

STRATEGY FOR THE INTEGRATION OF CUSTOMARY LAW AND NATIONAL LAW FOR SUSTAINABLE VILLAGE BOUNDARY DISPUTE RESOLUTION IN INDONESIA

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ABSTRACT

The integration of customary law and national law is a must to resolve village boundary disputes in Indonesia, given the high level of conflict triggered by differences in interpretation of the two legal systems; The ultimate goal of this research is to formulate a harmonious legal integration model, create legal certainty for the government, and recognize the rights of indigenous peoples, thereby supporting fair and sustainable village development; The main legal basis studied includes the 1945 Constitution of the Republic of Indonesia Article 18B paragraph (2), Law Number 6 of 2014 concerning Villages, and Regulation of the Minister of Home Affairs Number 45 of 2016 concerning the Determination and Affirmation of Village Boundaries; The research method used is Normative Juridical by examining secondary data in the form of laws and regulations, legal documents, and journals, using legislative, conceptual, and historical approaches; The proposed integration strategy emphasizes participatory approaches, mediation based on local wisdom (non-litigation), and regulatory harmonization to achieve lasting conflict resolution, placing customary deliberation as a prerequisite in the national cartometric process, so that the juridically established boundaries also have sociological legitimacy.

Keywords: Legal Integration; Customary Law; Village Boundaries; Dispute.

1. INTRODUCTION

The determination and affirmation of village boundaries is a fundamental aspect of governance in Indonesia, the smallest administrative unit that plays an important and central role in national development. Clear boundaries not only create administrative order and legal certainty, but are also crucial for the allocation of Village Funds, natural resource management, and the prevention of inter-village social conflicts¹. However, the process of determining village boundaries in Indonesia is often a source of prolonged disputes. These conflicts, especially in rural areas rich in cultural heritage, where communities still hold and believe in cultural heritage as part

¹ A. Purnomo, Idris, dan B. Kurniawan, "Inventarisasi Data Keruangan Melalui Pemetaan Partisipatif Batas Desa Langlang Kecamatan Singosari Kabupaten Malang," *JPM (Jurnal Pemberdayaan Masyarakat)*, Vol. 8, No. 2 (November 2023): 217-224.

of the spiritual life of indigenous peoples, generally stem from tensions between two coexisting legal systems: Customary Law and National Law².

Customary Law, as a law rooted in the values of local wisdom, traditions, and hereditary agreements, determines village boundaries based on natural, historical, or customary landmarks³. This system strongly upholds consensus and togetherness, so that customarily recognized boundaries have strong sociological legitimacy. On the other hand, the National Law, which is regulated through Law Number 6 of 2014 concerning Villages and its technical instructions in the Regulation of the Minister of Home Affairs Number 45 of 2016, requires the determination of formal, standardized, and cartometric boundaries (technical measurements on top of the base map)⁴. This formal-technical approach, while aimed at creating legal certainty, often ignores or contradicts the boundaries that local communities have believed in and practiced for centuries⁵.

Statistical data show the urgency of this problem. It is estimated that around 60% to 70% of village/land boundary disputes in Indonesia are closely related to differences in interpretation or incompatibility between the boundaries set juridically by the government and customarily recognized boundaries. As an example of a case, the rejection of the people of Oenbit Village, North Central Timor Regency, East Nusa Tenggara, to determine village boundaries using Permendagri No. 45 of 2016 is clear evidence that unilateral determination without accommodating local wisdom can trigger serious social conflicts⁶. Similar conflicts also occurred in Gampong Meurandeh Dayah (Langsa) where weak regulatory implementation and lack of socio-cultural approaches resulted in boundary uncertainty⁷.

The Constitution of Indonesia, through Article 18B Paragraph (2) of the 1945 Constitution, expressly recognizes and respects the units of customary law communities and their traditional rights as long as they are alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia⁸. This recognition became the philosophical and juridical basis for integration efforts.

Therefore, it is important to formulate an integration strategy that not only ensures formal legal certainty (National Law) but also respects and empowers local wisdom (Customary Law), so

² Patabang et al., "Pemetaan Partisipatif Penetapan Batas Desa Carangwulung," *Jurnal Abdi Masyarakat Indonesia (JAMSI)*, Vol. 5, No. 4 (Juli 2025): 1439-1450.

³ Elyani Elyani dan Khamo Waruwu, "Menggali Kearifan Lokal Tentang Adat Istiadat dan Pelestarian Sumber Daya Alam dan Lingkungan," *LOGISTA - Jurnal Ilmiah Pengabdian kepada Masyarakat*, Vol. 4, No. 2 (Desember 2020): 435-442.

