

Customary Land Pawn Disputes in Lebung Jangkar Village: An Islamic Law and Cultural Perspective

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Abstract:

*Prolonged agricultural land pawn practices in indigenous communities often create structural inequalities and recurring disputes due to unclear legal boundaries. This article examines the dynamics of customary land rights (hak ulayat) in agricultural land pawn practices and the resolution of related disputes within the indigenous community of Lebung Jangkar Village. Land is perceived as ancestral heritage with strong social and cultural significance, making pawn practices socially accepted as temporary economic instruments without transferring ownership. However, extended pawn periods and the continuous utilization of pawned land by pawn recipients frequently result in unequal power relations and latent agrarian disputes. Focusing on rice field pawn disputes, this study analyzes the relationship between customary land rights, pawn practices, and dispute resolution through traditional elders (kriye). Using a qualitative normative-empirical approach through interviews, observation, and document analysis, the study finds that dispute resolution through the kriye functions as an effective living law grounded in deliberation, social harmony, and substantive justice, substantively aligning with the Islamic legal principles of *ṣulh* and *rahn*. Nevertheless, the absence of written documentation and the weak integration of Article 7 of Law Number 56 of 1960 indicate the need for greater normative harmonization to ensure legal certainty and equitable protection for customary landholders.*

Keywords: Customary land rights, Agricultural land pawn, Dispute resolution, Kriye, Islamic law

INTRODUCTION

The practice of mortgaging agricultural land remains a dominant economic mechanism within indigenous rural communities, including the indigenous community of Lebung Jangkar Village. In this community, debt-based transactions secured by rice fields are commonly conducted through oral agreements grounded in trust, solidarity, and customary values, without written documentation (Ritonga, 2023). This pawn practice is generally

conducted orally without written agreements, relying primarily on mutual honesty and trust between the parties (Putra, 2025). Empirically, agricultural land pawn arrangements in Lebung Jangkar Village tend to extend over prolonged periods, generally ranging from one to three years and, in certain cases, reaching up to seven years when the pawn provider (*rahin*) is unable to repay the debt (Sriyana Sriyana, 2025). This prolonged practice enables continuous land utilization by the pawn holder (*murtahin*), which often results in unequal power relations and potential agrarian disputes at the local level.

A few previous studies have examined the existence and protection of customary land rights (*bak ulayat*) of indigenous communities, as well as mechanisms for resolving land disputes based on customary law across various regions in Indonesia. Kristiani highlights issues of justice in the recognition of customary land rights of indigenous legal communities (Kristiani, 2020), while Samuel Haning analyzes the mechanism for resolving agricultural land pawn disputes within the indigenous community of Aceh Besar, which prioritizes customary deliberation (Haning, 2025). Arrasid emphasizes that the Basic Agrarian Law recognizes customary land rights, although its implementation continues to face regulatory challenges (Arrasid, 2021). Studies by Nugroho and Purnama further demonstrate that pawn practices and customary land disputes are generally resolved through non-litigation mechanisms involving traditional leaders (Nugroho et al., 2019; Purnama et al., 2021).

However, despite their valuable contributions, these studies tend to address customary land rights and pawn dispute resolution in a general context. They do not specifically analyze the practice of utilizing pawned agricultural land from the perspective of indigenous customary land rights, nor do they examine its normative relationship with Article 7 of Law Number 56 of 1960 within a concrete local setting. Moreover, existing research has not sufficiently integrated the analysis of customary dispute resolution mechanisms with Islamic legal principles governing pawn transactions (*rahn*), particularly in the context of Lebung Jangkar Village. This gap indicates the absence of a comprehensive study that systematically compares customary practices, national agrarian law, and Islamic law in regulating prolonged agricultural land pawn arrangements (Husein et al., 2022).

