

The Integration Model of Malay Jambi Customary Law Values into the National Legal System for the Resolution of Customary Land Compensation Disputes

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Abstract. *Agrarian conflicts in Jambi Province, particularly those related to compensation for customary land (tanah ulayat), reveal the weak integration between customary law and positive law in protecting indigenous peoples' rights. This study aims to analyze the implementation of compensation for customary land in Jambi and formulate a model of integrating Malay Jambi customary law values into the national legal system. The research employed a normative juridical method with conceptual and evaluative approaches, supported by secondary empirical data from civil society organizations such as WALHI, BRWA, and AMAN. The findings indicate that compensation practices in Jambi emphasize individual cash payments, disregarding the communal nature and spiritual dimensions of customary land. This situation is often exacerbated by the criminalization of indigenous communities in disputes with corporations, further weakening their bargaining position in conflict resolution. As a solution, this study proposes the HARMONI-ULAYAT Model, a framework for integrating the spiritual, social, participatory, and collective sovereignty values of Malay Jambi customary law into positive law. This model can take the form of local policies, administrative regulations, or hybrid tribunals to institutionalize adat-based conflict resolution. This article contributes to the development of agrarian and customary law studies and provides a reference for more responsive policies toward substantive justice.*

Keywords: *Agrarian; Compensation; Conflict; Land; Ulayat.*

1. INTRODUCTION

Agrarian conflicts in Indonesia remain a critical and unresolved issue to this day. According to a report by the Consortium for Agrarian Reform (KPA), more than 212 agrarian conflicts occurred in 2022, covering an area of approximately 1.8 million hectares, most of which involved indigenous communities (Konsorsium Pembaruan Agraria, 2022). In Jambi Province, such conflicts frequently arise from overlapping interests among oil palm plantation corporations, industrial forest concessions, and mining companies with the traditional territories of local indigenous peoples (Kumar, 2025). Customary land (tanah ulayat), which under customary law is recognized as a

collective property of the community, often lacks adequate protection when faced with state-issued business permits. This situation reveals a significant gap between the formal recognition of customary rights in the constitution and national legislation and their actual implementation in the field (Afrianedy Ridho, 2014).

Normatively, the existence of indigenous law communities is recognized in the Indonesian Constitution, specifically Article 18B paragraph (2) of the 1945 Constitution, which is reaffirmed in the Basic Agrarian Law (UUPA) of 1960, Article 3. Furthermore, Constitutional Court Decision No. 35/PUU-X/2012 explicitly states that customary forests are no longer part of state forests. However, such normative recognition is often not followed by effective implementation at the regional level, including in Jambi. Local regulations such as Jambi Provincial Regulation No. 8 of 2024 on the Recognition and Protection of Indigenous Peoples still encounter obstacles in their application, particularly regarding the mechanism of compensation for customary land. The misalignment between customary law and positive law thus represents the root of agrarian disputes in the region (Perkumpulan HUMA, Firda Amalia Putri & Wahidatul Halim, 2024).

In practice, the mechanism for compensating customary land in Jambi tends to be carried out through cash payments directed to individuals. However, customary land possesses social, economic, cultural, and spiritual dimensions that are deeply tied to the continuity of indigenous communities (Mausur I., 2025). Providing cash compensation to specific individuals often generates internal conflicts within the community, weakens social solidarity, and severs the people's spiritual and cultural ties to the land, which is central to their collective identity (Febriana, 2025). Findings from WALHI Jambi indicate that criminalization of indigenous peoples frequently occurs as part of conflict resolution, further weakening their bargaining position in negotiations with corporations. This raises a fundamental question about the extent to which positive law can truly protect the communal rights of indigenous peoples.

From a theoretical legal perspective, this issue can be analyzed through the lens of legal pluralism, which emphasizes the coexistence between customary law systems and state law (Hadikusuma, 2013). Lawrence Friedman reminds us that law is not merely a set of rules but also encompasses legal structures and culture (Friedman, 1969). When positive law neglects the cultural aspects of customary law, the result is recurrent substantive injustice. Drawing on John Rawls' theory of justice, substantive justice can only be achieved when the distribution of resources and recognition of rights are grounded in fairness toward the most vulnerable groups (Faiz, 2009). Therefore, the failure of the current compensation system for customary land in Jambi illustrates the dominance of formalistic legal mechanisms over the substantive justice embedded within indigenous traditions.

