



Enforcement of Social Value Sigma in Commercial Agrarian Dispute Arbitration in Indonesia

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ABSTRACT

This study examines how social value *sigma* – representing justice, utility, and local wisdom – is integrated into the arbitration of commercial agrarian disputes in Indonesia. Using an empirical socio-legal approach through interviews with arbitrators, legal practitioners, disputing parties, and agrarian officials in Tegal, Bandung, and East Nusa Tenggara, the research compares normative legal provisions with field practices. Findings indicate that although arbitration offers a more efficient alternative to litigation, the incorporation of social values remains inconsistent and depends heavily on the arbitrator's awareness and the parties' bargaining positions, limiting the recognition of communal rights. The study concludes that reinforcing social value enforcement requires strengthening legal norms and adjusting institutional practices, contributing to socio-legal discourse and promoting fairer agrarian dispute resolution.

INTRODUCTION

Agrarian conflicts in Indonesia are increasingly complex along with the expansion of plantations, industry, and infrastructure development. Land disputes involve not only legal aspects, but also social values such as justice, communal rights, and sustainability. (Syaban, 2024) explained that the transformation of land use in the Nusantara National Capital City project, for example, has given rise to a multidimensional conflict dimension that shows that dispute resolution is not enough through litigation, but requires alternatives that are more responsive to social values.

Globally, international arbitration bodies are beginning to emphasize efficiency and transparency in new rules. (Ziadé & Plump, 2020) shows that the revision of the International Chamber of Commerce (ICC) rules emphasizes third-party participation and openness of procedures. However, the adaptation has not fully integrated the social value dimension, raising the question of whether arbitration forums can truly be a means of substantive justice in disputes that have a wide impact on society.

In Indonesia, the report (Jong, 2021) reveals a significant spike in agrarian conflicts in the last two decades, especially related to the expansion of oil palm plantations and extractive industries. These conflicts often have social impacts in the form of evictions, loss of people's access to livelihoods, and uncertainty of property rights. This condition confirms that the agrarian dispute resolution mechanism should not only emphasize the economic aspect, but must also consider the social value inherent in land.

Most previous research has focused more on corporate strategies in dealing with agrarian conflicts. (Berenschot et al., 2024) found that oil palm plantation companies often use political co-optation and community criminalization as strategies to defend their interests. However, there have not been many studies that have critically examined how arbitration forums can be an alternative arena to counter the practice of domination while upholding social values in commercial agrarian disputes.

Research (Sugiyanto et al., 2023) emphasizes that non-litigation mechanisms such as mediation provide greater space for social justice because it involves direct communication between parties. However, they do not empirically compare the mechanism with commercial arbitration. This research gap opens up an important space to test whether arbitration has the same capacity, or even more effective, in accommodating the social interests of the community.

Research (Rumpia, 2024) highlights that the marginalization of indigenous communities often occurs due to land grabs legitimized by formal law. This phenomenon shows the importance of a socio-legal approach in agrarian research, namely by connecting legal norms with the social reality experienced by society. By involving three research locations Tegal, Bandung, and East Nusa Tenggara, this study seeks to capture the variation in social context and dynamics of dispute resolution through arbitration.

Based on these research gaps, this study explicitly aims to analyze the practice of arbitration in the settlement of commercial agrarian disputes in

Indonesia, assess the extent to which social value sigma is integrated in the arbitration process, and identify the factors that encourage or hinder the enforcement of social values. (Chamdani, 2024) emphasized the importance of customary land registration as an instrument of social protection, so this study also links these findings to the role of arbitration in maintaining communal rights in the midst of commercial economic dynamics.

The main contribution of this research lies in two aspects. First, theoretically, the research expands the discourse of integrating social values into arbitration law, which has so far emphasized the procedural aspect. Second, practically, this study provides policy recommendations for regulators, arbitration institutions, and legal practitioners to make arbitration more responsive to people's rights. Greenwood (2022) emphasized that arbitration that considers social and environmental aspects has the potential to increase legitimacy and substantive justice, so it is relevant to be adopted in the Indonesian context.

