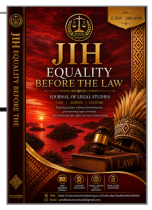
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Legal Analysis of Agrarian Conflict Resolution and the Settlement of Customary (Ulayat) Land Disputes in Indonesia

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ABSTRACT

Agrarian conflicts in Indonesia recur continually and largely stem from overlaps between the ulayat land claims of indigenous law communities and land rights issued by the state. This study analyzes the legal framework for the recognition of ulayat land and the normative feasibility of its dispute settlement routes, whether through land mediation, customary deliberation, or the courts. It is normative legal research using statute and conceptual approaches and a literature review of cases reported by other researchers, analyzed qualitatively and prescriptively through systematic and teleological interpretation of Article 18B paragraph (2) and Article 28I paragraph (3) of the 1945 Constitution, the UUPA, Constitutional Court Decision Number 35/PUU-X/2012, Permen ATR/BPN Number 21 of 2020 and Number 14 of 2024, and recent scholarly literature. The findings show that (1) normative recognition of ulayat rights exists but is conditional and sectoral, which opens the way to overlapping permits; (2) Permen ATR/BPN 14/2024 improves certainty through entry in the Ulayat Land Register and the Right of Management option, but requires ulayat land to be dispute-free without connecting this to a dispute settlement mechanism, and leaves a risk that communal rights will shift into individual rights; and (3) according to the studies reviewed, land mediation and customary deliberation have a chance of being effective if the good faith of the parties, mediator capacity, and the binding force of agreements are assured. The study proposes a tiered settlement model, normative and not yet tested in the field, that integrates customary deliberation, land mediation, and judicial review, together with the harmonization of sectoral regulations and the use of free, prior, and informed consent (FPIC) as a normative standard.

1. INTRODUCTION

For indigenous law communities, land is not merely an economic object but living space that holds identity, spirituality, and the continuity of the community across generations. Conflicts over customary (ulayat) land therefore always carry legal, social, and cultural dimensions at once. The Consortium for Agrarian Reform (Konsorsium Pembaruan Agraria, KPA) recorded 295 outbreaks of agrarian conflict in 2024, up from 241 in 2023, covering roughly 1.11 million hectares and affecting about 67,000 families in 349 villages (KPA, 2025, as reported by Muhamad, 2025; Mongabay Indonesia, 2025). These figures are cited from press coverage because the author has not accessed the original KPA document, and they are not disaggregated by conflicts involving

ulayat land or indigenous law communities. The aggregate figures are therefore read only as a picture of the national agrarian conflict context, whereas the structural character of conflicts over ulayat land is supported by case studies reported by other researchers (Arrizal et al., 2026).

Constitutionally, the state recognizes and respects indigenous law communities and their traditional rights as long as they still exist and are in accordance with societal development and the principles of the Unitary State of the Republic of Indonesia (Article 18B paragraph (2) of the 1945 Constitution). Article 3 of Law Number 5 of 1960 on Basic Agrarian Principles (Undang-Undang Pokok Agraria, UUPA) likewise recognizes ulayat rights on the same condition. In practice, however, this conditional recognition depends on administrative verification and the political will of local governments, so that many customary territories have not been formally recognized (Arrizal et al., 2026; Satriani, 2026). Sumilat (2024) cites 2022 data from the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) indicating that only about 30% of ulayat land had been registered. This figure comes from an indirect source, the original document and the basis for calculating its denominator have not been accessed by the author, and the data predate Permen ATR/BPN 14/2024; the figure is therefore read only as an indication.

Constitutional Court Decision Number 35/PUU-X/2012 affirmed that customary forests are no longer state forests. The decision opened the way for recognizing the rights of indigenous law communities over their territories, but its follow-up has been slow and fragmented because each ministry interprets it differently (Sukirno, 2016). At the regional level, unclear legal relationships between indigenous communities and outside parties, such as plantation, mining, and forestry companies, trigger disputes (Warman & Andora, 2014). The Muara Sakal case in Pelalawan, Riau, shows how overlapping regulations weaken the certainty of ulayat rights (Artina et al., 2024), while the Ndonganeno Weribone dispute in South Konawe shows indigenous claims overlapping with a former Right to Cultivate (Hak Guna Usaha, HGU) (Satriani, 2026).