⁴ Nurdin, M. (2022). Hukum Nasional dan Hukum Adat: Suatu Tinjauan Kritis. *Jurnal Hukum dan Pembangunan*, 14(1), 75-90

⁵ Hasim, M. R., Gunawan, B. A., Wildanah H, & Samma, R. (2025). Konflik Tapal Batas Desa: Tantangan Hukum dan Strategi Penyelesaian Sengketa. *Amanna Gappa: Jurnal Hukum*, 33(1), 85–97.

⁶ M. Reza Hasim, Burhanuddin Al Gunawan, Wiwin H., dan Rachman Samma, "Konflik Tapal Batas Desa: Tantangan Hukum dan Strategi Penyelesaian Sengketa," *Amanna Gappa*, Vol. 33, No. 1 (Maret 2025): 85-97

⁷ Adiati, G., Krisna, LA, Rachmad, A., Iqbal, M., & Ulya, Z. (2025). Tantangan Hukum dalam Penetapan Tapal Batas Desa: Studi Kasus Gampong Meurandeh Dayah. *Jurnal Lokus Tinjauan Pustaka Akademik*, 4 (5), 302–312. <https://doi.org/10.56128/ljoalr.v4i5.521>.

⁸ Article 18B Paragraph (2) of the 1945 Constitution

as to create a restorative and sustainable dispute resolution⁹. This integration requires harmonization of legislation, increased understanding of the apparatus, and the adoption of a non-litigation dispute resolution mechanism involving indigenous leaders and local wisdom¹⁰. This research is here to comprehensively analyze the strategy, with the hope of providing practical recommendations for policymakers to realize a sustainable and peaceful village boundary administration order.

2. METHODS

The research method used is Normative Juridical (Normative Juridical Research)¹¹. This approach focuses on the analysis of positive legal norms in relation to legal principles and the implementation of customary law, particularly in the context of the determination and settlement of village boundary disputes.

Research data is secondary data, which includes primary legal materials (laws and regulations), secondary legal materials (books, scientific journals, and research results), and tertiary legal materials (legal dictionaries and encyclopedias).

In its implementation, this study uses three main approaches:

- Statute Approach: Examine all laws and regulations related to the issue of determining village boundaries, especially Law Number 6 of 2014 and Regulation of the Minister of Home Affairs Number 45 of 2016, as well as regulations related to the recognition of Customary Law Communities.
- Conceptual Approach: Analyzing the views and doctrines of legal science related to legal pluralism, legal integration, and the concept of local wisdom in agrarian dispute resolution.
- Historical Approach: Conducted to understand the philosophy and evolution of customary law rules and national law over time, as well as to analyze the changes in philosophy that underlie the setting of village boundaries.

Hasil dan Pembahasan

3. RESULTS AND DISCUSSION

3.1. Comparison and Conflict of Customary-National Law within Village Boundaries

The tension between customary law and national law in determining village boundaries is rooted in philosophical differences, sources, and mechanisms for determining them¹².

⁹ Putra, H. (2021). Penyelesaian Sengketa Batas Desa: Pendekatan Hukum Adat. *Jurnal Hukum dan Masyarakat*, 13(1), 50-65.

¹⁰ Lestari, D., & Wahyudi, M. (2024). *Harmonisasi Perundang-undangan untuk Perlindungan Masyarakat Adat di Indonesia*. *Jurnal Legislasi Indonesia*, 21(1), 41–58.

¹¹ Agus Yunus, *Metodologi Penelitian Hukum*, FH-Universitas Diponegoro, 2021, Hal. 41

¹² Nugroho, A., & Arliman, L. (2021). *Harmonisasi Hukum Nasional dan Hukum Adat di Indonesia: Tantangan dan Prospek*. *Jurnal Rechts Vinding*, 10(1), 45–60.

Table 1. Differences in Philosophy and Principles

Aspects	Customary Law	National Law	Sources of Conflict
Key Principles	Consensus, Communalism, Natural Balance, and Local Wisdom.	Legal Certainty, Administrative Order, Uniformity, and Formality.	Value conflicts. Customary boundaries are flexible, national boundaries are rigid and cartometric.
Legal Resources	Unwritten, values, traditions, deliberations, and oral agreements are passed down from generation to generation.	It is written, the hierarchy of laws and regulations (Village Law, Regulation of the Minister of Home Affairs No. 45/2016).	Hukum nasional sering mengabaikan batas yang tidak terdokumentasi formal.
Mechanism	Customary deliberation, the role of traditional leaders/village elders (e.g., the Karakatan Concept).	Cartometric approach, field survey, and determination through Regent/Mayor Regulations.	The inconsistency of technical measurement results with historical-customary claims, triggers disputes of up to 70%.