Based on this empirical and normative gap, this study argues that the utilization of pawned agricultural land in Lebung Jangkar Village has not yet provided clear legal boundaries regarding the rights and obligations of the parties under customary law, Indonesian positive law, and Islamic law. Normatively, Article 7 of Law Number 56 of 1960 stipulates limitations on the duration of agricultural land pawning and mandates the return of the land without redemption after seven years. Nevertheless, these legal provisions are not fully understood or implemented at the local level, resulting in dispute resolution being predominantly entrusted to traditional elders (*kriye*) as respected customary authorities. The novelty of this research lies in its integrative analysis of customary land rights in the utilization of pawned agricultural land and the role of traditional elders (*kriye*) in resolving pawn disputes, critically examining their conformity with Article 7 of Law Number 56 of 1960 as well as principles of justice embedded in Islamic law and local cultural values..

Accordingly, this study aims to: 1) analyze the factors that encourage the indigenous community of Lebung Jangkar Village to pawn agricultural land for extended periods and the accompanying practices of land utilization; and 2) examine the mechanisms for resolving agricultural land pawn disputes through traditional elders (*kriye*), including alternative dispute resolution methods when customary deliberation fails to reach consensus. This research employs a qualitative method with a normative-juridical and descriptive-analytical approach, using primary data obtained from interviews with pawn providers, pawn holders, and

customary institutions, alongside secondary data derived from statutory regulations, legal literature, and relevant scholarly works.

DISCUSSION

Customary Land Rights of the Indigenous Community of Lebung Jangkar in Pawn Practices

Based on the findings of the field research, customary land rights (*bak ulayat*) of the indigenous community of Lebung Jangkar Village remain alive, recognized, and actively practiced in the management of rice fields. Land is not perceived merely as an individual economic asset that can be freely traded; rather, it is understood as ancestral heritage imbued with historical, social, cultural, and symbolic values essential to family continuity and the cohesion of the indigenous community (Falahy et al., 2025). From the local perspective, rice fields represent genealogical identity and the preservation of family dignity; therefore, their existence must be safeguarded and transmitted across generations (Heri, 2025).

On this basis, the transfer of land through sale is considered contrary to customary values, as it potentially severs the genealogical relationship between families and their customary land. Conversely, pawn practices are socially accepted and legitimized as a temporary mechanism to meet urgent economic needs without extinguishing ownership rights over the land (Yati, 2025). Pawn transactions are positioned as a compromise between economic necessity and the moral obligation to preserve ancestral land. This view is affirmed by an informant who stated that rice fields are “ancestral inheritance that must not be sold but may be pawned only in situations of genuine necessity,” reflecting the strong influence of customary ethics in land management (Sukirman, 2025).

Within the framework of customary law in Lebung Jangkar Village, the practice of pawning rice fields functions as an instrument for the protection of customary land rights (Yuliana, 2025). Pawn arrangements enable landowners (*rabin*) to access financial resources under conditions of economic hardship without permanently losing their land (Sugianto & Rini, 2025). Accordingly, pawn transactions are not merely understood as debtor–creditor relationships, but also as social mechanisms that ensure the continuity of customary land rights and prevent the permanent transfer of land ownership to parties outside the indigenous community (Ritonga, 2023). These findings demonstrate that customary law operates as a *living law* that is responsive to community needs while maintaining a balance between economic interests and cultural values.

Empirical evidence indicates that pawn practices frequently extend over prolonged periods without clear temporal limitations or structured redemption mechanisms. Under such circumstances, the pawn recipient (*murtabin*) exercises full control over the rice fields and enjoys all agricultural yields for as long as the *rabin* is unable to repay the debt (Wiguna & Makruf, 2025).v. *De facto*, this situation results in a long-term transfer of the economic benefits of customary land, even though *de jure* ownership remains with the *rabin*. This pattern reveals an imbalance in power relations and benefit distribution between the parties involved (Tumiwa & Husein, 2018).

Such imbalance suggests that the application of customary land rights within pawn practices does not always align with principles of substantive justice (Wahyudhi et al., 2025). On the one hand, customary land rights are normatively preserved; on the other hand, *rabin* are placed in a structurally weak position, as they are deprived of the economic benefits of their own land for extended periods. This condition constitutes the initial trigger for the emergence of pawn disputes over rice fields, whether latent or overt, particularly when economic pressures intensify or when social relations between the parties deteriorate.

