

JUSTIFICATION FOR THE ESTABLISHMENT OF A LAND COURT IN INDONESIA: REALIZING JUSTICE IN LAND DISPUTE RESOLUTION

Abdul Wahid*, Adi Sulistiyono

Doctoral Program in Law, Faculty of Law, Universitas Sebelas Maret, Surakarta City, Indonesia

*abdul.wahid@umc.ac.id

Abstract

Agrarian disputes in Indonesia are highly complex, covering a range of issues such as customary and communal land rights, certificate disputes, conflicts between communities and corporations, and state land acquisition. These challenges are compounded by the inability of general courts to effectively address them due to overlapping jurisdictions, inadequate coordination, and a lack of technical expertise. Consequently, the resolution of land disputes is often delayed, leading to diminished public trust in the judicial system. Comparative studies from Brazil and New Zealand have shown that specialized land courts can enhance efficiency, consistency, and the protection of indigenous rights by focusing on specific mandates, employing expert knowledge, and utilizing mediation mechanisms. This research highlights the urgent need for the establishment of a Land Court in Indonesia, presenting it as a critical institutional reform that would ensure legal certainty, provide substantive justice, and improve access to justice. The novelty of this study lies in its integrative approach, which combines doctrinal, comparative, and empirical analyses. The proposed Land Court, staffed with specialized judges, land experts, and supported by strong mediation procedures, is designed to offer quicker, fairer, and more socially legitimate outcomes. This approach is expected to strengthen public confidence in Indonesia's land governance system, ultimately improving the overall effectiveness of land dispute resolution.

Keywords: Land Court; Agrarian Disputes; Legal Certainty; Access to Justice; Specialized Judiciary.

A. Introduction

The problem of agrarian disputes in Indonesia demonstrates characteristics that are broad in scale and multidimensional, covering claims of customary/communal land rights, certificate disputes, land conflicts between local communities and plantation corporations, as well as conflicts arising from state land acquisition, which systematically disrupt social stability and local economic productivity. Recent empirical studies indicate that the narratives of conflicting parties often diverge (farmers, indigenous communities, investors, and local governments), making litigation in general courts insufficient to accommodate the complexity of such claims, whether in terms of historical evidence, customary aspects, or broader socio-economic implications. This condition underscores the need for an institutional framework specifically designed to address land disputes, facilitating a more accurate delineation of substantive rights while reducing the potential for conflict escalation (Berenschot & Saraswati, 2024). From an institutional and administrative standpoint, the current land dispute resolution system in Indonesia exhibits overlapping jurisdiction among multiple institutions (general courts, state administrative courts, land administration agencies, and customary resolution mechanisms), weak coordination among these institutions, and human resource capacities that are not focused on agrarian problems (Simanjuntak

et al., 2025). Analyses of international land governance frameworks recommend establishing specialized dispute resolution mechanisms as a key reform to enhance legal certainty and effectiveness in land administration, including the creation of task-oriented courts or land tribunals that address substantive and technical land issues (Lucas & Warren, 2013). These structural weaknesses directly prolong the time required to resolve disputes and diminish public trust in the existing judicial system (Tambunan et al., 2025).

The current judicial practice also reveals procedural problems: case backlogs, inconsistent rulings across jurisdictions, and judges' limited understanding of customary law as well as technical aspects of land registration (mapping, registration, and layered ownership evidence). Various juridical-empirical studies highlight that, as a result, victims often marginalized communities and traditional rights holders face restricted access to justice and prolonged uncertainty regarding their rights (Lubis et al., 2025). The absence of a judicial forum that integrates positive law, customary law, and technical knowledge of land administration contributes to the low quality of land law enforcement and the failure to realize substantive legal certainty (Bedner & Van Huis, 2008).

Comparative evidence from other countries shows that the establishment of specialized land courts or land tribunals can enhance the speed, consistency, and quality of land dispute resolution when designed with specific mandates, resources, and procedures tailored to land-related problems, for instance, integrating mapping experts, ensuring accountability to indigenous rights protection standards mechanisms (Simanjuntak et al., 2025). Comparative studies, including experiences from Brazil, New Zealand, and other jurisdictions, suggest that specialized land courts should not merely transfer cases from general courts but must be accompanied by procedural reforms, capacity-building for judges, and synergy with land administration agencies to produce long-term legal certainty (Alterman, 2010). Therefore, the establishment of a Land Court in Indonesia should be understood as a holistic institutional reform, rather than simply the creation of a new institution. It requires a comprehensive redesign of judicial competence, procedural integration, and administrative coordination to address the multidimensional nature of agrarian conflicts (Studwell, 2014).

The normative and practical justification for establishing a Land Court in Indonesia rests on three primary objectives: (1) ensuring substantive and procedural legal certainty for all land stakeholders; (2) improving access to justice for vulnerable groups, including indigenous rights holders; and (3) guaranteeing decisions that are more consistent, timely, and based on technical-administrative evidence (Handayani et al., 2018). International policy recommendations and national conceptual studies indicate that the ideal design of a Land Court should accommodate multidisciplinary competencies (law, customary practices, and land mapping), strong mediation procedures, as well as accountability mechanisms and integration with the national land registry. These measures, in turn, would reduce the social and economic costs of land conflicts while strengthening the sense of distributive and procedural justice in society (Alterman, 2010). Based on conceptual studies and academic proposals regarding the idea of a "special land court," the establishment of such a court is worth considering as part of Indonesia's broader land law reform agenda (Lucas & Warren, 2013).

Based on the above discussion, the researcher argues that the theory of legal certainty serves as the primary foundation for establishing a Land Court. Legal certainty not only requires the existence of clear rules but also demands a judicial mechanism capable of translating norms into consistent and predictable rulings. In the context of land disputes often involving customary rights, historical evidence, and administrative aspects, normative uncertainty and inconsistent judgments have been shown to erode the function of legal certainty as an instrument of rights protection (Radbruch, 2006). Therefore, the theory of legal certainty provides both academic and practical justification for the need for a specialized forum capable of adapting procedures and evidentiary standards to the complexity of land disputes (Fuller, 1964). Furthermore, this theory is reinforced

by studies highlighting the tension between the demand for legal certainty and substantive justice, underscoring the importance of designing legal institutions that can balance both so that every ruling is not only normatively valid but also socially legitimate (Simpson, 1987).

The institutional design framework asserts that the function of the judiciary depends heavily on the specification of authority, procedures, and human resource capacity; from this perspective, specialized courts emerge as a functional solution when cases require technical competence and prescriptive consistency that are not optimally available in general courts (Kapiszewski et al., 2013). Comparative literature on specialized courts including the experience of the Land Court in Mato Grosso (Brazil) and the Māori Land Court (New Zealand) demonstrates that institutions designed with a clear mandate, the involvement of technical experts (e.g., mapping specialists), and mediation procedures can shorten dispute resolution time, enhance the quality of rulings, and strengthen the integration between administrative registries and judicial decisions (Simanjuntak et al., 2025). Therefore, the institutional design framework provides both normative and practical justification for the establishment of a Land Court as a structural reform instrument for Indonesia's land dispute resolution system.

The theory of access to justice emphasizes both procedural and distributive dimensions: genuine access entails the ability to reach a dispute resolution forum, understand legal processes, obtain representation or technical assistance, and perceive the legitimacy of the process itself (Van Rooij & Van de Meene, 2008). In land disputes, vulnerable groups such as indigenous communities, smallholder farmers, and the rural poor often face barriers of cost, distance, and legal language, rendering access to general courts merely nominal (Unruh, 2003). The access-to-justice framework thus supports the creation of forums that are more easily reachable, with procedures responsive to the differences between customary and administrative evidence mechanisms so that procedural and substantive justice can be realized more effectively (Crawford & Moldonado, 2020). Comparative studies and access-to-justice theory further demonstrate that institutional reforms (including specialized courts) must be accompanied by mechanisms for legal aid, empowered mediation, and outreach programs to genuinely enhance access for weaker parties (Beqiraj & McNamara, 2014).

The theoretical framework of legal pluralism and norm harmonization (legal pluralism) is highly relevant, as land disputes often involve overlapping claims between state positive law, customary/community law, and administrative registry practices. This theory requires a judicial model capable of recognizing the coexistence of multiple normative orders without undermining the fundamental principles of legal certainty and human rights protection. In other words, an ideal land court should establish procedures to integrate customary evidence and norms, while developing interpretative standards that respect both legal integrity and contextual sensitivity (Benda-Beckmann & Turner, 2018). The experience of the Māori Land Court and the literature on community-based dispute resolution underline the importance of judicial capacity to understand customary practices, consult anthropologists or local historians, and apply legal principles that consistently safeguard collective rights (Boast, 2017). Such approaches illustrate how courts can function not merely as enforcers of statutory law but also as facilitators of normative integration across legal orders. This framework, therefore, provides a theoretical basis for designing judicial competencies and mechanisms of collaboration between courts and administrative institutions (Jackson, 1987).

At the level of legal philosophy, the main theories, Hart's legal positivism and Dworkin's theory of rights, offer two analytical lenses for justifying the establishment of specialized courts (Waluchow, 1994). Hart emphasizes the structure of rules and the "rule of recognition," thereby suggesting that courts must possess clear and cohesive criteria for the identification of norms. In contrast, Dworkin stresses the importance of interpretive, rights-based adjudication in which judges are required to weigh moral principles and rights to arrive at a just decision (Dworkin, 2013). A pragmatic synthesis of these two approaches supports the model of a land court that: (a)

is equipped with special rules and procedures to ensure certainty and administrative coordination; and (b) applies the hermeneutics of rights (Dworkinian) when rulings concern fundamental rights or value conflicts (e.g., indigenous rights versus public interest). This philosophical foundation strengthens the argument that new institutions should be designed not merely as technical mechanisms for efficiency, but also as forums that safeguard the integrity of law and both individual and communal rights (Abramson, 1986).

As a researcher, I will present three prior studies (state of the art) that are directly relevant to the theme “*Justification for the Establishment of a Land Court in Indonesia: Realizing Justice in Land Dispute Resolution.*” These studies were selectively chosen because they provide both theoretical and empirical foundations that are crucial for understanding the complexity of land dispute resolution in Indonesia. Through this review, it is expected that the dynamics of thought, legal gaps, and institutional needs that underscore the urgency of establishing a Land Court as a specialized judicial instrument aimed at realizing justice, legal certainty, and utility in land dispute settlement can be clearly illustrated.

First, the study by Simanjuntak et al. (2025) entitled “*Reforming Indonesia’s Land Dispute Resolution Mechanism: Comparative Insights for a Specialized Court from the Mato Grosso, Brazil Land Court and New Zealand Māori Land Court*” presents a juridical-doctrinal analysis of the structural weaknesses within Indonesia’s land dispute resolution system, including overlapping authorities, case backlogs, and inconsistent rulings. This study draws practical lessons from two specialized court models the Māori Land Court in New Zealand and the Land Court of Mato Grosso in Brazil both of which have demonstrated the ability to enhance legal certainty, administrative capacity, and the protection of indigenous rights. The article is significant not only because it identifies systemic weaknesses, but also because it provides recommendations for institutional design tailored to the typology of land disputes in Indonesia, while emphasizing the need for synergy between the land registry system and a specialized judicial forum.