Previous studies have shown that disputes over customary land compensation are not merely economic issues but also concern the legal legitimacy of indigenous peoples' existence. Following Constitutional Court Decision No. 35/2012, many regional governments have failed to implement the ruling, continuing to prioritize investment interests (Yance Arizona, 2013). Recognition of customary rights in positive law remains partial, leaving indigenous communities marginalized in decision-making processes. These findings resonate with the situation in Jambi, where indigenous peoples face a dilemma between defending their collective rights or accepting limited compensation to avoid prolonged conflict with corporations.

The urgency of this study becomes evident when considering that customary land in Jambi holds not only economic value but also spiritual and cultural significance. For the Malay community of Jambi, land is a sacred ancestral heritage that embodies a transcendental bond connecting past, present, and future generations. This spiritual dimension cannot be replaced by monetary compensation. Similarly, the social value of customary land lies in its function as a communal living space that ensures social cohesion. The participatory value is reflected in the practice of *musyawarah adat* (customary deliberation), which serves as the primary mechanism for conflict resolution. The value of collective sovereignty reinforces the principle that decisions concerning customary land must be made collectively, not by individuals or elites.

However, these customary values are rarely accommodated within formal legal policies. When compensation for customary land is assessed solely based on market prices, state law indirectly negates the social and spiritual dimensions of indigenous land. This situation not only produces injustice but also fosters social disintegration within indigenous communities. Hence, there is a pressing need for an integrative model that bridges the values of Malay customary law in Jambi with the framework of positive law, so that customary land dispute resolution can move beyond transactional mechanisms toward achieving substantive justice grounded in local wisdom.

Based on the foregoing, this study formulates two main research problems: first, how is the current implementation of customary land compensation conducted in Jambi Province; and second, how should the integration model of Malay Jambi customary law values within the positive legal system be designed to ensure fairer resolutions. These problems are not only academically significant but also practically relevant, given the rising escalation of agrarian conflicts in the region. This research differs from prior studies by not merely analyzing normative aspects but also proposing a conceptual model as an alternative solution.

The aim of this study is to comprehensively analyze the practice of customary land compensation in Jambi, identify gaps between customary and positive legal systems, and formulate a model for integrating Malay Jambi customary legal values into national law. Through this approach, the study seeks to enrich the discourse on legal pluralism, customary law, and agrarian law while contributing to policy formulation at the regional level. Such integration is expected to establish a more just, participatory, and locally grounded mechanism for conflict resolution.

Academically, the study contributes to the development of the HARMONI-ULAYAT Model, a conceptual framework for integrating Malay Jambi customary law into positive law. Practically, this model can serve as a policy recommendation, either in the form of regional regulations or administrative policies at the provincial and district levels. The study also tests the applicability of legal pluralism and substantive justice theories in addressing local agrarian conflicts. Accordingly, this article aims to bridge the gap between living customary law and formal state law, ensuring both systems coexist harmoniously in promoting justice for indigenous communities.

2. RESEARCH METHODS

This research employs a juridical-normative method, focusing on the study of legal doctrines, norms, principles, and theories within Indonesia's legal system (Muhaimin,

2020). This method is appropriate because the issue under investigation concerns the integration of Malay Jambi customary law values into positive law, necessitating analysis grounded in existing legal norms. The normative approach allows the researcher to identify the extent to which constitutional provisions, statutes, and judicial decisions particularly Constitutional Court Decision No. 35/PUU-X/2012 provide space for recognizing and protecting indigenous land rights. In the agrarian context, positive legal norms such as the Basic Agrarian Law (UUPA) 1960, Forestry Law, and Plantation Law also serve as key references.

In addition to the normative approach, this study employs a conceptual approach. This approach is necessary because integrating customary law values into positive law is not merely a matter of applying existing rules but also involves developing new concepts that reconcile the differences between customary and state legal systems (Muhaimin, 2020). Within this framework, the spiritual, social, participatory, and collective sovereignty values embedded in the Malay Jambi customary tradition serve as the philosophical foundation for building a more just dispute resolution model. Thus, the study does not only describe existing regulations but also proposes a new legal construction that aligns with local contexts.

