

Empirical Legal Investigation of Land Disputes: The Case of Rantau Pandan, Bungo Regency

Suhermi¹, Umar Hasan², Sasmiar³, Herlina Manik⁴

¹ Universitas Jambi, Indonesia; suhermi_hukum@unja.ac.id

² Universitas Jambi, Indonesia; umar_hasan@unja.ac.id

³ Universitas Jambi, Indonesia; sasmiar@unja.ac.id

⁴ Universitas Jambi, Indonesia; herlina_manik@unja.ac.id

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Abstract	Land is a very basic human need for humans to live and carry out activities on land so that at all times humans are always in contact with land, it can be said that almost all human life activities, either directly or indirectly, require land. The emergence of land dispute cases in Indonesia is no exception in Rantau Pandan District, Bungo Regency, of course clear regulations or legal instruments are needed to ensure legal certainty for the owners of the land. The aim of the research is to find out and analyze the factors that cause land disputes and how to resolve land disputes that occur in the community in Rantau Pandan District, Bungo Regency. The type of research used is empirical juridical using primary data sources, namely data obtained directly in the field through interviews with respondents and informants and secondary data in the form of regulations, textbooks, journals and traditional seloko. Based on the data, it was found that the factors causing land disputes in the Rantau Pandan District, Bungo Regency, were caused by inheritance factors and unclear land boundaries. The method for resolving land disputes is by deliberation using Customary Law in ascending and descending stages.	
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Corresponding Author: Suhermi Universitas Jambi, Indonesia; suhermi_hukum@unja.ac.id		

1. INTRODUCTION

Humans and land are like two sides of a coin that are different but need each other. Land is very important because it is needed to carry out human life activities. In customary law, humans and land have a magical religious relationship, meaning that the relationship not only includes individuals with land, but also with members of the customary law community. Indigenous cultures place great emphasis on the mystical and spiritual ties that exist between the community and the land as they see it as home to the souls of their ancestors. By fostering deep emotional ties between communities and the land they claim, these ideas influence land conflicts. At the communal level, land conflicts are resolved by ceremonial procedures and rituals, sometimes involving shamans or other spiritual leaders. These ideas influence how land is viewed as a source of life and emphasise the importance of understanding indigenous peoples' values, beliefs and cultural norms to resolve land disputes in a



fair.(Sembiring, 2019) . The issue of land in customary law has a very important meaning because in addition to communal rights there are also individual rights, but land owned by indigenous peoples can be used or taken over by the government for the benefit of many people as long as it does not conflict with the law.

The relationship between land and the state in a modern state according to Notonegoro in (Nugroho, 2015), is called by several terms, namely:

1. A private *rechtelijk* relationship is called dominium. dominium describes the ownership or management of land by a specific person or legal entity with little government intervention. e.g. A farmer owns agricultural property, and the government serves as a regulator to ensure that rules and regulations are adhered to and to collect necessary taxes or levies (Febrianty, 2023).
2. Relationships that are public *rechtelijk* are called dominium rights, otherwise they are called publics. Public rights include the use of land for purposes that benefit society, such as building public infrastructure like parks and roads. To foster economic growth and improve connectivity, for example, the government may expropriate property from affected landowners for the construction of toll roads, while retaining the ownership rights of the landowners. This permits the use of land by the government for public purposes. (Seta, 2020)
3. Relationships that are general in nature or the State as the personification of all the people are divided into two:
 - a. Rights of *communes*, a designation for the State as the personification of holding power over land. For example, a tribe maintains common agricultural land for subsistence cultivation, ensuring equitable access and use in accordance with long-standing norms. To ensure the sustainability of land management by indigenous communities, governments can provide legal protection and recognise community rights (Putra, 2017).
 - b. The right of empire, a term used to refer to the State that holds power over the user of land. for example through national development policies. The government is responsible for zoning, granting development licences, controlling the use of natural resources, and enforcing land use regulations (Basana, 2020). The government also has the authority to purchase land for public development or infrastructure projects that are important for the country's interests. To effectively regulate land use for national growth and public welfare, while taking into account the values of equity, sustainability and community involvement, the right to power or dominion is essential. (Prianggoro, 2023).