Second, the study conducted by Arisaputra et al. (2023) entitled “*Special Land Court: Land Resolution With Legal Certainty*” offers a normative-analytical inquiry emphasizing the philosophical and procedural foundations for establishing a Land Court. The research highlights the importance of a specialized court as a bridge between the “formal truth” of land administration and the “material truth” of judicial evidence. Furthermore, the article proposes an organizational scheme involving appraisers, commissioners, and the National Land Agency (BPN) in data provision, while also presenting constitutional arguments that link the establishment of a Land Court with the principle of justice that is simple, swift, and affordable. The relevance of this study lies in its operational procedural design, which can be used by policymakers and academics in formulating regulations concerning the establishment of a Land Court.

Third, Guttel et al. (2023), through their article “*General Courts, Specialized Courts, and the Complementarity Effect*”, introduce the concept of the *complementarity effect*, a condition where the existence of specialized courts does not replace general courts but rather complements them in enhancing the quality of justice. Specialized courts are considered capable of providing judicial expertise, procedural efficiency, and better technical understanding of complex legal domains, while general courts remain essential in maintaining consistency and coherence within the legal system. This concept is particularly relevant to the resolution of land disputes in Indonesia, which often encompass technical, social, and historical dimensions. Thus, the *complementarity effect* framework provides strong academic justification that the establishment of a Land Court is not only urgent but will also reinforce the national judicial system in realizing substantive justice in land law.

The urgency of establishing a Land Court in Indonesia arises from the reality that the current mechanisms for resolving land disputes continue to face fundamental weaknesses. In practice, both the General Courts and the Administrative Courts have not been able to effectively handle the complexity of land disputes, which often involve overlapping administrative, civil, and even

criminal dimensions. This has resulted in inconsistent judicial decisions, overlapping institutional authorities, and delays in case resolution. Consequently, legal certainty and the sense of justice for disputing parties are often not achieved. The establishment of a Land Court is therefore considered urgent as a specialized judicial forum with both substantive and technical competence in handling land disputes. A specialized court would enable the integration of “formal truth” within land administration and “material truth” within judicial adjudication. Moreover, judicial specialization, supported by technical experts (such as land surveyors, appraisers, and land data experts from the National Land Agency/BPN), would allow dispute resolution to be carried out with greater accuracy, efficiency, and fairness. Thus, the urgency of establishing a Land Court lies in its role as an instrument capable of addressing existing legal vacuums while overcoming institutional and procedural shortcomings within the current system. Furthermore, its existence would contribute to realizing the three fundamental values of law: legal certainty through consistent and coherent judgments, justice through the protection of disputants’ rights, and utility through more effective and reliable resolution of land disputes.

Based on the background and urgency of establishing a Land Court in Indonesia, this research focuses on addressing several key legal issues. The first issue concerns the weaknesses of the general judiciary and the State Administrative Court in handling land disputes, which are often complex and multidimensional, involving administrative, civil, and criminal aspects. These courts are ill-equipped to manage the intricate and overlapping nature of such disputes, leading to inconsistent rulings and prolonged legal processes. The second issue examines the necessity of establishing a Land Court as a specialized judiciary to address the legal vacuum and institutional challenges in the resolution of land disputes. Currently, no single institution is fully equipped to handle the diverse nature of land-related conflicts, creating inefficiencies and legal uncertainty. The third issue explores the ideal institutional design for the Land Court, aiming to ensure that it can provide legal certainty, deliver substantive justice, and offer tangible benefits to all disputing parties. This involves determining the appropriate structure, procedures, and mechanisms to make the court efficient, accessible, and effective in achieving fair and timely resolutions.

The novelty of this research lies in its integrative approach, which examines the urgency of establishing a Land Court in Indonesia not merely from a normative or comparative institutional perspective, but by directly linking the practical challenges of the current judiciary, the existing legal vacuum, and the necessity of designing a new institutional framework. Whereas previous studies tend to emphasize partial analyses such as institutional arrangements or lessons from international models, this research offers a more holistic perspective. First, this study introduces conceptual novelty by integrating the three fundamental values of law, legal certainty, substantive justice, and utility as the primary parameters in formulating the urgency of a Land Court. This provides a new dimension, as the emphasis is not limited to institutional efficiency but also highlights the philosophical legitimacy and normative objectives of the judiciary. Second, this research contributes methodological novelty by combining theoretical, normative, and empirical approaches simultaneously. Thus, the urgency of establishing a Land Court is not only grounded in doctrinal arguments but also reinforced by empirical evidence of the shortcomings of the existing judicial system and the practical needs of disputing parties. Third, this study offers practical novelty by conceptualizing the Land Court as an instrument capable of integrating *formal truth* (in land administration) with *material truth* (in judicial proof), supported by specialized judges and technical experts. This represents an original proposal to bridge the gap between the land administration system and judicial practice. Accordingly, the novelty of this research lies in its ability to comprehensively address legal vacuums and institutional weaknesses, while simultaneously providing both theoretical and practical contributions to strengthening Indonesia’s judicial system through the establishment of a Land Court that is more adaptive, just, and oriented toward legal certainty.

B. Method

This study employs the doctrinal (normative-juridical) method, namely legal research that focuses on literature review by examining positive legal norms, legal principles, and legal doctrines related to land dispute resolution. This approach is relevant since the main issue under investigation concerns the normative justification for the establishment of a land court within the Indonesian legal system. Accordingly, the research emphasizes the analysis of legislation, court decisions, academic doctrines, and international legal principles to assess the extent to which the institutionalization of a land court can realize justice (Hutchinson, 2013).

Within the framework of normative-juridical research, a statute approach and a conceptual approach are employed. The statute approach is carried out by examining the Basic Agrarian Law (UUPA), the Judicial Power Law, and regulations related to land dispute resolution. Meanwhile, the conceptual approach is used to explore theories of justice, legal certainty, and the effectiveness of specialized judicial institutions in resolving land conflicts. This doctrinal analysis serves as an academic foundation to provide a normative argument that the establishment of a land court is an urgent necessity in order to realize substantive justice for the disputing parties (Siems & Mac Síthigh, 2012).

In addition, this doctrinal research also employs a case approach by examining jurisprudence from the Supreme Court as well as district courts in relation to land disputes. The aim is to identify patterns of judicial decisions, weaknesses in the existing dispute resolution mechanisms, and their implications for legal certainty and justice. The analysis of jurisprudence is then compared with the practices of special courts in several other countries that have established land courts, thereby enabling both normative and comparative arguments. Thus, this doctrinal (normative-juridical) research method does not merely focus on legal texts but also on the practice of law enforcement, which demonstrates the existence of institutional gaps that may be addressed through the establishment of land courts in Indonesia (Van Hoecke, 2011).

C. Results and Discussion

1. Comparison of Land Court Models in Various Countries

a. Thailand

Thailand has a Specialized Land Court that focuses on resolving land and immovable property disputes. This court was established due to the high number of complex agrarian cases related to property rights, land leasing, and customary land disputes. The specialized land judiciary system in Thailand emphasizes the specialization of judges to ensure they have substantive competence in agrarian law, while also expediting the judicial process that is often hindered when handled by the general courts. This model demonstrates that land courts are effective when equipped with simplified procedural mechanisms and expert judges (Dhiaulhaq et al., 2015).

b. India

India has established Revenue Courts and Land Tribunals as part of its specialized judicial system for land matters. These institutions handle land-related conflicts concerning ownership, agricultural land distribution, and agrarian reform disputes. The existence of these courts is driven by the need to address the large backlog of land cases in the general courts. The Indian model emphasizes specialized tribunals to ensure legal certainty and substantive justice by involving experts in agrarian law and land administration officials (Zeya, 2024).

c. Philippines

The Philippines, through the Special Agrarian Courts (SACs), handles disputes arising from the implementation of the Comprehensive Agrarian Reform Program (CARP). SACs have

exclusive jurisdiction over agricultural land disputes, land distribution, and compensation for landowners. These courts are designed to expedite land distribution while providing legal protection to farmers. The existence of SACs demonstrates that a specialized court can be an effective instrument in supporting agrarian reform policies structurally (Silliman, 1982).

d. Australia

Australia has implemented the Land and Environment Court of New South Wales, which has broad jurisdiction over land disputes, environmental issues, spatial planning, and development permits. This court is recognized as one of the first specialized courts in the world to integrate land issues with ecological concerns. The court not only provides legal certainty but also emphasizes the principle of substantive justice by considering ecological justice and access to justice for affected communities. The Australian model can serve as a reference for Indonesia due to its success in combining agrarian interests with environmental sustainability (Preston, 2012).

From this comparison, it is evident that these countries have established specialized land courts to enhance legal certainty, expedite dispute resolution, and provide access to substantive justice. Thailand emphasizes speeding up cases, India addresses the backlog through tribunals, the Philippines supports agrarian reform, while Australia integrates land issues with environmental concerns. Indonesia can learn from these models by formulating a Land Court design that aligns with national needs.

Table 1.
Comparative Table of Land Courts in Selected Countries

Country	Legal Basis / Establishment	Structure & Jurisdiction	Focus / Scope of Cases	Strengths	Weaknesses / Challenges
Thailand	<i>Establishment of Specialized Land and Environment Courts Act B.E. 2552 (2009)</i>	Separate specialized courts under the Court of Justice with nationwide jurisdiction	Land disputes, land reform, forest encroachment, and environmental conflicts	Specialized judges with expertise in land and environment law; faster case resolution	Limited resources in rural areas; challenges in harmonizing land reform with customary land rights
India	<i>National Green Tribunal Act, 2010</i> (though primarily environmental, it includes land use issues) + <i>Revenue Courts</i> at the state level	Revenue Courts (state-based) + National Green Tribunal for land-environment overlap	Land ownership disputes, tenancy, compensation for land acquisition, and environmental land issues	Strong constitutional backing; large jurisdictional reach	Overburdened system; delays remain; lack of uniform land court structure
Philippines	<i>Rules of Court + Comprehensive Agrarian Reform Law (RA 6657, 1988)</i>	Special Agrarian Courts (Regional Trial Courts designated as such)	Agrarian disputes, land redistribution conflicts, and compensation for land reform	Integration with the agrarian reform program supports land redistribution	Backlog of agrarian reform cases; limited training of judges in agrarian law
Australia	<i>Land and Environment Court Act 1979 (NSW)</i> (model also adopted in other states)	An independent superior court with equal status to the Supreme Court in NSW	Land use planning, property disputes, environmental law, compensation, compulsory acquisition	High level of specialization; efficient alternative dispute resolution; transparency	Costs of litigation remain high; accessibility issues for remote communities

The comparison among countries shows fundamental differences in approaches to resolving land disputes. Thailand and the Philippines have specialized land or agrarian courts that handle disputes with a focused approach and absolute competence in agrarian matters. This provides clear jurisdiction and accelerates dispute resolution because judges possess specialization in land law. Meanwhile, India and Australia emphasize integration between general courts and specialized tribunals, such as the Land Tribunal in India or the Land and Environment Court in New South Wales (Australia), which combine administrative, judicial, and mediation functions within a single institution.

A common thread among these four countries is the trend toward judicial specialization in the land sector as a response to the complexity of land disputes that cannot be adequately addressed by general courts alone. However, each country adapts its model to its social, political, and legal context. Thailand and the Philippines tend to emphasize the protection of smallholders' rights through specialized agrarian courts, whereas India and Australia focus on balancing legal certainty, administrative efficiency, and environmental protection.