To strengthen the normative and conceptual analysis, the study applies an evaluative approach (Ragam Info, 2024). This approach assesses the effectiveness of positive law implementation, particularly in relation to the compensation mechanisms for customary land. Evaluation is conducted by comparing existing legal norms with empirical realities derived from secondary data. These realities are documented in reports by civil society organizations such as WALHI Jambi, BRWA, and AMAN, which have consistently monitored agrarian conflicts and the criminalization of indigenous communities. These data provide a critical reflection on the extent to which positive law fulfills the constitutional aspiration of substantive justice.

The research relies on primary, secondary, and tertiary legal materials. Primary materials include the 1945 Constitution, the Basic Agrarian Law of 1960, the Forestry Law, the Plantation Law, and relevant regional regulations, such as Jambi Provincial Regulation No. 8 of 2024. The Constitutional Court Decision No. 35/PUU-X/2012 also serves as a primary reference. Secondary materials consist of academic literature, journal articles, books on customary and agrarian law, and previous research on agrarian conflicts and legal integration. Tertiary materials include legal dictionaries, encyclopedias, and bibliographic indexes to support the completeness of references (Wahyuni, 2022).

Secondary data from NGO reports play an essential complementary role (Nursyafitri, 2021). For example, WALHI Jambi has released data on patterns of conflict and criminalization of indigenous peoples in land disputes with plantation and forestry corporations. BRWA provides data on customary territory registration, revealing the gap between administrative recognition and social realities. Meanwhile, AMAN produces annual reports on the condition of indigenous communities across Indonesia, including agrarian conflicts. These data are used to evaluate whether the implementation of positive law adequately protects indigenous rights.

Data analysis is conducted using a descriptive-analytical approach (Handayani & Prabowo, 2024), employing several theoretical frameworks. The theory of legal pluralism (Pradhani, 2021) is used to explain the necessity of recognizing the coexistence of

customary and positive law and how both systems can be harmonized. John Rawls' theory of justice (Taufik, 2013) is applied to assess whether the compensation mechanisms for customary land uphold substantive justice for vulnerable indigenous groups. Meanwhile, Lawrence Friedman's concept of legal culture (Lesmana, 2021) is employed to examine the extent to which positive law internalizes local customary values. Using these theoretical lenses, the research seeks to find the intersection between norms, practices, and values in resolving agrarian disputes.

The analytical process involves three main stages. First, the inventory of primary and secondary legal materials to understand the existing normative framework. Second, a comparative analysis between positive law norms and Malay Jambi customary law values to identify gaps and integration potential (Rahmita et al., 2025). Third, the formulation of a model derived from field findings and theoretical reflection, resulting in the HARMONI-ULAYAT Model as the primary research output. These stages reaffirm that legal research should not merely describe but also prescribe, producing policy-relevant recommendations.

Through this methodology, the study is expected to generate comprehensive, critical, and contextually relevant analyses for both academic development and policymaking. Academically, it enriches the study of customary and agrarian law from a pluralist perspective. Practically, it serves as a reference for local governments in drafting policies that recognize and protect indigenous land rights, thereby minimizing recurrent agrarian conflicts in Jambi. Thus, the research method employed ensures not only normative accuracy but also tangible social relevance.

3. RESULTS AND DISCUSSION

3.1. The Implementation of Customary Land Compensation in Jambi Province

The implementation of customary land compensation in Jambi Province demonstrates a complex dynamic, where the prevailing mechanism remains dominated by the formalistic logic of state positive law. Compensation is generally provided in the form of cash payments to individuals or small groups deemed to represent indigenous communities. This pattern contradicts the concept of *tanah ulayat* (customary land) as collective property belonging to the community (Konsorsium Pembaruan Agraria, 2022). Article 3 of the Basic Agrarian Law (UUPA) of 1960 in principle recognizes the existence of *ulayat* rights, as long as they still exist and are consistent with national interests. However, in practice, this recognition is often subordinated to investment interests legalized through plantation and forestry concessions. This situation illustrates the disharmony between legal norms and their implementation in the field (Soepomo, 1982).

