

The Practice of Negotiation as Sulh in Inheritance Land Disputes A Case Study of Agrarian Conflict in Lebeng Village

Sri Wahyuni^{1*}, Uswatun Hasanah¹, Najib Abdi², Khoirul Umam Hasbiy³

¹Universitas Islam Negeri Madura, Indonesia

²Jigjiga University, Ethiopia

³Huazhong University of Science and Technology, China

*Corresponding Author: sriwahyunielmadinah@mail.com

Submitted : Desember 7, 2025

Accepted : Desember 28, 2025

Published : Desember 30, 2025

ABSTRACT

This study analyzes negotiation practices in resolving inherited land disputes in Lebeng Barat Village and interprets them as a form of *sulh* within the framework of Islamic law and *Maqasid al-Shari'ah*. A qualitative approach is employed to explore the dynamics of conflict, negotiation strategies, and the roles of local actors in building peaceful agreements. Data were obtained through in depth interviews, participatory observation, and document studies related to land administration and ownership history. The findings indicate that the negotiation process unfolds through stages that reflect core principles of *sulh*: voluntariness, justice, and the pursuit of public benefit. This method is preferred by the community over litigation because it preserves family relationships, reduces the potential for conflict escalation, and produces more flexible and socially accepted resolutions. From the perspective of *Maqasid al-Shari'ah*, negotiation serves as a mechanism that protects property, lineage, and social stability while preventing harm (*daf' al-darar*) and promoting welfare (*jalb al-maslahah*). This study affirms that negotiation as *sulh* is an effective and contextually relevant instrument for dispute resolution in local agrarian settings. In addition to contributing to the discourse on conflict resolution in Islamic law, the findings highlight the importance of strengthening community based mediation, inheritance law literacy, and village level regulatory support to ensure that family peace mechanisms operate more fairly and sustainably.

Keywords: sulh, land disputes, inheritance



Cabis Karya © 2025 by JHIES: Jurnal Hukum Islam dan Ekonomi Syariah is licensed under [Creative Commons Attribution-ShareAlike 4.0 International](https://creativecommons.org/licenses/by-sa/4.0/)

Introduction

Land disputes constitute one of the agrarian problems that continue to increase across various regions in Indonesia, particularly in rural communities that still depend on traditional inheritance systems and kinship based land ownership. The growing demand for land whether for housing, agriculture, or economic investment has heightened social sensitivity toward land boundaries and ownership legitimacy.

Reports from the ministry of agrarian affairs and spatial planning/national land agency (ATR/BPN) indicate a rising trend of land conflicts over the past decade, primarily caused by unclear ownership histories, overlapping administrative data, and the lack of formal land certification (ATR/BPN, 2021). At the community level, land disputes often stem from undocumented social memories, patron client relationships, or oral agreements passed down across generations. These conditions reveal that land issues are not merely legal in nature but are also deeply rooted in social, historical, and cultural dimensions.

A similar phenomenon is evident in Lebeng Barat Village, a rural area characterized by strong kinship ties and agrarian practices shaped by local traditions. In this village, inheritance related land disputes frequently recur, largely due to inheritance relations that lack written documentation and the existence of past agreements that were never formally clarified. Many villagers hold differing perceptions regarding land boundaries, inheritance rights, or ownership claims because land histories are transmitted orally. Preliminary information obtained from village officials and land measurement officers shows that most disputes arise from the community's limited knowledge of land law, inadequate administrative recording, and the assumption that oral agreements are sufficiently binding to serve as a basis for claims. In the social context of Madura, oral agreements (*janjhi*) are indeed perceived as strong moral commitments; however, when such agreements are transmitted without documentation, their intergenerational interpretation often shifts, giving rise to new disputes.

The national legal system actually provides several pathways for dispute resolution, ranging from litigation to alternative dispute resolution (ADR). Under Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution, negotiation is positioned as the most basic and flexible approach to resolving conflicts. (Republik Indonesia, 1999) Article stipulates that dispute settlement through negotiation is expected to proceed swiftly and produce a written agreement as the basis for resolution. Yet in practice, rural communities rarely utilize these provisions formally due to limited understanding, costs, and the perception that involving external actors may strain social relations. In many villages, including Lebeng Barat, dispute resolution often ends with informal internal deliberations (*musyawarah*). When such deliberations fail to produce agreement, conflicts may persist for years or even be inherited by subsequent generations.