Accordingly, the practice of pawning rice fields in Lebung Jangkar Village reveals a paradox between the protective function of customary land rights and the potential for injustice in their implementation. While pawn practices serve as a customary mechanism to preserve the continuity of customary land, the absence of clear and equitable regulation risks undermining the very substance of justice that constitutes the fundamental objective of customary law, Islamic law, and positive law. These findings underscore the urgency of strengthening regulatory and dispute resolution mechanisms for rice field pawn practices that can synergize customary values, the principles of *fiqh mu'amalat*, and the national legal framework (Rizky et al., 2023).

Pawn Disputes over Customary Land: An Empirical Perspective

The findings of the study indicate that disputes over rice field pawn agreements in Lebung Jangkar Village generally do not arise at the initial stage of the pawn contract but rather develop gradually over time. In the early phase, the relationship between the *rabin* and the *murtabin* tends to be harmonious, as it is grounded in mutual trust, kinship ties, and values of social solidarity. However, as the pawn period becomes prolonged without a clear redemption mechanism, the potential for conflict intensifies. Disputes typically emerge when the *murtabin* faces urgent financial needs while the *rabin* is unable to repay the debt, or when the pawn period extends excessively, giving rise to differing perceptions regarding rights of control and land use (Muhtarom et al., 2022).

Economic factors constitute the dominant cause of such disputes. Urgent needs such as children's education expenses, medical costs, and household necessities compel community members to enter pawn arrangements under conditions of economic vulnerability. The dependence of the Lebung Jangkar community on seasonal agriculture results in unstable and unpredictable income for *rabin*, making debt repayment within a specified timeframe difficult to achieve. Under these circumstances, the *murtabin* continuously exploits the pawned land to obtain agricultural yields as compensation for the loan provided, often without any proportional calculation in relation to the outstanding debt. In addition to economic factors, structural conditions further exacerbate the potential for pawn-related disputes. Limited access to formal financial institutions, the absence of land certificates that could serve as collateral, and banking procedures perceived as complex and unfriendly to rural communities render customary pawn practices the only realistic financing alternative (Ritonga, 2023). Cultural factors also play a significant role. The utilization of pawned rice fields by the *murtabin* is widely regarded as a normal practice and is even perceived as a form of social responsibility to ensure that the land remains productive and does not lie fallow (Wiguna & Makruf, 2025). Nevertheless, such cultural legitimacy often obscures unequal power relations between the *rabin* and the *murtabin*, particularly when the pawn period extends over an exceptionally long duration.

Empirically, this relational imbalance is reflected in the complete concentration of economic benefits in the hands of the *murtabin*. In one case examined, over an eight-year pawn period, the *murtabin* derived substantial profits from the rice harvests, while the *rabin* received no economic benefit whatsoever from land that legally remained under their ownership. This condition demonstrates that rice field pawn practices not only have the potential to generate overt disputes but also create latent conflicts that accumulate over time. It is this accumulation of injustice that ultimately necessitates the presence of a dispute resolution mechanism that is not solely grounded in customary norms, but also capable of ensuring substantive justice for all parties involved.

Resolution of Pawn Disputes through Traditional Elders (Kriye)

In the context of the indigenous community of Lebung Jangkar Village, disputes over rice field pawn arrangements are not immediately resolved through formal state legal mechanisms. Instead, the community prioritizes customary-based dispute resolution through the role of traditional elders (*keriye*). The *keriye* possess moral, social, and cultural legitimacy as custodians of customary values, representatives of customary land authority (*hak ulayat*), mediators of conflict, and decision-makers in matters related to customary land (Sukirman, 2025). The position of the *keriye* is not merely understood as symbolic; rather, it functions as a customary institution that maintains social equilibrium and substantive justice within the community.

