Indonesia’s Legal Framework

In practice, there are other legislative instruments in current use. They include Presidential Instructions (*Instruksi Presiden*), Ministerial Decrees (*Keputusan Menteri*), and Circular Letters (*Surat Edaran*). Once a legislation is published in the State Gazette of the Republic of Indonesia (*Lembaran Negara Republik Indonesia*), the legislative instrument is promulgated at the regional levels.

C. Adat Law in Indonesia’s Legal System

Indonesia's legal system is derived from the Dutch System and follows the French and German models of civil law.¹⁰ The court system in Indonesia is not precedent-based and inquisitorial rather than adversarial. In other words, a judge is not bound to previous decisions of the high court and judges act as an impartial referee in enforcing the rules of evidence and legal procedure. The four strands of law in Indonesia, namely *Adat* law, Islamic law (*Sharia*), National Law, and Colonial Dutch Law are still very much alive in Indonesia. Although Indonesia gained independence in 1945, the colonial East-Indies codes for civil, criminal, and business laws are still in use in Indonesia. Ironically, formal *Adat* courts were abolished in 1951, although the case studies described in the following section are still widely in use at the local village levels.

10) Tim Lindsey, *Indonesia: Law and Society*, PAGE NUMBER5-35 (Federation Press 2008).

Where is Adat Law situated in Indonesia's legal pluralism?

For centuries before Suharto (the second president of Indonesia), social relations in the archipelago known today as Indonesia, were highly plural both culturally and in terms of legal order. Under the Dutch rule, customary local law comprised of Buddhist, Hindu, and indigenous legal traditions, which were used to maintain ethnic separation. Indigenous Indonesians were subject to customary law and Dutch people were subject to Dutch law.¹¹ After independence, this cultural and legal pluralism became a part of Indonesia's national identity. The national identity of '*Bhinneka Tunggal Ika*' or unity in diversity, became the thread to tie the nation together and unite the differences in Indonesia's religions, ways of life, ethnicity, and culture (*Adat*). In determining whether *Adat* law is a part of legal pluralism in Indonesia, Hooker¹² and Tamanaha,¹³ listed three requirements to be met. Firstly, whether *Adat* law is recognized by the official legal system. Secondly, whether *Adat* law is independent from the official legal system. Thirdly, whether someone as a subject of *Adat* law can be a subject to the rules of some other legal system. On a similar note, Bell,¹⁴ also listed three conditions by which a State recognizes a significant form of legal pluralism in and is truly multicultural in law. They are: firstly, the recognition of their state law that non-state laws govern significant aspects of the life of some of their citizens. Secondly, recognize that there is a diversity of applicable laws within the same state territory (not the same law is applicable to all citizens) and thirdly, apply this non-state law or refrain from interfering with its application and recognize its application. The current legal system in Indonesia acknowledges *Adat* law in the 1945 Constitution of Indonesia. Article 18, paragraph 2 of the 1945 Constitution of Indonesia states that:

The State recognizes and respects traditional communities along with their traditional customary rights, as long as these remain in existence and are in accordance with the societal development and the principles of the Unitary State of the Republic of Indonesia, and shall be regulated by law.

11) Gary F. Bell, Multiculturalism in Law is Legal Pluralism, Lessons from Singapore, Indonesia, and Canada, *Singapore Journal of Legal Studies*, 315-330 (2006).

12) M.B. Hooker, *Legal Pluralism: An Introduction to Colonial and Neo-Colonial*, (Clarendon Press 1979).

13) Tamahana, *supra* note 4, p.at 55.

14) Gary F. Bell, *supra* note 12, at PAGE NUMBER315-330.

Similarly, along with mentioning of *Adat* law, *Adat* community and *Adat* land by the Indonesian government are found repeatedly throughout various national laws. For example, Indonesia's Basic Agrarian Law, Law No. 5/1960, Art. 5, states that “[t]he Agrarian law which applies to the earth, water, and air space is *Adat* law as far as it is not in conflict with the National and State interests based on the unity of the Nation.” This Basic Agrarian Law changes the legal framework for land in Indonesia from a colonial agrarian law into nexus with *Adat* law. This shows how *Adat* law has impacted the land law in Indonesia, a nation where the great majority of the population relies on agrarian livelihoods.¹⁵ *Adat* law can quickly adjust to social and political changes. The scope of *Adat* law goes beyond agrarian law to include family law, inheritance law, and criminal law.¹⁶ Several other main laws, such as Forestry Law, Spatial Planning Law, Village Law, and Human Rights Law acknowledge *Adat* and *Adat* law in Indonesia’s legal system. The Education Law, for example, Law No. 20/2003, Art. 5 (3): highlighted the need for special service education for indigenous peoples. The language of these laws is clear, in that they show that *Adat* law is not just recognized but also enjoys special status within the national legal system. Judging from the many laws and regulations acknowledging *Adat* law in Indonesia, we elect that *Adat* law is a deeply recognized framework in the legal system of Indonesia.

The second hypothesis is whether *Adat* law is independent from the official legal system. Based on the previous deliberation, it is clear that Indonesia, as a Republic, does not acknowledge any other competing authorities inside the republic. *Adat* is considered to be a deferential legal system under the official national legal system. This can be seen in the 1945 Constitution of Indonesia, as well as in the sectoral laws and other lesser laws. Clauses such as “as long as these remain in existence and are in accordance with the societal development and the principles of the Republic” ... “as far as it is not in conflict with the National and State's interests based on the unity of the Nation” or “not contrary to the principles of the said laws” set a parameter for the application of *Adat* law.

