

## Restorative Justice in Settlement of Indigenous Based Land Dispute: Study of Mpili Village Donggo District Bima Donggo Regency

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### Abstract

The study discusses related to Justice Restorative Analysis of the Resolution of Land Disputes through Indigenous. The background of the problem in the study is the resolution of the dispute of land heirs through formal law is considered inadequate in solving the root of the problem thoroughly, because it ignores the social and cultural aspects of the local community. The research method used is an empirical juridical approach with qualitative methods. Data is collected through library studies, in-depth interviews with customary figures, legal experts, and parties involved in heir land disputes. The results of the study showed that the indigenous mechanisms in resolving land disputes generally reflect the restorative principles of justice, namely the restorative principles of social relations, inter-party dialogue, mutual consensus, and resolve oriented towards communal justice and social harmony. Indigenous settlement proved more acceptable by the community of Mpili Village Donggo District Bima because it is participatory, flexible, and rooted in local values.

[Penelitian ini membahas terkait dengan Analisis Restoratif Justice terhadap Penyelesaian Sengketa Tanah Waris melalui Adat. Latar belakang permasalahan dalam penelitian ialah penyelesaian sengketa tanah waris melalui hukum formal dianggap tidak memadai dalam menyelesaikan akar permasalahan secara menyeluruh, karena mengabaikan aspek sosial dan budaya masyarakat setempat. Metode penelitian yang digunakan adalah pendekatan yuridis empiris dengan metode kualitatif. Data dikumpulkan melalui studi kepustakaan, wawancara mendalam dengan tokoh adat, ahli hukum, serta pihak-pihak yang terlibat dalam sengketa tanah waris. Hasil penelitian menunjukkan bahwa mekanisme adat dalam menyelesaikan sengketa tanah waris secara umum mencerminkan prinsip-prinsip restoratif justice, yaitu pemulihan hubungan sosial, dialog antar pihak, musyawarah mufakat, serta penyelesaian yang berorientasi pada keadilan komunal dan harmoni sosial. Penyelesaian adat terbukti lebih diterima oleh masyarakat Desa Mpili Kecamatan Donggo Kabupaten Bima karena bersifat partisipatif, fleksibel, dan berakar pada nilai-nilai lokal.]

**Keywords:** Restorative Justice; District Dispute; Indigenous Mpili Village.

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## INTRODUCTION

The application of restorative justice is widely recognized within the criminal justice system; however, it has yet to be significantly accommodated in other branches of law (Frida, & Usman, 2024). This concept was first introduced into criminal law in the 1970s in Canada through an out-of-court settlement approach known as victim-offender mediation. In practice, victims and offenders are brought together in a safe and structured environment, facilitated by a professional mediator, to discuss the impact of the crime and explore pathways for repairing the harm caused (Alfitra, 2023).

The implementation of restorative justice has continued to evolve and has been adopted in several countries, including Australia, the United Kingdom, and various regions across Europe and the Pacific (Erasmus et al., 2022; Satriana & Dewi, 2021; Kusnianto, 2022). In the context of criminal law, this approach offers disputing parties an alternative to resolving conflicts outside the formal litigation process (Suriati, 2020; Kaptein & Malsch, 2004; Hijriani et al., 2023). Such choices are often driven by considerations including the high costs of legal proceedings, procedural complexity, and the lengthy duration of case resolution. Formal judicial mechanisms, which tend to result in win-lose outcomes, frequently fail to provide comprehensive legal satisfaction for the parties involved.

Restorative justice thus emerges as a relevant alternative for addressing these issues, particularly in the enforcement of criminal law in Indonesia. This approach promotes a more equitable and humane resolution by emphasizing restoration, dialogue, and mutual agreement. Holistic legal satisfaction—encompassing the needs of victims, offenders, and the broader community—constitutes the core orientation of the restorative justice model (Dewi et al., 2023). Although differences exist in terms of definition, implementation systems, and operational mechanisms, restorative justice is also recognized within Islamic civil law, particularly in the form of mediation. In this context, mediation is understood as a peaceful dispute resolution process that involves the disputing parties with the assistance of a neutral or professional mediator. This mechanism facilitates the parties in reaching a fair and mutually acceptable agreement (Yeni Nuraeni & L. Alfies Sihombing).

The primary objective of implementing restorative justice within criminal law is to restore the rights of victims by integrating elements of both criminal and civil law through a mediation forum that brings together the victim and the offender. In the context of Islamic civil law, mediation involves convening disputing parties in a forum that complies with Islamic legal principles. This process seeks to achieve a just resolution while preserving social harmony in accordance with the principles of *sharia*.