The government responded with Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 14 of 2024 on the Administration of Land Affairs and the Registration of Ulayat Land Rights of Indigenous Law Communities (hereinafter Permen ATR/BPN 14/2024), which regulates entry in the Ulayat Land Register (List of Customary Lands, DTU) and the issuance of the Right of Management (Management Rights, HPL). The regulation has been both welcomed and criticized. Sumardjono, as reported by Hukumonline (2025), cautioned that HPL must not be understood as a nationalization of ulayat rights, while Salam et al. (2024) argue that shifting ulayat rights into the HPL and ownership-right

regimes could weaken their communal character and create a legal vacuum for land for which no right has been applied.

On dispute resolution, Permen ATR/BPN Number 21 of 2020 provides land mediation as a non-litigation route. A study at the Luwu Utara Land Office found that mediation failed mainly because of a lack of good faith and the absence of the parties (Salam et al., 2026), while a study in Rambah Muda showed that informal village mediation without minutes produced fragile oral agreements (Surya & Pater, 2025). By contrast, settlement based on customary deliberation (musyawarah adat) in Kuanheun Village, Kupang Regency, was relatively able to preserve kinship relations (Lanus et al., 2026). These differing outcomes show that the effectiveness of a settlement route is largely determined by institutional design.

Earlier studies have provided an important foundation, but each focuses on a single aspect. Sumilat (2024) examines the implementation of Permen ATR/BPN 14/2024 in ulayat land registration; Satriani (2026) examines the legal protection of indigenous communities against overlaps between ulayat rights and the HGU; Salam et al. (2024) examine the prospects, benefits, and legal problems of the ulayat land registration system; and Iriantoro et al. (2026) examine the strengthening of restorative justice policy and of the National Land Agency's (BPN) institutional capacity in land dispute resolution. Hukumonline (2025) also notes that the regulation does not describe a dispute mechanism. In contrast to those studies, this article (1) systematically traces the provisions of Permen ATR/BPN 14/2024 that require ulayat land to be free of disputes and shows that the regulation does not connect registration with dispute settlement routes; and (2) arranges the customary, land mediation, and judicial routes into a single tiered model that sets out the legal basis, implementing body, and transition conditions of each stage. As far as the author's search of the sources described in the methods section extends, no study combining the two has been found.

The research questions of this study are: (1) what is the legal framework for the recognition of ulayat land and the agrarian conflicts that accompany it; (2) what are the position and weaknesses of Permen ATR/BPN 14/2024 in providing legal certainty, particularly for disputed ulayat land; and (3) what model of conflict resolution and ulayat land dispute settlement is normatively feasible and just, assessed against the criteria set out in the methods section rather than through field testing. In this article, conflict means tension or opposing interests over ulayat land that may not yet have been formally raised, whereas dispute means a claim that has been submitted to a settlement forum; the model in Section 3.5 mainly regulates disputes, with a prevention stage aimed at conflicts. The specific contribution of this article is a provision-by-provision analysis of the dispute-free requirement in Permen ATR/BPN 14/2024 and a tiered

settlement model that connects the registration of ulayat rights with their dispute settlement routes.

2. RESEARCH METHOD

This study uses a normative (doctrinal) legal research method that views law as written norms and principles that can be analyzed through library materials (Marzuki, 2013). The approaches used are the statute approach and the conceptual approach, supplemented by a literature review of cases reported by other researchers. The statute approach is applied to the 1945 Constitution, the UUPA, Permen ATR/BPN Number 14 of 2024 and Number 21 of 2020, and Government Regulation Number 18 of 2021. The text of Permen ATR/BPN 14/2024 and Article 4 of Government Regulation 18/2021 was read directly from the official texts published on the Peraturan.go.id website (accessed 24 October 2026), and the criticism of Article 4 of Government Regulation 18/2021 in the literature (Burhana & Tamsil, 2026) was compared with the wording of that text. The conceptual approach is used to examine the concepts of ulayat rights, legal pluralism, and agrarian justice. The case review is limited and does not use case files: Constitutional Court Decision Number 35/PUU-X/2012 is read through its discussion in the literature (chiefly Sukirno, 2016), and the other cases (Muara Sakal, Ndonganeno Weribone, Luwu Utara, Rambah Muda, Kuanheun, and Nagari Sitapa) are read as reported by other researchers. These cases come from West Sumatra, Riau, East Nusa Tenggara, and Sulawesi, so they serve as illustrations rather than a sample representing all of Indonesia.