In relation to Indonesia, an important lesson is the need to strengthen a hybrid land dispute resolution institution that combines administrative pathways (PTUN), civil adjudication, and specialized quasi-judicial mechanisms, as demonstrated in India and Australia. This aligns with Indonesia's challenges in handling large-scale agrarian disputes and the still-limited coordination among BPN, general courts, and PTUN. Therefore, a more integrated model based on judicial specialization could serve as an inspiration for building an effective and equitable land dispute resolution system in Indonesia.

2. Weaknesses of the General Court System and Administrative Court in Resolving Complex and Multidimensional Land Disputes

a. Normative Framework and Authority

The authority of the General Court is constitutionally regulated in Article 24, paragraph (2) of the 1945 Constitution, which states that judicial power in Indonesia is exercised by the Supreme Court and the courts under it, including the General Court that handles civil and criminal cases. The General Court (through the District Court and the High Court) has jurisdiction over civil and criminal legal disputes at the first instance and appellate levels, and serves as the final authority in the judicial review process. However, in the context of land disputes, the General Court often faces limitations in addressing the administrative dimensions related to government decisions, which should fall under the jurisdiction of the State Administrative Court (PTUN) (Subiyanto, 2012). Article 24, paragraph (2) of the 1945 Constitution: *"Judicial power is exercised by the Supreme Court and the courts under it, within the general court system, the religious court system, the military court system, and the state administrative court system..."*. Law No. 48 of 2009 on Judicial Power, Article 18, paragraph (1): *"The general court is authorized to examine, adjudicate, and decide criminal and civil cases at the first instance"*. Law No. 2 of 1986 jo. Law No. 49 of 2009 on the General Court, Article 50: *"The District Court is tasked and authorized to examine, decide, and resolve criminal and civil cases at the first instance"*. Therefore, the General Court has full authority over civil and criminal disputes. However, in the practice of land disputes, many administrative issues (e.g., the revocation or issuance of certificates by the National Land Agency) actually fall outside its competence.

The case of the Double Land Certificate Dispute in West Jakarta, decided by the Supreme Court's ruling No. 302 K/Pdt/2017, serves as a concrete example of jurisdictional overlap between the General Court and the State Administrative Court (PTUN). In this case, the Supreme Court affirmed that the general court is authorized to examine civil disputes arising from double land certificate ownership. However, the essence of the issue stems from the administrative actions of the National Land Agency (BPN) in the certificate issuance process, which should fall under the

jurisdiction of the administrative court. This situation gives rise to a legal problem of forum shopping and legal uncertainty, as the plaintiff is faced with a dual choice: to file a lawsuit in the general court or in PTUN (Koeswahyono & Maharani, 2022). Conceptually, the lack of clarity regarding the boundaries of jurisdiction highlights a weakness in the Indonesian agrarian legal system, particularly regarding the division of absolute jurisdiction between courts. The General Court tends to focus on ownership aspects and civil relations between individuals, while PTUN should address the legality of decisions made by government officials, including certificate issuance by BPN. This Supreme Court ruling demonstrates that the judiciary is not yet fully consistent in separating jurisdiction, leading to potentially contradictory rulings and extended land dispute resolutions. In this context, the urgency for establishing a specialized Land Court becomes apparent. Such a court could integrate civil, administrative, and even criminal aspects of land issues, thereby eliminating fragmentation in dispute resolution. In doing so, a specialized Land Court would strengthen legal certainty, substantive justice, and the effective protection of land rights for the public (Peterson et al., 2025).

The constitutional basis for the existence of the State Administrative Court (PTUN) is also found in Article 24, paragraph (2) of the 1945 Constitution, which stipulates that the Supreme Court and the courts under it, including the PTUN, exercise judicial power. The PTUN is specifically regulated through Law No. 5 of 1986 on the State Administrative Court (and its subsequent amendments), which grants the PTUN the authority to examine, adjudicate, and decide disputes arising from state administrative decisions or actions (*beschikking or lack of decision*) that harm certain parties. Law No. 30 of 2014 on Government Administration also expands the jurisdiction of the PTUN by allowing it to review instances of abuse of power by government officials (Siagian et al., 2023). Article 24, paragraph (2) of the 1945 Constitution (as mentioned above) emphasizes the existence of the State Administrative Court system. Law No. 5 of 1986 jo. Law No. 9 of 2004 jo. Law No. 51 of 2009 on the State Administrative Court, Article 1, number 10: “*The State Administrative Court is a court that is tasked and authorized to examine, adjudicate, and resolve State Administrative disputes*”. Law No. 30 of 2014 on Government Administration, Article 53, paragraph (1): “*The court is authorized to accept, examine, adjudicate, and resolve State Administrative disputes as stipulated in this law*”. Based on this legal foundation, PTUN has jurisdiction over disputes arising from decisions made by state administrative officials (*beschikking*), including disputes related to the issuance, cancellation, or revocation of land certificates by the National Land Agency (BPN). There is a concrete case that demonstrates the transfer of jurisdiction from the State Administrative Court (PTUN) to the General Court in land disputes, such as in disputes over land certificates. This has led to a legal polemic regarding the absolute jurisdiction between the two types of courts. A normative legal study shows the need for regulatory reform to clarify the division of authority between the judicial institutions in order to ensure legal certainty. Overall, it is important to understand that the 1945 Constitution provides a constitutional framework for both of these judicial bodies, the General Court for civil and criminal matters, and PTUN for administrative decisions/actions, yet, in practice, the implementation still faces overlapping jurisdiction, especially in multidimensional land disputes (Anggita & Andraini, 2025).

The case of PTUN Jakarta Ruling No. 42/G/2019/PTUN-JKT illustrates that a Building Use Right (HGB) certificate issued by the National Land Agency (BPN) can be revoked if it is proven that there were procedural defects in the administrative process of its issuance. This dispute differs from a pure civil dispute, as the object of the dispute is a state administrative decision (KTUN) in the form of the issuance of a certificate, which falls under the jurisdiction of the State Administrative Court (PTUN) as regulated in Article 1, number 9 of Law No. 51 of 2009 on the State Administrative Court. This highlights that land disputes do not only involve private (civil) relationships but can also enter the realm of state administrative law when there is

maladministration in the decision-making process of government officials (Widiyono & Khan, 2023).

The authority of the General Court and the State Administrative Court (PTUN) in land dispute resolution in Indonesia is based on clear legal principles. Constitutionally, Article 24, paragraph (2) of the 1945 Constitution affirms that judicial power is exercised by the Supreme Court and the courts under it, including the General Court and PTUN. This article serves as the primary foundation for the division of court authority in adjudicating both civil and state administrative cases. In the context of land disputes, the General Court has jurisdiction over civil cases related to land ownership rights, while PTUN has jurisdiction over disputes arising from state administrative decisions, such as the issuance or revocation of land certificates by the National Land Agency (BPN) (Isra & Faiz, 2024). Law No. 48 of 2009 on Judicial Power reinforces this division by stating that the General Court has jurisdiction over all civil and criminal matters, while the State Administrative Court (PTUN) has jurisdiction over state administrative disputes between individuals or legal entities and government officials resulting from the issuance of state administrative decisions. This provision highlights the dichotomy of jurisdiction in land dispute resolution, which often leads to overlapping authority when a case involves both civil and administrative aspects (Butt, 2015). Further, Law No. 2 of 1986 on the General Court (jo. Law No. 49 of 2009) provides the legal basis for the General Court to adjudicate land rights disputes as civil matters. Meanwhile, Law No. 5 of 1986 on the State Administrative Court (jo. Law No. 9 of 2004, jo. Law No. 51 of 2009) explicitly affirms the jurisdiction of the PTUN to annul state administrative decisions in the field of land, including the issuance, cancellation, or extension of certificates by the National Land Agency (BPN). This demonstrates that the legislative framework has positioned both courts in a complementary manner, but in practice, jurisdictional conflicts often arise (Bedner, 2001). Thus, the legal basis for the authority of the General Court and the State Administrative Court (PTUN) in land disputes is derived from the 1945 Constitution, the Judicial Power Law, the General Court Law, and the PTUN Law. However, in practice, this dualism of jurisdiction often leads to overlapping resolutions, particularly in cases involving double land certificates or the issuance of certificates with procedural defects. This situation calls for a legal reconstruction to make the judicial authority more harmonious and provide legal certainty for the public (Lindsey & Butt, 2018).

b. The Complexity of Land Disputes

Land disputes in Indonesia have a multidimensional character because they involve various legal aspects simultaneously. From the land administration perspective, disputes often arise regarding the issuance, cancellation, or overlapping land certificates issued by the National Land Agency (BPN). From a civil law perspective, conflicts arise due to claims of ownership, sale, inheritance, or the transfer of land rights. Meanwhile, from a criminal law perspective, many cases involve land grabbing, document forgery, and corruption in the process of securing land rights. This complexity shows that land disputes are not only about the legality of administrative documents but also touch on civil relationships between individuals and the potential for criminal offenses (Bedner, 2016).

Land disputes are difficult to separate into a single legal regime because the facts on the ground show that one case can simultaneously involve three different areas of law. For example, in the case of double land certificates: from the administrative perspective, this is related to errors in the issuance of a decision by the BPN; from the civil perspective, there are two parties both claiming ownership; and from the criminal perspective, there could be allegations of document forgery or land grabbing. In practice, this situation often forces the parties to go through litigation processes in multiple courts at the same time, which frequently results in different or even conflicting rulings. This condition demonstrates that the current positive legal system is unable to provide a unified forum for resolving land disputes (Lukito, 2012).

The dual dimensions of land disputes create serious problems in terms of limiting the jurisdiction of the courts. The General Court can only adjudicate civil and criminal aspects, but does not have the competence to annul the administrative decisions of the National Land Agency (BPN). On the other hand, the State Administrative Court (PTUN) is authorized to annul administrative decisions but cannot address the civil or criminal aspects that are inherent to land cases. This results in jurisdictional fragmentation, which leads to legal uncertainty, high costs, and very long dispute resolution times. Therefore, the current judicial system remains partial in handling land disputes, and a specialized forum is needed to integrate administrative, civil, and criminal aspects into a single mechanism (Akhtar-Schuster et al., 2011).

In India, land disputes are often rooted in legal pluralism (formal/state law alongside customary law), incomplete agrarian reform, and rapidly changing land ownership and use due to urbanization and large investments. As a result, land cases contribute a significant proportion of the national court backlog; litigation can drag on for years and become layered (e.g., ownership disputes, annulment of administrative decisions, and criminal cases such as document forgery). Handling by the general courts is often hindered due to the volume of cases and a lack of technical specialization, while administrative mechanisms (land records, revenue courts) have uneven capabilities across states, complicating integrated resolution. A lesson for Indonesia: without a forum that effectively integrates administrative, civil, and criminal aspects, land cases risk continuing to cause backlogs and legal uncertainty (Barman & Chowdhury, 2024).