In such situations, the relevance of negotiation becomes increasingly evident. Negotiation provides space for disputing parties to openly express their positions and interests while seeking common ground without involving formal legal structures, which are often perceived as hierarchical and coercive. This approach is also more economical, humanistic, and contextualized within rural social norms. Negotiation allows parties to determine for themselves the outcome they consider most just, unlike court decisions that are coercive in nature. Thus, negotiation can

be regarded as a dispute resolution mechanism that aligns more closely with the social realities of Lebeng Barat.

Beyond the framework of positive law, negotiation also has strong foundations in Islamic law through the concept of *sulh*, a peace making mechanism that encourages conflict resolution through mutually agreed upon settlements. In the tradition of *fiqh*, *sulh* is recognized as a method of resolving disputes that prioritizes public welfare, prevents enmity, and preserves social relations (Al-Zuhayli, 1989). *Sulh* is not merely a technical process but a moral value aimed at achieving social harmony. Principles such as *al-sulh ja'iz bayna al-nas* (reconciliation is permissible among people) and *daf' al-darar* (preventing harm) indicate that Islamic law provides ample space for communities to resolve conflicts through dialogue and peaceful agreement. Scholars such as Al-Mawardi have even emphasized that *sulh* is preferable to litigation because of its conciliatory nature and its ability to prevent social division (Al-Mawardi, 1996)

The concept of *sulh* also corresponds with the social practices of Lebeng Barat Village, which maintains traditions of deliberation and peaceful settlement through collective agreement. Local customs such as household deliberations, *pase rembhek*, and other informal forums inherently contain the values of *sulh*, though not explicitly termed as such. In inheritance related land disputes, negotiation among the parties often involves respected third parties, such as village leaders, extended family members, or informal mediators, who in Islamic law may be considered *muslih* actors who facilitate the realization of *sulh*. It is within this intersection of formal negotiation mechanisms and the tradition of *sulh* that the theoretical strength and empirical uniqueness of this research emerge.

One prominent case in Lebeng Barat involves a dispute between the descendants of Pak Salim and Pak Hasim, rooted in an oral agreement concerning a decades-old rice loan. The land used as collateral was never documented or formally registered, leading subsequent generations to reinterpret the contents of the agreement. As land values increased and economic needs shifted, each family's sense of justice also evolved. Such cases demonstrate that land disputes are not merely an issue of land law but also involve collective memory, moral values, and social dynamics. Resolving such conflicts requires an approach that is not only legally sound but also socially and religiously appropriate. This is why negotiation, as a form of *sulh*, becomes highly relevant for deeper examination.

At this stage, an important question arises: how can negotiation, as naturally practiced within communities, be understood as a *sulh* mechanism from the perspective of Islamic law. This question is crucial because studies on *sulh* within the context of rural land disputes are still limited, even though *sulh* holds significant potential to offer more contextual and sustainable solutions compared to litigation. Moreover, existing research tends to discuss *sulh* normatively rather than as a living social practice. By examining inheritance related land disputes in

Lebeng Barat Village, this study seeks to provide a new contribution in the form of an empirical understanding of how the values of *sulh* are operationalized through negotiation, how communities interpret justice in agrarian conflicts, and how local agreements align with the principles of Islamic law.

The main objective of this study is to explain the dynamics of negotiation in resolving inheritance related land disputes and to analyze them within the framework of *sulh*. This study highlights how negotiation processes unfold, who the involved parties are, how each party constructs its arguments, and how agreements are formed. Additionally, it compares the outcomes of negotiation with Islamic legal principles regarding reconciliation, justice, and the protection of property (*hifz al-mal*) within the *maqasid al-shari'ah*. In this way, the study not only describes social processes but also evaluates their alignment with the normative framework of Islamic law.

Research Method

A qualitative approach was chosen to explore in depth the dynamics of negotiation in resolving land disputes in Lebeng Barat Village. This approach enables the exploration of the subjective experiences of the parties involved, the social context, and the emotional and cultural factors embedded in agrarian conflicts dimensions that cannot be adequately explained through quantitative methods. The study focuses on understanding the meanings constructed by the community regarding land ownership, power relations within families, and the conflict resolution strategies that emerge at the local level.