Primary legal materials consist of statutes and regulations and court decisions. Secondary legal materials consist of scholarly journal articles, books, and published institutional reports. Non-legal materials consist of KPA agrarian conflict statistics accessed through press coverage (Databoks and Mongabay), because the original KPA document has not been obtained by the author. The literature search was conducted on web search engines and university journal publisher websites, without paid indexed databases, using the keywords “customary land” “Customary Rights” “Customary Land Disputes,” “Land mediation” “Permen ATR/BPN 14/2024,” “Customary Law Community Management Rights,” and “FPIC,”. The claim of novelty in this article is therefore limited to the sources searched. The inclusion criteria were journal or proceedings articles published from 2016 to 2026 that address the recognition of ulayat rights, ulayat land registration, or the settlement of customary land disputes and that have a traceable bibliographic identity (title, author, journal name, and year). Sources without a clear bibliographic identity, or that do not address these topics, were excluded. The quality of sources is uneven: some empirical studies appear in journals with limited visibility, and certain conflict data and scholarly opinions were obtained through press coverage. Findings from a single study are therefore read as indications and, where possible, compared with primary regulations or decisions. Two works from

before 2016 (Griffiths, 1986; Warman & Andora, 2014) are used as a theoretical foundation and a historical comparison.

The analysis is qualitative-prescriptive and uses systematic and teleological interpretation. Systematic interpretation reads the provisions of Permen ATR/BPN 14/2024 together with Article 18B paragraph (2) of the 1945 Constitution, Article 3 of the UUPA, and Government Regulation 18/2021 to test their consistency; examples are the analysis of Article 4 of Government Regulation 18/2021 and Articles 15 and 16 of Permen ATR/BPN 14/2024 in Section 3.2. Teleological interpretation assesses a norm by its purpose; an example is testing the dispute-free requirement (Article 7 paragraph (4) letter b) against the purpose of recognizing and protecting ulayat rights in Section 3.2. The assessment of norms and settlement routes uses three criteria: (1) legal certainty, meaning the clarity of the subject, object, and legal consequences of a regulation; (2) substantive justice, meaning respect for the original rights of indigenous law communities and the equal standing of the parties; and (3) effectiveness, meaning the ability of a settlement route to produce an agreement or decision that can be implemented. Legal pluralism (Griffiths, 1986) is used as a basis for treating customary legal orders and state law as two normative systems that need to be connected rather than set against each other. A limitation of this study is that it uses no primary field data, so its empirical findings are drawn from earlier studies.

3. RESULTS AND DISCUSSION

3.1. The Legal Framework for the Recognition of Ulayat Land and the Sources of Agrarian Conflict

The recognition of ulayat rights in national law rests on three layers of norms. The first layer is the constitution, namely Article 18B paragraph (2) and Article 28I paragraph (3) of the 1945 Constitution, which respect cultural identity and the rights of traditional communities. The second layer is the UUPA, which recognizes ulayat rights as long as they still exist in reality but places them beneath national and state interests. The third layer consists of sectoral regulations and regional regulations governing the procedure for recognizing indigenous law communities. It is necessary to distinguish between the existence of a right, its recognition, and its registration. The existence of ulayat rights does not depend on formal recognition, as reflected in Constitutional Court Decision Number 35/PUU-X/2012, which held that customary forests lie within the territories of indigenous law communities and are not state forests. However, the requirement “as long as they still exist” and the necessity of recognition through a regional regulation make recognition constitutive-administrative at the stage of proof and registration: a right that has not been recognized or registered is difficult to assert against a certificate issued by the state (Arrizal et al., 2026; Artina et al., 2024).

Constitutional Court Decision Number 35/PUU-X/2012 corrected forestry policy by declaring that customary forests lie within the territories of indigenous law communities and are not state forests. However, Sukirno (2016) found that the follow-up to the decision was scattered across several ministries with differing perceptions of the membership of the committee for identifying indigenous law communities and of the length of the determination process. Arrizal et al. (2026) add that forestry, mining, plantation, and spatial planning laws conflict with one another, so that various agencies can issue permits over the same space. Within a legal pluralism framework, this condition reflects a clash between the state order and the customary order that has not been harmonized (Griffiths, 1986; Ramadhani et al., 2025).