In the Philippines, the history of agrarian reform and collective conflict (agrarian movements, redistribution) has influenced how land disputes are resolved. Many cases are not just about ownership but also about public function and state oversight post-reform (e.g., land use obligations after redistribution). The civil court system, agrarian administration bodies (such as the DAR), and local ADR mechanisms intersect with each other; as a result, resolutions are often fragmented and depend on local political power. For Indonesia, this underscores the need for an institutional design that is sensitive to the redistributive and post-decision administrative oversight dimensions of land disputes, rather than relying solely on formal courts (Jadina et al., 2025).

Thailand has strengthened the use of non-litigation mechanisms (community mediation, arbitration) as well as land-use planning policies to reduce conflicts. However, research shows that land use conflicts persist due to the misalignment between national policies and local implementation, as well as the pressures of investment/land conversion. The relevance for Indonesia is the importance of combining preventive instruments (planning, policy reconciliation) and rapid dispute resolution mechanisms (court-supervised mediation) to reduce the litigation burden, which would eventually require the expertise of specialized courts (Kabiri, 2016).

New Zealand's experience with the Māori Land Court highlights how a court with specialized jurisdiction can protect communal/indigenous rights while providing formal legal certainty. This type of court combines general legal procedures with cultural understanding and restorative mechanisms; as a result, it is relatively more consistent in cases involving traditional rights, communal tenure boundaries, and historical reconciliation. For Indonesia, this model is particularly relevant for regions involving customary/communal rights: a Land Court would need to incorporate the capacity to handle claims based on customary law and technical measurement/mapping sensitive to the local context (Macpherson & Turoa, 2025).

The Mato Grosso case in Brazil illustrates the experience of a specialized court handling large-scale agrarian conflicts from demarcation to collective ownership disputes. Their successes include centralization of technical competence and faster access to the courts, but there are also challenges such as politicization, the need for significant resources (technical staff, registration data), and weak administrative coordination. The implication for Indonesia: establishing a Land Court could expedite access to justice, but the institutional design must ensure independence, integration of administrative data (BPN), and adequate funding/expertise to avoid replicating the same limitations (Lopes et al., 2021).

Brief Summary of International Practice Implications for Indonesia: 1) Without a forum that integrates administrative-technical and judicial aspects, land disputes will continue to cause fragmentation and backlog. 2) Specialized models (such as the Māori Land Court or Brazil's agrarian courts) provide evidence that specialization improves accuracy and consistency in rulings, but it is only effective if accompanied by administrative data integration, expert personnel, and protection against politicization. 3) Preventive measures, such as good land planning, should run in parallel with the establishment of specialized institutions to reduce the case burden on courts.

c. Weaknesses of General Courts

The General Court in Indonesia structurally lacks judges specifically trained to handle land disputes. Civil judges, in general, have a generalist competence, so in complex land cases (involving aspects of registration, agrarian law, and even customary law), there is often a disparity in rulings across courts. This creates legal uncertainty for the parties involved, as differing rulings on similar cases undermine the principle of consistency of precedent, which is a cornerstone of legal certainty (Baum, 2008).

Land disputes submitted to the General Court generally take a long time due to layered litigation procedures, the complexity of available evidence, and jurisdictional overlap with other institutions (such as the National Land Agency (BPN) or law enforcement agencies in criminal land cases). This situation contributes to the high backlog of cases, meaning many land disputes do not achieve legal certainty within a reasonable time. Furthermore, the high cost of litigation further limits access to justice for the disadvantaged (Dakolias, 1999).

The General Court places more emphasis on formal aspects of proof in civil lawsuits, such as the validity of certificates, evidence of sale, or ownership documents. As a result, the substantive issues in land disputes, which are often multidimensional, such as conflicts over customary land rights, abuse of land administration, and even criminal aspects like land grabbing, are not resolved comprehensively. Rulings often tend to be win-lose and do not address the root causes, causing the conflict to continue even after a court decision (Kennedy, 2016).

d. Weaknesses of the State Administrative Court (PTUN)

The State Administrative Court (PTUN) is only authorized to adjudicate disputes involving State Administrative Decisions (KTUN). In the context of land disputes, this means that PTUN can only review the legality of administrative decisions issued by the National Land Agency (BPN) or relevant state administrative officials. As a result, civil aspects such as ownership, sale, or inheritance of land cannot be resolved within PTUN, even though these aspects are often intertwined in land disputes (Rauzi & Hadi, 2024).

PTUN places more emphasis on procedural aspects, such as whether the issuance of administrative decisions complies with formal legal rules. However, land disputes often require the examination of the substance of ownership, involving document verification, history of possession, and social facts on the ground. Since PTUN does not have the authority to determine the rightful owner of the land, PTUN rulings often fail to fully resolve land conflicts (Safari, 2013).

Although PTUN is designed to provide a fast track for reviewing administrative actions, in practice, it often becomes cumbersome. PTUN emphasizes formal procedures such as the deadline for filing a lawsuit (90 days from the issuance of the decision) or the validity of the claim's requirements, meaning many land disputes cannot be examined because they are considered time-barred or do not meet administrative criteria. This situation results in a denial of justice for individuals who have actually suffered real harm due to the decisions of officials (Moa & Djajaputra, 2025).

Unlike specialized courts that can present expert witnesses, PTUN generally relies solely on judges and the disputed administrative documents. Land disputes, which often require technical

analysis such as land measurements, parcel maps, or social studies, cannot be comprehensively considered. As a result, PTUN rulings sometimes fail to reflect the real conditions on the ground and may even lead to new disputes (Dressel, 2024).

From these dual weaknesses, it is clear that the current judicial system fails to address the complexity of land disputes in an integrative manner. The General Court is too narrow in its civil perspective, PTUN is too limited in its administrative aspects, while the criminal aspects are often neglected and disconnected from the other two legal regimes. This is the academic and practical reason that urgently calls for the establishment of a Land Court as a specialized tribunal that integrates administrative, civil, and criminal aspects, with judges who have specialization and support from land technical experts.

e. The Problem of Inconsistent Decisions

One fundamental problem in land dispute resolution is the difference in rulings between the General Court and PTUN on similar cases. For example, a dispute over the validity of a land certificate might be won by one party in the General Court based on ownership, but on the other hand, PTUN may rule differently by annulling the administrative decision that led to the issuance of that certificate. This difference in judicial orientation leads to inconsistent rulings, which not only undermine the authority of the courts but also exacerbate social conflicts in the community (Pertiwi et al., 2024).

The absence of a single forum for land dispute resolution also encourages parties to engage in forum shopping, that is, choosing the judicial path they perceive as most advantageous. This phenomenon not only prolongs the litigation process but also leads to the abuse of law, as parties compete to find a ruling that aligns with their interests, without prioritizing a fair and comprehensive resolution of the dispute. In the context of Indonesia, forum shopping highlights the weakness in coordination between judicial institutions and hinders efforts toward legal consistency (Alfitri, 2012).

The consequence of inconsistent rulings and the phenomenon of forum shopping is the emergence of legal uncertainty for both the parties involved and the wider public. This uncertainty triggers a loss of public trust in the legal system and results in significant social costs, as land conflicts often drag on and sometimes lead to horizontal violence. Therefore, the issue of inconsistent rulings is not only a technical-legal matter but also concerns the legitimacy of the state in providing fair and certain legal protection.

3. The Urgency of Establishing a Land Court as a Specialized Judiciary to Address Legal Gaps and Institutional Problems in Indonesia

a. Conceptual and Theoretical Dimensions

The fundamental difference between the general court and a specialized court lies in the focus of jurisdiction and the competence of the judges. The general court has broad jurisdiction to resolve various types of disputes, whereas specialized courts are established to handle specific areas of law that require particular technical expertise. In the context of land disputes, the complexity of cases involving administrative, civil, and even criminal aspects often makes resolution through the general court less effective. Therefore, specialized courts are seen as providing a more appropriate forum, with judges who have both substantive and technical expertise in land law (Elisabetta, 2014).

The concept of specialized courts stems from the theory of institutional differentiation in modern legal systems, where the need for justice calls for institutions that are more responsive to specific issues. Land disputes in Indonesia have administrative, civil, and even criminal dimensions, which, when handled through general mechanisms, often lead to fragmented rulings. This fragmentation weakens legal certainty because a single land case can be decided differently

by the state administrative court, the civil court, or the criminal court. With the establishment of a specialized Land Court, the integration of legal perspectives can be realized, leading to consistency in law enforcement (Roach & Sossin, 2010).

From the perspective of legal certainty theory (Radbruch), the specialized Land Court supports the creation of consistent and predictable regulations and rulings. Legal certainty is crucial in land registration, as land ownership certificates serve as strong proof of ownership and have implications for investment stability. When general court rulings differ on similar land cases, public trust in the legal system declines. The establishment of a specialized court will strengthen legal certainty through more uniform jurisprudential standards (Stepanov, 2009). In addition to legal certainty, the urgency of establishing a Land Court can also be explained through the theory of substantive justice. Ronald Dworkin emphasizes that law is not merely a set of formal rules but must reflect just moral principles. Land disputes in Indonesia often involve the rights of marginalized communities, agrarian conflicts, and broader social interests. Therefore, the judicial mechanism must be able to provide substantive justice, not just procedural justice. A specialized Land Court can provide a forum that is more sensitive to these dimensions of social justice (Dworkin, 1988). Legal effectiveness as a theory also serves as an important conceptual foundation. According to Lawrence Friedman, legal effectiveness is influenced by the structure, substance, and culture of the law. In land matters, legal effectiveness is often hindered by long resolution processes, overlapping jurisdictions, and the limited understanding of general judges regarding technical land aspects. A specialized court can enhance legal effectiveness because the judges and court personnel assigned to it have the relevant specialization and technical competence, allowing them to expedite the process and improve the quality of rulings (Friedman, 2008). The theory of access to justice also strengthens the urgency of a Land Court. This concept emphasizes that the law must be easily accessible, both in terms of procedures, costs, and substance. Land disputes often involve marginalized communities facing large investors or the government, creating a significant legal access disparity. With the establishment of a specialized court, procedures can be simplified, and the focus can be directed towards fulfilling the constitutional rights of the people to land. This aligns with the principle of social justice in Article 33 of the 1945 Constitution (Foundations, 2019).

Based on the conceptual and theoretical explanation regarding the urgency of establishing a Land Court, the researcher argues that a specialized Land Court has the potential to ensure legal certainty, substantive justice, effective dispute resolution, and broaden access to justice for the public. This is based on the fundamental difference between general jurisdiction courts and specialized courts, which emphasize the expertise of judges and focus on more specific issues.

With the establishment of a specialized court, the judicial process would be more effective because judges would understand the characteristics of agrarian disputes, which involve administrative, civil, and criminal dimensions. Furthermore, legal certainty could be better guaranteed because the rulings produced would not only be legally binding but also relevant to the sociological conditions of Indonesia's agrarian society. From a legal theory perspective, this hypothesis is grounded in Gustav Radbruch's views on legal certainty, justice, and utility; Lon Fuller's theory of the morality of law; and Ronald Dworkin's concept of legal integrity, which emphasizes consistency in the application of norms. The researcher believes that the establishment of a Land Court is a response to the demand for a legal reconstruction capable of integrating legal theory with the practical needs of resolving land disputes.