3.2. Challenges of Implementing National Law

Regulation of the Minister of Home Affairs Number 45 of 2016 concerning Guidelines for the Determination and Affirmation of Village Boundaries aims to provide legal certainty¹³. However, in practice, the implementation of these regulations often fails to integrate sociological facts. The main challenge is the lack of official recognition from the government of the customarily agreed village boundaries, thus causing disputes¹⁴. In addition, there is a problem of minimal technical capacity at the regional level and the tendency of the authorities to prioritize formal juridical data (*legality arrogance*) over sociological facts that the public believes¹⁵. Village boundary disputes arising from this disconnection not only disrupt administration, but also have the potential to undermine social integration and hinder sustainable management of natural resources¹⁶.

¹³ Peraturan Menteri Dalam Negeri Nomor 45 Tahun 2016 Tentang Pedoman Penetapan dan Penegasan Batas Desa

¹⁴ Rahardjo, S. (2021). Integration of Customary Law in National Law. *Journal of Legal Sciences*, 15(2), 101-120.

¹⁵ Mahmud, M. (2020). *Pengakuan Konstitusional atas Masyarakat Hukum Adat di Indonesia: Analisis Pasal 18B(2) UUD 1945*. *Jurnal Hukum Ius Quia Iustum*, 27(2), 256–275.

¹⁶ Rahman, F. (2023). *Peran Tokoh Adat dalam Alternatif Penyelesaian Sengketa di Indonesia*. *Jurnal Ilmu Hukum Litigasi*, 24(3), 301–320.

3.3. Legal Integration Strategy for Sustainable Dispute Resolution

To overcome this conflict and create lasting dispute resolution, a legal integration strategy is needed that places Customary Law on an equal footing and complement with National Law, in accordance with the spirit of legal pluralism¹⁷.

3.3.1. Harmonization of Legislation (Recognition and Subsidiarity)

This strategy begins by strengthening the existing legal foundation through the principles of recognition (recognition) and subsidiarity (provision of space) to customary law¹⁸.

- **Participatory Mapping:** The process of cartometric delineation (determination of boundaries) by the government must be preceded and based on participatory mapping involving Indigenous Peoples Historical-customary boundaries must be the *main supporting data* (not just complementary) in the drawing of technical boundaries, so that the results of the determination of national laws have sociological legitimacy¹⁹.
- **Harmonization of Provisions:** It is necessary to re-evaluate the provisions in the Regulation of the Minister of Home Affairs No. 45 of 2016 to be more in line with relevant customary law principles, especially by recognizing customarily agreed natural or artificial boundary markers as the initial coordinate points in the measurement process.

3.3.2. Non-Litigation Approach Based on Local Wisdom

Settlement of village boundary disputes should prioritize non-litigation (outside the court) pathway as this method has been shown to be more effective in creating peace (restorative justice) and maintaining social relations²⁰.

- **Mandatory Customary Mediation:** The determination of disputed village boundaries is mandatory through the village deliberation stage facilitated by customary institutions or respected traditional leaders. Local governments should provide formal space for customary institutions to lead boundary dispute mediation, using an approach that combines elements of customary law and positive law.
- **Model of "Customary Consensus Deliberation - National Formalization":** The results of the village boundary agreement reached through customary deliberation must be an *absolute prerequisite* before it is ratified into a Regent/Mayor Regulation, so that the boundaries set are not only juridically legal but also socially and culturally legitimate²¹.

¹⁷ Pangestu, R., & Wijaya, I. (2023). "Penyelesaian Sengketa Tanah Adat: Perbandingan Hukum Nasional dan Hukum Adat di Indonesia." *Jurnal Agraria & Agraria Hukum*, 14 (1), hlm. 27–50.

¹⁸ Sari, A. N. L. (2020). Pengakuan dan Perlindungan Hukum Terhadap Masyarakat Hukum Adat (Dalam Perspektif Negara Hukum). *Ganec Swara*, 14(1), 1-15.

¹⁹ Yanti, W., & Saputra, R. (2024). Penguatan Hukum Adat Dalam Politik Hukum Nasional (Integrasi untuk Penguatan Pluralisme Hukum). *Jurnal Untan: Tanjungpura Law Journal*, 8(1), 1-15.

²⁰ Basri, M., & Sampara, S. (2022). *Keadilan Restoratif dan Kearifan Lokal dalam Penyelesaian Sengketa Adat di Indonesia*. *Mimbar Hukum*, 34(1), 112–128.