The resolution of inheritance-related land disputes through litigation is often perceived by the community as ineffective and inefficient. Factors such as procedural complexity, prolonged resolution time, high costs, and the potential to damage familial relationships drive the search for alternative dispute resolution mechanisms. In this context, customary law and traditional dispute resolution practices regain strong relevance. In recent years, restorative justice has increasingly emerged as a promising alternative in resolving various disputes, including inheritance-related land conflicts.

Restorative justice is an approach that emphasizes the restoration of relationships between disputing parties. It is grounded in dialogue, deliberation (*musyawarah*), and the active participation of all parties in the reconciliation process (Akbar, 2022). Its core orientation is to achieve a resolution that not only addresses the legal issues at hand but also restores the social harmony that may have been disrupted by the conflict.

Mpili Village, located in the Donggo District of Bima Regency, is one of the regions in Indonesia where traditional customs and practices play a significant role in problem-solving, including the resolution of inheritance land disputes. This village serves as an example of a community in Bima Regency that continues to uphold customary law in addressing various issues, particularly inheritance-related land conflicts. The traditional dispute resolution mechanism in Mpili Village is believed to have distinct advantages in maintaining social harmony and minimizing the potential for prolonged conflict. The people of Mpili Village have developed a unique customary peace resolution system, which has proven effective in preserving community unity and cohesion.

Several previous studies on the application of restorative justice can serve as gap analyses for the research I am currently proposing. One such study was conducted by Andy Lesmana et al., (2024) this research explains how restorative justice, rooted in local wisdom, is applied within Banjar society and how criminal cases can be effectively resolved through this mechanism. The study uses a normative approach with a conceptual methodology to explain the data, which is analyzed using content analysis. The findings indicate that restorative justice based on local wisdom, known as the peace-making practice (*berdamai*), is an effective mechanism for resolving criminal cases in the Banjar region. However, based on field observations, many members of the Banjar community remain uncertain about the *adat* peace-making system as a solution beyond the initial stages of criminal case resolution. The study also reveals that the restorative justice method based on local wisdom in Banjar society involves bringing together the offender and the victim, allowing for dialogue that aims to reach a win-win solution. Therefore, this approach highlights the family values highly regarded within Banjar society.

The second study was conducted by Muhammad Mutawali (2022) This research aims to explain the process of resolving civil and criminal legal cases within the Donggo customary law community, from the perspectives of positive law and Islamic law. The enforcement of customary law within the Donggo community is carried out by a customary institution known as the Donggo Customary and Shari'ah Institution (LASDO). The sanctions applied by LASDO include *bukum adat baja* (circular ritual), flogging, *dua kali waru* (compensation), and fines. Cases resolved by LASDO are subsequently analyzed by comparing the customary law with positive law and Islamic law. This study employs a normative legal approach with various methods, including a statutory approach, historical approach, comparative approach, and case approach. The legal decisions made by LASDO serve as the object of the study. The findings reveal that LASDO applies customary law in resolving civil and criminal legal issues. In civil cases, LASDO imposes the sanctions of *dua kali waru* and fines, while in criminal cases, LASDO applies *bukum baja*, flogging, *dua kali waru*, and fines. From the perspective of positive law, most civil and criminal cases in Donggo are regulated by the applicable laws of Indonesia, although some cases are not explicitly regulated. Regarding the sanctions and punishments applied by LASDO, there are differences from those in positive law. However, from the perspective of Islamic law, the civil and criminal cases handled by LASDO are generally governed by Islamic law, and the sanctions imposed are similar in substance and form to those in Islamic law. This study also finds that the Donggo customary law community has its own approach to resolving legal issues, rooted in local wisdom and customary law. Local wisdom and customary law are considered systems that meet the community's sense of justice, prioritizing peace. Therefore, this customary legal system has endured to the present day.

The studies mentioned above have inspired the author to conduct research on restorative justice in the resolution of inheritance land disputes based on customary law, with a focus on a case study in Mpili Village, Donggo District, Bima Regency. The research

questions to be addressed in this study regarding the analysis of restorative justice in the resolution of inheritance land disputes through customary law are as follows: 1) How are the principles of restorative justice applied in the resolution of inheritance land disputes through customary law in Mpili Village, Donggo District, Bima Regency? 2) What role do customary leaders and the community play in the application of restorative justice in the resolution of inheritance land disputes in Mpili Village?