15) Hilaire Tegnan, Legal pluralism and Land Administration in West Sumatra: The Implementation of the Regulations of both Local and *Nagari* Governments on Communal Land Tenure, 47 The Journal of Legal Pluralism and Unofficial Law PAGE NUMBER 312-323, Issue 2 (2015).

16) Benda, B.F. & Keebet, B.B. Traditional Law in a Globalising World: Myths, Stereotypes and Transforming Traditions. Conference was held at the Van Vollenhoven Institute in Leiden (2008).

Thus, although the official legal system admits that *Adat* is the basis and inspiration for many national laws, it is still under certain restrictions. Consequently, *Adat* follows the State's interest and transforms its features in order to fit within the national legal framework. As the source for national agrarian regulations, for example, the referential version of the *Adat* legal framework within national law, is acknowledged by legal scholars as "the upgraded version of *Adat*," "new *Adat* law," or "*Adat* law that grows and thrives."¹⁷ Hence, although the compliance and dependency of *Adat* law to the official legal system are non-negotiable, the fact that *Adat* legal systems are dynamic and reformable, and adapted according to context shows *Adat* law's distinct place within the diverse societies of Indonesia. Thus, the resilience of *Adat* law during the hard times of governmental, economic, political, and socio-cultural crisis in Indonesia is clear. A unity of the various independent *Adat* systems, which are self-regulating, self-sufficient, and sustainable for hundreds of years persists.

For the second hypothesis, there are two answers: (1) on paper, which clearly states that *Adat* law is a deferential legal system under the national legal system; and (2) in practice, the diverse *Adat* legal systems in Indonesia are demonstrated to be dynamic and flexible even when the national legal systems or government institutions of the country have failed to govern. In this sense, the rule of law has been upheld from the rural levels where *Adat* laws, detached from the national level, remain upheld locally.

The third hypothesis is whether someone as a subject of *Adat* law can be a subject also to the rules of other legal systems. All *Adat* people in Indonesia are regarded as citizens of Indonesia and they are subject to the national law. In fact, *Adat* law in Indonesia is a part of the Indonesian legal pluralism and acknowledged in their legal system. However, despite the government's continuing efforts to improve Indonesia's legal system, *Adat* law is still dominated by state law.¹⁸

17) Ismail, *Konsepsi Hak Garap atas Tanah*, 84 (Citapustaka Media Perintis Press 2011).

18) Kurnia Warman, *Enhancing Legal Pluralism: The Roles of Adat and Islamic Laws within the Indonesian Legal System*, 21 *Journal of Legal, Ethical, and Regulatory Issues* PAGE NUMBER1-9, (Andalas University 2018). Available at: <https://www.abacademies.org/articles/Enhancing-legal-pluralism-the-role-of-Adat-and-islamic-laws-within-the-indonesian-legal-system-1544-0044-21-3-188.pdf> (Last viewed on Sept. 15, 2019).

III. Implementation of Legal Pluralism in East Indonesia, the cases of Flores, East Nusa Tenggara

In order to clearly understand the legal pluralism in Indonesia, Manggarai and Ngada Districts were selected as the case study locations for research. In this section, we discuss the research location, the District's *Adat* and culture, demographic composition of the area, as well as several *Adat* land conflict cases which were resolved inversely to show the contrast in the distinctive strands of law used to resolve them. Manggarai and Ngada are neighboring districts of the province of East Nusa Tenggara. As found in most areas in Flores, the community life in Manggarai and Ngada is based on customary law. This region gives birth to different customary rights, namely user rights over the natural resources in their area. This right gives authority to indigenous people to organize, allocate, and manage the natural resources on their communal territory.

Adat rights are important for the people of Manggarai and Ngada, as they are the bases of indigenous people to maintain their existence and support their survival. At the same time, land and capital often trigger severe Agrarian conflict in East Nusa Tenggara. Based on the World Bank data, in the period of 2000-2003, there were 44 conflicts and 15 homicides in Manggarai alone.¹⁹ This case is different from other districts, for example, East Flores Regency, where 25 conflicts were recorded with 5 resulting in deaths and also in Ende which noted 16 conflicts and 3 deaths. Similarly, data released by the Habibie Center that monitors conflicts between 1999-2012 noted that Manggarai has a greater death rate resulting from land conflicts in the area, compared with other districts in the province. The district recorded 28 incidents resulting in 35 deaths more than in the East Flores areas which recorded 45 land conflict incidents but resulted in the deaths of only 17 people in comparison. In a single village in the Colol Indigenous Community, for example, as stated by testimony during a trial in the Constitutional Court, a conflict occurred in 2004 resulted in the deaths of 6 people, 27 injuries, and 51 house demolitions.

According to Maria S.W. Sumardjono, land problems are grouped into five major groups, they are:²⁰

19) Patrick Barron, et al., *Local Conflict and Development Projects in Indonesia: Part of the Problem or Part of a Solution?* (World Bank, Pol'y Res. Working Paper No. 4212, Apr. 2007).

20) Maria S.W. Sumardjono, Puspita Serangkum Aneka Masalah Hukum Agraria, 28 (Andi Offset 1982).

1. Farming, agricultural, abandoned housing problems by the people
2. Problems in relation to ownership, utilization, and legal relation to the land (land reform)
3. Access to land for development
4. Civil dispute on land
5. Problems in relation to *Adat* rights (ulayat rights for *Masalah yang berkenaan dengan hak ulayat masyarakat hukum Adat*).