Recognition of the rights of customary communities contained in Article 18B and Article 3 of the UUPA, where the implementation of customary rights and similar rights of customary law communities, as long as they still exist must be in such a way, so that it is in accordance with national

and state interests based on on national unity, and must not conflict with laws and other higher legal regulations (Sudiyat, 2010).

According to the Constitution, it is stated that the State controls the natural wealth contained therein, including earth, water and outer space as long as it is used for the prosperity of the Indonesian people. According to the concept of the Basic Agrarian Law, land is defined as both inside the earth and outside the earth and all its contents as a gift from God to Indonesian people which is used as a State asset to be enjoyed with the Indonesian people. So the connection between humans and the land is an unbroken relationship (Farhani & Chandranegara, 2019)

According to (Harsono, 2000), explains that the connection between land and its owner will give them the authority to use it according to their ownership, while the relationship does not have to be property rights, just as state ownership cannot be interpreted as complete ownership which cannot be separated because land has a social function. According to (Fatimah & A, 2014), land issues in Indonesia are most prone to disputes, so their use requires clear legal instruments so as not to harm the people who own the land. Several cases or land disputes that occur in society include conflicts over ownership or land status between investors or entrepreneurs and the community.

Customary land boundaries are generally not determined in writing, only in the form of boundaries of hills, rivers, and collections of forest plants. This situation also gives rise to competition or disputes between indigenous communities on the one hand and investors on the other, which in the end often threatens the existence of indigenous communities (Arisaputra & Mardiah, 2019). Apart from that, there are often inconsistencies in interpreting the nature of customary land. The issue of land disputes that occur in society certainly cannot be left to chance, so the legal instrument for resolution can be guided by Minister of Agrarian and Spatial Planning Regulation Number 21 of 2020 concerning Settlement of Land Cases or by using the ADR (Alternative Dispute Resolution) concept which has a working mechanism which is fast and simple.

Bungo Regency is one of the regencies in Jambi Province. This district originated as a result of the expansion of Bungo Tebo Regency on October 12 1999. Bungo Regency has 17 sub-districts with abundant and abundant natural resources, including the plantation sector which is supported by rubber and palm oil and the mining sector which is supported by coal.

Based on Minister of Forestry Decree 863/Menhut-112014 dated 14 September 2014, the forest area consists of:

1. State Forest
2. Private Forests (customary forests/ulayat rights, individual/legal entity forests).

Based on Constitutional Court Decision Number 35/PUU-X/2012, customary forests are forests

located in the territory of customary law communities. This means that customary forests are not the same as state forests. The criteria for private forests must include customary rules so that the rights of customary law communities are protected by regulations. Management of use is in the hands of indigenous communities without ignoring higher regulations.

Based on an interview with the Bungo traditional leader (Hasan, 2021) in Rantau Pandan District, Bungo Regency, from 2020 to 2021 there were 12 cases of fatlah (agricultural) land disputes.

Table 1. Fatlah (agricultural) land dispute in Rantau Pandan District, Bungo Regency in 2020 and 2021

Number	Year	Number of Disputes
1	2020	6
2	2021	6
Jumlah		12

Source: 2022 Research Results

The table above shows that there are disputes regarding land. In 2020 there were 6 (six) and in 2021 there were 6 (six) disputes/conflicts related to fatlah (agricultural) land. Based on the explanation, researchers are interested in examining issues or problems regarding land disputes that occur in Rantau Pandan District, Bungo Regency, especially in terms of resolving fatlah (agricultural) land disputes.