## **METHOD**

This study adopts a qualitative approach with a descriptive research design. This approach is chosen to provide an in-depth depiction of the practice of resolving inheritance land disputes based on customary law in Mpili Village, as well as the application of restorative justice principles within this context. A qualitative approach allows the researcher to understand the meanings, values, and social processes that are present in the community in a contextual and naturalistic manner (Richter et al., 2021). The research aims to examine the application of restorative justice principles to the practice of resolving inheritance land disputes through the customary legal system in the Mpili community. The focus of this research is to emphasize a deep understanding of the social realities and the customary values that are alive in the community (Ummah, 2019). In this study, the author uses a qualitative approach aimed at understanding the application of restorative justice principles in the resolution of inheritance land disputes through the customary legal mechanism in Mpili Village (Erasmus et al., 2022). The research is conducted in Mpili Village, Donggo District, Bima Regency, as this village has a practice of resolving inheritance land disputes that involves local wisdom and restorative justice principles. Regarding the data sources used: 1) Primary data comes from interviews with customary leaders, heirs, and village officials. 2) Secondary data includes customary documents, legal literature, and relevant regulations. In-depth interviews, direct observation, and document studies are the data collection methods (Ulum, 2022). Data analysis is carried out descriptively and qualitatively, using reduction, presentation, and conclusion drawing methods. Triangulation of sources and methods is employed to ensure the validity of the data.

## **RESULT AND DISCUSSION**

### **Restorative Justice-Based Inheritance Land Dispute Settlement in Mpili Village, Donggo District**

The resolution of inheritance land disputes is commonly pursued through formal court proceedings, aiming to provide legal protection and certainty for the disputing parties. However, the practice observed in Mpili Village, located in Donggo District, Bima Regency, reveals a different approach. The local community does not consistently rely on formal legal institutions such as the District Court to resolve inheritance-related conflicts. Instead, they prefer customary legal mechanisms that have been deeply embedded in their social and cultural traditions.

This customary dispute resolution mechanism reflects the principles of restorative justice, which emphasize the restoration of social relationships rather than punitive measures or determining who is right or wrong (Murdoko, 2021; Arief & Ambarsari, 2018; Erasmus et al. 2022). Restorative justice prioritizes deliberation (*musyawarah*) as the primary medium for resolving conflict. In the context of Mpili society, this deliberative process involves all disputing parties, customary leaders, extended families, and those who feel aggrieved. Locally, this forum is known as *muna sara*, a space where fair and mutually acceptable agreements are formulated (Wahid & Talli, 2022).

A key element of this approach is the restoration of social relationships that may have been strained or broken due to inheritance disputes. In a society that highly values familial ties, such as Mpili, social harmony is regarded as more important than compensation or formal punishment. Therefore, customary resolution emphasizes the restoration of holistic and sustainable social relations.

Individuals deemed to have violated customary norms are expected to acknowledge their actions in front of customary leaders and community members present in the forum. This acknowledgment is not merely symbolic but serves as a form of social accountability, expressed through an apology. This process is perceived as a path toward reconciliation and the restoration of collective social values.

Customary leaders play a central role in dispute resolution. They act as mediators who bridge the interests of conflicting parties while ensuring that the entire process aligns with customary norms and the community's sense of justice. Their presence serves as a moral guarantee that the decisions reached are not only socially just but also reflect the collective will of the community.

The use of customary law also serves to prevent protracted conflict. In practice, customary decisions are socially final, even though they may not be legally binding under state law. Nevertheless, because such decisions are grounded in values of togetherness and social honor, they are widely accepted and respected within the community.

The resolution of inheritance land disputes through customary mechanisms has become the primary choice among the residents of Mpili Village. This preference is rooted in the desire to avoid formal legal processes, which are often perceived as complex, costly, and inaccessible (Muhamad et al., 2023). Formal legal channels are considered not only economically burdensome but also potentially inflammatory, with the risk of escalating conflicts.

The people of Mpili view litigation in state courts as a process that often cultivates egoism among disputing parties. Such adversarial procedures can deepen divisions and strain familial relationships. In many cases, disagreements have not merely ended in verbal disputes but have escalated into physical altercations with fatal consequences, including permanent injuries or loss of life (Hamzah & Yuniarty, 2023).

The choice to resolve inheritance land disputes through customary mechanisms is not a recent development; it has long been embedded in the traditions of the Mpili community. This approach is seen as not only more accessible and cost-effective but also more reflective of local values that prioritize kinship and social harmony. Within the local tradition, customary law is believed to be more effective in preventing protracted conflicts and preserving familial bonds that may otherwise be fractured by inheritance-related disputes.