This research is descriptive analytical in nature. The descriptive component is used to portray the factual conditions of the disputes, while the analytical component serves to interpret patterns, tendencies, and the effectiveness of negotiation as a conflict resolution mechanism. Thus, the study does not merely present empirical information but also provides an in depth understanding of how negotiations are carried out, the obstacles that arise, and the extent to which this method is accepted by the community.

Lebeng Barat Village was purposively selected as the research site due to the high intensity of land disputes, particularly inheritance conflicts that have resurfaced after being neglected for years. This phenomenon reflects broader agrarian issues commonly found in many rural areas in Indonesia, such as limited literacy in land law, insufficient administrative evidence, and unequal land control. Within this context, the selected site allows the study to maintain relevance and achieve adequate analytical depth.

Informants were selected using purposive sampling based on their involvement in the dispute process or their capacity to understand the dynamics of the conflict. They include heirs, disputing parties, community leaders, village officials handling land administration, land measurement officers from the

National Land Agency (BPN), and local mediators. In several cases, a snowball technique was employed when initial informants directed the researcher to other individuals possessing important information about the negotiation process.

Data were collected through in-depth interviews, participant observation, and document analysis. Semi structured interviews were designed to provide space for informants to convey their experiences, perceptions, and emotional dynamics during the dispute. Observation was conducted to capture social situations that may not emerge in interviews, such as gestures, interactions between parties, informal roles of local figures, and negotiation dynamics that are not formally recorded. Whenever possible, the researcher directly observed ongoing negotiation processes. Document analysis was used to examine administrative land records, ownership documents, dispute files, village policy documents, and regulations related to agrarian conflicts.

Data analysis was carried out through the stages of reduction, presentation, and conclusion drawing. In the reduction stage, collected data were selected and categorized based on key themes such as causes of dispute, communication strategies, negotiation structure, the role of mediators, and settlement outcomes. Data presentation involved organizing findings into analytical narratives that illustrate the relationships among categories, thus revealing general patterns that shape conflict dynamics in the village. Conclusions were drawn through continuous verification to ensure that interpretation remained consistent with the actual experiences of the informants.

Data validity was strengthened through source triangulation and methodological triangulation. Source triangulation was conducted by comparing information from different parties to avoid single perspective bias, while methodological triangulation was achieved by combining interviews, observations, and document analysis. Additionally, member checking was undertaken by returning interview summaries or preliminary interpretations to informants for confirmation, correction, or elaboration. This mechanism ensures alignment between the researcher's interpretations and the informants' authentic experiences.

Ethical considerations were rigorously upheld. All informants were provided with clear explanations regarding the research objectives, potential benefits, and their right to refuse or withdraw at any time. Sensitive data and identities were kept confidential by omitting real names or identifiable details. The researcher also obtained formal permission from village authorities and other relevant institutions before conducting interviews and observations in conflict locations. Given that the topic involves family disputes and ownership claims, sensitivity and empathy were essential principles throughout the data collection process.

The research was conducted over a period of three months. The first two weeks were dedicated to obtaining permits, mapping the initial contours of the

conflict, and identifying informants. Data collection took place over six weeks, including interviews, observations, and document gathering. The final four weeks were allocated for in depth analysis and report preparation. This timeline was designed to ensure that the research process was not rushed and provided ample opportunity for the researcher to understand the social context surrounding the dispute.

The approaches and procedures employed in this study are expected to provide a comprehensive and in-depth picture of how negotiation functions as a mechanism for resolving land disputes at the local level. Beyond contributing to the development of agrarian conflict resolution theory, the study is also expected to produce practical recommendations for communities, village officials, and policymakers in formulating more effective, humanistic, and sustainable strategies for land dispute resolution.

Results and Discussion

Structure and Roots of the Inherited Land Dispute in Lebeng Barat Village

The land dispute in Lebeng Barat Village is deeply rooted in the community's social structure, shifting power relations, and the historical practices that govern local understandings of ownership and legitimacy. As commonly observed in rural agrarian contexts across Indonesia, such conflicts emerge from an interplay of historical claims, collective memory, and the absence of formal documentation. This aligns with international agrarian literature, which emphasizes that land disputes rarely stem from technical issues alone but are embedded in broader social structures (Van Leeuwen, M., 2022). In Lebeng Barat, these dynamics are evident in an intergenerational verbal agreement between two village elders, Pak Hasim and Pak Salim, concerning a rice-debt transaction that later transformed into a land claim.

