Proceeding of the 5th Malikussaleh International Conference on Law, Legal Studies and Social Sciences (MICoLLS) 2025

Legal Pluralism in Practice: Reconciling Gala Customary Disputes with Principles of Justice in Indonesia's National Law

1st Fitria Mardhatillah
1st Universitas Malikussaleh
fitriamardhatillah@unimal.ac.id

2nd Laila M Rasyid
2nd Universitas Malikussaleh
laila.mrasyid@unimal.ac.id

3rd Shira Thani
3rd Universitas Malikussaleh
shirathani@unimal.ac.id

4th Muammar
4th Universitas Malikussaleh
muammar@mhs.unimal.ac.id

5th Nanda Setia Saputra
5th Universitas Malikussaleh
Nanda.220510161@mhs.unimal.ac.id

6th Helsinki Meutia Gamma
6th Universitas Malikussaleh
helsinki.230510311@mhs.unimal.ac.id

ABSTRACT

The persistence of *gala* (land pawn) practices in Aceh illustrates the resilience of customary law in regulating intergenerational land use, but it also generates potential agrarian conflicts due to the absence of clear normative formulation in Indonesia's positive legal framework. This research aims to formulate a normative model for resolving *gala* conflicts that ensures justice and consistency with national legal principles. Using a qualitative juridical-normative approach supported by field interviews and document analysis, the study highlights that although most *gala* disputes are resolved amicably at the community level, unresolved cases

often expose the tension between *adat* legitimacy, economic vulnerability, and the requirement of legal certainty. The findings reveal that integrating the principles of justice (*keadilan*), legal certainty (*kepastian hukum*), and legal benefit (*kemanfaatan hukum*) into a formalized dispute resolution mechanism is crucial to harmonize *adat* practices with the national legal order. This normative formulation not only affirms the recognition of customary law as guaranteed under Article 18B of the 1945 Constitution and the Basic Agrarian Law (Law No. 5/1960), but also provides legal safeguards against potential abuse and intergenerational disputes. By situating *gala* within Indonesia's agrarian law framework, the study contributes to strengthening a plural yet integrated legal system that accommodates local wisdom while upholding the principles of justice and equality before the law.

Keywords: *Gala, Agrarian Conflict, Customary Law, Legal Pluralism*

1. INTRODUCTION

The legal pluralism approach views customary law not as a legal system that stands alone or marginalized from other legal orders, but as part of a legal system that actively and continuously interacts with national and international law. In the framework of legal pluralism, customary law societies are understood as a semi-autonomous social space that is able to form its own legal norms through the process of interaction and mutual influence with other legal communities. The application of the legal pluralism approach in the study of customary law can be classified into three forms. First, legal pluralism is weak, namely when customary law obtains recognition from the state through laws and regulations or court decisions. Second, strong legal pluralism, which is characterized by the existence of semi-autonomous social areas and the practice of shopping forums and shopping forums. Third, multi-site legal pluralism, which is used to explain the interconnectedness of various legal phenomena between customary law at the local level, national law, and international law, including the role of information and communication technology in connecting the three domains of law.[1]

The practice of gala (land pawning) is a form of customary law that is still alive and carried out in a sustainable manner in Acehnese society. Gala not only serves as an economic mechanism to meet urgent needs, but also as a social instrument that regulates the relationship of ownership and land use based on trust and family values. Its continuity across generations shows that customary law has strong binding power and social legitimacy in regulating agrarian affairs at the local level, although the practice is generally carried out unwritten and without administrative records.[2]

[1] Sartika Intaning Pradhani. (2021). Pendekatan pluralisme hukum dalam studi hukum adat: Interaksi hukum adat dengan hukum nasional dan internasional. *Undang: Jurnal Hukum*, 4(1), 81–124. https://doi.org/10.22437/ujh.4.1.81-124

[2] Azharsyah Ibrahim. (2012). Praktik ekonomi masyarakat Aceh dalam konteks ekonomi Islam: Kajian terhadap sistem mawah dan gala. *In Proceedings of the Aceh Development International Conference* (ADIC). International Islamic University Malaysia.

However, the existence of gala as a customary law practice has not been balanced by a clear arrangement in Indonesia's positive legal system. This normative regulatory vacuum puts the gala in a vulnerable position, especially when there is a dispute over mortgaged land. The absence of written legal standards leads to different interpretations of the rights and obligations of the parties, especially in the context of the change of generations and increasing economic value of the land. This condition contributes to the emergence of agrarian conflicts that are not only juridical in nature, but also social and economic.