Juridically, Boedi Harsono,²¹ stated that land disputes are ranging on these issues:

1. Dispute on the land plot
2. Dispute on the borders of land
3. Dispute on the area of the land
4. Dispute on the status of the land: State land or individual land
5. Dispute on the rights owner
6. Dispute on the types of rights
7. Dispute on the transfer of rights
8. Dispute on the location direction and enactment for a project or private use
9. Dispute on land rights' release for public use
10. Dispute on land execution
11. Dispute on land compensation
12. Dispute on land rights cancellation
13. Dispute on land rights extractment
14. Dispute on land certification
15. Dispute on evidence of rights or land borders, etc.

The occurred conflicts involved various parties with different underlying motives. Considering the limitation of this research, the author limited the focus of the research to only the following types of *Adat* land conflicts:²²

- (1) *Adat* land conflict between clans
- (2) *Adat* land conflict between community and company/investor
- (3) *Adat* land conflict between community and government
- (4) *Adat* land inheritance/authority conflict
- (5) *Adat* land conflict between districts

21) Boedi Harsono, *Hukum Agraria*, 17-21 *Jurnal Hukum Bisnis* 52 (2002).

22) All of the data for the cases are first hand data from the research, "Identification and Mapping of *Adat* Land Conflict Resolution in Eastern Nusa Tenggara," a project supported by UGM-Cared New Zealand, 2015-2019.

Based on these types of *adat* land conflict, this research focuses on five *adat* land conflicts occurring in the case study areas. Selections of these in-depth case studies are based on: (1) Representation of the types of *adat* land conflict. Each of the selected case study represents one or more types of *adat* land conflict. Explaining a type of conflict is clearer when we have a case study as an example. (2) Availability of data. Although in Manggarai and Ngada, there are many *adat* land conflicts, the selected case studies represent five conflicts which are quite popular and have adequate data to be analyzed. Most *adat* land conflicts are based on hearsay (stories) and they are hard to trace in terms of background and evidence. However, the five selected case studies are evidence based in terms of in-depth interviews and availability of remaining court orders. (3) Relation of actors: the case studies depict clearly the relations of actors within the conflict, their roles, and their perceptions of the *adat* land. Even though some conflicts are more complex than the others, the researchers were able to dissect clearly the distribution of roles of each actor in the conflict. The following sections explain each type of *adat* land conflict as mentioned above.

Ad.1. Adat land conflict between clans

A Clan or Suku, throughout the archipelago of Indonesia, is the smallest unit of a tribe. A tribe can be constituted of several clans, while a clan is constituted of one or more family. In the study areas, one household usually comprises of four to eight members, and each clan is around 70-100 people although this number fluctuates in population according to the growth of family sizes. The problem usually is raised when clan sizes are larger, in that each family in the clan is in need of production land (*lingko*). Conflicts between clans therefore, is mostly essentially conflicts between families. This is the most basic conflict over land in the study area, but also seemingly the most difficult one to resolve. As we know, the Manggaraian people believe that the land is their mother, and within a conflict between clans, they are fighting for the same principles. This type of conflict is a horizontal conflict (internal rather than external conflict) or latent conflict, as it is not necessarily overtly apparent, given the conflicting parties retain function as a unit or a family/clan in *Adat* ceremonies and other functions. However, once there is even a slight misunderstanding, triggering insult to one another, the conflict can suddenly escalate to take a very overt form. An example is in the Wewo Village conflict, where a conflict took place relating to the use of productive land (*lingko*) between clans. Clan Lalai and Clan Ara mutually believe that they 'own' all *lingkos* in their area. This is a

conflict within a family that has lingered for decades without resolution and even included *perang tanding* (a “fight to the death”), which took toll in Wewo, Manggarai.

Ad.2. Adat land conflict between community v. company/investor

This type of conflict is the most prevalent form of land conflict in *Adat* areas. International investment in exploiting natural resources has encroached on *Adat* held ancestral territories. At the same time, infrastructure and the influence of information technology and financial systems alter the cultures of *Adat* people at a rate that is difficult to adjust to. In conflicts with investors over *Adat* held lands, the parties of the conflicts are usually very clear in the division between the *Adat* community as traditional ‘owner’ of land versus large-scale investment companies who have gained access or user rights to the land through license/s from the government. An example of this in the study is in Reok, the Nggalak Rego Forest, where a conflict of forest ownership represents *Adat* land conflict between community and company/investor. The *Adat* community in Reok in the 1950’s transferred their forest land to the government, hoping that the government would manage the conservation of the forest. Without the community’s prior knowledge or consent, in the 1990’s, the government decided to lower the status of the Nggalak Rego forest from ‘conservation forest’ to ‘production forest’ and issued a mining license to a mining investment company. When the business company came to the forest and commenced explorative activities, the *Adat* community was both confused and angry. Up until today, mediation and negotiation between the *Adat* community and the company remain ongoing, with a resolution to the conflict being sought by both parties.

Ad. 3 Adat land conflict between community and government

Conflict between *Adat* communities and government are complex. Conflicts in the study area are usually due to the misunderstandings and differences in perceptions (e.g., mostly, at the fault of the government for acting irresponsibly in guaranteeing and protecting the lands of peoples welfare that they are supposed to ensure). There are also cases where *Adat* communities have disregarded the authority of government decisions as they felt that access and land rights to ancestral lands overrule these decisions. For example, a case in Pasar Puni is a conflict of urban *Adat* land between *Adat* community and the government. In the 1940’s, a missionary group came to Ruteng, Pasar Puni.