The sources of conflict can be grouped into four. First, unclear land status and boundaries owing to a lack of written documents, so that customary claims confront formal certificates (Ramadhani et al., 2025). Second, overlapping permits and rights, for example between ulayat land and the HGU (Satriani, 2026). Third, non-transparent legal relationships between communities and investors; in the plantation sector the HGU is granted after the land has been released into state land, whereas in the forestry sector permits do not require release, which triggers protest (Warman & Andora, 2014). Fourth, internal conflict and commercialization, for example a tribal chief's claim over individually owned certified land in Sorong City (Hidayat & Nugroho, 2024).

The structural dimension of conflict appears in the way the state treats unregistered customary living space. Burhana and Tamsil (2026) report the case of Nagari Sitapa in Tanah Datar, West Sumatra, where an HPL certificate was issued in 2023 over an area treated as state land because it was unregistered, while the customary council (kerapatan adat) and the ninik mamak (clan elders) objected on the ground that the land was still used hereditarily and had not been validly released. The case shows that the absence of procedures for the release of rights and for customary deliberation in Government Regulation 18/2021 (Burhana & Tamsil, 2026) can lead to disputes.

In this context, the principle of free, prior, and informed consent (FPIC) is often put forward as a standard. However, the United Nations Declaration on the Rights of Indigenous Peoples (United Nations, 2007) is a declaration that is not legally binding, and Dedihasriadi et al. (2025) conclude that FPIC has not become part of Indonesian positive law but remains *lex ferenda*, particularly in the mining sector. That conclusion can be cited only for the sector examined, because the author has not searched other sectoral regulations that may contain elements of consent or deliberation in the release of ulayat land. This article therefore treats FPIC as a normative standard for assessing and designing procedures, not as a directly binding norm. To make the standard testable, it is operationalized in the tiered model through three minimum indicators: (1) consent is given by a customary institution whose legitimacy has been verified, before a

permit or the release of rights is processed; (2) consent is set down in writing in the minutes of the deliberation, accompanied by complete information on the plan and its impacts; and (3) a refusal halts the permitting or release process, and differing positions are referred to the dispute settlement route. These indicators are the author's proposal. Making them legally binding requires explicit regulation, for example at the level of a government regulation or a regional regulation.

3.2. Legal Certainty of Ulayat Land under Permen ATR/BPN Number 14 of 2024

Permen ATR/BPN 14/2024 responds to registration problems that have long been complicated and non-transparent (Sumilat, 2024). According to its official text, the DTU is a document listing ulayat land parcels compiled on the basis of cadastral measurement and mapping (Article 1 point 5). Parcels that have been measured and mapped are entered in the DTU at the local land office (Article 13 paragraph (1)); a copy is handed to the indigenous law community and the local government within 14 working days at the latest (Article 14); and a copy of the DTU together with the determination of the indigenous law community becomes the basis for ulayat land registration (Article 14 paragraph (5)). An indigenous law community may apply for an HPL over a parcel that has been entered in the DTU (Article 15 paragraph (1)). Hukumonline (2025) reports that from 2023 to September 2025, 57 HPL certificates were issued to 18 indigenous law communities covering 987.48 hectares; this figure comes from press reporting and has not been confirmed in an official release of the Ministry of ATR/BPN.

In terms of legal certainty, there are two positive points. First, Article 16 paragraph (1) affirms that a parcel for which no HPL is applied remains ulayat land, so that entry in the DTU does not change the status of the right. Second, the certification of a single customary territory that crosses several villages is considered to give the community certainty (Hukumonline, 2025). This administrative recording is consistent with efforts to reduce the gaps in customary land data that have long been the root of disputes (Ramadhani et al., 2025).