In practice, most gala disputes are resolved through customary mechanisms at the community level by prioritizing deliberation and peace. This settlement pattern reflects the flexibility and local wisdom of customary law in mitigating conflicts.[3] However, such mechanisms are not always effective, especially when disputes involve significant economic interests or when the parties no longer recognize the authority of customary institutions. At this point, gala dispute resolution is often faced with legal problems, namely the limitations of evidence and the weak position of customary law in the formal justice system.

These problems show the need for a normative reconstruction of the practice of gala that not only acknowledges its existence, but also provides certainty and legal protection. This reconstruction needs to be based on the fundamental principles of law, namely justice, legal certainty, and legal utility, so that the settlement of gala disputes does not cause inequality or abuse, especially against economically weaker parties. This approach is expected to be able to maintain customary values while meeting the demands of the national legal system.

Therefore, it is important to formulate a model of gala integration into a plural but integrated national agrarian legal system. This model is not intended to eliminate the character of customary law, but rather to place the gala within a legal framework that provides constitutional recognition, legal protection, and certainty for the parties. Thus, the practice of gala can function sustainably as part of a living customary law, while being in harmony with the principles of Indonesian agrarian law.

2. RESEARCH METHODE

This study uses a qualitative juridical-normative approach supported by limited empirical data through interviews and document analysis as a reinforcement of legal argumentation (*normative research with empirical support*). A juridical-normative approach was chosen to examine the conformity of gala dispute practices with positive legal norms, the principle of legal certainty, and the doctrine of legal pluralism in the Indonesian agrarian system.[4] Empirical reinforcement was carried

[3] Nanda Amalia, Mukhlis, & Yusrizal. (2018). Dispute Resolution and Customary Justice Model in Aceh. *Journal of Law IUS QUIA IUSTUM, 25*(1), 159–179. https://doi.org/10.20885/iustum.vol25.iss1.art8

[4] Peter Mahmud Marzuki. (2017). *Penelitian Hukum*. Jakarta: Kencana.

out to obtain a factual picture of dispute resolution practices at the indigenous community level.[5]

3. DISCUSSION

3.1 Gala Practice in Land Tenure: Between Social Legitimacy and Normative Emptiness

Legal pluralism is the main character in the Indonesian legal system, namely the norm of the state coexisting with customary law and religious law in the same social space.[6] Constitutionally, the recognition of customary law is affirmed in Article 18B paragraph (2) of the 1945 Constitution which opens up the space for legitimacy for the existence of a local legal system as long as it is in line with the principle of the state of law. In the context of agrarian law, the Basic Agrarian Law (UUPA) of 1960 also affirms that customary law is the main basis for the formation of national land law, as long as it does not conflict with national interests and development.[7]

In Aceh, one of the traditional practices that still survives and functions as an instrument to solve the economic needs of the community is gala (land pawn). Gala is a customary agreement in which the landowner hands over land use rights to the gala recipient as collateral for the loan, without transferring the land ownership rights. This practice reflects customary law as *a living law* that works faster and more flexibly in responding to the needs of the community than the formal administrative process.[8] However, the absence of written regulations, time limits, and administrative evidence often led to the gala developing into a legally fraught intergenerational relationship full of uncertainty.[9]

In practice, gala agreements are often conducted orally, based on social beliefs, and witnessed by the public without formal documentation. This condition reflects the strong character of customary law that emphasizes *trust-based agreements*, but at the same time shows the weak protection of law when disputes occur.[10] When gala relationships are inherited between generations, there are often differences in interpretations regarding the status of the land, the period of return, and even

---

Soerjono Soekanto & Sri Mamudji. (2006). *Penelitian Hukum Normatif*. Jakarta: RajaGrafindo Persada.

[5] Sulistyowati Irianto. (2011). *Pluralisme Hukum: Refleksi dan Tantangan bagi Ilmu Hukum*. Jakarta: Yayasan Obor Indonesia.

[6] Rika Afrida Yanti & Irwansyah. (2023). Pluralisme Hukum di Indonesia. *Jurnal Cerdas Hukum*, 2(1).

[7] Boedi Harsono. (2008). *Hukum Agraria Indonesia: Sejarah Pembentukan UUPA*, Isi, dan Pelaksanaannya. Jakarta: Djambatan.