At the time the agreement was made, rice held higher perceived value than land, reflecting the community's adaptation to economic pressures and resource scarcity, as explained within the framework of political ecology (Van Acker, 2005). However, changing economic conditions, evolving family structures, and rising land values altered how subsequent generations interpreted this historical agreement. The descendants of Pak Hasim eventually questioned the legitimacy of the land held by the family of Pak Salim, reigniting the dispute and reshaping an old arrangement through new socio economic lenses.

This conflict illustrates how land disputes are far more than legal contests; they are struggles over narrative authority and moral legitimacy. The family of Pak Salim maintains that the land was "redeemed" through rice and thus rightfully theirs, while the family of Pak Hasim perceives the land as collateral that was never intended to be transferred permanently. This clash of narratives underscores the findings of Cook and Kothari that land conflicts often involve

competing attempts to establish the most socially legitimate historical account (Cook, B., & Kothari, 2014) .

The absence of formal documentation intensifies the dispute. As noted by Sikor et al, access to land is frequently secured not through historical use but through control of legal instruments such as certificates and boundary records. With both parties relying solely on memory and oral testimony, neither holds a decisive administrative advantage, making formal litigation not only ineffective but potentially conflict escalating (Sikor, T., Auld, G., Bebbington, A. J., Benjaminsen, T. A., Gentry, B. S., Hunsberger, C., Izac, A.-M., Margulis, M. E., Plieninger, T., & Schroeder, 2013).

The dispute further reflects the legal pluralism characteristic of rural Indonesia. (Lund, 2011) Argues, authority over land is fragmented among state law, customary norms, and moral authority embedded in social relations. In Lebeng Barat, the legitimacy of claims is assessed not only through state issued certificates but also through customary norms, family reputation, and communal recognition. Each family thus considers its claim valid based on different normative regimes, complicating any singular legal resolution.

This complexity is consistent with Wehrmann's typology, wherein land disputes frequently arise from informal transactions, undocumented inheritance, and diverging interpretations of verbal agreements. Passed down over generations without written records, the original rice debt arrangement has become a blurred historical memory vulnerable to reinterpretation. The dispute therefore extends beyond questions of land rights into realms of intergenerational justice, emotional ties, and family honor (Wehrmann, 2008).

Unequal legal literacy among villagers further reinforces the conflict. Limited understanding of land collateral mechanisms, debt agreements, certification procedures, and property documentation creates a broad space for competing interpretation (Nolon, J. R., Ferguson, O., & Field, 2013a). This lack of legal knowledge allowed the dispute to persist across generations without meaningful resolution.

From the perspective of agrarian justice, as articulated by Dhialulhaq and McCarthy, the conflict is also driven by perceptions of fairness. The family of Pak Hasim believes the land's current value far exceeds the original rice debt, while the family of Pak Salim feels morally entitled as they assisted the other family during hardship. These divergent notions of justice rooted in local norms rather than legal doctrine fuel ongoing tensions (Dhialulhaq, A., & McCarthy, 2020).

Collective memory also serves as a powerful source of legitimacy. As Cook and Kothari highlight, social memory becomes a tool for reinforcing ownership claims and negotiating moral identity (Cook, B., & Kothari, 2014). Narratives about past assistance, debt, and stewardship of the land serve not only as evidence but

also as expressions of family honor, embedding emotional and symbolic meanings within the dispute.

Given these layered socio cultural and structural factors, formal legal mechanisms are often inadequate for resolving such disputes. As van Leeuwen et al. argue, agrarian conflicts require contextual and dialogical approaches rather than strict legal adjudication (Van Leeuwen, M., 2022). In Lebeng Barat, the emotional, traditional, and relational dimensions render state legal processes ineffective and potentially socially damaging.

In this context, negotiation emerges as the most viable resolution mechanism, precisely because it operates within social spaces beyond the reach of state law. The eventual agreement to share the land in six month rotations did not arise from legal certainty but from a socially constructed compromise acceptable to both families. This outcome illustrates the community's internal capacity to innovate adaptive, flexible, and culturally grounded solutions to conflict.