Based on field findings, the dispute resolution process through the *keriye* begins with familial deliberation between the *rabin* and the *murtabin*. This deliberative process reflects the fundamental customary principle that prioritizes peace, harmony, and the avoidance of open conflict. When such familial deliberation fails to produce an agreement, the parties voluntarily submit the dispute to the *keriye* as the highest customary authority at the village level. In this process, the *keriye* listens impartially to both parties, examines the history of the pawn agreement, the duration of land control, and the way the pawned land has been utilized. The considerations applied by the *keriye* are not limited to normative customary rules, but are also grounded in principles of justice, propriety, balance of rights and obligations, and Islamic values embedded in the collective consciousness of the community.

Decisions issued by the *keriye* are socially binding and are complied with by the parties involved. This binding force does not derive from formal legal sanctions, but rather from customary legitimacy, the personal authority of the *keriye*, and the collective awareness of the community to preserve social harmony and avoid protracted conflict. In several cases, the *keriye* has ruled that the pawned land may be transferred to a third party, subject to conditions of price transparency, mutual consent of both parties, and a guarantee that any surplus from the sale if the land's value exceeds the amount of the debt is returned to the *rabin*. Conversely, if the sale value is lower than the outstanding debt, the remaining obligation remains the responsibility of the *rabin*. This pattern of resolution demonstrates that the *keriye* exercises customary land authority not only in terms of land control and protection, but also in conflict resolution oriented toward distributive and restorative justice.

From the perspective of Islamic law, dispute resolution through the *keriye* aligns with the principle of *sulb* (amicable settlement) in *fiqh mu'āmalāt*, which emphasizes deliberation and mutual agreement as the primary means of resolving disputes. Nevertheless, the prolonged utilization of pawned land without clear temporal limitations requires normative correction to ensure consistency with the principle of *rahn*, which stipulates that pawned property serves solely as collateral and must not become a source of unilateral profit (Asrawijaya, 2024). Meanwhile, from the perspective of positive law, this customary mechanism has not been fully aligned with the provisions of Article 7 of Law Number 56 of 1960, which limits the duration of agricultural land pawns and mandates the return of land without redemption after a specified period (Ayuni, 2023; Gobel et al., 2021).

Accordingly, the resolution of rice field pawn disputes through the *keriye* in Lebung Jangkar Village reflects the continuity of customary law as an effective *living law* in social practice, while simultaneously highlighting the need for harmonization between customary law, Islamic law, and state positive law (Tan, 2022). Such harmonization is essential to ensure that dispute resolution mechanisms not only preserve social order and harmony but also provide equitable legal protection for parties in weaker positions, particularly the *rabin* as holders of customary land rights (Amrin et al., 2025).

The Role of Kriye in an Islamic Law and Local Cultural Perspective

From the perspective of Islamic law, the mechanism of dispute resolution through traditional elders (*kriye*) demonstrates substantial compatibility with the principle of *ṣulḥ*, namely dispute settlement through deliberation and reconciliation aimed at eliminating conflict and preventing injustice toward any party. The principle of *ṣulḥ* is grounded in justice, mutual consent (*tarādī*), and public benefit (*maṣlaḥah*) as the primary foundations of dispute resolution (Abd Rahman R et al., 2023). In practice, values of trustworthiness (*amānah*), honesty, and fairness constitute the core considerations guiding the *kriye* in rendering decisions (Rachmat Syafe'i, 2001). As a result, dispute resolution is not merely procedural in nature but is imbued with ethical and moral dimensions consistent with Islamic teachings.

Within the framework of *fiqh mu'āmalāt*, a pawn contract (*rahn*) is fundamentally a benevolent transaction (*tabarru'*) intended to secure a debt, rather than a means of generating economic profit (Huda & Mujib, 2025). Accordingly, the prolonged and unrestricted utilization of pawned property by the *murtabin* without fair compensation to the *rahn* potentially contains elements of injustice (*ẓulm*) and approaches the prohibited practice of deriving benefit from a loan (Soleman et al., 2022). In this context, decisions issued by the *kriye* that emphasize transparency, limitations on the economic exploitation of pawned property, and the restoration of the *rahn*'s rights over the land reflect a corrective effort against pawn practices that deviate from Islamic principles of justice and conflict with the objectives of Islamic law (*maqāsid al-sharī'ah*), particularly the protection of property (*ḥifẓ al-māl*) (Shalehah & Irfan, 2022).

