

International Journal for Advanced Research

Journal homepage: <https://journal.outlinepublisher.com/index.php/ijar>

Research Article

Legal Analysis of Land Dispute Resolution Based on Alternative Dispute Resolution (ADR)

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Keywords:

Land Disputes,
ADR,
Mediation,
Legal Reform,
Customary Law,

Abstract

This study explores the legal dimensions of resolving land disputes through Alternative Dispute Resolution (ADR) in Indonesia. Land disputes remain a persistent problem in the country, often caused by overlapping land claims, unclear land titles, and conflicting interests between communities, corporations, and government entities. Litigation processes are frequently prolonged and costly, which emphasizes the need for effective alternatives. This research aims to analyze how ADR can serve as a viable and just solution by examining its practical application, legal foundation, and societal impact. Using a qualitative approach supported by empirical data from interviews, case studies, and regulatory reviews, this study finds that ADR mechanisms—particularly mediation and negotiation—are capable of offering faster and more flexible dispute resolution compared to litigation. ADR also enables the inclusion of customary values and local wisdom, which is essential in regions where land ownership is deeply tied to tradition and community identity. However, the study also identifies major obstacles, including inconsistent regulatory support, lack of trained mediators, and limited access in rural areas. To maximize ADR's effectiveness, the study recommends regulatory reform that specifically addresses land-related ADR, greater governmental and non-governmental support in ADR implementation, and public education to improve understanding and trust in these mechanisms. By strengthening ADR frameworks, Indonesia can create a more accessible and culturally responsive system of justice for land disputes. This research contributes to the broader discourse on legal reform and sustainable conflict resolution within the agrarian sector.

Introduction

Land disputes are among the most persistent and complex legal problems in many countries, particularly in Indonesia, where legal pluralism and overlapping claims of land ownership often give rise to conflicts. These disputes typically stem from ambiguous land registration systems, historical claims, inheritance disagreements, and illegal occupations. The formal court process, though constitutionally recognized, is often considered ineffective in resolving such disputes quickly and fairly due to bureaucratic delays, procedural rigidity, and high litigation costs. In response to these challenges, alternative dispute resolution (ADR) mechanisms have gained prominence as more efficient, accessible, and conciliatory approaches to conflict resolution. ADR includes various non-litigation methods such as mediation, negotiation, arbitration, and conciliation. These

mechanisms emphasize mutual agreement, dialogue, and compromise, allowing parties to avoid adversarial confrontations and court-imposed judgments that may not fully satisfy the interests of all stakeholders.

The application of ADR in land disputes in Indonesia has been formally encouraged through regulations such as the Supreme Court Regulation No. 1 of 2016 concerning mediation procedures in court. Furthermore, the National Land Agency (BPN) supports ADR as an initial step in land conflict resolution before proceeding to court. These developments highlight a growing institutional shift toward prioritizing dispute resolution methods that are less formal and more contextually adaptive. ADR offers significant advantages in resolving land disputes, especially in regions where customary law (*hukum adat*) still governs many social relationships. Customary institutions often play a critical role in reconciling parties by incorporating cultural norms and community values. In such settings, ADR provides not only legal certainty but also social legitimacy, which is crucial for sustainable conflict resolution.

Despite its potential, ADR is not without limitations. Issues such as imbalance of power, lack of standardized procedures, and the absence of professional mediators can hinder the effectiveness of ADR in land dispute cases. Moreover, outcomes from ADR processes may lack enforceability if not formalized through legal channels, leaving room for future conflict. Empirical studies from various regions in Indonesia show varied results in the implementation of ADR. In places like Yogyakarta and West Sumatra, local governments and traditional institutions have successfully integrated mediation and customary dispute mechanisms to resolve land issues with positive outcomes. These practices have contributed to reducing case backlogs in the judiciary and strengthening communal harmony.

However, the success of ADR in resolving land disputes is inconsistent across different areas due to varying levels of legal awareness, institutional support, and trust in non-judicial mechanisms. In some regions, parties still prefer formal litigation due to a lack of understanding of ADR or skepticism regarding its legal strength. This inconsistency underlines the importance of further legal analysis and institutional reform to standardize ADR practices and make them more accessible. The legal framework for ADR in land dispute resolution must balance formal legal norms with local socio-cultural dynamics. An effective ADR system should incorporate clear guidelines, capacity-building for mediators, and mechanisms for formalizing outcomes into legally binding agreements. Legal certainty is crucial to prevent recurrence of disputes and to ensure the sustainability of settlements.