Dynamics of Negotiation as a Resolution Mechanism: Process, Strategies, and Local Mediation

The dynamics of negotiation in resolving the inherited land dispute in Lebeng Barat Village illustrate how non litigation mechanisms operate within social spaces shaped by power relations, local values, and the strategic interests of the parties involved. Negotiation is not merely a formal exchange of offers; it constitutes a social arena that encompasses interest bargaining, emotional management, informal mediation, and the performative roles of local actors. The interaction between the families of Pak Salim and Pak Hasim demonstrates that village level negotiation unfolds through several layers: the articulation of positions, the identification of underlying interests, the emergence of local mediators, emotional and symbolic transactions, and the search for a socially acceptable agreement. This multilayered process reflects the tradition of musyawarah based dispute settlement, while highlighting the complexity of Alternative Dispute Resolution (ADR) in rural Indonesia.

In this case, the negotiation process began with increasing tensions triggered by overlapping claims over land once used as collateral for a rice debt. The tension was not only material but also symbolic, rooted in family dignity, historical memory, and intergenerational perceptions of justice. As argued by Fisher, Ury, and Patton, effective negotiation requires a shift from positional bargaining to interest-based negotiation, which focuses on underlying needs rather than surface positions (Fisher, R., Ury, W., & Patton, 1991). In Lebeng Barat, the explicit position of the Salim family is that the land was rightfully transferred as repayment for the rice debt, while the Hasim family asserts that the transfer was merely temporary collateral. Beneath these positions, however, lie deeper interests related to preserving family honor, maintaining a sense of justice, and safeguarding intergenerational social relations.

Elements of negotiation preparation including assessment of BATNA are implicitly reflected in the strategies of both parties. BATNA serves as the baseline for acceptable outcomes. For the Salim family, the BATNA involved retaining unilateral control of the land based on their interpretation of the historical agreement. Meanwhile, the Hasim family's BATNA included the option of escalating the dispute to village authorities or even litigation. However, both parties recognized that formal legal action would be costly, time consuming, and socially damaging. Their willingness to negotiate thus indicates that neither party possessed a sufficiently strong BATNA relative to the expected benefits of peaceful dialogue.

Actor dynamics also played a crucial role in shaping the negotiation. Explains that negotiation is always influenced by power dynamics, not only material but also social, moral, and symbolic. (Zartman, 2008) In this context, the Salim family held symbolic power derived from having helped the Hasim family in the past. Conversely, the Hasim family held moral power by emphasizing that the rice collateral agreement should not permanently nullify land rights. This balance of symbolic and moral power prevented either party from dominating, thereby opening space for more equal dialogue and mediation.

The entry of a third party actor local mediators or counselors illustrates the pattern of community mediation described by Petersen. (Petersen, 2016). Community mediation operates not through formal procedures, but through the mediator's social credibility, local knowledge, and ability to create a safe conversational environment. In this case, the mediator played a key role in de-escalating emotional tensions, directing discussions toward substantive interests, and discouraging both parties from retreating into rigid positional claims. Consistent with findings by Dhiaulhaq on agrarian conflict mediation in Indonesia, local mediators often outperform government actors due to their embeddedness in local social networks and the trust they command (Dhiaulhaq, A., McCarthy, T. R., & Yasmi, 2018).

However, mediation is not value neutral or power free. Bourdier cautions that mediation can become a performative and biased practice, especially when mediators are socially connected to disputants (Bourdier, 2018). In Lebeng Barat, the mediator was a respected local figure with close ties to both families. While this enhanced legitimacy, it also introduced potential bias. The mediator frequently employed persuasive moral languages such as appeals to family harmony and respect for ancestors which functioned performatively within the cultural context. Yet, such performativity proved effective in the Madurese cultural setting, which places high value on honor and kinship.

The proposal of a shared use solution, initiated by the mediator, aligns with the mutual gains approach (Fisher, R., Ury, W., & Patton, 1991), which encourages creating value that accommodates both sides. The arrangement allowing each

family to use the land on a six-month rotational basis represented a creative compromise that did not excessively disadvantage either party. This model reflects integrative rather than distributive bargaining: rather than simply dividing a conflict pie the parties constructed a shared use format that distributed benefits more equitably.