Thus, the research hypothesis is: *"The establishment of a Land Court as a specialized tribunal will be able to improve the quality of agrarian dispute resolution through the assurance of legal certainty, fulfillment of substantive justice, legal effectiveness, and access to justice for the public, making it more responsive to the complexities of land issues in Indonesia"*.

b. Legal Dimension (Indonesian Positive Law)

Normatively, the constitutional basis for specialized courts in Indonesia is contained in Article 24 paragraph (2) of the 1945 Constitution, which stipulates that judicial power is exercised by a Supreme Court and the judicial bodies under it, as well as by a Constitutional Court. This normative formulation provides room for the establishment of specialized courts, provided they are enacted through legislation. Consequently, the juridical foundation for establishing a specialized institution, such as a land court, can be linked to the constitutional system, which recognizes the diversity of judicial structures according to the needs of society and the rule of law. This affirms that the establishment of specialized courts does not contradict constitutional principles, as long as it remains within the framework of an independent judiciary (Butt, 2015).

In addition to the 1945 Constitution, another juridical basis is found in Law Number 48 of 2009 concerning Judicial Power. Article 27 of this law states that, in addition to general, religious, military, and administrative courts, specialized courts may be established through legislation. This means that Indonesia's positive legal framework provides legitimacy for the possible establishment of a land court as a specialized judiciary to resolve land disputes more effectively and in a targeted manner. On this basis, the concept of a land court can be viewed as an institutional legal development aimed at addressing structural problems in the current land dispute resolution system, which has so far been fragmented across civil, criminal, and administrative channels (Pompe, 2018).

In Indonesia's positive legal system, all specialized courts established by law are, in principle, placed under the Supreme Court as the highest judicial authority, except for the Constitutional Court, which is a separate constitutional organ. This indicates that if a land court is established, it would occupy the position of a specialized court that remains integrated within the national judicial system, rather than standing outside the framework of judicial power. Placement under the Supreme Court would ensure uniformity in procedural law principles, oversight mechanisms, and the appeals process, thereby maintaining consistency of decisions. This model mirrors the existence of other specialized courts, such as Commercial Courts or Corruption Courts (Lindsey & Butt, 2018).

However, the discussion regarding the placement of a land court can also be directed toward the possibility of strengthening it as an independent institution, due to the social urgency and the high complexity of land disputes. Some countries, such as Thailand with its Land and Property Court or India with Revenue Courts, position land courts more independently, combining broader judicial and administrative functions. In the context of Indonesia, such a model could be considered to ensure judicial specialization, expedite court processes, and provide substantive justice for the community. Nevertheless, from a legal standpoint, this option would still require fundamental amendments to the Law on Judicial Power as well as revisions to the 1945 Constitution if it were to be established as a judicial organ outside the Supreme Court (Butt & Lindsey, 2012).

One of the main weaknesses in Indonesia's land law system is the overlapping authority among civil, criminal, and administrative domains, particularly in resolving agrarian disputes. A single land case may simultaneously involve civil elements (ownership disputes), criminal elements (document forgery, land encroachment), and administrative elements (procedural defects in certificate issuance). This situation creates disharmony in case resolution, as each judicial institution tends to interpret its jurisdiction broadly. The absence of an effective coordination mechanism prolongs litigation and may result in conflicting decisions. This aligns with the classic problem of pluralistic legal systems lacking clear jurisdictional boundaries, as observed in comparative studies of land dispute resolution in various developing countries. Another weakness is the absence of a *lex specialis* explicitly governing the resolution of agrarian disputes beyond the general provisions of civil, criminal, or administrative procedural law. Although the 1960 Basic Agrarian Law (UUPA) affirms the principle of state control over land for the greatest prosperity

of the people, its implementing regulations do not provide a comprehensive dispute resolution mechanism. As a result, various sectoral regulations such as the Forestry Law, Environmental Law, and Mining Law often assert overlapping jurisdiction, further undermining legal certainty. This lack of clarity highlights the weakness of Indonesia's agrarian legal policy in integrating different branches of law, resulting in legal fragmentation that directly affects the sustainability of agrarian reform.

Within the framework of sectoral law, the relationship between the 1960 Basic Agrarian Law (UUPA) and other legislation such as the Administrative Court Law (PTUN Law), Forestry Law, and Environmental Law reveals significant jurisdictional tensions. The UUPA is intended as the *lex generalis* governing agrarian matters, yet many sectoral provisions effectively limit its scope. For example, disputes over forest areas are often governed not fully by the UUPA but by the Forestry Law, which designates land status as state forest. This creates ambiguity: on one hand, PTUN has the authority to review the legality of administrative decisions, while on the other hand, general courts have jurisdiction over civil disputes concerning land rights. This situation demonstrates the lack of systemic harmonization between the UUPA and sectoral laws, leaving normative conflicts as a major obstacle to effective land dispute resolution (McCarthy, 2004).

Furthermore, the misalignment of sectoral laws also affects the effectiveness of the Environmental Law in regulating agrarian disputes involving ecological aspects. In several cases, land conflicts related to land conversion for plantations or mining are more frequently addressed under the environmental legal regime rather than the agrarian regime. This indicates a shift in dispute resolution orientation from the perspective of land rights toward environmental protection, which often leads to dissatisfaction among parties who feel their constitutional rights are overlooked. This situation underscores that the Indonesian legal system still faces serious challenges in achieving cross-sectoral integration, highlighting the need for regulatory reconstruction based on the principle of *lex specialis derogat legi generali* to clarify the division of authority among institutions and legal sectors (Fitzpatrick, 2007).

c. Empirical-Sociological Dimension

Agrarian conflicts between communities and the state often stem from tensions between customary law and positive (statutory) law. Ulayat land or customary land collectively managed by indigenous communities frequently overlaps with state policies, such as forest concessions, plantations, or mining rights. The state, empowered under Article 33 of the 1945 Constitution to control land and natural resources, often interprets this authority as a right to control, which tends to overlook recognition of ulayat rights. As a result, many indigenous communities lose access to their land, triggering both horizontal and vertical conflicts with state authorities. This situation demonstrates a significant gap between national legal norms and the social legitimacy of indigenous communities (Bedner & Van Huis, 2008).

The private dimension of land conflicts primarily occurs at the individual or family level, involving disputes over inheritance, invalid land sales, and issues such as double certification. Legally, these problems stem from the weakness of the negative publication system in Indonesia's land registration, where a certificate does not fully guarantee legal certainty of land rights. Certificates can be annulled if administrative defects are proven or if stronger claims exist, leaving room for lengthy litigation. Inheritance disputes often arise due to the coexistence of multiple legal systems customary law, Islamic law, and Western civil law, which can lead to multiple interpretations and legal uncertainty. The phenomenon of double certificates, often resulting from weaknesses in land bureaucracy, further illustrates how institutional deficiencies exacerbate private land conflicts (Lucas & Warren, 2013).

Corporate-land conflicts often arise in the context of plantation investment, mining, and infrastructure development. Companies frequently obtain HGU (Right to Cultivate), temporary forest use permits, or management rights from the state, which may overlap with claims of local

communities. This situation leads to chronic disputes that can result in the criminalization of communities, social resistance, and even violence. These corporate conflicts highlight how the state often prioritizes macroeconomic interests over protecting community rights. Sociologically, they reflect structural injustice in land distribution and the weakness of fair and participatory mediation mechanisms. From the perspective of agrarian law, these issues indicate the need for a positive publication system capable of providing legal certainty and protection of community rights in the face of corporate interests (McCarthy & Robinson, 2016).

The judicial system in Indonesia faces serious challenges in resolving land disputes, particularly due to inconsistent rulings across different jurisdictions, including general courts, administrative courts (PTUN), and religious courts. Divergent legal interpretations by each court create legal uncertainty, especially in cases involving overlapping land certificates or customary land claims that conflict with state policies. Moreover, lengthy litigation processes and high legal costs serve as significant barriers for marginalized communities in obtaining effective justice. These factors widen the gap in access to justice between those with resources and those without. As a result, public trust in judicial institutions has eroded, as they are perceived as inconsistent and incapable of providing final and fair resolutions (Lev, 1985).

In the context of these judicial weaknesses, the public's need for a specialized institution to resolve land disputes has become increasingly relevant. The question is whether such a specialized body can truly provide a process that is faster, fairer, and more transparent compared to existing litigation mechanisms. Several comparative studies indicate that the establishment of specialized institutions, such as land tribunals or land courts in other countries, has proven effective in accelerating dispute resolution by emphasizing mediation, field-based facts, and technical expertise in land matters competencies often lacking among judges in general courts. Furthermore, transparency can be enhanced through case digitalization systems and public involvement in monitoring decisions. Thus, the legitimacy of such a specialized institution will be largely determined by its institutional design, including judicial independence, technical competence, and its alignment with the principles of social justice mandated by the 1960 Basic Agrarian Law (UUPA) (Chimhowu, 2019).

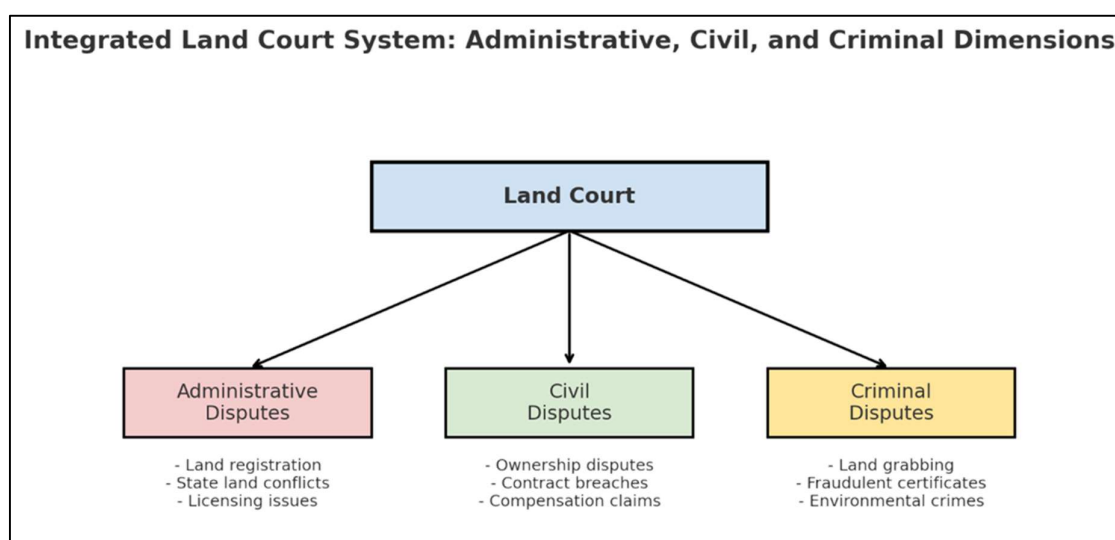
d. Institutional Dimension

Land disputes have unique characteristics because they often encompass administrative, civil, and criminal dimensions simultaneously. Administrative disputes arise when objections are raised against decisions made by administrative officials, such as the issuance of duplicate land certificates or the annulment of rights. Civil disputes are generally related to ownership rights and agreements on the transfer of rights, while criminal dimensions may emerge in cases involving document forgery, land encroachment, or corruption related to state assets. This complexity makes it difficult for the general judicial system to provide comprehensive legal certainty due to the fragmentation of authority among different courts. Consequently, an institutional design is required that can integrate administrative, civil, and criminal aspects under one roof, thereby ensuring more effective resolution of land disputes (Meinzen-Dick & Pradhan, 2002).