2. METHOD

This research was conducted in Rantau Pandan Subdistrict, Bungo Regency because there were problems with fatlah (agricultural) land disputes. The type of research used is empirical juridical research, by first studying and understanding the provisions in the form of secondary data. The population in this study are people in Rantau Pandan District who experienced 12 land conflicts in 2020 and 2021. So the samples in this study are people who experience disputes over fatlah land rights and leaders of traditional institutions in rantau pandan bungo district. Data collection is done through interviews by preparing a list of questions in advance.

3. FINDINGS AND DISCUSSION

Rantau Pandan Located in Bungo Regency, Jambi Province, Indonesia, the community of Rantau is well known for its agricultural potential, particularly in the production of palm oil and rubber. These two industries are the main focus of economic activity in the district (Sari et al., 2016). Land is the main capital for human life, so its position has a very important meaning (Utomo, 2016). According to (Setiady, 2008) the factors that cause the importance of land in customary law are:

- a. The eternal nature of wealth because it will not perish.

- b. In reality, land serves as a domicile for community members, a place to earn a living and a place to bury deceased community members.

Land is considered the only source of income and wealth, and the agricultural and plantation sectors are productive activities, land is also believed to contain the ability to produce production in quantity and quality that exceeds (creates a surplus) the raw materials and equipment used in producing net production (Sumitro, 2001). Land ownership is preceded by occupying an area that indigenous people call communal land (communal property), this land is recognized by customary law based on both genealogical and territorial relationships. Along with changes in socio-economic patterns in each community, this communal land is gradually controlled by members of the community through rotational cultivation. The individual ownership system then began to be recognized in the communal ownership system which is still valid today. According to (Safudin, n.d.) the problem and the emergence of cases of land disputes in various places have never subsided, either on community land (communal) or individual land, of course, it must receive serious attention from the local government in terms of land disputes and their resolution. Uncertainty over the legal status of land, changes in land use, conflicts between social and cultural groups, and unequal access to legal resources are some of the causes of land disputes. Changes in land use can cause problems among landowners, but confusing ownership documentation or unclear boundaries can also cause problems. When local farmers or indigenous peoples have competing interests, social and cultural conflicts can occur (Hekmatyar & Adinugraha, 2021).

Alternative dispute resolution is an out-of-court dispute resolution mechanism using consultation, negotiation, mediation, conciliation, or expert judgment. Alternative dispute resolution is intended as an initial effort and returns to court as a final effort in resolving disputes. One way to resolve disputes outside the court is through mediation and the validity of mediation has been recognized in Law Number 30 of 1999. According to Takdir Rahmadi (2010, 69), the use of mediation is also practiced in the settlement of disputes within the scope of indigenous peoples or general community disputes such as inheritance disputes, land disputes. In the scope of indigenous peoples, customary functionaries, apart from being mediators in resolving disputes, can also function as arbitrators or resolve by deciding.

Customary law communities are more likely to choose dispute resolution using customary mediation patterns. The reason they choose customary mediation is because this non-state court is easily accessible quickly and at low cost. Dispute resolution with this customary mediation pattern can be said to be more flexible. Humans in the customary view, humans are seen as social beings not as individual beings, where human existence cannot be separated from the group (Abbas, 2009). Conflict resolution in Rantau Pandan Bungo is guided by customary law, which takes into account the interests of all parties and is founded on traditional norms and beliefs. The procedure entails discussion and negotiation under

the direction of traditional leaders and community members. Social and cultural values, as well as legal considerations, are taken into account. Finding solutions that satisfy all parties and adhere to the country's legal structure is ensured by combining customary law with the official legal system. Land dispute resolution may improve ties between neighbors, create a lasting peace, and advance regional development. The real feeling of law is incarnated in customary law which is a cultural result that is real and ideal.