[8] Tgk. Syarkawi & Khairul Ikhwan. (2022). Hilah Syar'iyyah terhadap hukum gala dalam masyarakat Aceh menurut fikih Syāfi'iyyah. *Jurnal Al-Nadhair*, 1(2), 147–157. https://doi.org/10.61433/alnadhair.v1i2.15

[9] Ayu Chairun Nisa & Arini Asriyani. (2025). Dinamika agraria nasional dan sengketa tanah adat dalam perspektif hukum kontemporer. *Jurnal Ilmiah Multidisiplin AMSIR*, *3*(2).

[10] Muhammad Julyano & Arief Yulianto Sulistyawan. (2019). *Pemahaman terhadap asas kepastian hukum melalui konstruksi penalaran positivisme hukum*. CREPIDO: Jurnal Mengenai Dasar-Dasar Pemikiran Hukum: Filsafat dan Ilmu Hukum, 1(1). https://ejournal2.undip.ac.id/index.php/crepido/

ownership claims. In many cases, the imbalance of bargaining positions between the mortgagee's family and the landowner triggers latent agrarian conflicts that are difficult to resolve with just a customary or formal approach.

Furthermore, the practice of gala also intersects with Perpu No. 56 of 1960 concerning the Determination of Agricultural Land Area which limits the practice of land pawning to a maximum of 7 years. This means that when the gala agreement lasts for decades without resolution, there is a potential conflict with the spirit of national agrarian regulations that emphasize fair distribution and certainty of land tenure. But on the other hand, the unilateral termination of gala practices based on formal law also has the potential to ignore the sociological values of the indigenous peoples of Aceh that place deliberation and peace (*shulh*)[11] as the main principle of conflict resolution.

This condition shows that there is a *legal gap* between legal protection guaranteed by the state and customary-based conflict resolution mechanisms that are still dominant at the community level. Without a normative design capable of accommodating both legal systems, gala dispute resolution will continue to be in a gray space: socially recognized, but legally vulnerable. Therefore, a dispute resolution model is needed that is not only based on customary recognition, but also meets the principles of justice, certainty, and usefulness within the national legal framework.

In addition, national agrarian law systems that emphasize the certainty of rights through certification and administrative proof tend not to fully accommodate informal and faith-based gala practices. This inconsistency makes it difficult to prove the practice of gala juridically when the dispute is brought to the realm of formal law, so that the position of parties who depend on customary law becomes legally weak.

The potential for agrarian conflict is increasingly complex when economic vulnerability factors also play a role in the relationship between the gala. In many cases, the gala giver is in a weak economic condition, while the gala recipient has stronger access to capital. This inequality opens up space for abuse, such as land tenure that lasts for a very long time without clarity of settlement, which ultimately harms landowners and their heirs.

3.2 Gala Dispute Resolution Patterns in Acehnese Society

Dispute resolution (including gala) in Acehnese society is generally carried out through customary mechanisms based on the values of deliberation, peace, and social harmony through mediation.[12] Customary institutions such as *keuchik, tuha peut*, and religious leaders have a central role as mediators in resolving disputes

[11] Ma'rifah Yulian**.** (2017). Akad shulh dalam Sengketa Hukum Muamalah (Litigasi dan Non Litigasi). *Jurnal Syariah: Jurnal Ilmu Hukum dan Pemikiran*, 17(2), 127–142.

[12] T. Surya Reza & Muhammad Husnul. (2024). Kewenangan Majelis Adat Aceh sebagai lembaga adat dalam penyelesaian sengketa melalui mediasi. *Fundamental: Jurnal Ilmiah Hukum*, 13(1).

arising from gala relationships, both related to the term of land tenure, utilization rights, and claims from heirs.[13] This settlement pattern reflects the character of Acehnese customary law which places consensus and the restoration of social relations as the main goal, not solely the formal enforcement of rights.

In practice, the gala dispute resolution process usually begins with informal negotiations between the parties to the dispute. If no agreement is reached, the dispute is then brought to the customary forum at the gampong level.[14] The forum serves as a flexible dialogue space, where the parties are encouraged to reach an agreement that is considered fair based on local customs and moral considerations. The resulting decisions are expressed in the form of written decisions that are juridically binding and obeyed because they have strong social legitimacy.

Although customary mechanisms are relatively effective in resolving simple gala disputes, they face limitations when disputes involve significant economic interests or run across generations. Changes in social structure, increasing land values, and weakening understanding of customary norms often cause customary agreements to be questioned or ignored. In these conditions, customary mechanisms lose coercion, so disputes have the potential to continue into the realm of formal law.