An ideal institutional structure could take the form of a specialized Land Court that stands independently yet remains under the jurisdiction of the Supreme Court, similar to the design of the Administrative Court in its early establishment. This model allows for specialized competence, enabling the institution to focus on the unique characteristics of land disputes. The court's absolute jurisdiction may include disputes over land certificates, customary land conflicts, disputes regarding state land tenure, as well as civil cases related to land rights transfer. Meanwhile, relative jurisdiction is determined based on the location of the land object, thereby preventing forum shopping and expediting the trial process. Thus, this court would not merely add another layer of bureaucracy but rather integrate legal processes that have thus far been fragmented across the general courts, administrative courts, and criminal courts (Larkin Jr, 2016).

To ensure the quality of judicial decisions, it is necessary to appoint specialized judges with multidisciplinary competence. Judges handling land disputes should not only have a background in civil law but must also possess an understanding of agrarian law, administrative law, customary law, and even the criminal aspects of land disputes. This can be achieved through a specialized judicial recruitment system and continuous case-based education programs on land law. The presence of judges with expertise in agrarian matters also allows dispute resolution to be carried out in a more substantive rather than merely formalistic manner. Consequently, public trust in the judiciary can be enhanced, as the process becomes transparent, efficient, and grounded in relevant technical expertise (Grover et al., 2007).

Thus, the ideal system for resolving land disputes is through a specialized Land Court that integrates administrative, civil, and criminal dimensions within a single forum, with clearly defined exclusive jurisdiction, relative competence based on the location of the land, and judges with expertise in agrarian and land matters.



The establishment of a specialized Land Court that integrates administrative, civil, and criminal dimensions reflects the complexity of land disputes in Indonesia. Land is not merely an economic asset but also a social, cultural, and constitutional right, as emphasized in Article 33, paragraph (3) of the 1945 Constitution, which mandates that land must be managed for the greatest prosperity of the people.

The integration of administrative, civil, and criminal dimensions within a Land Court represents a manifestation of the need to realize the principle of legal certainty in the resolution of agrarian disputes. Legal certainty can be achieved when there is a specialized judicial forum capable of delivering comprehensive and final rulings on land disputes, thereby preventing overlapping decisions among general courts, administrative courts, and criminal courts. This aligns with Gustav Radbruch's view that legal certainty constitutes one of the fundamental values of law, alongside justice and utility. Through the establishment of a land court, disputes involving administrative dimensions (such as the validity of certificates), civil aspects (ownership rights), and criminal matters (land-related crimes) can be resolved in an integrated manner (Radbruch, 2006a).

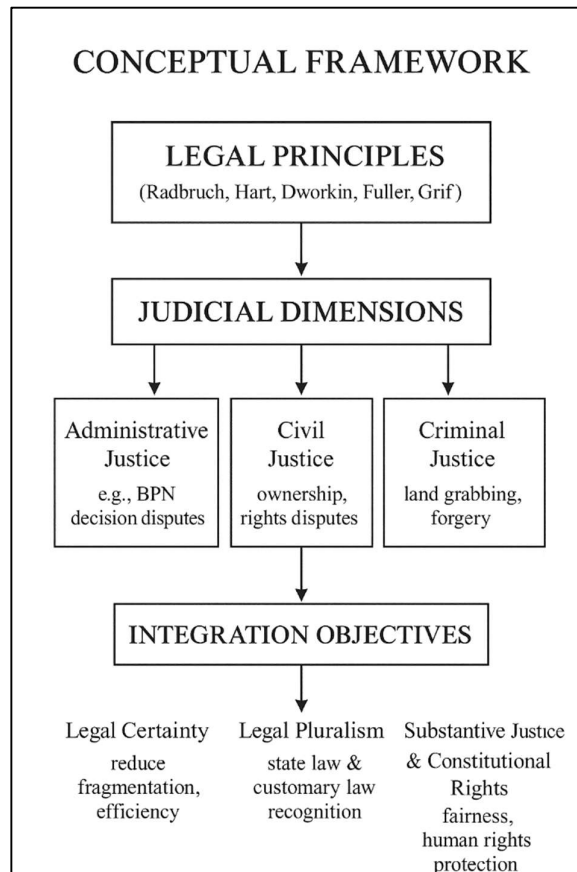
In Hart's legal system perspective, law operates within a framework of primary rules (rights and obligations) and secondary rules (procedures for law enforcement). A Land Court that integrates these three dimensions would close the gaps in the current legal system, which tends to be fragmented. An integrated legal system ensures that every decision not only resolves disputes but also strengthens the mechanisms of recognition, verification, and enforcement in the field of

land law. This integration simultaneously reduces the dualism of rulings and makes the land law system more coherent and effective (Hart, 2012). In the context of agrarian affairs in Indonesia, legal pluralism is a reality that cannot be ignored, as land law is derived not only from state law but also from customary law and religious law that continue to exist within society. The Land Court serves as a forum capable of integrating this legal pluralism with national law. Within this design, judges are given the space to accommodate the values of customary law, as long as they do not conflict with the Basic Agrarian Law of 1960 and the 1945 Constitution. This is crucial to ensure that court decisions possess both social legitimacy and formal legality (von Benda-Beckmann & von Benda-Beckmann, 2006).

The integration of legal dimensions within the Land Court is aligned with the fifth principle of Pancasila, namely Social Justice for All the People of Indonesia. Social justice requires a fair distribution of land rights, recognition of the rights of marginalized communities, and protection of vulnerable groups from land-grabbing practices. Through the establishment of a specialized court, land dispute resolution is not solely oriented toward formal certainty but also emphasizes substantive justice to ensure that the rights of the people are not neglected. This concept is in line with John Rawls' idea of *justice as fairness*, which asserts that judicial institutions must guarantee the principle of justice in the distribution of resources (Rawls, 2017). The Land Court also serves as a means to guarantee the protection of citizens' constitutional rights to land as stipulated in Article 28H paragraph (4) and Article 33 of the 1945 Constitution. Land rights are fundamental rights that carry economic, social, and cultural dimensions. Through the integration of administrative, civil, and criminal justice, the state, through the Land Court, demonstrates its role in protecting the people's rights more effectively. This protection of constitutional rights also reaffirms Indonesia's character as a constitutional state (*rechtsstaat*) that guarantees the fundamental rights of its citizens (Jimly Asshiddiqie, 2021).

So far, the resolution of land disputes has often been fragmented across different judicial paths: administrative (for instance, disputes over BPN decisions), civil (ownership or rights disputes), and criminal (cases involving land encroachment or document forgery). This fragmentation has led to forum shopping and legal uncertainty. By integrating these aspects into a single specialized court, the principle of legal certainty (as emphasized by Radbruch and Hart) can be realized more effectively, since all dimensions of the dispute can be comprehensively examined within one forum. Land disputes are not only related to state law but also to customary law and local community practices. Through the integration of legal dimensions in the Land Court, the principle of legal pluralism is accommodated by a hybrid mechanism: judges may consider state law (UUPA, Government Regulation No. 24 of 1997) as well as customary values. This creates consistency with the theory of legal pluralism (Griffiths), which emphasizes that the state legal system must provide space for non-state law. The integration of legal principles with the three dimensions of a land court aims to realize substantive justice (Dworkin: law as integrity, Fuller: the inner morality of law), rather than merely procedural justice. In this way, the constitutional rights of citizens over land (Article 28H paragraph (4) of the 1945 Constitution regarding property rights, and Article 33 paragraph (3) regarding land and water for the prosperity of the people) can be protected. This model affirms that land should not only be regarded as an economic object, but also as a fundamental right guaranteed by the state.

If the principle of legal certainty is integrated into the three dimensions of land adjudication, the level of fragmentation in dispute resolution will decrease, and the effectiveness of the judicial system will improve. If legal pluralism (state law and customary law) is accommodated in land adjudication, the social legitimacy of court decisions will be higher, thereby minimizing recurring conflicts. If the principles of substantive justice and the protection of constitutional rights are made the foundation of land adjudication, dispute resolution will be more oriented toward the fulfillment of citizens' rights rather than merely procedural matters, thus increasing public trust in the judiciary.



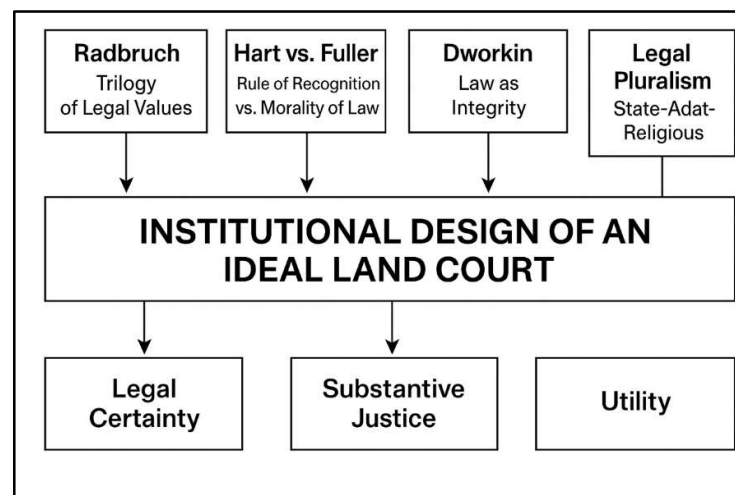
4. Institutional Design of an Ideal Land Court to Realize Legal Certainty, Substantive Justice, and Utility

Starting from the perspective of legal philosophy and legal theory, the three core values legal certainty, substantive justice, and utility can be understood as a normative framework that complements one another in guiding institutional design and the practice of law enforcement. “Certainty” provides predictability of rules and decisions; “justice” ensures that the content and its application do not marginalize socially relevant dignity and rights; while “utility” requires that dispute resolution mechanisms deliver tangible benefits to the public with the lowest possible social costs. In the tradition of contemporary legal philosophy, this balance can be explained through three major streams: analytical positivism (Hart), the internal morality of law (Fuller), and justice as a corrective to positivism (Radbruch); interpretivism (Dworkin) for integrity and moral reasoning in adjudication; and utilitarianism together with the economic analysis of law (Bentham, Posner, Coase, Calabresi) to assess social consequences.

As a value, legal certainty requires rules and decisions that are predictable, clear, non-contradictory, prospective, and consistent between written norms and the actions of officials, conditions that Fuller describes as the “internal morality of law” (Tucker, 1965). Theoretically, Hart explains certainty through the “rule of recognition,” which structures the validity and coordination of legal sources, thereby enabling courts to produce consistent and enforceable judgments. At the same time, Radbruch reminds us that certainty is not a standalone value; when extreme conflicts arise between “law as certainty” and “justice,” an extra-positive correction may be necessary to prevent law from becoming “legalized injustice.” Accordingly, the indicators of certainty include: clarity of norms and judgments, consistency across similar cases, prospectivity, and enforceability by state authorities (Radbruch, 2006b).

Substantive justice requires that judicial reasoning should not stop at procedural compliance but must take into account relevant values, rights, and social facts, including customary dimensions, group vulnerabilities, and the distribution of burdens and benefits. Dworkin formulates the idea of “*law as integrity*”: judges interpret law as a coherent moral practice that provides the best “right answer” for individual rights within the legal system as a whole. Sen adds the “*realization-focused comparison*” approach: evaluating institutions by their actual ability to expand freedoms and capabilities, rather than merely by their conformity to an ideal model. In practice, the measure of substantive justice includes the ability of rulings to improve the position of vulnerable parties, consistency with constitutional and human rights, and respect for social or customary norms that do not conflict with fundamental rights (Hershovitz, 2006).