²¹ Wicaksono, A. (2024). Integrasi Hukum Adat dalam Pembentukan Kebijakan Publik di Indonesia: Menuju Keberlanjutan Sosial dan Budaya. *Jurnal Administrasi & Ekonomi Pembangunan*, 6(2), 180-200.

3.3.3. Capacity Building and Institutional Collaboration

Legal integration requires active collaboration and a change in perspective from government officials.

- **Training and Awareness Raising:** Government officials at the Regency/City to Village levels need to be trained on the principles of customary law and legal pluralism²². This will minimize differences in understanding between national law enforcement and indigenous stakeholders, and help officials design more inclusive and responsive policies.
- **Strengthening the Role of Indigenous Institutions:** The government needs to strengthen the position of indigenous institutions as strategic partners and provide the necessary support so that they can actively participate in the process of mapping and resolving village boundary disputes.

By integrating the values of deliberation, restorative justice, and local wisdom from customary law into the formal procedural framework of national law, village boundary dispute resolution can be achieved that is not only quick and certain, but also sustainable because it is supported by community consensus²³.

4. CONCLUSION AND RECOMMENDATIONS

Kesimpulan dan Rekomendasi

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Village boundary disputes in Indonesia, especially involving Indigenous Law Communities, are largely caused by the disconnect between the principles of Customary Law which are sociological, flexible, and based on local wisdom, and the principles of National Law (Law No. 6/2014 and Regulation of the Minister of Home Affairs No. 45/2016) which are formal, rigid, and prioritize cartometric certainty. This conflict creates legal uncertainty and hinders sustainable village development. An effective and lasting dispute resolution model requires a legal integration strategy that recognizes the two systems as complementary entities within the framework of legal pluralism. This strategy must be carried out through regulatory harmonization, strengthening non-litigation approaches based on customary deliberation, and increasing institutional capacity. The Normative Juridical Method has shown that constitutionally, recognition of the traditional rights of indigenous peoples is the foundation for fair dispute resolution.

Based on the results of the research, there are several strategic recommendations to realize a sustainable settlement of village boundary disputes:

²² Smith, J. A., & Chen, L. (2022). The Role of Customary Law in Land Boundary Disputes in Southeast Asia: A Legal Pluralism Perspective. *International Journal of Legal Studies and Research*, 12(3), 45-68.

²³ Williams, P., & Nugroho, A. (2023). Restorative Justice and Non-Litigation in Agrarian Conflict Resolution: Lessons from Indonesian Local Wisdom. *Asian Journal of Law and Society*, 10(2), 121-140.

- Harmonization of Regulations (Regulation of the Minister of Home Affairs No. 45/2016): The Central and Regional Governments are obliged to revise the regulations on the determination of village boundaries by explicitly including the principle of recognition, which makes the results of participatory mapping and customary agreements as primary data that must be prioritized in the process of cartometric delineation, especially in areas that have strong Customary Law Societies.
- Institutionalization of Customary Mediation: Regional Governments (Regents/Mayors) must issue Regional Head Regulations that require the resolution of village boundary disputes through Customary Mediation mechanisms (non-litigation) facilitated by customary institutions, as a mandatory prerequisite before the dispute is further processed through formal litigation channels or government technical decisions.
- Capacity Building of Apparatus: Village officials and local governments involved in determining village boundaries (Village Community Empowerment Office, National Land Agency) need to be provided with in-depth education and training on legal pluralism and local wisdom. This aims to foster an understanding that legal certainty must go hand in hand with sociological justice.