Meanwhile, from the perspective of local culture, dispute resolution through the *kriye* reflects the strong values of deliberation, cooperation, and respect for customary authority that form the foundation of social life in Lebung Jangkar Village. The *kriye* is regarded as a wise, neutral figure with high moral integrity; consequently, their decisions function not only to resolve disputes in a practical sense, but also to restore social harmony and rebalance relationships among members of the indigenous community. Thus, the mechanism of dispute resolution through the *kriye* illustrates a constructive convergence between Islamic law and local culture, which together shape a system of dispute resolution grounded in substantive justice and social welfare (Al-Islami et al., 2024).

To clarify the normative positions and points of convergence as well as divergence between customary law, Islamic law, and positive law in regulating pawn practices and dispute resolution over customary land, a comparative analysis is presented in the following table. This comparison highlights the distinctive characteristics, legal orientations, and justice frameworks of each legal system. To clarify the normative positions and points of convergence as well as divergence between customary law, Islamic law, and positive law in regulating pawn practices and dispute resolution over customary land, a comparative analysis is presented in the following table, which highlights the distinctive characteristics, legal orientations, and justice frameworks of each legal system by demonstrating how customary law emphasizes communal harmony, moral authority, and restorative justice through deliberative mechanisms led by traditional elders, how Islamic law is anchored in the principles of *ṣulḥ*, *tarādī*, *maṣlaḥah*, and the prohibition of unjust enrichment in *rahn* transactions in order to protect property rights and prevent *ẓulm*, and how positive law prioritizes formal legal certainty, procedural compliance, and codified regulations, thereby revealing both the complementary nature and the potential normative tensions among these three legal orders in shaping a pluralistic yet substantively just system of dispute resolution

over customary land. Comparison of Customary Law, Islamic Law, and Positive Law in the Practice of Agricultural Land Mortgage and Dispute Resolution is shown in Table 1.

Table 1. Comparison of Customary Law, Islamic Law, and Positive Law in Agricultural Land Pawn Practices and Dispute Resolution

Aspect	Customary Law (<i>Hukum Adat</i>)	Islamic Law (<i>Hukum Islam</i>)	Positive Law (<i>Hukum Positif</i>)
Legal foundation	Customary norms and living law recognized by the indigenous community	<i>Fiqh mu'āmalāt (rahn and ṣulḥ)</i> based on the Qur'an and Sunnah	Law Number 56 of 1960 and the Basic Agrarian Law
Status of land	Customary land (<i>bak ulayat</i>) as ancestral heritage	Property (<i>māl</i>) protected under Islamic law	Object of land rights regulated by statutory law
Nature of pawn	Temporary customary arrangement to meet urgent needs without transferring ownership	Rahn as a benevolent contract (<i>tabarru'</i>) securing debt	Agricultural land pawn with temporal and legal limitations
Utilization of pawned land	Socially permitted, often without clear limits	Restricted; must not generate unjust benefit for the murtahin	Not explicitly regulated regarding benefit utilization
Duration of pawn	Generally undefined and may extend for long periods	Must be fair and not cause injustice (<i>ẓulm</i>)	Limited to a maximum of seven years
Position of the rahn	Structurally weaker due to economic dependency	Rights must be protected to prevent exploitation	Landowner entitled to legal protection
Dispute resolution mechanism	Deliberation through traditional elders (<i>krɨye</i>)	<i>Sulḥ</i> (amicable settlement) and reconciliation	Litigation or non-litigation mechanisms
Binding force of decisions	Social and moral legitimacy	Ethical and religious obligation	Formal legal enforceability
Orientation of justice	Social harmony and communal balance	Substantive justice and <i>maṣlahah</i>	Legal certainty and protection of rights

Source: Authors 2025

The comparative analysis in Table 1 indicates that customary law, Islamic law, and positive law share a common normative objective of protecting land rights and preventing injustice in agricultural land pawn practices, albeit through different foundations and regulatory mechanisms. Customary law prioritizes social harmony and the preservation of

ancestral land through flexible, trust-based arrangements, Islamic law establishes ethical limits through the principles of *rahn* and *sulh* to prevent exploitation, while positive law emphasizes legal certainty by formally limiting pawn duration and safeguarding landowners' rights.