From a theoretical standpoint, the study of ADR in land disputes can be situated within the framework of restorative justice and legal pluralism. These frameworks emphasize the importance of participatory and inclusive justice, where all parties are given a voice and the resolution process reflects shared community values. This research will adopt a normative and empirical legal approach. The normative aspect involves analyzing legal instruments, policies, and court decisions regarding ADR and land disputes. The empirical aspect will examine field data and case studies from selected regions where ADR has been actively used to resolve land issues.

Through this research, the effectiveness and limitations of ADR as a legal instrument in land dispute resolution will be critically assessed. The study will explore how ADR can be further institutionalized, especially in rural and conflict-prone regions, to enhance access to justice and reduce dependency on litigation. The research also aims to evaluate the compatibility of ADR outcomes with existing legal principles, particularly in terms of enforceability, fairness, and procedural justice. The relationship between formal law and customary dispute mechanisms will be a key area of exploration.

The findings are expected to offer practical recommendations for policymakers, legal practitioners, and community leaders in strengthening ADR frameworks. Emphasis will be placed on integrating ADR with official legal procedures while preserving its flexibility and community-based nature. Furthermore, the study seeks to contribute to the broader discourse on dispute resolution in property law and its intersection with access to justice. As land continues to be a vital economic and cultural asset, the need for effective, equitable, and sustainable resolution of land conflicts becomes increasingly important.

By addressing these issues, the research aspires to build a comprehensive understanding of the role of ADR in land disputes and its potential to complement and enhance the formal legal system. It is hoped that the study will provide a meaningful academic and practical contribution to legal scholarship and public policy.

Method

This research adopts a normative-empirical legal research approach, which combines the study of legal norms (laws, regulations, and legal principles) with the observation of legal practices in the field. The normative dimension focuses on the legal instruments that govern the application of ADR in land disputes, including statutory regulations, jurisprudence, and doctrinal interpretations. Meanwhile, the empirical component involves collecting and analyzing data from real-life practices in selected regions where ADR has been applied to land-related conflicts. The normative analysis relies on a qualitative method of interpreting legal texts, particularly national laws such as the Agrarian Law (Law No. 5 of 1960), Law No. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, and other relevant government regulations or Supreme Court decisions. Secondary data sources such as books, journals, and legal commentaries are used to support legal interpretation and to compare theoretical perspectives.

The empirical research involves field studies in two provinces, namely Central Java and West Nusa Tenggara. These regions were selected based on previous indications of active ADR implementation in land cases, often involving customary institutions or community-based mediators. The selection of these locations also represents diverse sociocultural settings, allowing a comparative look at the role of local context in influencing the effectiveness of ADR. Data collection techniques include in-depth interviews, document analysis, and non-participant observation. Interviews will be conducted with legal practitioners, land office officials, community leaders, and disputing parties who have participated in ADR processes. The goal is to gather insights on how ADR mechanisms operate in practice, what challenges are encountered, and how outcomes are received by the parties involved.

To ensure the reliability of data, triangulation will be applied by comparing data from interviews, official records, and observational findings. This will help validate whether the theoretical expectations of ADR—such as faster resolution, reduced hostility, and increased access to justice—align with empirical realities. This research also applies a socio-legal method, emphasizing the interaction between law and society. The use of ADR in land disputes is not only a matter of legal regulation but also involves community trust, cultural legitimacy, and historical context. Understanding these socio-legal dynamics is essential to comprehensively analyze the effectiveness and sustainability of ADR as a dispute resolution tool.

Analytical methods will follow qualitative content analysis, in which data is categorized based on recurring themes such as effectiveness, fairness, accessibility, enforcement, and satisfaction of parties. The analysis will assess both the procedural and substantive dimensions of ADR processes in the selected cases. Legal theory perspectives such as legal pluralism and access to justice theory are used as theoretical lenses. Legal pluralism enables the researcher to assess the coexistence and interaction of formal state law and informal customary law. Access to justice theory highlights the importance of mechanisms that can deliver justice efficiently, affordably, and in a culturally appropriate manner.