The effectiveness of the negotiation can also be understood through Menkel Meadow's ADR framework, which highlights the importance of procedural justice and social legitimacy. The negotiation process in Lebeng Barat involved open information exchange, equal opportunities to express viewpoints, and shared control over the agreement format (Menkel-Meadow, 2003). Social legitimacy was evident in the voluntary acceptance of the agreement by both families. This suggests that ADR, when adapted to local contexts, can yield more durable resolutions than formal litigation.

Several obstacles emerged throughout the negotiation, most of which related to emotional dimensions and contested historical memories. Dhiaulhaq et al. note that mistrust and divergent historical narratives are among the most persistent barriers in agrarian mediation. This was evident when the Hasim family reiterated that the land transfer was temporary collateral, while the Salim family viewed it as full repayment. These conflicting narratives created epistemological barriers that required open dialogue to untangle. Another obstacle was internal family pressure, particularly from younger members urging a more confrontational stance. Such generational pressures often exacerbate negotiation deadlocks. Nevertheless, local mediation helped to mitigate these tensions (Zartman, 2008).

Viewed from Nolon et al.'s land use conflict framework, the dispute reflects a tension between use value and exchange value (Nolon, J. R., Ferguson, O., & Field, 2013). For the Salim family, the land symbolized compensation and embodied an exchange value grounded in past assistance. For the Hasim family, the land held high use value as a livelihood resource and as part of their family identity. Negotiation thus served as a mechanism to balance these competing values, producing an agreement that was not only material but also social and symbolic.

Negotiation as Sulh in the Perspective of Islamic Law and Maqasid al-Shari'ah

Negotiation in the settlement of inheritance based land disputes in Lebeng Barat Village can be understood not only as a socio cultural practice, but also as a form of *sulh* within the framework of Islamic law. In classical jurisprudence, *sulh* is a dispute resolution mechanism that emphasizes peace, mutual consent, and shared welfare (*al-rida bayna al-tarafayn*) a set of values that closely aligns with the negotiation practices observed in the field, where families seek to ease tensions, identify common ground, and avoid escalation that could damage kinship relations (N Abdul Hamid, 2019). Interpreting negotiation through the lens of *sulh* deepens our understanding of how the people of Lebeng Barat construct justice and social equilibrium in agrarian conflicts (Othman, 2007).

Doctrinally *sulh* is defined as an agreement aimed at ending or preventing disputes through peaceful settlement, and is deemed valid provided that it does not contradict Islamic legal principles, is conducted without coercion, and allows each party to pursue their best interests. (Muhammad, 2023) Thus, *sulh* functions not merely as a legal procedure but as a social instrument that preserves communal harmony, particularly in inheritance disputes over land issues that, if prolonged, may fracture family ties and disrupt community cohesion (Mohd Yaziz, 2016). Practices in Lebeng Barat closely reflect this paradigm, as non confrontational settlements are generally preferred for their ability to maintain social stability and kinship cohesion.

Field findings indicate that negotiation processes in Lebeng Barat typically move through several stages: (1) expression of claims by heirs; (2) clarification of ownership histories or earlier agreements; (3) bargaining over division or modes of land use; and (4) social legitimization through community leaders or village officials. These stages correspond with the core elements of *sulh* mutual consent, acceptance of the object of settlement, and voluntary agreement (Muhammad, 2023). Voluntariness serves as a foundational principle, evidenced by the general reluctance among heirs to accept settlements perceived as coercive or excessively unequal (N Abdul Hamid, 2019).

From the perspective of *Maqasid al-Shari'ah*, family negotiations to resolve inheritance disputes embody the protection of the five essential objectives of Islamic law: religion (*hifz al-din*), life (*hifz al-nafs*), intellect (*hifz al-'aql*), lineage (*hifz al-nasl*), and property (*hifz al-mal*). (Auda, 2008) Unresolved land disputes threaten lineage continuity and property rights, and may lead to long term hostility. Consequently, *sulh* emerges as the mechanism most consistent with *maqasid*, as it enables solutions that preserve family harmony while ensuring clarity over land ownership. Contemporary scholars emphasize that Islamic law is not limited to textualism but embodies a moral and purposive orientation toward communal welfare (Auda, 2008).