They started a church and a cemetery, and needed a plot of land. Therefore, they asked for land to be donated from the Pu'A, the *Adat* community in the Pasar Puni area. The Pu'A *Adat* community gladly accepted the request and gave the church a plot of land for the mission to be established. In the 2000's, the Church decided to move from Pasar Puni due to overcrowding, and approached the local government for a land exchange. The local government agreed and granted the Church a new plot of land out of the city of Ruteng and the Pasar Puni plot was then planned to be the new market and bus terminal for the Ruteng area. However, this also angered the Pu'A community as they were not given compensation for the acquisition of this land by the local government based on the land ownership belonging to the *Adat* community. At the time, when the land exchange between the Church and local government took place, all plots were certified and guaranteed as legal under the Indonesian law formalities. The *Adat* community decided to occupy the land for 2 years until the local government evicted the community to build a market and bus terminal in Pasar Puni.

Ad.4. Adat land inheritance/authority conflict

Conflicts over *Adat* land inheritance are also complex in that conflicts tend to emerge when *Adat* values are at odds with non-traditionally held views (e.g., inter-generational changes in views and values) or when a member of the *Adat* community believes that their civil rights are not being addressed through *Adat*. Many examples can be seen for this type of conflict in Manggarai and Ngada, for instance, giving preference to male over female for the transfer of land in inheritance and the succession of clan leadership is a part of *Adat* customary systems. An example of this is in Tiwu Lina clan, where Philomina inherited her leadership from her late father but her step brothers denied her leadership. Philomina was the only blood daughter of the late Chief, but her step brothers thought that they were entitled to inherit the clan leadership, as they were the males in the family. They went to *Adat* elders to seek justice but were rejected because Philomina had showed demonstrable leadership for *Adat* people. The brothers then sought justice within the national court system but were again rejected as the national court system did not differentiate on the basis of gender. Until now, Philomina is still the leader of the Tiwu Lina clan.

Ad.5. Adat land conflict between district

This type of conflict has arisen more recently than other types of conflict.

Since 1998, Indonesia adopted the regional autonomy, which means authorities are spread from the center to the local government, followed with budget independency. This triggered an event of requests of autonomies from different districts and regions to be independent from their ‘mother’ districts, known as ‘*pemekaran*’ or district extension. Districts have been separated into 2 or 3 new districts in all areas in Indonesia. The newly separated districts are faced with many confusions, among others, regarding the borders. The district borders prior to the regional autonomy era were inherited from the ancient times or from the colonials and most of them are not updated. This challenge in some areas escalated into a border conflict between communities in the district, including *Adat* communities. As an example, in an area between Manggarai and Ngada, East Manggarai Regency is a new administrative region in the province of Nusa Tenggara Timur that was created as a part of *pemekaran wilayah* (region extension) project.²³ The region of East Manggarai was gained by taking the eastern part of Manggarai Regency and annexing some villages from nearby Ngada, a neighboring regency. Law No. 36/2007 over the Establishment of East Manggarai Regency gave the local government the power to measure and constitute borders for the new regency. Unfortunately, the people in Ngada Regency did not react well to this development. The outcome of this law was a huge loss for them. Almost 40 kilometers in length of productive and inhabited land that traditionally belonged to the Ngada region since pre-colonial time became a part of East Manggarai. In 2016, a mob consisting of 65 people from Sambi Nasi village of Riung County, Ngada Regency came to Bensur village that is administratively still a part of East Manggarai Regency in rage.²⁴ They came with axes and spears to scare the local inhabitants and to state their traditional claim over the village. Several men from Bensur tried to argue by saying that only *Teno Bawe Ndoe* (local king) has the jurisdiction over the land. The people of Sambi Nasi ignored this reason and threatened their lives after the debate got very tense. Before there was any bloodshed, Koramil 1612-05 (Indonesian national army) came and secured the location. Soon, Sambi Nasi

23) Vinsensius Adrian Van Gouda Wogo, “*Tinjauan Terhadap Surat Keputusan Gubernur Nusa Tenggara Timur Nomor 22 Tahun 1973 Tentang Perbatasan Wilayah Kabupaten Ngada Dan Kabupaten Manggarai Berdasarkan Asas Keadilan, Kemanfaatan Dan Kepastian Hukum.*” A Thesis submitted to Magister Ilmu Hukum, Universitas Atma Jaya, Yogyakarta in 2015.

24) Konflik Perbatasan Manggarai Timur dan Ngada di Elar Kian Memanas, retrieved from <http://www.floresa.co/2016/01/21/konflik-perbatasan-manggarai-timur-dan-ngada-di-elar-kian-memanas/2/> (Last viewed Oct. 9, 2019).

people headed back to Ngada, but before leaving, they planted some *patok* or wooden stakes on the ground to indicate their possession over the claimed land. This became a '*perang tanding*' or war until the death between brothers. Up until now, the conflict has not re-flamed yet, but it is lurking under the surface of the society.

Learning from these five examples, the author conducted an analysis based on the forum of law chosen and conflict resolution results. These two main issues are discussed in the next section.