### **Peran Tokoh Adat Dan Masyarakat Dalam Penerapan Restorative Justice Dalam Penyelesaian Sengketa Tanah Waris Di Desa Mpili**

The application of restorative justice in resolving inheritance land disputes in Mpili Village demonstrates a high degree of effectiveness through a localized approach rooted in indigenous wisdom and community traditions. Customary law plays a central role in delivering justice within the community. Traditional leaders and local residents share a collective responsibility to maintain social harmony and ensure that conflict resolution processes are conducted peacefully and equitably.

In this context, customary leaders and social mediators serve as principal intermediaries in dispute resolution. They employ ancestral customary values as a framework for mediation between disputing parties (Dharma et al., 2020). These values, deeply



embedded in local cultural systems, are widely accepted due to their strong moral and cultural legitimacy. Resolutions derived from customary deliberations are not only respected but also function as binding social guidelines within the community.

Customary practices also serve as custodians of local wisdom in every stage of mediation. Customary leaders consistently emphasize principles of communal justice that prioritize peace, harmony, and the sustainability of familial relationships. This role is not solely the responsibility of traditional leaders but is instead a collective duty borne by the entire community of Mpili. Community members are expected to uphold and safeguard these values as foundational elements of conflict resolution (Force, 2007).

Moreover, traditional leaders act as facilitators in inclusive deliberative forums. These forums involve extended family members, customary authorities, and other relevant stakeholders within the village. They provide an open space for all parties to express their concerns and aspirations freely, without coercion. Such forums help bridge previously obstructed lines of communication, leading to peaceful and mutually beneficial agreements.

Resolutions achieved through restorative justice within customary forums carry strong moral authority, even though they lack formal legal enforceability. Due to their social recognition, such resolutions are generally observed and adhered to by all involved parties. This demonstrates that social legitimacy can, in certain contexts, effectively substitute for the formal legal authority of state law, particularly within customary communities.

Furthermore, the customary mechanism has proven effective in preventing the escalation of disputes into formal legal proceedings. With the involvement of traditional leaders and active community participation, most inheritance-related land disputes can be resolved at the village level without resorting to court litigation. In addition to saving time and financial resources, this approach preserves family unity and prevents the strain that often results from rigid legal processes, which may lead to further conflict.

The application of restorative justice in resolving inheritance land disputes in Desa Mpili highlights the central role of customary leaders and the community in maintaining social harmony and resolving conflicts peacefully. The customary mechanisms employed not only serve as a practical solution, but also reflect noble values that have been preserved and passed down through generations within the local social structure.

In an interview with the Chief of Customs of Desa Mpili, M. Nor, it was revealed that the community prefers resolving inheritance land disputes through customary channels. He explained that when a conflict arises, the disputing parties typically come to the customary house to present their issues. This process involves customary leaders, the village head, and elder community members, who then sit together to hear both sides' testimonies fairly. The main goal of the meeting is to find a middle ground to preserve peace and the continuity of familial relationships. Although the term restorative justice is not formally recognized within the community, its values and principles have long been in practice. M. Nor further emphasized that the most important aspect of this process is not determining who is right or wrong, but how to rebuild relationships between the parties involved to ensure that no grudges remain. The customary resolution even allows for land to be divided fairly or shared with the mutual consent of both parties.

The community's perspective further reinforces their preference for customary dispute resolution. One resident, Bogda, who had been involved in a land inheritance dispute, stated that resolving the issue through customary means was much more efficient and did not lead to family divisions. He noted that legal proceedings in court tend to be expensive and time-consuming, whereas customary resolution is quicker, cheaper, and allows room for mutual forgiveness. He even mentioned that in some cases, the

community holds a small celebration after reconciliation is achieved, as a form of thanksgiving for the restoration of familial ties.

Another community leader, Mirzan, described the typical forms of resolution or sanctions imposed in inheritance land disputes. He explained that the resolution often depends on the context of the issue. In some cases, the land is redistributed or given to the party in greater need, but all decisions are made through deliberation and mutual agreement. If any party rejects or violates the decision, social sanctions may be applied, such as exclusion from customary activities or being uninvited to family events until the individual offers an apology and agrees to abide by the established decision.

Field observations also revealed that inheritance land disputes in Desa Mpili generally manifest in various forms. Disagreements among siblings over the division of parental inheritance are among the most frequent issues. Additionally, unilateral claims to land without the consent of other heirs also serve as a source of conflict. In some cases, resistance to the customary division arises from differing perceptions, including the influence of national legal frameworks, which sometimes clash with local values.