Local mediation practices in Lebeng Barat further highlight the principles of *raf' al-darar* (elimination of harm) and *jalb al-maslahah* (promotion of benefit). When disagreements arise over land boundaries or inheritance proportions, community mediators typically respected local figures or village officials encourage disputants to consider long term consequences such as weakened family ties or future intergenerational conflict. This reflects the juristic principle that social and psychological harms (*mafsadah*) must be prevented and that collective welfare takes precedence (Mohd Yaziz, 2016; Muhammad, 2023). Through repeated deliberation, each heir is given space to express concerns and contribute to the final agreement, thereby strengthening moral legitimacy.

Modern Islamic jurisprudence frequently analogizes *sulh* to a form of Islamic restorative justice, which seeks to repair relationships rather than determine

winners and losers (Othman, 2007). This logic differs significantly from the adversarial nature of *qada'* (formal courts). In Lebeng Barat, families rarely escalate cases to religious courts unless local mediation fails or documentation is particularly strong. Community based mediation and familial deliberation, though not always explicitly labeled as *sulh*, function with equivalent ethical and legal significance (N Abdul Hamid, 2019; Syarif Maula, 2023).

Family power dynamics further shape these processes. Key actors such as the eldest child, long term land managers, or traditional leaders frequently serve as moral mediators. Islamic law acknowledges this role through the concept of *hakam*, a trusted intermediary empowered to facilitate reconciliation, known as *sulh al-tahkim* (Mohd Yaziz, 2016; Norjihan, A. A., & Hussin, 2016). Rather than imposing decisions, *hakam* figures guide the parties toward equilibrium, justice, and social harmony.

Despite these strengths, negotiations are not free from challenges. Information gaps, unilateral claims of ownership history, and conflicting perceptions of land stewardship often emerge. Islamic law recognizes such ambiguities (*shubhat al-milk*) and promotes *sulh* as a means to prevent injustice (N Abdul Hamid, 2019). For example, heirs who have managed the land for years often assert a moral right greater than heirs living elsewhere. *Sulh* based negotiation allows for recognition of these moral and historical elements through compensation, profit sharing, or joint use arrangements that formal litigation may not adequately accommodate.

The *maqasid* framework offers a dynamic, context sensitive justification for these practices. As Auda argues, *maqāṣid* functions as a philosophy of Islamic law responsive to social complexity and change, allowing flexibility in prioritizing communal welfare (Auda, 2008). When families in Lebeng Barat choose deliberation over litigation, they operationalize *maqasid* by safeguarding property, lineage, social bonds, and community stability.

Negotiated settlements in Lebeng Barat also resonate with contemporary legal developments, as national literature suggests that mediation whether in religious courts or alternative dispute resolution institutions frequently incorporates *sulh* principles, especially in inheritance, marital, and familial disputes (Norjihan, A. A., & Hussin, 2016; Syarif Maula, 2023). This underscores that *sulh* is not merely a classical doctrine but an evolving, widely recognized practice that bridges formal legal requirements with community based needs.

In sum conceptualizing negotiation as *sulh* and grounding it in *Maqasid al-Sharia'ah* provides a rich analytical lens for understanding inheritance based land conflict resolution in Lebeng Barat. This approach centers human dignity, substantive justice, mutual respect, and social balance elements often marginalized in strictly procedural legal frameworks. Rather than functioning as a secondary alternative to formal courts, *sulh* based negotiation embodies the humanistic and

socially responsive values of Islamic law, offering a sustainable and contextually grounded model for agrarian dispute resolution.

Conclusion

This study demonstrates that the negotiation mechanisms employed in resolving inheritance based land disputes in Lebeng Barat Village constitute more than socio cultural strategies; they represent a form of *sulh* that aligns with core principles of Islamic law. Negotiation unfolds through a gradual process involving the articulation of claims, clarification of ownership history, bargaining over distribution, and social legitimization by community leaders or village officials. These stages reflect the fundamental elements of *sulh* in Islamic jurisprudence: voluntariness, mutual consent, and agreement oriented toward collective welfare.

Field findings reveal that the community overwhelmingly favors non litigation pathways over religious court procedures. Negotiation is perceived as more effective in preserving family relationships, preventing long term hostility, and providing flexible, substantively just outcomes. This pattern indicates that agrarian justice in the community is understood not solely through formal legality but through relational stability and moral balance.