The value of utility is rooted in Bentham’s principle of utility: good policies or rulings maximize overall happiness or net social benefit (Bentham, 1970). In modern economic analysis, Posner formalized institutional evaluation based on efficiency (for example, reducing transaction costs, delays, and error costs) (Coase, 2013). Coase demonstrated that the allocation of rights and transaction costs determines social outcomes; therefore, rules and procedures that lower transaction costs (e.g., clarity of rights, certainty of enforcement mechanisms) will enhance welfare (Posner, 2020). Calabresi emphasized minimizing the total “costs of accidents” (prevention, administration, and residual losses), which can be analogized to dispute resolution system design: procedures that are fast, inexpensive, and accurate minimize social costs. Indicators of utility include: case disposition time, process costs for the parties and the state, the rate of voluntary compliance, and the impact on public welfare improvement.



The institutional design of an ideal land court must be grounded in Gustav Radbruch’s trilogy of legal values: legal certainty (*Rechtssicherheit*), justice (*Gerechtigkeit*), and expediency (*Zweckmäßigkeit*). Legal certainty is realized through consistent and predictable rulings; substantive justice is achieved by safeguarding community rights, including customary rights; while expediency is implemented through swift procedures, affordable costs, and tangible benefits for agrarian stability. Thus, an ideal land court should not merely emphasize procedural certainty but must also serve as a corrective mechanism against the substantive injustices that frequently arise in land conflicts in Indonesia.

In the institutional context, Hart’s rule of recognition can serve as a framework for validating norms that ensure the consistency of land law with the Constitution and the Basic Agrarian Law (UUPA). However, Fuller reminds us that law is only worthy of obedience if it fulfills the inner morality of law principles of clarity, consistency, non-contradiction, and enforceability. Accordingly, the design of an ideal land court must integrate Hart’s procedural certainty with

Fuller's moral dimension, so that decisions are not only formally valid but also ethically and socially legitimate (Radbruch, 2006).

Ronald Dworkin offers the idea of *law as integrity*, in which judges do not merely apply rules mechanically but interpret the law as a coherent practice that integrates the moral and political principles of society. An ideal land court must adopt this model of reasoning so that its decisions are not merely reflections of legal formalism but also embody comprehensive moral, social, and historical dimensions. This is highly relevant in land disputes in Indonesia, which often involve tensions between positive law, customary claims, communal rights, and social justice (Hart, 2012).

Land disputes in Indonesia often arise from the interaction between state law, customary law, and religious law. The theory of legal pluralism emphasizes that an effective legal system must recognize the diversity of legal sources and not impose a single dominant framework. Therefore, the design of an ideal land court should provide space for the recognition and accommodation of legal pluralism, for instance through mechanisms such as hybrid adjudication or integrated dispute resolution, which allow judges to take into account customary and religious norms insofar as they do not conflict with the constitution and human rights. In this way, the land court can achieve greater legitimacy in the eyes of society (Eleftheriadis, 2014).

Integrating the ideas of Radbruch, Hart–Fuller, Dworkin, and legal pluralism, the ideal land court should be structured on four main pillars. First, it must establish legal certainty through clear codification and consistent judgments, ensuring predictability and fairness in land-related legal matters. Second, it should uphold substantive justice, incorporating a rights-based interpretation that goes beyond formal legalities to address the underlying social and human rights aspects. Third, the land court must prioritize efficiency and utility, offering mechanisms that are swift, cost-effective, and practical, making the legal process accessible and equitable for all. Finally, the court should recognize the importance of legal pluralism, effectively bridging state law with customary and religious norms, ensuring that diverse legal traditions are respected and integrated into the adjudication process. To operationalize these principles, the land court would require judges with expertise in agrarian law, customary law, and human rights, supported by adaptive procedures and robust enforcement mechanisms. In this way, the land court would not only serve as a judicial body, but also act as an instrument of social reconciliation, promoting agrarian justice and fostering harmony between the state and various communities (Griffiths, 1986).

A specialized court is a judicial body established to adjudicate specific types of cases that require technical expertise, consistency of rulings, and procedural efficiency. Its main characteristics lie in its jurisdiction being limited to certain categories of cases, the appointment of judges with interdisciplinary expertise, and the application of more adaptive procedures compared to general courts. According to comparative literature, specialized courts play an important role in addressing case overload in general courts while also providing a more suitable forum for disputes with technical and complex characteristics, including land disputes (Fleck, 2013).

In Indonesia, the complexity of land disputes encompasses administrative, civil, and criminal aspects, while also involving the plurality of state law, customary law, and religious law. This condition often gives rise to jurisdictional fragmentation, resulting in prolonged, inconsistent, and costly dispute resolution processes. Therefore, the rationale for establishing a specialized land court is to realize legal certainty, substantive justice, and utility through a single integrated forum capable of harmonizing various legal dimensions at once. This is also in line with the concept of access to justice, whereby society must be provided with a judicial forum capable of delivering swift, affordable, and appropriate resolution to land disputes, which are often structural in nature (Buscaglia & Ulen, 1997).

Several countries have established specialized institutions to handle land-related cases, each adopting different institutional approaches. In India, Revenue Courts and Land Tribunals were created to address agrarian disputes concerning land distribution and ownership rights (Sethi, 2006). Thailand has Specialized Land Courts that focus on resolving conflicts over land ownership

and land use. The Philippines established Special Agrarian Courts (SACs) as part of the Regional Trial Courts, with a special mandate to resolve agrarian disputes under the Comprehensive Agrarian Reform Law (Karaan, 2021). Meanwhile, Australia has the Land and Environment Court of New South Wales, which functions as a multi-jurisdictional court with authority over land, environmental, and spatial planning disputes, and is recognized globally as a model for integrating substantive justice, legal certainty, and public access. This comparative study demonstrates that specialized land courts can be designed according to the legal and social contexts of each country, but their primary objective remains the same: to provide effective, credible, and equitable dispute resolution for society (Preston, 2012).

a. Absolute and Relative Authority in Land Courts

The absolute jurisdiction of the Special Land Court must be designed to cover three main domains: administrative, civil, and criminal. In the administrative domain, its authority includes resolving disputes over decisions made by state administrative officials related to certification, land registration, or the revocation of land rights. In the civil domain, this authority encompasses disputes concerning ownership rights, cultivation rights, building rights, as well as agreements related to land transactions. Meanwhile, in the criminal domain, the court has the authority to adjudicate land-related crimes such as land mafia practices, document forgery, and corruption in land procurement. This approach aligns with the theory of "comprehensive jurisdiction" in specialized courts, which aims to prevent legal fragmentation and strengthen the efficiency of land dispute resolution (Revesz, 1989).

The Special Land Court must have clarity in its jurisdictional boundaries to prevent forum shopping and conflicts of authority. In relation to the Administrative Court (PTUN), general administrative disputes remain within the jurisdiction of PTUN, whereas disputes specifically concerning land administration decisions are transferred to the Special Land Court. In relation to the general courts, jurisdiction is limited to civil and criminal cases not directly related to land, while cases with a strong nexus to land rights are centralized within this special court. As for arbitration, the applicable principle is *kompetenz-kompetenz*, whereby contractual disputes agreed by the parties to be resolved through arbitration remain valid, except in matters concerning the status of land rights, which are of an *erga omnes* nature and fall under the absolute jurisdiction of the court. This model of jurisdictional separation reflects the practice in countries with land courts, such as Thailand and Australia, which emphasize integration while maintaining judicial balance among judicial institutions (Garoupa & Botelho, 2022).

The rationalization for establishing absolute and relative jurisdiction in the Land Special Court is not merely based on case load, but also on the unique and multidimensional character of land disputes in Indonesia. Land disputes often span across different legal domains ranging from public administration and private civil law to criminal law. Therefore, integrating jurisdictions into a single court becomes a rational mechanism to prevent contradictory rulings across different judicial bodies. This aligns with the theory of *institutional efficiency* in the design of specialized courts, which emphasizes that special jurisdiction must be structured to provide legal certainty and consistency of law, while simultaneously enhancing public trust in the judicial system (Lera et al., 2022).

b. Land Court Trial Procedures

The evidentiary system in the Land Court must accommodate the unique characteristics of land disputes, which often do not rely solely on certificates as authentic evidence but also on physical data, customary witness testimony, and digital evidence. Land certificates indeed hold strong legal force, particularly within Indonesia's negative publication system with positive elements, yet their validity is frequently contested due to overlapping claims or maladministration.

Therefore, the evidentiary system must be comprehensive, combining formal documents, land measurement results, testimonies from customary communities with socio-historical authority, as well as digital evidence such as satellite imagery and GIS data. This approach expands the scope of evidence, thereby addressing the multidimensional nature of agrarian disputes (Nikmah & Siregar, 2025).

The application of mediation mechanisms in the Land Court is crucial, given that many land disputes involve long-standing social relations among the parties, including individuals, indigenous communities, and corporations. Mediation can serve as a means to reduce conflict escalation and to achieve agreements that are fairer and more sustainable. Furthermore, the principle of restorative justice can be integrated to address social and environmental harms resulting from land conflicts, for instance, by providing space for affected communities to participate in formulating equitable solutions. This approach is consistent with the values of social justice in agrarian law and with customary law principles that emphasize communal harmony over the formalistic victory of one party (Maulu et al., 2025).

The case consolidation model in the Land Court is a legal innovation aimed at integrating administrative, civil, and criminal disputes related to land into a single judicial forum. This approach is based on the reality that land disputes often have overlapping dimensions: certificate maladministration (administrative), overlapping rights or unlawful acts (civil), and even criminal offenses such as document forgery or land encroachment (criminal). By establishing an integrated forum, judicial proceedings become more efficient and avoid contradictory rulings between different courts. Case consolidation also strengthens legal certainty because judges are provided with the space to assess cases holistically, taking into account formal legal aspects, social substance, and criminal implications (Tahir, 2022).

c. Execution of Decisions in Land Courts

The execution of judgments in land dispute cases must be designed to have a mechanism that is certain, swift, and effective. Legal certainty in the enforcement stage is crucial to ensure that court rulings are not merely declarative but also implementable. In judicial practice in Indonesia, many land-related decisions face execution barriers due to the dualism of administrative and civil authority, as well as social resistance on the ground. Therefore, an automatic execution model (self-executing), with the direct involvement of relevant state institutions such as the National Land Agency/Ministry of Agrarian Affairs and Spatial Planning (BPN/ATR), is required to prevent judicial backlog and uncertainty for the prevailing party (Walker, 2008). This concept is in line with Gustav Radbruch's theory of legal certainty, which emphasizes that law must not only be just but also predictable and consistently enforceable in practice (Radbruch, 1950).