IV. Analysis

A. Baseline Information on Adat Law in Manggarai and Ngada

The relationship between *Adat* law and the land (Manggarai and Ngada) is deeply rooted and inseparable; daily life is rife with customary norms. Manggarai is understood as the entirety of three districts (Manggarai, West Manggarai, and East Manggarai) which comprise a customary law territory.²⁵

Manggarai's *Adat* law communities remember the hierarchical *Adat* government as being remnants of the Bima sultanate. The Bima sultanate once housed their local representatives in Reok and Puta, two small towns on the northern coast of Manggarai.²⁶ Under the sultanate's representatives, Manggarai was divided into *haminte* and *kedaluan*, administrative districts equivalent to the modern district (*kabupaten*). The *Dalu*'s function is to extract tribute to the sultan. *Dalu* is the *gelaran* which is equivalent to the sub-district (*kecamatan*). The lowest and indigenous structure for Manggarai's society is the *gendang* (a drum, which is one of the main instruments in traditional ceremonies and customary law community arts in Manggarai). The *Gendang* is an administrative government on a par with the modern village (*desa*). A major change in Manggarai's customary government occurred after the Tambora eruption in 1815, whereby the Bima Sultanate's strength crumbled and the *Dalus* became free and powerful. They fought wars with each other until the *Todo Dalu* was victorious. During the Dutch colonial government, the

25) Soepomo, Chapters on *Adat Law/Bab-Bab tentang Hukum Adat*, 23 (Pradnya Paramita Press 1996).

26) M. Moeliono & P. Minnigh, *Manggarai: Between Adat, Traditions, and Modernisation/Manggarai: Antara Adat, Tradisi, dan Modernisasi* National Geographic Indonesia (2008).

customary government was retained and formalized. In 1929, Alexander Baruk from the Todo was chosen and assigned by the Dutch as the King of Manggarai, with Ruteng as his capital.²⁷

This royal government was ended after Indonesia's independence. The King, *Dalu*, and *Gelarang* did not survive and were abolished, leaving the *gendang* as the only *Adat* law government institution. Tua *Adat* Wae Rebo (personal communication, October 18, 2015) views that this did not mean the end of Manggarai *Adat* law, as the cultural and traditional laws are deeply rooted. Many fundamental customary rules exist in all *gendangs* throughout Manggarai, such as the existence of:

- (1) *mbaru adak kaeng*, a traditional house, used for residence and meetings with family, such as for *penti* ceremonies;
- (2) *natas mate labar*, a yard to play and socialize in;
- (3) *huma bate duat*, fields as their main source of wealth;
- (4) *wae bate teku*, drinking water of which each village must have access to; and
- (5) *sompang bate dari*, a round altar to mark the village, located in front of the main house/*gendang* house.

The existence of those elements is sacred to Manggarai's *Adat* law communities therefore, it requires specific annual ceremonies. A summary of Manggarai's society could be found in the phrase "*gendang one, lingko peang*," meaning "*gendang* house on the inside, *lingko* on the outside."

The *Gendang* is the sole and primary basis of *Adat* law communities, as it is the basis of their *ulayat* rights. *Lingko* is the customary land owned by each *gendang*, in the form of plantation/agriculture lands, residences, areas set aside as forests or for water conservation, and other purposes. Each *Gendang* must own at least three *lingkos*, each with their own names. According to Tua *Gendang* Lungar (personal communication, August 17, 2015) and Raja Todo Generation, the relationship between the *Gendang* house and *lingko* is akin to husband-wife relations, inseparable, and forming the basis of customary law communities in Manggarai.

Their unity is shown in their shared form. The *gendang* house is a cone, narrowing upwards, with the tip being adorned with a statute of a man with buffalo horns and ears. The *lingko* is similarly divided into a circular spiderweb pattern, whose center area is known as a *tenoh* (originally, a name of a typical timber of Manggarai used for marking land distribution). Division lines known

²⁷ *Id.* at 8-9.

as *cicing* are drawn from the center. Seen from above, the structure of the *gendang* house and *lingko* is similar. Their similarity underlies the philosophy of unity based on consensus. This means that in practice, land division and conflict resolution are made by via consensus to achieve the unity. Below are figures showing the *gendang* houses and the spider web division of *lingko*.



Picture 1: Gendang



Picture 2: Lingko

There are two types of productive land or *lingko*: regular *lingko* / *lingko biasa* and *lingko randang* / *rame*. *Lingko biasa* is *lingko* which can be distributed to each member of *Adat* law community fairly and specifically to male descendants, since *Adat* in Manggarai follows the patrilineal line. After being distributed, the user right of *lingko* belongs to the specific *Adat* law member, but the ownership stays as an *Adat* / *ulayat* land. This means that any dispute concerning the *lingko* should be settled by *Adat* law. Those who received the *lingko* has to give contribution to annual *Adat* ceremonies as well.

Lingko randang is a higher hierarchy *lingko* from the rest of other *lingkos*. *Lingko randang* is non-distributable and if it is used as productive land, they will work on the *lingko* collectively. *Lingko randang* requires a specific *Adat* ceremony during cultivation and harvest and it cannot be neither sold nor transferred. For a specific reason, if the *lingko randang* needed to be transferred to another party, the government, for example, the *tua Adat* need to find a replacement for the *lingko* and a ceremony has to take place involving bulls or pigs as ‘payment of sacrifice.’

Dispute Settlement

Dispute settlement in the distribution of *lingko* involves the organizational structure in *gendang*. The authority of *lingko* is under the *tua gendang*. *Tua Gendang* will instruct *tua lingko* to distribute the land. In some areas, the *tua* (head of *Adat*) is also called the *musalakah*. *Tua tenoh* can be tasked with one or more *lingko* to be distributed. This means that in one *gendang*, there is a possibility to have more than one *tua tenoh*.

Tua gendang and *tua tenoh* live in the *gendang* house, and the title is inherited by their descendants. If there are disputes over land, these *tuas* are responsible to resolve them. If the dispute is outside *lingko*, for example, a marriage, an inheritance, or a neighborhood dispute, *tua goloh* has the authority to resolve the dispute.