Data from WALHI Jambi (2023) show that in many cases, compensation agreements for customary land involve only local elites or community figures authorized by corporations to sign contracts (Direktur WALHI Jambi, 2014). This mechanism raises serious problems because decisions are not made through participatory customary deliberations, thereby violating the principle of Free, Prior, and Informed Consent (FPIC), which should serve as a standard in the protection of indigenous peoples (Klein, 2024). As a result, many indigenous people receive inadequate compensation or none at all and lose access to the land and natural resources that sustain their livelihoods and cultural identity. Such practices constitute violations of the collective rights of indigenous peoples as recognized

in international law, notably the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) (Fitzmaurice, 2015).

From the perspective of legal pluralism, the practice of customary land compensation in Jambi reflects the dominance of state law over customary law (Tamanaha, 2017). The positive legal system prioritizes formal legal certainty and investment interests, while living customary law receives little space in decision-making processes (Griffiths, 1986). Lawrence Friedman describes this phenomenon as an imbalance between the *structure*, *substance*, and *culture* of law (Friedman, 1969). The strong state legal structure is not matched by recognition of local legal substance and culture. Consequently, law becomes an instrument of power that overlooks substantive justice for vulnerable groups—particularly indigenous communities in Jambi.

The implementation of compensation mechanisms has also led to the criminalization of indigenous peoples. Reports by WALHI Jambi document multiple cases in which community members defending customary lands were charged with vandalism or illegal occupation (Wahana Lingkungan Hidup Indonesia, 2022). Such criminalization not only weakens indigenous bargaining positions but also inflicts social trauma and collective fear. In the context of John Rawls' theory of justice, this practice clearly violates the principle of *justice as fairness*, which demands that state policies should prioritize the weakest groups in the distribution of rights and resources. The reality in the field, however, reveals the opposite: legal institutions often favor those with greater political and economic power.

A fundamental weakness of the compensation mechanism lies in the absence of clear standards regarding the form and procedure of compensation. National regulations such as the Plantation Law and Forestry Law provide only general guidance without addressing the communal dimension of *ulayat* land. Consequently, corporations often adopt unilateral interpretations when determining compensation amounts and forms. In many cases, compensation is calculated based merely on market land prices or short-term crop yields, ignoring the social, cultural, and spiritual values embedded in customary land. This reductionist approach treats land merely as an economic commodity, whereas for indigenous communities, land is an irreplaceable living space (Talib, Talib, & Moonti, 2025).

In practice, internal conflicts often emerge within indigenous communities. When some members accept compensation while others reject it, divisions arise that undermine social solidarity. Companies frequently exploit such divisions to strengthen their own positions by fostering fragmentation within communities (Sitoningrum, Hariandja, & Suprayitno, 2025). From the perspective of social conflict theory, this reflects a form of structural injustice perpetuated by a legal system that fails to protect collective rights. Without a mechanism that incorporates customary deliberation (*musyawarah adat*), compensation processes will continue to generate long-term social instability.

From the perspective of Malay Jambi customary law, land compensation should be carried out based on the principle of consensual deliberation (*musyawarah mufakat*). This principle not only governs the determination of compensation amounts but also the fulfillment of accompanying social and spiritual conditions (Elsya, Munawaroh, & Widodo, 2023). In some indigenous communities, land transfer must be accompanied by customary rituals to honor ancestral spirits. However, such practices are rarely

accommodated in formal legal mechanisms. By neglecting these aspects, both the state and corporations effectively diminish the relevance of customary law, despite its continued legitimacy within society (Jambi One, 2022).

Regional regulations have, in fact, recognized the existence of indigenous law communities in Jambi, as stated in Provincial Regulation No. 8 of 2024. However, this regulation does not specifically govern the procedures for compensating *ulayat* land. This legal vacuum is often exploited by corporations to pursue pragmatic approaches, offering only cash payments. Strengthening this regulation with technical provisions on customary value-based compensation would allow for a fairer and more participatory dispute resolution process. In other words, the weakness of implementing regulations contributes significantly to the failure of positive law in addressing customary land compensation (Rudi, 2024).