However, a provision-by-provision analysis reveals three weaknesses. First, Article 4 of Government Regulation 18/2021 provides that an HPL may originate from state land and ulayat land (official text of Government Regulation 18/2021, without paragraph). Systematically, this provision is problematic because the UUPA separates state land from ulayat land, so that including ulayat land as a source of HPL is seen as normalizing nationalization and as contradicting Article 3 of the UUPA and Article 18B paragraph (2) of the 1945 Constitution (Burhana & Tamsil, 2026); Sumardjono voices a similar criticism as reported by Hukumonline (2025). Second, with regard to the choice of rights, Article 15 paragraph (1) uses the word “may” and Article 16 paragraph (1) preserves ulayat status for parcels for which no HPL is applied, so the text of the

regulation does not force communities to apply for other rights. The concern of Salam et al. (2024) about parcels without a clear right, and about the risk of communal rights shifting into individual rights, is better read as a risk in practice, because the issuance of an HPL depends on a decision of the Minister, who may or may not issue it on the proposal of the head of the land office (Article 21 paragraph (1)).

Third, and most important for this article, the regulation requires that ulayat land that is recorded or registered not be in a state of dispute, conflict, or litigation. This requirement appears at the identification stage (Article 7 paragraph (4) letter b), the examination of physical and juridical data (Article 8), the spatial study (Article 11 paragraph (3) letter a), and the statements of HPL and ownership-right applicants (Article 18 paragraph (3) letter f number 4 and Article 23 paragraph (3) letter d number 4). Such a requirement can be understood as an effort to prevent rights from being issued over unresolved claims and to protect legal certainty for rights holders. For ulayat land, however, the requirement is problematic because disputes over ulayat land generally arise precisely from overlaps with rights already issued by the state; the parcels most in need of recognition are the first to be excluded. If an objection has not been resolved at the time of ratification, the objection is recorded (Article 25 paragraph (4)) and the issuance of the certificate is postponed (Article 27 paragraph (2)). On a reading of the official text, the regulation contains no specific article on dispute settlement and makes no reference to Permen ATR/BPN 21/2020 or to land mediation. Disputes are handled only indirectly, through verification, applicant statements, the recording of objections, and the postponement of certificates. The problem is thus not the absence of every mechanism but the lack of connection between the registration of ulayat rights and dispute settlement routes. Teleologically, the purpose of recognizing and protecting ulayat rights becomes unattainable precisely for disputed parcels. Hukumonline (2025) likewise notes the absence of a described dispute mechanism. This finding underlies the tiered model in Section 3.5, which connects the registration of ulayat rights with their dispute settlement routes.

Permen ATR/BPN 14/2024 should therefore be regarded as an administrative step that needs to be supplemented, not a final solution. Revisions are recommended so that (a) disputed parcels are not wholly excluded from registration but are given a clear settlement route and a clear record of objection; (b) Government Regulation 18/2021 is aligned with the *sui generis* nature of ulayat rights (Burhana & Tamsil, 2026; Hukumonline, 2025); and (c) indigenous law communities are not pushed into applying for rights other than their original customary rights (Salam et al., 2024). Recognition that depends on local governments also needs to be strengthened through the verification of ulayat rights before the issuance of an HGU and through a stronger role for ATR/BPN in mediation (Satriani, 2026).

3.3. Land Mediation as a Non-Litigation Route

Permen ATR/BPN Number 21 of 2020 on the Handling and Settlement of Land Cases opens mediation as a non-litigation route. Iriantoro et al. (2026) report that the restorative justice approach in land mediation yields varying success rates, from 28.5% to 55–65%, with the highest results in regions that combine customary deliberation. The main obstacles are structural institutional gaps, uneven mediator capacity (only 45% certified), and weak binding force, so that about 25% of agreements can be annulled.

Land mediation has also been studied at land offices in various cities (Hasbi, 2020). Case studies support these findings. At the Luwu Utara Land Office, the procedure complied with Permen 21/2020, but mediation failed because the parties acted without good faith, did not attend, or left the forum (Salam et al., 2026). In Rambah Muda Village, mediation was informal, without minutes or an attendance list, so that the agreement was only oral and the dispute continued into the formal route (Surya & Pater, 2025). The important lesson is that the strength of mediation lies not in the forum itself but in (a) good faith, (b) mediator competence, and (c) the formalization of the agreement, for example through a deed of settlement that can be ratified by a court.

For ulayat land disputes, land mediators need to understand customary evidence. A study of the Muara Sakal Indigenous Law Community shows that settling ulayat disputes requires a regulation that sets the conditions for recognizing indigenous law communities and their traditional rights (Artina et al., 2024). Without a clear identification of the subject and object of the right, mediation risks bringing together parties whose legal standing has not been recognized, so that the agreement is easily challenged.