Settlement in the *gendang* takes place when it is between clans, and if no other peaceful settlement can take place. A dispute, prior to being taken to *tua gendang* will be tried within the family first, settled by *tua kilo*, or the elder of the family. If *tua kilo* is unable to resolve the matter, then it will be brought to *tua panga* (elder in the clan). Only when *tua panga* cannot resolve the dispute, the dispute can be brought to the *gendang* level.

The dispute settlement mechanism in *gendang* is called the *lonto leok* which means sitting in a circled *gendang* house. The *lonto leok* is essentially a peaceful

dispute settlement through discussion and understanding. In this mechanism, the discussion is led by *tua gendang* but *tua tenoh*, *tua goloh*, and *tua panga* are also present to give inputs to the discussion. This *lonto leok* mechanism includes a unanimous decision. If there's one party or even one person dissenting the decision, then they will regroup and talk over to find a unanimous decision.

In a land dispute, *lonto leok* is used to determine disputes regarding the demarcation of land between clan or *gendang* members, within *lingko*, or between *lingkos*. In *lingkos* dispute, if the *lonto leok* cannot resolve the dispute, in the old days, they sent the dispute to the *gelarang*, *daluh*, or *raja*. Nowadays, after these structures (*gelarang*, *daluh*, or *raja*) do not exist, *Adat* people will organize 'fight to the death' or *perang tanding*. *Perang tanding* is also very problematic because not only it is not a way out, but also it involves death(s) to make it temporarily stop. Moreover, if the dispute is still ongoing, there is a good chance that *perang tanding* will continue, once the grieving clan/*gendang* regains power, or in retaliation.

B. Adat Land Conflict in Manggarai and Ngada

1. Background of the Adat Land Conflict

There are many reasons for *Adat* land conflicts in Manggarai and Ngada districts. These are the major reasons: unclear *Adat* land tenure, unclear borders, undocumented rights, and pressures on the land.

Ad.1. Unclear Land Tenure

The definitions of land tenure in the Basic Agrarian Law (BAL) and in *Adat* law are somehow different. While BAL adopts the western definition of land tenure and delineates it based on ownership rights and user rights, *Adat* law only believes that land ownership can never be transferred to another party. The land will always belong to the *Adat* community, as communal land rights. User rights and utilization rights, however, are transferable, based on how the individuals organize their lands.

This difference of perception creates so many *Adat* land conflicts. For example, there are different perceptions of *Adat* land ownership and distribution between clans in Wewo-Ara-Lalai, when the *Adat* communities disputed over who owns the productive land (*lingko*) based on *Adat* law.²⁸ Or between *Adat*

community and government in Pasar Puni, in Ruteng, when the *Adat* community demanded the local government to pay for compensation for their land because their ancestor has given the land to the Church for burial purposes.²⁹ The Church gave the land to the local government in exchange for another plot of land and the local government wanted to use the land as a market place and bus terminal. *Adat* people think that the land still belongs to them because the only the transferred Church is a ‘user right.’ On the other hand, the local government thinks that a full ownership right has been transferred to the Church, as the Church has already attained land certification.³⁰

A similar situation also happened in Nggalek Rego forest, an initial *Adat* forest. In the 1950’s, the rights were transferred to the government, hoping that the government would maintain the forest. In 1990’s, the government decided to change the status of the Nggalak Rego forest from a ‘conservation forest’ into a ‘production forest’ without informing the local *Adat* community. Then, the government issued a ‘mining license’ for a mining company to start their activity in Nggalak Rego forest. The *Adat* community felt betrayed because they trusted the government to keep their pristine forest. However, the government have betrayed their trust and sold the forest. Without understanding these differences of land tenure and rights perceptions, land conflicts in *Adat* areas will keep replicating. The government need to understand the user right perception of *Adat* people and *Adat* people should also be very careful in transferring those mentioned rights. The rights of *Adat* people especially in regard to land tenure needed to be fortified and honored.

Ad.2. Unclear borders and unwritten land rights

In the study areas, there is no clear border for the *Adat* land (e.g., rivers, trees, rocks, etc.) can be moved, and land borders can shift and create dispute.³¹ The author understands that these situations worsened when there is no written documentation of the land ownership.

In border conflict between Manggarai and Ngada districts, for example, the fact that the natural borders were shifted (or tempered) cannot be proven and

28) Direct interview with Wewo villagers during UGM-Cared Identifying Land Conflict Resolution Project, 2015-2019.

29) *Id.*

30) *Id.*

31) Kristiansen & Sulistiawati, Kristiansen, 52 Bulletin of Indonesian Economic Studies (BIES) Issue 2 (2016).

that is very sensitive for *Adat* people. They think that even one centimeter of land is a part of their mother's body.³² When they think that somehow the borders have been shifted and they lost some land, they were prepared to avenge with their lives. Simple mapping with a precise coordination should be adequate to solve this problem, if the two klans would sit together in *lontoleok* (public discussion) and solve the problem together. Moreover, with globalization, written proof, such as a certificate, is gradually more important than verbal proof, to vouch for the ownership. So far, as *Adat* in the study areas and most areas in Indonesia do not have the written culture, *Adat* land ownership are fortified only by witnesses. In many land cases involving big companies and *Adat* communities, *Adat* communities are the ones who lost the most.