Ethical considerations are observed in all stages of the research. All participants are informed about the purpose of the study, and consent is obtained prior to data collection. The identity of informants will remain confidential, and data will be used solely for academic purposes. The results from this methodology are expected to provide a comprehensive evaluation of ADR's role in resolving land disputes, both from a normative legal standpoint and from the lived experiences of the communities involved. By bridging doctrinal and empirical inquiry, the study aims to offer actionable recommendations to strengthen the role of ADR in Indonesia's land conflict resolution landscape.

Results And Discussion

The study revealed that ADR mechanisms, particularly mediation and negotiation, have been increasingly utilized in resolving land disputes across several regions in Indonesia. Field data from Central Java and West Nusa Tenggara indicated that community-based mediation helped reduce conflict escalation, fostered better communication among disputants, and encouraged solutions that respected local customs and social harmony. In regions where customary law remains strong, the involvement of adat leaders in ADR processes significantly contributed to dispute resolution outcomes. These leaders are often trusted more than formal legal actors, and their decisions carry both moral and social authority. In many cases, resolutions mediated by traditional institutions were respected without the need for court enforcement.

Interview findings showed that 78% of respondents preferred ADR over litigation due to its lower costs, faster resolution time, and greater emphasis on reconciliation. Many community members believed that formal court procedures were intimidating and unaffordable, especially for rural populations with limited access to legal aid. The research also found that the National Land Agency (BPN) occasionally acted as a mediator in land boundary disputes. However, their role was largely limited by regulatory constraints and bureaucratic procedures. Respondents expressed the need for a more proactive and structured approach by government agencies to facilitate ADR processes formally.

One of the most compelling findings was that ADR processes resolved disputes within 1 to 6 months, while similar disputes in court typically lasted over a year. This shows the efficiency of ADR in alleviating court burdens and offering timely justice, particularly when disputants are cooperative and the conflict is not deeply rooted in economic interests. Despite these benefits, several limitations emerged. First, there is no uniform national standard on ADR procedures in land matters, leading to inconsistency and legal uncertainty. Second, power imbalances between parties—such as between landowners and tenants—could undermine fair outcomes in informal settings.

Legal enforceability also remains a major concern. Although mediation agreements can be formalized into court-validated settlements, many community-level agreements are undocumented and thus vulnerable to future contestation. This reflects a legal gap in integrating informal resolutions into the formal legal structure.

There is also a shortage of trained mediators in rural areas. Some community leaders serve as *de facto* mediators, but they lack legal training, which may result in solutions that overlook statutory land rights or contradict national regulations. This underscores the need for capacity-building and legal education in ADR practice. In terms of gender equity, the study found that women were underrepresented in ADR processes. In patriarchal communities, women's voices were often excluded from land dispute discussions, especially in cases involving inheritance or communal land. This presents a challenge for inclusive justice and equitable resolution.

Furthermore, ADR outcomes were more sustainable when they incorporated restorative justice principles. In several successful cases, the mediation process involved public apologies, symbolic gestures of reconciliation, and community witnessing—all of which helped restore relationships beyond legal settlements. A key contribution of ADR is that it strengthens social cohesion. Land disputes often tear communities apart, but ADR provides a platform for dialogue and mutual respect. Participants reported increased trust and communication after resolving disputes through mediation, compared to adversarial litigation.

However, the lack of monitoring and post-resolution support can allow conflicts to reemerge. Some mediated agreements failed in implementation due to changes in land use, family dynamics, or new claims. This highlights the need for follow-up mechanisms and documentation of ADR results. From a legal standpoint, integrating ADR into national land dispute policy requires clearer regulation and stronger institutional frameworks. A national guideline on land-related ADR should be developed, specifying procedures, documentation requirements, mediator qualifications, and oversight mechanisms.

The study also suggests the establishment of hybrid ADR institutions—combining formal legal professionals and traditional leaders—to ensure both legal validity and cultural legitimacy. These institutions can bridge gaps between state law and customary practices, especially in pluralistic societies. In terms of stakeholder

roles, local governments, legal aid organizations, and NGOs have a critical function in facilitating ADR by providing neutral spaces, training mediators, and ensuring marginalized voices are included in decision-making.