3.4. Customary Deliberation and Customary Justice

Customary law settles disputes through deliberation, mediation, and negotiation with customary leaders as the main mediators; the values of togetherness, sacrifice for the group, and spiritual belief reinforce compliance with decisions (Sopalatu et al., 2025). This process is often regarded as closer to the community than state courts, but the comparison of its speed and social acceptance with those of the courts has not been tested in the sources reviewed, so this picture is not treated as a conclusion. In Kuanheun Village, Kupang, settlement through the stages of receiving a report, summoning the parties, mediation, and a settlement meeting involving the village government and customary institutions aims to maintain kinship and customary values without going to court (Lanus et al., 2026).

Customary deliberation nevertheless faces obstacles. Differing understandings of land rights, a lack of written evidence, and conflicting views among the parties hinder agreement (Lanus et al., 2026). In the Moi context in Sorong, a case study reports that a

tribal chief may demand payment from the owner of an abandoned certified parcel, so that customary authority is used for personal gain (Hidayat & Nugroho, 2024). Customary practice also varies between regions and may contain power imbalances, for example toward women, newcomers, or parties not recognized as part of the community; the sources reviewed do not address this specifically, so the model in Section 3.5 adds procedural safeguards in the form of the presence of interested parties and the right to bring objections to the mediation or judicial route. This indicates the need for the accountability of customary institutions and for minimum procedural standards, for example the recording of deliberation outcomes.

Other studies reinforce the point that customary law has long been used as an instrument for resolving agrarian disputes. A comparative empirical study shows the role of customary law in agrarian disputes in various regions (Pratiwi et al., 2024), and a comparative analysis of the use of customary law in land disputes shows a similar pattern (Judijanto et al., 2024; Adila & Alexandra, 2025). The practice is found in Minangkabau customary land disputes (Rahmat et al., 2024), in the discussion of the constitutionality of customary courts in Tana Toraja (Marham & Razak, 2023), and in efforts to legalize the customary law model of the Osing community (Warjiyati et al., 2023). In West Sumatra, the certification of *pusaka* (inherited) clan land as communal ownership also has legal consequences that deserve attention (Murniwati & Delyarahmi, 2023), and the variety of formal recognition of customary land tenure shows that there is as yet no single pattern (Guntur, 2023). Academically, Bedner and Arizona (2019) portray the position of *adat* in land law as an ambivalent choice between a promise for the future and a dead end, while Arizona and Cohen (2024) examine the recognition of customary land rights in Constitutional Court decisions.

From a sociological perspective, harmonizing state law and customary norms requires strengthening ownership documentation, the legal awareness of indigenous communities, and collaboration between the government and local stakeholders (Ramadhani et al., 2025). Sopalatu et al. (2025) recommend integrating customary principles into the national legal system together with legal recognition of customary institutions.

3.5. A Tiered and Just Conflict Resolution Model

Based on the analysis above, the author proposes a tiered settlement model that places prevention as the first stage and adjudication as the last. The legal basis, implementing body, transition conditions, and potential obstacles of each stage are summarized in Table 1, and the flow is illustrated in Figure 1.

Table 1. Tiered Settlement Stages: Legal Basis, Implementing Body, and Transition Conditions

Stage	Legal basis	Implementing body	Transition condition	Potential obstacles
1. Prevention	Article 18B paragraph (2) of the 1945 Constitution; Article 3 of the UUPA; Permen ATR/BPN 14/2024 (Articles 13–14); Minister of Home Affairs Regulation 52/2014 and recognition regional regulations	Local government, indigenous law community, land office	A dispute or objection arises (Article 25 paragraph (4))	Recognition depends on local government; disputed parcels cannot be registered
2. Customary deliberation	Customary law (Article 18B paragraph (2) of the 1945 Constitution); Village Law on the settlement of disputes by the village head and customary institutions	Customary institution and village government	Agreement fails or is not complied with	Little written evidence; accountability of customary institutions
3. Land mediation	Permen ATR/BPN 21/2020	Land office and certified mediators	Mediation fails or a party does not attend	Mediator capacity; good faith; binding force
4. Judicial route	Supreme Court Regulation 1/2016 (court mediation); administrative courts; civil suits	Courts	Final and binding decision	Cost and length of proceedings
5. Monitoring and remedies	Court decision; Permen ATR/BPN 14/2024 (Article 27 paragraph (2))	ATR/BPN, local government, and existing oversight bodies (for example, Komnas HAM or the Ombudsman)	Record of objection removed and right restored	No specific legal basis yet for monitoring remedies