Ad.3 Pressures on the land

Pressures on the land are mounting. These pressures can be grouped into internal and external pressures on the land. Internal pressures on the land are pressures that are originating from the conditions of the land and/or from *Adat* people themselves. For example, we can see internal pressures on the land in the case of land use change (from forest into production land), population growth which makes each family's portion of productive land shrunken, the need for luxury goods such as cable televisions, hand phones, motor bikes, cars, etc. have driven the *Adat* communities to sell their lands as an exchange for the goods.³³

External pressures are pressures which come from the outside world and influence the living of the *Adat* communities (e.g., investment offers for the forests to be developed as plantations, big businesses coming in for mining activities, cultural influences such as modern living (and induce the needs for luxury goods), including economic development.³⁴

These pressures drive the *Adat* community to lease or sell their lands, and if the agreement between parties are not clear (in terms of definition and/or perception, borders, etc.), the possibility of arising a conflict is high.

32) Direct interview with Manggaraians villagers during UGM-Cared Identifying Land Conflict Resolution Project, 2015-2019, *supra* note 29.

33) *Id.*, *supra* note 29. Direct interview with Manggaraians villagers during UGM-Cared Identifying Land Conflict Resolution Project, 2015-2019.

34) Kristiansen & Sulistiawati, *supra* note 32. Kristiansen, 52 Bulletin of Indonesian Economic Studies (BIES) Issue 2 (2016).

2. Forum of Law

Hence, the interesting thing is the forum of law for conflict resolution solutions. As we see in the cases, only the ones that cannot be solved by *Adat* law are brought to local court. For example, the case of Wewo and Pasar Puni still refrains from using local court and tried *Adat* negotiation strategies, as well as other approaches. There are several notable points from these five case studies. Firstly, it is apparent that the parties choose their laws based on the benefits that they would bring them.³⁵ The more (predicted) benefits they will get from a particular field of law, the more they are likely to choose that law to solve their problem.

Secondly, the fact that they have chosen a particular law does not mean that they will continue using the particular law.³⁶ There is a possibility that they will move to a different strand of law for different reasons. For example, if the (predicted) benefit changes as happened in the case of the Nggalak Rago Forest where the forest is changed into mine, *Adat* community then changed to enforce *Adat* law to resolve their problem or when they think they can do better with the other strand of law, as can be seen in Philomena and her step-brothers.

Thirdly, not only does the national law challenge *Adat* law, but also *Adat* law is complementary to the national law.³⁷ These situations can be found in most of the study cases and there are times when *Adat* seems to be challenged by the national law (Nggalak Rego forest, Pasar Puni), but also, in others, *Adat* is complementary to the national law (Philomena, Wewo district, border case between Ngada and East Manggarai).

C. Challenges and Benefits of using Adat Law in Adat Land Conflict Resolution in a Legal Pluralist Country

In terms of implementation, in the study areas, *Adat* law is still acknowledged and appreciated. In several cases, the parties resort to *Adat* Law after they think the national law is not adequate (Wewo village, Philomina case).³⁸ *Adat* land ownership, as we can see in the previous sections, has raised questions. This

35) Direct interview with Manggaraians villagers during UGM-Cared Identifying Land Conflict Resolution Project, 2015-2019, *supra* note 29.

36) *Id.*

37) *Id.*

38) *Id.*

section dissects the challenges and benefits of using *Adat* law in *Adat* land conflict resolutions in Indonesia, a legal pluralist country.

Ad.1. Challenges in using Adat Law

There are many challenges in using *Adat* law in *Adat* land conflict resolution in Indonesia. Below are the main challenges found in the study areas. Firstly, in most cases, the author has found the biggest challenge in using *Adat* law in *Adat* land conflict is the fact that most *Adat* law in Indonesia and study areas are undocumented.³⁹ Not only are the regulations of *Adat* undocumented, but also the borders of the land are undocumented.⁴⁰ *Adat* people count on the trust and memories of the elders to inform and negate them through the conflict proceedings, even determine the conflict results. Moreover, if the case continues to be brought to the district court, most judges will ask for records and/or documentations in the forms of certification, letters, tax invoices, etc. This extends to the fact that there is also no documentation of borders of *Adat* land.⁴¹ Using natural borders, which are very fragile and easy to move, is treacherous in this day and time. Especially, when people are very aware of the values of the land, and they would do anything to increase the value of the land and the area of their land. Actions must be taken to address this challenge (e.g., *Adat* community mapping for *Adat* land, registration of *Adat* land and *Adat* forest, including registering GPS records of the coordinates of their lands to the government).

Secondly, there are no clear understanding or perceptions of terminologies in land ownership (e.g., user rights, land transfer, land ownership, etc.).⁴² We can see this in Pasar Puni and Nggalak Rego (where the meaning of ‘land ownership’ and ‘land transfer’ are not clear for *Adat* people) in Wewo (where ‘user rights’ are being disputed because they are not clear regarding the border) and in border case of Ngada and Eastern Manggarai (where ‘user rights’ and ‘border’ are disputed). Instead of disputing the current substances, it may be beneficial for Manggarai people to understand clearly and uniformly the terminology in relation to *Adat* land. This will benefit the future *Adat* land discourse in the area.

39) *Id.*

40) Kristiansen & Sulistiawati, Kristiansen, *supra* note 35, p.at 53.

41) *Id.*

42) Direct interview with Manggaraians villagers during UGM-Cared Identifying Land Conflict Resolution Project, 2015-2019., *supra* note 29.

Thirdly, the rules and operation of traditional law and its institutions may not be in accordance with a democratic ideology and modern expectations to gender and social equity. or These may be unsuitable to solve new types of conflicts. Female land ownership or formal user rights are generally not accepted in the study areas. The total lack of transparency in the distribution of communal land income among clans and families in villages that rent out their land for palm oil plantation or other economic activities creates increasing tension and dissatisfaction in many places.⁴³ Many people complain that only the dominating clans in the villages draw advantages of such modern economic transactions with external businesses.