The pattern of living together reflects that human position is in principle the same, not distinguishing social status. Indigenous people in resolving a dispute always hold the principle of "sitting equally low, standing equally high, carrying the same weight". The philosophy to be upheld in dispute resolution in customary law communities is "communal justice", which is a balance when the dispute is resolved by customary elders. The concept of mediation when linked to customary justice certainly involves customary elders in resolving disputes. Customary justice, which has often been used in resolving disputes, is still alive and part of the social order of indigenous peoples' lives. In Jambi custom, for example, the principle of "*Adat bersendi syarak, syarak bersendi Kitabullah.*" *Adat yang tak lapuk karena hujan, tak lekang keno panas, adat bak cermin gedang yang tak kabur, adat bak lantak yang tak goyah*", which implicitly contains a message, that the custom is still alive and obeyed by the community in the life of modern society today by functioning the Customary Institution (Hasan, 2021).

3.1. Factors Causing Land Disputes

The importance of land in Jambi indigenous people is because land is the only thing that is eternal. The area where they live, look for life and where family members are buried. Therefore, in the customary law of the Jambi region, there is the called

*"Rimbo lepeh hutan tenang,
hutan belukar nan dikendano (dipelihara),
perimbon, taruko, hak alko, seseko lia"*

Meaning:

The area called rimbo lepeh utang tenang is the area of land that is subject to the rajo.

The area (land) is called rimbo larangan, meaning that land in the area cannot be individually owned, but the people/population can collect forest products in the rimbo lepeh utang tenang. The above provisions are now almost no longer valid, because the *lepeh rimbo tenang* forest has been controlled by HPH holders. To determine who has the right to collect forest products in the lepeh rimbo tenang forest, the people concerned must first give signs called in tradition "*dendang lalu*".

The issue of life related to land is still very much a conflict or dispute, especially in Indonesia, so that land conflicts are still a subject matter that is the center of attention by the central and regional governments. Because ownership of a plot of land requires legal certainty, thus to provide legal

certainty to the landowner, a clear legal instrument is needed so as not to harm the landowning community. The legal instruments intended to be guided in the event of a land dispute can be used UUPA and Spatial Planning No. 11 of 2016 concerning the settlement of land cases or through settlement using Customary Law by deliberation.

a. Land inheritance factor

The inherited land factor is one of the issues that cause land disputes. In customary law, the problem of distribution of customary law is not the same from one to another depending on the cupak gantang of the environment, meaning that other regions have different customary laws of inheritance or in other words, customs can be the same ico use different. The issue of inherited land that causes disputes in this area is due to the existence of inheritors who do not agree on the distribution of inherited land that is the right of each heir, specifically in this area the inherited land that can be distributed from the heirs to the recipient of the inheritance is in the form of pusoko, such as rice fields, land, houses, jewelry etc. and seko such as the title of the descendants of the heart or tribe (Purnawan, 2020).

However, the problem of inherited land disputes that often occur is pusoko land or what is called Fatlah land (private land). Disputes and quarrels regarding heirs among families or relatives related to the division of inheritance property must be resolved by fairly agreeing so that the share received by the heirs is in accordance with the provisions of applicable customary law regarding inherited land.

b. Soil boundary factor

The problem of uncertain land boundaries between one person's ownership and another's is also a cause of land disputes in the Rantau Pandan District of Bungo Regency. Land boundary conflicts can also occur when doing business or establishing a place to live, while the land owned is very limited or deliberately exceeds the land boundary to the boundary of someone else's land. It often happens that because the land is so large, one does not remember the location of the land boundary anymore, due to the installation of land boundary stakes in the manner of the land or not fully managing the land. At some point after there is a need for a land, a land boundary problem arises where the landowner feels aggrieved that part of his land has been used and owned by someone else with evidence of the establishment of a new land boundary mark that was previously absent or unknown or the person who installed the new stakes considers his actions to be correct with evidence of a valid land ownership letter that is available to him (Fabian, 2017)

With these things above, of course, their land wants to be maintained by each party so that there is a dispute between them. To restore the problem of land boundary disputes, the parties to the land boundary dispute resolve by deliberation using their customary law.(Laturrete, 2016).