Source: Author's analysis based on the regulations cited and the literature in this section; the model is normative and has not been tested in the field

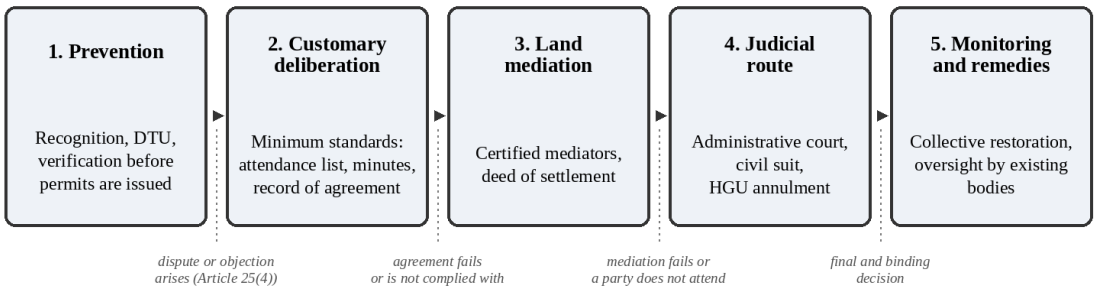


Figure 1. Flow of the Tiered Settlement Model

Source: Author's analysis

The first stage is prevention through recognition and registration, including the determination of customary territories, participatory mapping, entry in the DTU under Articles 13 and 14 of Permen ATR/BPN 14/2024, and verification of ulayat rights before permits are issued (Satriani, 2026). Public consultation, which has previously been a mere formality, must be upgraded to deliberative consultation that meets the FPIC standard as a normative standard (Arrizal et al., 2026). The second stage is settlement at the community level, namely customary deliberation with minimum procedural standards consisting of an attendance list, minutes, and a signed record of agreement. The third stage is land mediation by ATR/BPN under Permen ATR/BPN 21/2020 with certified mediators who understand customary law, with the agreement set down in a deed of settlement. The fourth stage is the judicial route, which consists of two distinct routes: a suit in the State Administrative Court where the matter at issue is a decision of a state administrative official, for example the issuance of a certificate or a land right, and a civil suit where the matter at issue is the relationship of rights between the parties; the annulment of an HGU and the restoration of ulayat rights may be included in the claim on the appropriate route (Satriani, 2026). The choice of route is determined by the object of the dispute, and the time limit for filing a State Administrative Court suit needs to be observed from the outset. The fifth stage is monitoring and restorative remedies in the form of compensation and the restoration of collective rights (Arrizal et al., 2026). This stage has no specific legal basis yet and is a proposal; monitoring can be carried out by ATR/BPN and local governments, with external oversight by existing institutions, for example the National Commission on Human Rights (Komnas HAM) or the Ombudsman, and does not require the creation of a new institution.

The stages are tiered but not rigid. The prevention and registration stage applies to all parcels. The emergence of a dispute or objection at the time of registration (Article

25 paragraph (4) of Permen ATR/BPN 14/2024) opens the customary deliberation stage, and the land office screens the objection and informs the parties of their options. If the customary agreement fails or is not complied with, the parties may pursue land mediation, and if mediation fails or one party does not attend, the judicial route is open. This order is a recommendation and a priority, not an obligation to pursue the customary route first, because the right to bring a case to court must not be removed and outside parties, for example companies or newcomers, are not always bound by local customary law. The parties may go directly to mediation or the judicial route if the customary forum is unacceptable to one party or does not represent all interested parties; the reason is recorded in the minutes by the land office, without restricting the rights of any party. Customary processes and mediation also do not suspend the running of the time limit for filing suit, so interested parties need to be informed of that time limit at the screening stage. To prevent repeated forum selection (forum shopping), the proposal requires that the parties not pursue two routes at once over the same object. The binding force of a customary agreement is secured by setting it down in a deed of settlement that can be ratified by a court (cf. Supreme Court Regulation 1/2016 on court mediation), not merely by the authority of the customary institution. Article 27 paragraph (2) postpones the issuance of a certificate while a record of objection exists, but the procedure for removing that record is not detailed in the text read; the removal of a record of objection on the basis of a ratified agreement or a final and binding decision is therefore a proposal that requires further regulation.