Fourthly, in terms of conflict resolution options, based on the case studies, there are at least two mainstream options: *Adat* and national laws.⁴⁴ In *Adat* law, there are several strands: negotiation, mediation, and arbitration by the elders which may or may not involve sanctions.⁴⁵ In national law, it is always very formal and most of the time ends in court proceeding. *Adat* land conflict resolution varies based on the complexity of the case, parties involved, background of the case, and which 'route' is more beneficial to the parties. One is even allowed to use one after the other if they are not satisfied with the results of the first one.

Fifthly, legal pluralism theoretically ensures that the laws in Indonesia protect the both ways. In practice, even though *Adat* law often becomes the first choice for the parties involved, it is often being challenged by the national law.⁴⁶ *Adat* court was abolished in 1951. *Adat* law receives a subsidiary status in Indonesia's legal system. We see this in most cases involving *Adat* law in the national courts and it is always hard for *Adat* law to give legal protection, as it is always subsidiary in relation to the national law.

Ad.2. Benefits of Using Adat Law in Adat Land Conflict in Indonesia

This research also found several benefits in using *Adat* law in *Adat* land conflict in Indonesia. Below are the main ones:

First, *Adat* law is more simple, fast, affordable, and proximate for *Adat* people in comparison to the national court. As understood, there is the only one district court in each district of Indonesia. In our study areas; Manggarai and

43) *Id.*

44) *Id.*

45) *Id.*

46) Kristiansen & Sulistiawati, Kristiansen, *supra* note 35, atp. 56.

Ngada, they have only one district court for each district. With the large population of the districts, disputes are also mounting, and there is only one court with four to five judges. Procedures follow the procedural law in Indonesia, which is not well-known for *Adat* people. A long que for being processed is to be expected. In comparison, *Adat* law proceedings take effect directly after the parties reported to the elders on their dispute.

Adat law process is mostly free, except for several ceremonies (if needed), where the parties need to prepare for the consumption for *Adat* people.⁴⁷ However, in principle, *Adat* law proceedings are free for *Adat* people. In the district court, although the fee for the proceedings are affordable, there are other expenses for the *Adat* people to reach to the district court, such as transportation, accommodation, meals, etc. during the proceeding. This is also not very affordable for *Adat* people. In the case of *Adat* law, *Adat* people do not have to travel, they can just directly contact *Adat* elders in their area and engage in *Adat* proceedings accordingly.

Second, discussions to reach the agreed results or in Bahasa Indonesia: *musyawarah untuk mufakat*.⁴⁸ In most *Adat* laws, the dispute settlement proceedings will include a discussion to reach the agreed results. All members of the *Adat*, not just the elders, are invited to sit together and discuss about what would be the best results for the dispute. This proceeding is not known in the district court, and once a dispute has reached the court, the procedural law will take place and judges precedes over the case.

Third, trust and familiarity. The proceedings in *Adat* law is trusted and familiar for *Adat* people. They live in the area and have been conforming to *Adat* law for most of their lives. They trust the accountability of their *Adat* leaders and they are familiar with the process of the proceedings. In comparison to the complex proceeding of district courts and judges they do not know, *Adat* law is trusted and familiar for *Adat* people.

Fourth, peaceful resolution. In *Adat* law, as a continuation of discussion for the agreed results, parties are usually striving for peaceful resolution, rather than a win-lose proceeding in the formal court.⁴⁹ The fact that there is a hope for a peaceful resolution has given a sense of security for *Adat* people to submit their disputes to *Adat* law.

47) Direct interview with Manggaraians villagers during UGM-Cared Identifying Land Conflict Resolution Project, 2015-2019, *supra* note 29.

48) *Id.*

49) *Id.*

Fifth, openness and transparency. Different from formal proceeding in court, *Adat* law proceeding is usually open for all *Adat* law community.⁵⁰ The proceeding is held in the *Adat* house and it is open for the disputing parties and the whole community. In Manggarai, for example, when there is a dispute, the *Adat* elders will invite all parties and all people in the community to sit together in the *Adat* house and conduct a *lonto-leok* discussion to reach a result.⁵¹ The openness and transparency of the proceeding are a clear benefit in using *Adat* law for *Adat* land conflict resolution.

V. Conclusion

This research aims to answer the use of *Adat* law in *Adat* land conflict resolution in Indonesia, a legal pluralist country. Results of this research are not unique only to the study areas, but also possibly applicable in most *Adat* areas in Indonesia, and may also be comparable to other indigenous areas in the world.

It is apparent that *Adat* law is recognized and mentioned in various laws in Indonesia, including the Constitution of Indonesia 1945. However, implementation on the ground is slightly different. *Adat* law is continuously under scrutiny by national law. The fact that most *Adat* law is not documented and its status as secondary to the national law has given hardship for *Adat* people using *Adat* law for *Adat* land conflict resolutions.

Adat law is still living and being used as a conflict resolution option for *Adat* people in Indonesia. Some even chose it as a first forum of law for their dispute. There is a need to update and upgrade *Adat* law with the current values among others: human rights, equality, gender issues, etc. Trainings, education, and awareness needed to be organized. That being said, *Adat* law has been the core of Indonesian culture for centuries. *Adat* law makes Indonesia unique from other countries and it is the red tape that binds the country together with its diversity. (2018/2019)

50) *Id.*

51) *Id.*

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