However, the comparison also reveals normative gaps and tensions among these legal systems. Customary law's lack of explicit temporal limits exposes the *rahn* to potential vulnerability, Islamic legal principles are not always explicitly operationalized in local practice, and positive law remains weakly implemented due to limited legal awareness and the dominance of customary authority. These divergences demonstrate that no single legal framework is sufficient on its own, thereby necessitating an integrative approach that harmonizes Islamic ethical norms, customary legitimacy, and statutory legal certainty. Such harmonization provides a conceptual basis for strengthening the role of the *keriye* as a mediating institution capable of bridging normative values and ensuring equitable resolution of customary land pawn disputes.

Harmonization of Customary Law, Islamic Law, and Positive Law in Pawn Dispute Resolution

Although the mechanism of dispute resolution through traditional elders (*keriye*) has proven effective in maintaining social stability and communal harmony, the findings of this study reveal several structural limitations. The absence of written documentation in the dispute resolution process poses a risk of legal uncertainty and creates potential for future non-performance or breach of agreement, particularly in situations involving shifts in social relations, the entry of external parties, or the weakening of customary authority. This condition underscores that social effectiveness alone is insufficient to ensure sustainable legal protection for the parties involved.

From the perspective of positive law, particularly Article 7 of Law Number 56 of 1960, agricultural land pawn practices are normatively subject to temporal limitations and are intended to safeguard landowners' rights so that they do not disproportionately lose control over, or benefits derived from, their land. However, the findings indicate that these legal provisions have not been fully understood or internalized within customary practices in Lebung Jangkar Village. Accordingly, efforts toward harmonization are required by integrating the principles of positive law into customary dispute resolution mechanisms through the role of the *keriye*, without eroding the local values that are deeply rooted in the community.

Accordingly, the resolution of rice field pawn disputes through the *keriye* may be positioned as an integrative model of conflict resolution based on customary land rights (*bak ulayat*), one that combines customary values, principles of justice under Islamic law, and norms of legal protection under national law. This model not only serves to preserve indigenous identity, customary legitimacy, and social cohesion within the Lebung Jangkar community, but also holds the potential to strengthen legal certainty and substantive justice in a sustainable manner for all parties involved in rice field pawn practices.

CONCLUSION

This study demonstrates that the customary land rights (*bak ulayat*) of the indigenous community of Lebung Jangkar Village continue to function as the primary normative framework governing agricultural land pawn practices and their dispute resolution mechanisms. Pawn transactions are socially perceived as temporary economic instruments intended to preserve ancestral land ownership; however, the prolonged utilization of pawned land without clear temporal limitations has generated structural imbalances that place the

rahin in a vulnerable position and trigger both latent and overt disputes. The findings further confirm that dispute resolution through traditional elders (*keriye*) operates effectively as a living law grounded in deliberation, social harmony, and substantive justice, aligning with the Islamic legal principle of *sulh* and the ethical values of *rahn*, as well as reinforcing local cultural norms of trust and communal solidarity.

From a policy perspective, these findings imply the need for regulatory strategies that recognize and accommodate customary dispute resolution institutions while ensuring legal certainty through the gradual integration of statutory norms, particularly Article 7 of Law Number 56 of 1960. Policymakers are encouraged to develop adaptive legal documentation mechanisms and community-based legal education that strengthen the protection of *rahin* without undermining the authority of customary institutions.

From a theoretical perspective, this study contributes to socio-legal and legal pluralism discourse by demonstrating that effective legal protection in indigenous contexts requires an integrative model that harmonizes customary law, Islamic legal ethics, and positive law rather than privileging a single normative system. Accordingly, dispute resolution through the *keriye* may be positioned as a hybrid normative model capable of bridging plural legal values, providing a conceptual foundation for future research on contextualized legal harmonization in agrarian societies.

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