When a gala dispute is brought to the state judiciary, evidentiary problems arise because the gala agreement is generally not supported by written documents. Judges tend to prioritize formal evidence in accordance with the civil procedure law,[15] Meanwhile, customary testimony and customary norms often do not receive adequate evidentiary weight. This situation puts customary law in a weak position, even though socially the practice of gala is recognized and practiced by the community.

Thus, the pattern of gala dispute resolution in Acehnese society shows the dualism of the resolution mechanism, namely between the customary forum and the state forum. Although customary forums are more responsive to substantive justice values and social contexts, normative limitations and weak formal recognition mean that gala dispute resolution does not fully guarantee legal certainty and protection. This condition emphasizes the need to integrate customary mechanisms into the national legal framework so that gala dispute resolution can run effectively, fairly, and sustainably.

[13] Fitria Mardhatillah, Fitri Maghfirah, & Shira Thani. (2023). Penyelesaian Sengketa Mawah di Lembaga Adat Aceh dalam Hukum Islam. *Jurnal Ius Civile (Refleksi Penegakan Hukum dan Keadilan*), 7(2).

[14] Article 13 paragraph (2) of Qanun Aceh No. 9 of 2008 Development of Customary Life and Customs.

[15] Deasy Soeikromo. (2014). Proses pembuktian dan penggunaan alat-alat bukti pada perkara perdata di pengadilan. *Lex Privatum*, II (1).

3.3 Gala Integration Model in the National Agrarian Law System

The integration of gala practice into the national agrarian law system is a strategic step to bridge the applicability of customary law with the demands of state legal certainty. As a living customary law practice, gala has a strong social legitimacy in society, especially in regulating land tenure and utilization. However, the absence of clear normative arrangements causes this practice to be outside the formal legal system, making it vulnerable to agrarian conflicts and legal uncertainty. Therefore, gala integration needs to be carried out through a normative approach that does not negate customary values, but instead accommodates them within the framework of national law.

The integration model offered in this study departs from the constitutional recognition of customary law as stipulated in Article 18B paragraph (2) of the 1945 Constitution and the principles of national agrarian law in the Basic Agrarian Law (Law No. 5 of 1960). This recognition is the juridical basis for the state to provide space for the practice of gala as part of a legitimate land tenure system, as long as it does not conflict with national interests and the principles of social justice. Thus, gala integration is not a form of customary law subordination, but rather a strengthening of customary law positions within the framework of managed legal pluralism.

Normatively, gala integration can be realized through limited formalization mechanisms, such as recording gala agreements at the gampong level or local land institutions. This recording is not intended to change the character of the gala custom, but to provide legal certainty regarding the parties, land objects, the term of time, and the rights and obligations of each party. With this minimum documentation, the potential for intergenerational disputes can be minimized, as well as facilitate the evidentiary process if the dispute continues to the formal legal realm.

In addition to the administrative aspect, the integration model also places the customary dispute resolution mechanism as the initial part of the agrarian dispute settlement system. Settlement through customary institutions can be positioned as a legally recognized non-litigation stage, before the dispute is submitted to the courts. This approach is in line with the principles of deliberative and restorative dispute resolution that have long been practiced in customary law, while providing formal legitimacy to the role of customary institutions in the national legal system.

The gala integration model in the national agrarian legal system must ultimately be oriented towards fulfilling the principles of justice, legal certainty, and legal utility. Integration based on these principles is expected to be able to protect the interests of the parties, especially economically vulnerable indigenous peoples, without eliminating the local values inherent in gala practices. Thus, the gala can function sustainably as a recognized and protected customary law institution, and contribute to the strengthening of Indonesia's plural, fair, and integrated agrarian law system.

4. CONCLUSION

Practice of *gala* as a form of customary land tenure in Aceh reflects the continued vitality of customary law within Indonesia's plural legal landscape. While *gala* operates as a socially legitimate mechanism for regulating land use and addressing economic needs across generations, its informal and unwritten nature exposes significant legal vulnerabilities, particularly in the context of agrarian disputes. The absence of clear normative regulation within Indonesia's national legal framework has contributed to recurring conflicts, legal uncertainty, and unequal bargaining positions among disputing parties. The findings reveal that although most *gala* disputes are resolved through customary mechanisms emphasizing consensus and social harmony, such approaches are not always sufficient when confronted with complex intergenerational claims, economic pressures, or demands for formal legal recognition. These limitations underscore the tension between the legitimacy of customary law and the requirements of legal certainty upheld by the state legal system. This research argues that reconciling *gala* disputes within Indonesia's national law requires a normative framework grounded in the principles of justice, legal certainty, and legal utility. Rather than subordinating customary law to state law, an integrative model of legal pluralism is necessary—one that formally recognizes *gala* while safeguarding against abuse and ensuring equitable dispute resolution. By situating *gala* within Indonesia's agrarian legal system and constitutional commitment to the recognition of customary law, this study contributes to the development of a plural yet coherent legal order that accommodates local wisdom while upholding fairness and equality before the law.