3.2 Land Dispute Settlement

Disputes or land disputes that occur in the community, of course, must be resolved so that the legal certainty of the land becomes clear. Based on the results of the research, in Rantau Pandan District, Bungo Regency for *halkah* land is known as *Batin* land while *Fatlah* is private land. For *Batin* land, if a dispute occurs, it is taken care of by the state, while the settlement of *Fatlah* (private land) is caused by the dispute factor or dispute due to inheritance factors and land boundary factors. Of course, disputes that occur in the community relating to their land must be resolved.

Alternative resolution of land disputes that occur between the parties to the dispute requires a dispute resolution mechanism through the regulation of the Minister of Agrarian Affairs and Spatial Planning / Head of the National Land Agency No. 21 of 2020 concerning the handling and settlement of land cases. However, the Customary Law community of Rantau Pandan Subdistrict, Bungo Regency, based on an interview with Mr. M. Hasan as the Customary Chief, the community in dispute chose Customary Law as a way to resolve land disputes.

Leadership in indigenous peoples who regulate one of the issues regarding land using traditional *seloko* is tiered up, stairs down, which means that every problem that occurs that regulates the procedures for livelihood and life in the family environment and in society must be guided by these *seloko*.

The steps for resolving land disputes in Rantau Pandan District, Bungo Regency, are as follows:

- a. The process of a dispute arising in the community over *Fatlah* land (private land). Where each party to the dispute goes to the *Tengganai* rumah to resolve the tangled, clear up the murky in the event that a problem occurs between them. If at the *Tengganai* level there is no agreement then proceed to *Tuo Tengganai*.
- b. *Tuo Tengganai* is the elders of a group of *tengganai* from the eyes of the heart in the eyes of the village/hamlet/village/sub-district, *tuo tengganai* is obliged to check or process the parties to the dispute to ask each of them why there is a dispute, after listening to the information from each party, *Tuo Tengganai* tries to reconcile the case by being guided by *adat nan lazim*, *peseko nan kawi*, *adat nan bersendi sejarak*, *sejarak bersendi kitabullah*. If at the *Tuo Tengganai* level the dispute has not been resolved (the parties are still arguing), then the dispute is referred to the *Ninik Mamak*.
- c. *Ninik Mamak* is a combination of *Tuo-tuo Tengganai* in a village/hamlet/village/neighborhood. The duties and obligations of the Grandmother *Mamak* are also to direct, guide, resolve what is tangled, and clear up what is murky, etc., by calling the parties to the dispute as well as the *Tuo Tengganai* to identify the problem causing the dispute and directly check the location or occurrence of the case on the truth of the disputed matter, after which deliberations are held by presenting witnesses who are related to the problem that occurred (whether witnesses from the parties to the land boundary dispute or witnesses from the inheritance case) to make a decision or return it to the rightful owner.

If there is no agreement on the matter, the case can be referred to the village customary institution, called the three *sepih* or three *sejeng*, which consists of village government officials, customary leaders and historical officers.

- d. If the land dispute cannot be resolved at the *tuo tengganai* and *ninik mamak* level, then the dispute resolution is brought to the Lembaga Kerapatan Adat Dusun (LKAD) level, and resolved through mediation.

4. CONCLUSION

Based on the factors that have been identified, it can be concluded that the causes of *Fatlah* (freehold land) disputes are caused by two dispute factors, namely inheritance factors and land boundary factors. Of course, disputes that occur in the community related to their land must be resolved. The settlement process through customary law, which starts from the *Tengganai rumah* level to the Dusun Customary Council, shows a tiered approach that involves traditional leaders and preserves local values. Customary law encourages peaceful and sustainable resolution of land disputes because it is based on local values and philosophy. Customary law encourages co-operation and collaboration, advancing social justice for all stakeholders To restore relations between conflicting parties and ensure a mutually beneficial agreement, peaceful settlements such as mediation, or rituals are often used.

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