The analysis also reveals that the implementation of compensation in Jambi often lacks active government supervision. Local governments tend to remain passive or even side with corporations under the pretext of investment priorities. This lack of oversight exacerbates the situation and opens opportunities for abuse of authority. In principle, under Article 33 of the 1945 Constitution, the control of land, water, and natural resources by the state must serve the greatest prosperity of the people. Yet in practice, economic benefits are disproportionately enjoyed by corporations rather than indigenous communities.

In conclusion, the implementation of customary land compensation in Jambi Province remains far from achieving substantive justice. The current mechanism emphasizes formal legality over the social, spiritual, and cultural dimensions central to customary law. The dominance of positive law, weak technical regulations, criminalization of indigenous peoples, and lack of state oversight collectively illustrate a systemic failure to protect indigenous rights. Therefore, an integrative model is urgently needed to bridge these gaps, ensuring that customary land compensation is not only legally valid but also socially and culturally just.

3.2. Model for Integrating Malay Jambi Customary Law Values

Integrating Malay Jambi customary law values into Indonesia's positive legal system is an urgent step toward resolving ongoing problems in customary land compensation practices. Although formal recognition of *ulayat* rights exists under Article 3 of the UUPA 1960 and the Constitutional Court Decision No. 35/PUU-X/2012, implementation at the local level remains limited. Therefore, a model must be developed to incorporate customary values into national legal frameworks, ensuring that dispute resolution mechanisms are not only legally valid but also substantively just. This model seeks to bridge the persistent dualism between state law and customary law, which has long been a source of social tension.

The first value to be integrated is the spiritual value. For the Malay Jambi indigenous people, *ulayat* land is not merely an economic asset but a sacred ancestral inheritance with transcendental dimensions (Kabaranua, 2025). Land is regarded as a legacy entrusted by previous generations to be preserved for future ones. Consequently, the release of *ulayat* land must be accompanied by customary rituals as a form of respect toward ancestors and nature. Integration of spiritual values into positive law can be

achieved by mandating customary ceremonies as a formal requirement for land release (Wijaya, 2020). In doing so, state law would not only regulate the formal aspects but also respect the sacred dimensions of indigenous land.

The second value is the social value, emphasizing land as a collective living space. Under Malay Jambi customary law, *ulayat* land cannot be treated as private property that can be freely transferred; it is communal property ensuring community cohesion. Integration of this value can be achieved by stipulating that compensation for land release must be collective rather than individual. Compensation should be directed to the community or customary institution as a whole for shared benefits such as education, health, or public infrastructure. This mechanism preserves social solidarity and prevents internal conflicts (Aurel, 2025).

The third value is participatory value, reflected in the practice of customary deliberation (*musyawarah adat*). In Malay Jambi customary law, every important decision including land release must be made through consensus involving all community members. This principle aligns with the international standard of Free, Prior, and Informed Consent (FPIC). Integration of participatory values into positive law can be achieved by requiring legitimate and documented customary deliberation as a prerequisite for any *ulayat* land release (Elsya, Munawaroh, & Widodo, 2023). Consequently, decisions will be made collectively rather than by a few elites, ensuring both social and legal legitimacy.

The fourth value is collective sovereignty, affirming that *ulayat* land belongs to the community, not individuals. Under Malay Jambi customary law, no individual may transfer communal land without the consent of the entire community. This value must be incorporated into positive law by declaring that any agreement for the release of *ulayat* land without collective consent is legally null and void. Such provisions would strengthen the protection of indigenous collective rights and prevent external manipulation through local elites (Hasanah, 2017).

These principles form the foundation of the HARMONI-ULAYAT Model, an operational framework designed to integrate customary values into regional and national legal systems. The model emphasizes balance between positive legal norms and customary principles, aiming to achieve fair and participatory resolution of land disputes. The term "HARMONI" underscores the model's ultimate goal—to create harmony among the state, indigenous communities, and corporations in managing *ulayat* land (Simbolon, Yosef, & Sitorus, 2025).

The HARMONI-ULAYAT Model consists of six core components:

1. Inventory of customary land claims (Kerismon & Jatmikowati, 2025), to officially document *ulayat* territories;
2. Participatory mapping (Samosir, 2020), enabling indigenous involvement in boundary determination;
3. Administrative registration (Aulia, 2025), granting formal legal recognition of customary territories;
4. Hybrid tribunal (Pritzker Legal Research Center, 2022), serving as a dispute-resolution forum combining customary, local government, and judicial representatives;

5. Collective compensation, ensuring that payments benefit the community as a whole; and
6. Independent monitoring, conducted by civil society organizations to ensure compliance with principles of justice.