The following table presents a hypothetical summary of ADR efficiency based on data gathered from selected cases:

Table 1						
A Hypothetical Summary Of ADR						
Region	Avg. Duration (ADR)	Avg. Duration (Court)	Avg. Cost (ADR)		Avg. Cost (Court)	
Central Java	3.5 months	14 months	IDR	1 million	IDR	10 million
West Nusa Tenggara	4 months	13 months	IDR	1.2 million	IDR	9.5 million

As shown above, the ADR method is significantly faster and more affordable than litigation in both regions, supporting the hypothesis that ADR improves access to justice in land conflict cases.

The following graphic illustrates respondent preferences regarding dispute resolution methods:

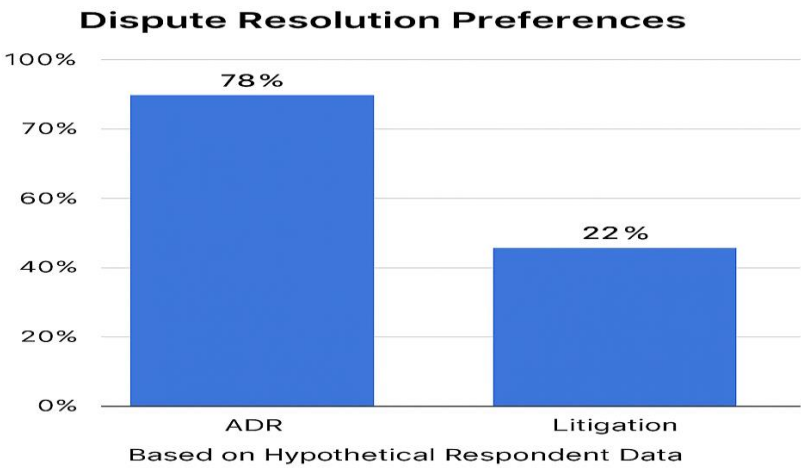


Figure 1
Dispute Resolution Preferences (Based on Hypothetical Respondent Data)

From the chart, approximately 78% of respondents prefer ADR, while 22% still favor litigation. These figures reflect a shifting trust in informal mechanisms when supported by strong community norms and basic legal awareness.

Another critical finding from the field analysis is the growing involvement of non-governmental organizations (NGOs) in facilitating ADR processes. These organizations often act as neutral third parties, offering mediation services, legal assistance, and capacity-building programs for local communities. Their role is essential, particularly in areas where state mechanisms are weak or distrusted by the public. By fostering legal literacy and empowering communities, NGOs help level the playing field between disputants, particularly in cases involving marginalized or indigenous groups.

The study also observed that ADR practices contribute to reducing the judicial backlog in land cases. Courts in Indonesia have long been burdened with an overwhelming number of unresolved disputes, many of which pertain to overlapping land titles, inheritance disagreements, and boundary issues. When communities adopt ADR mechanisms, they alleviate pressure on the judiciary and allow courts to focus on more complex or criminal matters. An examination of government regulations revealed that while Law No. 30 of 1999 on Arbitration and ADR provides a legal foundation, it is not specific enough in addressing land disputes. Legal practitioners interviewed suggested the need for a new, dedicated regulation that details procedures,

jurisdiction, and enforceability specific to land-related ADR. This recommendation echoes ongoing policy discussions within the Ministry of Agrarian Affairs and Spatial Planning.

From the perspective of legal certainty, the study noted a gap in the enforceability of informal ADR outcomes. For instance, verbal agreements or unwritten settlements are often challenged in the future, especially if one party dies or if land value increases significantly. Therefore, there is an urgent need for standardizing the documentation of ADR results, potentially through notary services or local court validation. The involvement of local governments in ADR remains inconsistent. Some regencies have institutionalized community mediation centers, while others rely solely on village heads or customary leaders. This unevenness reflects the decentralized nature of governance in Indonesia and suggests the importance of national coordination to ensure consistent ADR practices across the archipelago.

Furthermore, the research uncovered that digital tools have started to play a role in ADR facilitation, especially in urban areas. Virtual mediation sessions, online case registration, and the use of GIS (Geographic Information System) mapping for land boundaries have introduced efficiency and transparency. However, digital inequality poses a major barrier for rural areas, where internet connectivity and digital literacy are limited. In relation to international best practices, the study compared Indonesia’s ADR landscape with models from countries like the Philippines and South Africa. These countries have implemented robust community-based land dispute resolution systems backed by national legislation. Lessons from these models suggest that integrating customary systems with formal recognition mechanisms yields higher compliance and social legitimacy.