This entire process underscores that the customary dispute resolution mechanisms in Desa Mpili not only function as a means of settling disputes but also as a vehicle for preserving communal justice, social solidarity, and intergenerational harmony within the local community. This approach aligns with the spirit of restorative justice, which prioritizes healing, dialogue, and the continuity of social relationships within society.

Inheritance land disputes are not only a problem specific to the village of Mpili in Bima Regency, but also represent a widespread issue across Indonesia. Such disputes often escalate tensions that threaten relationships among family members and the local community. These conflicts are frequently caused by differing understandings of inheritance rights, which exacerbate the rift between the disputing parties. Consequently, the people of Desa Mpili tend to resolve inheritance land disputes through customary channels, a practice that has long been part of their tradition, rather than bringing the matter to court. This choice is rooted in the belief that resolution through custom better reflects the spirit of kinship, compared to the formal legal process, which is seen as filled with speculation and exorbitant costs. In this context, the community prioritizes the principle of peace, which emphasizes reconciliation and the reunification of disputing parties, rather than seeking to declare a winner in the dispute.

Customary law in Desa Mpili not only functions as a tool for dispute resolution but also reflects the values of Restorative Justice, which focuses on the restoration of relationships. In the resolution of inheritance land disputes, the process prioritizes open dialogue through consensus-based deliberation, allowing all parties to participate actively. Customary leaders serve as neutral third parties trusted to mediate and facilitate communication between the disputing parties. In this approach, the resolution process is not merely about determining who is right or wrong but is more concerned with finding ways to restore and preserve family relationships. Throughout this process, acknowledging mistakes and offering apologies become crucial components of social restoration and reintegration into the community, where the involved parties are accepted once again without stigma or negative prejudice.

However, resolving inheritance disputes through customary channels does not always proceed smoothly. External influences, such as the national legal system, can sometimes create differing interpretations and difficulties in reaching an agreement. Some parties may reject the consensus reached in the deliberation, which in turn can hinder the resolution process and force the matter to be taken to formal legal channels. In such situations, the integration of national law and customary law becomes essential to create a

coherent legal system in which both systems can complement each other in resolving inheritance land disputes. Therefore, strengthening the existence of customary law by the government is crucial as a form of support for traditional legal systems, which not only preserve local wisdom but also provide the community with a deeper, more humane, and dignified way to resolve their issues.

## **CONCLUSION**

The resolution of inheritance land disputes through customary mechanisms in Desa Mpili, Donggo Subdistrict, Bima Regency, adopts the principles of Restorative Justice. Although what is applied by the local community in dispute resolution is not exactly the same as the procedures followed by formal legal institutions such as the police, prosecutors, or courts, the values of Restorative Justice are still reflected in every stage of resolving issues, particularly those related to inheritance land. The people of Desa Mpili prefer customary channels because they are considered more efficient, cost-effective, and capable of maintaining social harmony and strong family relationships, as compared to the often time-consuming and costly legal processes.

The model for resolving inheritance land disputes through deliberation in the community involves customary leaders, the village head, and the disputing parties. This process not only focuses on imposing sanctions on the guilty party but also on restoring relationships between parties, reaching a fair mutual agreement, and preventing the occurrence of ongoing conflicts. This approach closely aligns with the essence of Restorative Justice, which emphasizes the restoration of social conditions damaged by conflict, with the aim of repairing broken relationships rather than simply punishing offenders.

The resolution of inheritance land disputes through customary law in Desa Mpili has proven effective in creating restorative justice based on local wisdom, while avoiding the complicated and convoluted litigation process. This approach also strengthens the sense of justice and shared responsibility within the community, making it a relevant and potential model for development as an alternative dispute resolution in other regions. As a recommendation from this research, the author suggests four key points to consider. First, the village government and customary leaders in Desa Mpili need to document the resolution of inheritance disputes through customary law in writing to strengthen the legal legitimacy of the decision. Second, the community is expected to continue prioritizing deliberation and family values that uphold the principles of Restorative Justice in resolving inheritance disputes. Third, the Bima district government should support the legal recognition of customary dispute resolutions, particularly in inheritance land disputes, by prioritizing the Restorative Justice principles through regulations that accommodate restorative values. Fourth, future researchers are advised to conduct a deeper study of the integration between customary law and formal law to support the resolution of inheritance land disputes in a more just manner, using a Restorative Justice approach.

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