Execution of land dispute decisions cannot be detached from inter-agency synergy. The National Land Agency (BPN/ATR) plays a central administrative role in cancelling old certificates and issuing new ones in accordance with court rulings. Local governments (Pemda) manage spatial and regional planning to align with such decisions (Judijanto et al., 2024). Law enforcement bodies (Police, Prosecutor's Office) ensure security and public compliance during execution. This integration is essential because agrarian conflicts often involve multiple dimensions, agrarian, civil, and criminal and demand a holistic enforcement approach (Rundcrantz & Skärbäck, 2003). Within the framework of collaborative governance, the execution of land court decisions is more effective when there is tight coordination among legal and governmental actors. This collaborative model reinforces the enforceability (binding power) of judicial verdicts while preventing fragmentation of authority that undermines legal certainty. Comparative case studies from Thailand and the Philippines demonstrate that institutional integration in land dispute execution effectively reduces recurring conflict (*recurrent disputes*) and enhances public legitimacy, as communities observe consistency between judicial rulings and real-world implementation (Judijanto et al., 2024).

d. Guarantee of Legal Value

One of the fundamental elements in realizing the value of legal certainty is the existence of uniform and consistent court decisions. Uniformity means that there should be no disparity in rulings on cases with similar objects and legal issues, while consistency refers to the court's adherence to the principle of *stare decisis* or the application of binding precedent. In the context of land disputes, consistency in judgments is crucial to avoid uncertainty for litigating parties as well as for the wider community as landowners or prospective land rights holders (Tamanaha, 2004). Inconsistency in court decisions may generate distrust toward the judiciary and increase the potential for social conflict. Therefore, the establishment of a specialized Land Court must ensure the availability of a transparent and easily accessible case law database, providing judges with a reliable reference in delivering judgments. Such consistency not only enhances the legitimacy of law but also strengthens its function as an instrument of social engineering (Gerhardt, 2011).

In addition to consistency, another equally important aspect in ensuring legal certainty is the enforceability of court decisions. A judgment that has obtained permanent legal force (*inkracht van gewijsde*) must be executed in a prompt, definite, and uncomplicated manner. In the practice of land dispute resolution, court decisions often remain merely declarative without guaranteed implementation on the ground, for instance due to overlapping land administration, social resistance, or weak inter-agency coordination (Pujayanti et al., 2024). Therefore, the enforcement of judgments in the Land Court must be designed with a synergistic mechanism involving the judiciary, the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN), local governments, and law enforcement agencies. Such a design not only ensures the effectiveness of judicial decisions but also concretely protects the legal interests of the parties (Sinai, 2010). The certainty of enforcement also embodies the principle of *res judicata pro veritate habetur*, which affirms that a final court ruling must be regarded as true and binding. Thus, the certainty of judgment enforcement is not merely a procedural matter, but an integral part of upholding the rule of law within the national legal system.

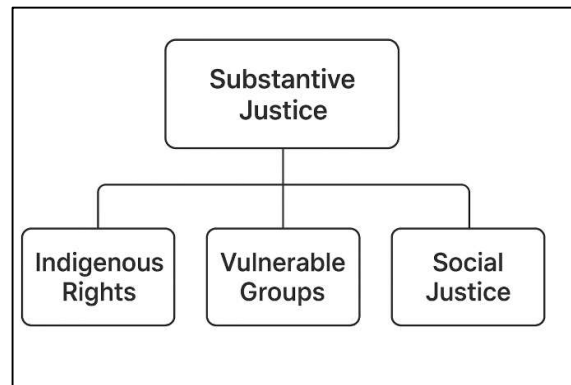
Substantive justice is a concept of justice that emphasizes the fulfillment of real justice rather than mere compliance with formal legal procedures. In the context of land affairs, the application of substantive justice requires that judicial decisions not only rest on legal-formal aspects but also take into account the broader public interest, especially those in vulnerable positions. This includes the recognition of the rights of indigenous communities who have long inhabited and depended on land as their source of livelihood. Thus, substantive justice becomes an important instrument in bridging the gap between the text of the law and the social realities faced by society (Bedner & Van Huis, 2008).

The protection of indigenous rights and vulnerable groups in the land law system is rooted in the principle of social justice as enshrined in the 1945 Constitution of Indonesia, particularly Article 33, which affirms that land, water, and natural resources are controlled by the state and utilized for the greatest prosperity of the people. Therefore, decisions of the Land Court should consider the socio-economic context, particularly regarding indigenous peoples, small farmers, and marginalized groups who often experience exclusion in legal processes (Davidson & Henley, 2007).

Moreover, the application of substantive justice is closely linked to the paradigm of progressive law developed by Satjipto Rahardjo, which emphasizes that law should not be rigid but should serve the needs of substantive justice for society. In the context of the Land Court, this means that judges must have the courage to deliver rulings that prioritize social justice, even if such decisions do not always align with narrow textual interpretations of the law (Sukmana et al., 2023).

Accordingly, substantive justice in the Land Court requires the integration of positive legal norms with the values of social justice, the protection of indigenous rights, and the fulfillment of

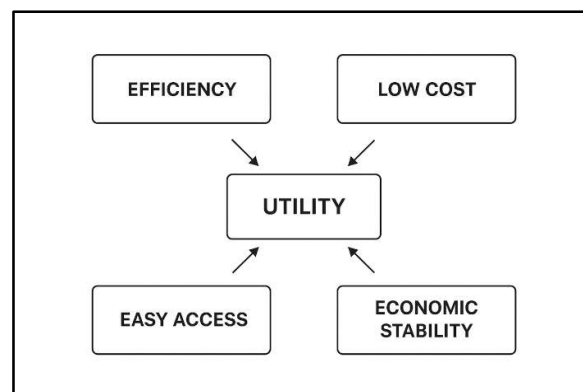
the needs of vulnerable groups. This ensures that land law does not only provides formal certainty but is also capable of addressing structural injustices inherent in Indonesia's agrarian legal system.



Utility in land dispute resolution can be understood as a principle of legal effectiveness that emphasizes efficiency in terms of time, cost, and accessibility of legal processes. Dispute resolution that can be settled within a short period and at a relatively low cost will enhance the sense of substantive justice for the parties involved. This principle aligns with Jeremy Bentham's notion of *the greatest happiness for the greatest number*, in which law must be oriented toward practical benefits and efficiency. In the context of agrarian law, a dispute resolution mechanism that is both swift and affordable provides broader opportunities for marginalized communities to obtain legal protection without being burdened by bureaucratic complexity and excessive costs (Brooks, 2005).

Beyond efficiency, utility also encompasses the legal benefits for economic stability. Certainty and promptness in resolving land disputes enhance investor confidence, given that land is a crucial instrument in economic development. A legal system capable of ensuring swift dispute resolution will reduce investment uncertainty risks. This is reinforced by studies emphasizing that legal certainty over land rights is a key variable in improving the investment climate, particularly in developing countries with complex agrarian regulations (Deininger et al., 2012).

Furthermore, utility is also related to social stability, as land disputes often trigger horizontal conflicts within communities. An accessible, swift, and transparent dispute resolution process can minimize the potential for prolonged social conflicts. Thus, legal utility should not only be viewed from an economic and administrative perspective but also in terms of its contribution to harmonious social development. Research indicates that land governance systems capable of minimizing agrarian conflicts significantly contribute to strengthening social cohesion and enhancing the legitimacy of the state in the eyes of the public (Meinzen-Dick & Mwangi, 2009).



Based on the discussion above, this research hypothesizes that the establishment of a Land Court in Indonesia represents a normative, theoretical, and practical necessity to realize substantive justice in the resolution of land disputes. Currently, land dispute resolution is dispersed across multiple jurisdictions, including administrative, civil, and criminal, which often leads to fragmentation and inconsistent rulings, thereby hampering the achievement of legal certainty. This situation not only weakens the law's function as an instrument of certainty and justice but also negatively impacts social and economic stability.

An integrated Land Court is viewed as a specialized forum capable of addressing the complexity of land disputes, including the recognition of indigenous rights, protection of vulnerable groups, and the application of social justice principles. Therefore, such a court functions not merely as a legal-formal instrument but also as a mechanism for substantive justice, aligned with the mandate of the Basic Agrarian Law (UUPA) of 1960, the constitutional mandate of Article 33 of the 1945 Constitution, and the values of Pancasila as the philosophical foundation of the state.

Furthermore, the establishment of a Land Court is expected to provide significant utilitarian benefits for the broader community. Dispute resolution processes can be conducted more swiftly, at lower cost, and with easier access, thereby fostering economic stability, increasing investor confidence, and supporting social peace. Consequently, the existence of a Land Court is projected to contribute to transforming Indonesia's agrarian legal system into one that is more responsive, just, and sustainable.

D. Conclusion

The establishment of a Land Court in Indonesia emerges as a crucial need, supported by normative, theoretical, and practical justifications. From a normative perspective, the creation of such a court aligns with the fundamental legal principles established in Indonesia's legal framework, particularly the Basic Agrarian Law of 1960 and Article 33 of the 1945 Constitution. These legal foundations emphasize the importance of land as a vital resource for the nation's prosperity and sustainability. Furthermore, the Pancasila, as the state ideology, underscores the values of justice, social welfare, and equality, reinforcing the legitimacy of establishing a specialized court to resolve land disputes. By providing a legal structure that embodies these core values, the Land Court would be a direct manifestation of the state's commitment to these principles, making it a vital legal instrument in the pursuit of justice.

Theoretically, the establishment of a Land Court represents a significant advancement in addressing the fragmentation and inefficiencies in the current land dispute resolution system. At present, land disputes are dealt with through various legal channels, including administrative, civil, and criminal jurisdictions. This division often leads to inconsistent rulings, delays in the resolution of cases, and a lack of coordination between different sectors of the legal system. A specialized Land Court, however, would integrate these distinct jurisdictions into one cohesive institution, ensuring that land-related disputes are handled in a consistent and streamlined manner. The theoretical framework supporting this move is rooted in the need for a unified, efficient judicial process that can handle the complexities of land law, reduce legal fragmentation, and provide more predictable and just outcomes for all parties involved.

On a practical level, the establishment of a Land Court promises significant benefits for society. One of the primary advantages would be the acceleration of dispute resolution processes, which would lead to faster outcomes and less prolonged legal battles. This efficiency would also translate into cost savings, making the legal system more accessible to a broader range of people, especially marginalized groups who often find it difficult to navigate the current system. Additionally, the timely resolution of land disputes would create a more stable and predictable legal environment, fostering increased investor confidence and contributing to economic stability.

The social peace resulting from quicker, more reliable legal resolutions would also help maintain harmony in society, ensuring that land-related conflicts do not escalate into larger societal issues.

Moreover, the Land Court would be an essential instrument in promoting substantive justice, particularly for vulnerable communities. By focusing on the application of social justice principles, the court would play a crucial role in safeguarding the rights of indigenous peoples and protecting other marginalized groups who may face discrimination or exploitation in land-related matters. This focus on equity ensures that the legal system does not only uphold formal legal procedures but also addresses the broader social and economic impacts of land disputes. In doing so, the Land Court would contribute to a more responsive and sustainable agrarian legal system that upholds both legal and social justice.

Thus, the establishment of a Land Court is not just a legal necessity, but a fundamental step toward a more just, equitable, and sustainable society. It would not only fulfill formal legal requirements but also enhance the role of law in promoting substantive justice, economic stability, and social welfare. The Land Court represents a vital development in the nation's legal landscape, one that strengthens the legal system's ability to address the complex and vital issues surrounding land disputes in Indonesia.

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