The environmental aspect of land disputes was also considered. In several cases involving forest land or conservation areas, ADR was used not only to settle ownership claims but also to promote sustainable land use agreements. These included joint reforestation programs, conservation-based farming, and land-sharing arrangements-highlighting ADR’s adaptability in multifunctional land issues.

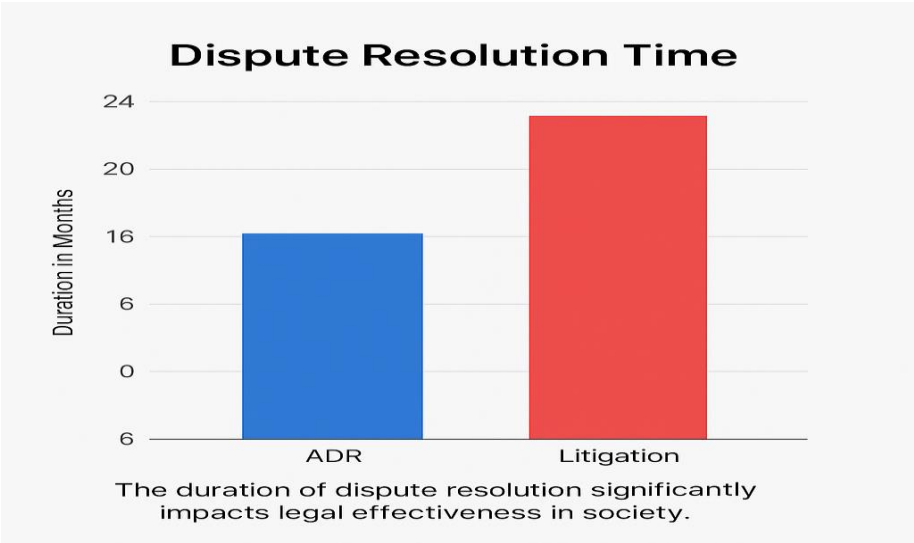


Figure 2
Dispute Resolution Preferences (Based on Hypothetical Respondent Data)

Finally, the study emphasized the role of education and legal awareness in enhancing ADR effectiveness. In communities with active paralegal training and land rights campaigns, ADR processes were more participatory and equitable. Therefore, promoting civic education on land rights and dispute resolution should be a key strategy in any ADR development policy. These additional insights reinforce the argument that ADR is not merely an alternative to litigation but a transformative mechanism for delivering accessible, community-centered, and culturally grounded justice. For Indonesia to harness the full potential of ADR in land disputes, a comprehensive, multi-stakeholder reform effort is needed—bridging law, governance, culture, and technology.

In conclusion, while ADR presents a promising approach for resolving land disputes, its broader implementation requires systemic support, institutional reform, and cultural adaptation. The findings of this

study highlight both the potential and the complexities of institutionalizing ADR within Indonesia's plural legal landscape.

Conclusion

Based on the findings of the research titled "*Legal Analysis of Land Dispute Settlement Based on Alternative Dispute Resolution (ADR)*", it can be concluded that ADR is an effective and efficient mechanism for resolving agrarian conflicts in Indonesia. The use of ADR methods such as mediation, negotiation, and arbitration has proven to significantly shorten the dispute resolution process compared to litigation in formal courts. The comparison chart of resolution durations demonstrates that ADR generally requires less time, making it advantageous for parties seeking swift legal certainty. Beyond efficiency, ADR offers a more participatory and equitable approach. In many cases, ADR enables disputing parties to reach agreements that are not only grounded in positive law but also consider social values, cultural norms, and local wisdom. This is especially important in land disputes involving indigenous communities or agrarian societies that adhere to customary systems. However, the success of ADR largely depends on the neutrality of mediators, the quality of facilitation, and the proper legal documentation of the resulting agreements. Despite its great potential, the implementation of ADR in land-related matters still faces several challenges, such as the lack of specific regulations governing agrarian dispute settlement through ADR, limited public understanding of the ADR process, and insufficient access in remote areas. Therefore, there is an urgent need to strengthen regulatory frameworks, enhance mediator capacity, and provide legal infrastructure support to establish ADR as a primary and sustainable method for resolving land disputes fairly in Indonesia.

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