REFERENCE

- A. Purnomo, Idris, dan B. Kurniawan, "Inventarisasi Data Keruangan Melalui Pemetaan Partisipatif Batas Desa Langlang Kecamatan Singosari Kabupaten Malang," *JPM (Jurnal Pemberdayaan Masyarakat)*, Vol. 8, No. 2 (November 2023): 217-224.
- Adiati, G., Krisna, LA, Rachmad, A., Iqbal, M., & Ulya, Z. (2025). Tantangan Hukum dalam Penetapan Tapal Batas Desa: Studi Kasus Gampong Meurandeh Dayah. *Jurnal Lokus Tinjauan Pustaka Akademik* , 4 (5), 302–312. <https://doi.org/10.56128/ljoalr.v4i5.521>.
- Agus Yunus, Metodologi Penelitian Hukum , FH-Universitas Diponegoro, 2021, Hal. 41
- Basri, M., & Sampara, S. (2022). *Keadilan Restoratif dan Kearifan Lokal dalam Penyelesaian Sengketa Adat di Indonesia*. *Mimbar Hukum* , 34(1), 112–128.
- Elyani Elyani dan Khamo Waruwu, "Menggali Kearifan Lokal Tentang Adat Istiadat dan Pelestarian Sumber Daya Alam dan Lingkungan," *LOGISTA - Jurnal Ilmiah Pengabdian kepada Masyarakat*, Vol. 4, No. 2 (Desember 2020): 435-442.
- Hasim, M. R., Gunawan, B. A., Wildanah H, & Samma, R. (2025). Konflik Tapal Batas Desa: Tantangan Hukum dan Strategi Penyelesaian Sengketa. *Amanna Gappa: Jurnal Hukum*, 33(1), 85–97.
- Lestari, D., & Wahyudi, M. (2024). *Harmonisasi Perundang-undangan untuk Perlindungan Masyarakat Adat di Indonesia*. *Jurnal Legislasi Indonesia* , 21(1), 41–58.
- M. Reza Hasim, Burhanuddin Al Gunawan, Wiwin H., dan Rachman Samma, "Konflik Tapal Batas Desa: Tantangan Hukum dan Strategi Penyelesaian Sengketa," *Amanna Gappa*, Vol. 33, No. 1 (Maret 2025): 85-97
- Mahmud, M. (2020). *Pengakuan Konstitusional atas Masyarakat Hukum Adat di Indonesia: Analisis Pasal 18B(2) UUD 1945* . *Jurnal Hukum Ius Quia Iustum* , 27(2), 256–275.

- Nugroho, A., & Arliman, L. (2021). *Harmonisasi Hukum Nasional dan Hukum Adat di Indonesia: Tantangan dan Prospek*. *Jurnal Rechts Vinding*, 10(1), 45–60.
- Nurdin, M. (2022). Hukum Nasional dan Hukum Adat: Suatu Tinjauan Kritis. *Jurnal Hukum dan Pembangunan*, 14(1), 75-90
- Pangestu, R., & Wijaya, I. (2023). “Penyelesaian Sengketa Tanah Adat: Perbandingan Hukum Nasional dan Hukum Adat di Indonesia.” *Jurnal Agraria & Agraria Hukum*, 14 (1), hlm. 27–50.
- Patabang et al., "Pemetaan Partisipatif Penetapan Batas Desa Carangwulung," *Jurnal Abdi Masyarakat Indonesia (JAMSI)*, Vol. 5, No. 4 (Juli 2025): 1439-1450.
- Peraturan Menteri Dalam Negeri Nomor 45 Tahun 2016 Tentang Pedoman Penetapan dan Penegasan Batas Desa
- Peraturan Menteri Dalam Negeri Nomor 45 Tahun 2016 Tentang Pedoman Penetapan dan Penegasan Batas Desa
- Putra, H. (2021). Penyelesaian Sengketa Batas Desa: Pendekatan Hukum Adat. *Jurnal Hukum dan Masyarakat*, 13(1), 50-65.
- Rahardjo, S. (2021). Integrasi Hukum Adat dalam Hukum Nasional. *Jurnal Ilmu Hukum*, 15(2), 101-120.
- Rahman, F. (2023). *Peran Tokoh Adat dalam Alternatif Penyelesaian Sengketa di Indonesia*. *Jurnal Ilmu Hukum Litigasi*, 24(3), 301–320.
- Sari, A. N. L. (2020). Pengakuan dan Perlindungan Hukum Terhadap Masyarakat Hukum Adat (Dalam Perspektif Negara Hukum). *Ganec Swara*, 14(1), 1-15.
- Smith, J. A., & Chen, L. (2022). The Role of Customary Law in Land Boundary Disputes in Southeast Asia: A Legal Pluralism Perspective. *International Journal of Legal Studies and Research*, 12(3), 45-68.
- Undang-Undang Dasar Negara Kesatuan Republik Indonesia Tahun 1945.
- Wicaksono, A. (2024). Integrasi Hukum Adat dalam Pembentukan Kebijakan Publik di Indonesia: Menuju Keberlanjutan Sosial dan Budaya. *Jurnal Administrasi & Ekonomi Pembangunan*, 6(2), 180-200.
- Williams, P., & Nugroho, A. (2023). Restorative Justice and Non-Litigation in Agrarian Conflict Resolution: Lessons from Indonesian Local Wisdom. *Asian Journal of Law and Society*, 10(2), 121-140.
- Yanti, W., & Saputra, R. (2024). Penguatan Hukum Adat Dalam Politik Hukum Nasional (Integrasi untuk Penguatan Pluralisme Hukum). *Jurnal Untan: Tanjungpura Law Journal*, 8(1), 1-15.