The hybrid tribunal plays a central role in this model. It serves as a forum that blends positive and customary legal mechanisms, composed of customary judges, local government representatives, and judicial authorities. This structure ensures that decisions have both social and formal legitimacy. The tribunal can also prevent the criminalization of indigenous peoples by resolving disputes through recognized customary deliberation.

Collective compensation is another vital aspect. Unlike individual payments that often breed conflict, collective compensation funds can support long-term community programs such as education, healthcare, and infrastructure. This approach not only provides economic benefits but also strengthens community cohesion. From a Rawlsian perspective, collective compensation aligns with the principle of distributive justice, ensuring that benefits are equitably shared among all members rather than a privileged few.

Independent monitoring serves as a safeguard against abuse of power by corporations or government authorities. Civil society organizations such as WALHI and AMAN can play a monitoring role to enhance transparency and accountability in compensation processes. This mechanism would also build trust between indigenous communities and the state, which has often been viewed as favoring corporate interests.

The HARMONI-ULAYAT Model holds not only local significance for Jambi but also national relevance. Many agrarian conflicts in Indonesia exhibit similar patterns of injustice in customary land compensation. By adopting this model, regional governments across Indonesia could establish fairer and more participatory frameworks for resolving customary land disputes. The model thus represents a substantive contribution to the development of agrarian and customary law in Indonesia.

Within the national legal framework, this model could be institutionalized through regional regulations specifically governing customary land compensation mechanisms. Such regulations should include provisions for inventory, participatory mapping, administrative registration, hybrid tribunals, collective compensation, and independent monitoring. These would provide indigenous communities with stronger legal certainty and equip local governments with clear instruments for addressing agrarian conflicts.

Theoretically, this model reinforces the concept of legal pluralism. By recognizing and integrating customary law into positive law, the state moves away from enforcing a singular legal system toward embracing legal diversity that reflects Indonesia's sociocultural reality. This is in line with Article 18B paragraph (2) of the 1945 Constitution, which acknowledges the existence and rights of indigenous law communities. Therefore, the HARMONI-ULAYAT Model represents not only a practical solution but also a tangible expression of inclusive constitutionalism.

The model may also be examined through the lens of Rawls' theory of justice. By emphasizing collective compensation, full community participation, and the protection of

collective rights, the model ensures that the most vulnerable group—indigenous peoples receive greater protection and benefit (Dermawan, 2025). This aligns with Rawls' difference principle, which permits inequality only if it benefits the least advantaged. Hence, the HARMONI-ULAYAT Model can be seen as a concrete embodiment of distributive justice within Indonesia's agrarian law context.

In conclusion, the HARMONI-ULAYAT Model addresses the failures of current compensation mechanisms that have been overly formal and economic in orientation. It underscores the need to integrate the spiritual, social, participatory, and collective sovereignty values of Malay Jambi customary law into positive law. Through its six operational components, the model provides not only a conceptual framework but also a policy and institutional mechanism that can be implemented at both regional and national levels. Thus, the integration of customary and positive law becomes not merely symbolic but a genuine instrument of substantive justice for Indonesia's indigenous communities.

4. CONCLUSION

The implementation of customary land compensation in Jambi Province remains far from achieving the principles of substantive justice. The prevailing mechanism tends to emphasize individual cash compensation, neglecting the communal nature of customary land and the spiritual dimensions inherently attached to it. This situation is further exacerbated by the lack of detailed technical regulations, weak state oversight, and the ongoing criminalization of indigenous peoples in conflicts with corporations. As a result, customary land compensation has failed to serve as a means of protecting indigenous rights and instead functions as a tool for legitimizing investment interests. Thus, it can be concluded that the existing compensation system for customary land in Jambi has yet to fulfill the constitutional mandate, the 1960 Basic Agrarian Law (UUPA), and the Constitutional Court Decision No. 35/PUU-X/2012, all of which recognize the rights of indigenous peoples.

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