References

- Al-Mawardi, A. Al-H. (1996). *Al-Ahkam Al-Sultaniyyah. Dar Al-Kutub Al-'Ilmiyyah.*
- Al-Zuhayli, W. (1989). *Fiqh Al-Islam Wa Adillatuhu. Dar Al-Fikr.*
- ATR/BPN. (2021). *Laporan Tahunan Penanganan Kasus Pertanahan. Kementerian Agraria dan Tata Ruang/BPN.*
- Auda, J. (2008). *Maqasid Al-Shariah As Philosophy of Islamic Law: A Systems Approach. IIIT.*
- Bourdier, F. (2018). *Mediation As Performative Practice in Rural Conflicts. Routledge.*
- Cook, B., & Kothari, U. (2014). *Participation: The New Tyranny? Zed Books.*
- Dhiaulhaq, A., & McCarthy, J. F. (2020). Agrarian Justice and Conflict Resolution in Indonesia. *Journal of Peasant Studies, 47(6)*, 1234-1256.
- Dhiaulhaq, A., McCarthy, T. R., & Yasmi, C. (2018). Mediating Forest and Agrarian Conflicts in Indonesia: Lessons and challenges. *Forest Policy and Economics, 90*, 67-75.
- Fisher, R., Ury, W., & Patton, B. (1991). *Getting to Yes: Negotiating Agreement Without Giving in. Penguin.*
- Lund, C. (2011). Fragmented Sovereignty: Land, Authority And Citizenship in Contemporary Africa. *Journal of Peasant Studies, 4(38)*, 879-898.
- Menkel-Meadow, C. (2003). Toward A Jurisprudence of Collaborative Law: ADR theory and Practice. *Journal of Dispute Resolution, 1*, 1-50.

- Mohd Yaziz, M. N. S. B. M. (2016). *Pelaksanaan Sulh Dalam Penyelesaian Sengketa*. t.p.
- Muhammad, A. A. (2023). Alternative Dispute Resolution (As-Sulh) As A Principle of Islamic Legal System. *Fitrah. Jurnal Kajian Dan Ilmu Syariah*, 1(9), 1–20.
- N Abdul Hamid. (2019). Alternative Dispute Resolution (ADR) Via Sulh Processes. *International Journal of Law, Government and Communication*, 4(17), 25--33.
- Nolon, J. R., Ferguson, O., & Field, P. (2013a). *Land in conflict: Managing and Resolving Land Use Disputes*. Lincoln Institute of Land Policy.
- Nolon, J. R., Ferguson, O., & Field, P. (2013b). *Land Use and Sustainable Development Law*. West Academic.
- Norjihan, A. A., & Hussin, N. (2016). The Application of Mediation (Sulh) in Islamic Criminal Law. *Shariah Journal*, 1(24), 115–116.
- Othman, A. (2007). and Sulh is Best: Amicable Settlement and Dispute Resolution in Islamic Law. *SSRN Electronic Journal*.
- Petersen, M. (2016). *Community Mediation and Rural Conflict Resolution*. Oxford University Press.
- Republik Indonesia. (1999). *Undang-Undang Nomor 30 Tahun 1999 tentang Arbitrase dan Alternatif Penyelesaian Sengketa*.
- Sikor, T., Auld, G., Bebbington, A. J., Benjaminsen, T. A., Gentry, B. S., Hunsberger, C., Izac, A.-M., Margulis, M. E., Plieninger, T., & Schroeder, H. (2013). *Justice and Land Governance*. *Development and Change*, 3(44), 415–437.
- Syarif Maula, B. (2023). The Concept Of Sulh and Mediation In Conflict Resolution: A Comparative Study In Religious Courts. *El-Aqwal Journal*, 1(2), 1–27.
- Van Leeuwen, M., et al. (2022). Land Conflict As Structural Challenge. *Journal of Agrarian Change*, 1(22), 76–95.
- Wehrmann, B. (2008). *Land Conflicts: A Practical Guide to Dealing with Land Disputes*. GTZ/GLTN.
- Zartman, I. W. (2008). *Negotiation and Conflict Management: Essays on Theory and Practice*. Routledge.