5. AUTHORS' CONTRIBUTIONS

The author conceptualized and designed the study, including the formulation of the research problem and analytical framework. The author conducted the normative legal analysis, examined statutory regulations and relevant legal doctrines, and integrated customary law perspectives into the national agrarian law framework. Data collection, including document analysis and interpretation of customary dispute resolution practices, was carried out by the author. The author also developed the proposed integrative normative model for gala within Indonesia's agrarian legal system and drafted, reviewed, and finalized the manuscript.

6. ACKNOWLEDGMENTS

Acknowledgmentsto all parties who have assisted in the completion of this article and to the entire committee team of the Proceedings of the 5th Malikussaleh

International Conference on Law, Legal Studies and Social Science (MICoLLS) 2025, which will publish this article

REFERENCES

Ayu Chairun Nisa & Arini Asriyani. (2025). Dinamika agraria nasional dan sengketa tanah adat dalam perspektif hukum kontemporer. *Jurnal Ilmiah Multidisiplin AMSIR*, 3(2).

Boedi Harsono. (2008). *Hukum Agraria Indonesia: Sejarah Pembentukan UUPA*, Isi, dan Pelaksanaannya. Jakarta: Djambatan.

Deasy Soeikromo. (2014). Proses pembuktian dan penggunaan alat-alat bukti pada perkara perdata di pengadilan. *Lex Privatum*, II (1).

Fitria Mardhatillah, Fitri Maghfirah, & Shira Thani. (2023). Penyelesaian Sengketa Mawah di Lembaga Adat Aceh dalam Hukum Islam. *Jurnal Ius Civile (Refleksi Penegakan Hukum dan Keadilan*), 7(2).

Ma'rifah Yulian. (2017). Akad shulh dalam Sengketa Hukum Muamalah (Litigasi dan Non Litigasi). *Jurnal Syariah: Jurnal Ilmu Hukum dan Pemikiran*, 17(2).

Muhammad Julyano & Arief Yulianto Sulistyawan. (2019). *Pemahaman terhadap asas kepastian hukum melalui konstruksi penalaran positivisme hukum*. CREPIDO: Jurnal Mengenai Dasar-Dasar Pemikiran Hukum: Filsafat dan Ilmu Hukum, 1(1). https://ejournal2.undip.ac.id/index.php/crepido/

Nanda Amalia, Mukhlis, & Yusrizal. (2018). Model penyelesaian sengketa dan peradilan adat di Aceh. *Jurnal Hukum IUS QUIA IUSTUM, 25*(1). https://doi.org/10.20885/iustum.vol25.iss1.art8

Peter Mahmud Marzuki. (2017). *Penelitian Hukum*. Jakarta: Kencana.

Rika Afrida Yanti & Irwansyah. (2023). Pluralisme Hukum di Indonesia. *Jurnal Cerdas Hukum*, 2(1).

Sartika Intaning Pradhani. (2021). Pendekatan pluralisme hukum dalam studi hukum adat: Interaksi hukum adat dengan hukum nasional dan internasional. *Undang: Jurnal Hukum*, 4(1). https://doi.org/10.22437/ujh.4.1.81-124

Soerjono Soekanto & Sri Mamudji. (2006). *Penelitian Hukum Normatif*. Jakarta: RajaGrafindo Persada.

Sulistyowati Irianto. (2011). *Pluralisme Hukum: Refleksi dan Tantangan bagi Ilmu Hukum*. Jakarta: Yayasan Obor Indonesia.

T. Surya Reza & Muhammad Husnul. (2024). Kewenangan Majelis Adat Aceh sebagai lembaga adat dalam penyelesaian sengketa melalui mediasi. *Fundamental: Jurnal Ilmiah Hukum*, 13(1).

Tgk. Syarkawi & Khairul Ikhwan. (2022). Hilah Syar'iyyah terhadap hukum gala dalam masyarakat Aceh menurut fikih Syāfi'iyyah. *Jurnal Al-Nadhair*, 1(2). https://doi.org/10.61433/alnadhair.v1i2.15