This model is a synthesis of existing instruments, including Minister of Home Affairs Regulation 52/2014 on the recognition of indigenous law communities and the provisions of the Village Law on the settlement of disputes by village heads and customary institutions, and it differs from the models examined in the literature in four respects. A comparison with regional regulations on the recognition of indigenous law communities, including in Papua, has not been carried out and is left for further research. Permen ATR/BPN 21/2020 provides for land mediation but does not connect it with entry in the DTU. The practice in Kuanheun Village (receiving a report, summoning the parties, mediation, and a settlement meeting) shows a community model operating without a uniform written procedural basis (Lanus et al., 2026). The BPN restorative justice strategy examined by Iriantoro et al. (2026) focuses on strengthening the institutional capacity of the BPN rather than on the customary route. Based on the sources compared, the tiered model proposed here adds (1) the screening of disputes at the registration stage, (2) minimum procedural standards for customary deliberation, (3) explicit transition conditions, and (4) collective monitoring and remedies.

The feasibility of the model depends on several conditions. First, regional regulations recognizing indigenous law communities must be in place so that the subject of the right is clear (Artina et al., 2024). Second, mediator capacity remains uneven,

because only about 45% are certified and about 25% of mediation agreements can be annulled owing to weak binding force (Iriantoro et al., 2026). These two figures come from a single study and are therefore read as indications, not as definitive national data. Third, the accountability of customary institutions needs to be maintained so that customary authority is not used for personal gain (Hidayat & Nugroho, 2024). Fourth, because Permen ATR/BPN 14/2024 contains no article on dispute settlement, full implementation of the model requires regulatory change. Because the model is normative and has not been tested in the field, its initial implementation could take the form of a pilot in regions where recognition regulations are already available.

The model also answers the criticism that responses to conflict are too reactive and move only after public protest has occurred (Lofi, 2025). An anticipatory framework involving communities, village governments, and business actors with fair benefit-sharing is more promising than post-conflict enforcement. In addition, harmonizing sectoral regulations through a one-map policy and a single point of recognition can reduce the permit clashes lamented by Sukirno (2016) and Arrizal et al. (2026).

As an academic implication, this article shows that the legal certainty of ulayat land cannot be answered by certification alone but requires integrated dispute settlement governance. As a practical implication, local governments need to draft regional regulations and technical guidelines that establish customary institutions as official partners, while ATR/BPN needs to expand mediator certification and provide standards for proving customary rights.

4. CONCLUSION

First, the legal framework for recognizing ulayat land exists at the level of the constitution, the UUPA, and sectoral regulations, but it is conditional and fragmented, giving rise to overlapping rights and agrarian conflict. Second, Permen ATR/BPN Number 14 of 2024 improves legal certainty through DTU registration and the HPL option, but it still leaves the problems of the concept of HPL nationalization (Article 4 of Government Regulation 18/2021), the risk of individualizing communal rights, and a dispute-free requirement that is not connected to a dispute settlement mechanism. Third, the effectiveness of dispute settlement is determined by good faith, mediator capacity, the formalization of agreements, and the accountability of customary institutions; a tiered model combining prevention, customary deliberation, land mediation, and judicial review is more normatively feasible and just, with the caveat that the model has not been tested in the field.

Recommendations: (1) revise Permen 14/2024 and align Government Regulation Number 18 of 2021 so that it does not alter original customary rights, in line with the findings of Section 3.2 on Article 4 of Government Regulation 18/2021; (2)

add provisions that connect the registration of disputed parcels with dispute settlement routes, recognize the outcomes of customary deliberation and require their documentation, and regulate the procedure for removing records of objection (Sections 3.2 and 3.5); (3) strengthen the certification of land mediators and the use of deeds of settlement (Section 3.3); and (4) apply FPIC as a normative standard in every release of ulayat land, with the minimum indicators in Section 3.1, until binding regulation is available. Further research is recommended to use primary field data, for example case studies of indigenous communities in Papua, examining the special autonomy framework and the special regional regulations in force there in order to test the feasibility of the model.

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