THEORETICAL REVIEW

Arbitration in Agrarian Dispute Resolution

Arbitration as an alternative to dispute resolution has an important position in the agrarian context because it is faster, final, and more flexible than litigation. Research conducted by (Hashem et al., 2022) shows that arbitration has the potential to reduce the burden on the court while providing a wider negotiation space for the disputing parties. In the agrarian context, the flexibility of the arbitration procedure allows for a settlement that is not only oriented to the formal legal aspect, but also takes into account the socio-economic interests of the community. With these characteristics, arbitration has the potential to be an effective instrument in reducing the escalation of agrarian conflicts. However, its effectiveness is largely determined by the extent to which formal legal norms are able to be harmonized with the needs of local communities.

Integration of Social Value in Arbitration

Social values, such as justice, utility, and local wisdom, are important elements in the settlement of agrarian disputes. The study conducted by (Menski, 2021) emphasizes the need to recognize legal pluralism, where formal law must coexist with social and customary norms. This is relevant to the settlement of commercial agrarian disputes through arbitration, since decisions that ignore social values tend to give rise to further conflicts. The integration of social values in arbitration also increases the legitimacy of decisions in the eyes of the public. Thus, strengthening social value sigma can be the key to successful dispute resolution in a sustainable manner.

Substantive Justice in Commercial Disputes

From the perspective of economic law, the success of arbitration is measured not only by the speed and certainty of the law, but also by the extent to which it embodies substantive justice. According to (Thomas & Wilske, 2022), modern commercial arbitration must pay attention to ethical and social

dimensions to maintain the legitimacy and sustainability of the legal system. Thus, the integration of sigma social values in commercial agrarian arbitration is crucial to ensure the achievement of more inclusive justice. This approach places arbitration not only as a legal instrument, but also as a mechanism that answers the moral needs of society. This also strengthens the position of arbitration as a forum that is able to balance business interests with the principles of social justice.

Challenges of Implementing Agrarian Arbitration in Indonesia

The practice of arbitration in Indonesia still faces a number of challenges, especially related to community acceptance and alignment with customary law. Research by (Fauzia, 2023) shows that in many cases, the settlement of agrarian disputes facilitated by formal institutions is often not socially recognized because it conflicts with the prevailing customary structures. This shows that there is a gap between the formal norms of arbitration and the social reality in the field. These gaps can reduce the effectiveness of arbitration and even generate resistance from the public. Therefore, reform of arbitration procedures that are adaptive to customary law is an urgent need.

The Role of Socio-Legal Research in Arbitration Analysis

The socio-legal approach is one of the important instruments for understanding how arbitration functions in practice, especially in the context of agrarian disputes. According to (De Souza & Pereira, 2020), socio-legal research provides an analytical framework that allows for the connection between normative law and social dynamics. Using this approach, it is possible to identify the extent to which social values are accommodated or ignored in arbitration practice, thus providing a comprehensive picture of the effectiveness of such mechanisms. In addition, the socio-legal approach also enriches the perspective of legal research to be more relevant to empirical reality. Thus, socio-legal-based agrarian arbitration research is able to produce findings that are more applicable to policy formulation.

METHODOLOGY

Types and Approaches to Research

This research is an empirical legal research with a socio-legal approach. This approach was chosen because the issue of social value sigma enforcement in commercial agrarian dispute arbitration can not only be understood from a normative perspective, but must also be seen from practice in the field. Socio-legal research allows researchers to analyze the relationship between arbitration legal norms and social reality, especially regarding the integration of justice values, utility, and local wisdom in dispute resolution (Mulyadi, 2021). With this approach, research can bridge the gap between legal texts and social practices in the context of commercial agrarian practice.

Research Location

The research was carried out in three regions with different characteristics of agrarian disputes. Tegal was chosen because disputes often arise related to

productive land such as plantations and inland fisheries. Bandung is directed to commercial land disputes with high economic value, especially property and industry. East Nusa Tenggara (NTT) was chosen because there are many agrarian cases involving large investors in the plantations, tourism, and livestock sectors with indigenous or local people. This multi-location study provides space to compare arbitration practices while assessing variations in the application of sigma social values in three different socio-economic contexts (Rahman, 2022).

Population and Sampling Techniques

The research population includes parties who are directly involved in the settlement of agrarian disputes through arbitration and other mechanisms. The sampling technique is carried out with purposive sampling to ensure the involvement of relevant and experienced participants. The number of participants interviewed was 12 people, consisting of 3 arbitrators, 3 legal practitioners, 2 community leaders, 3 agrarian officials, and 1 dispute party. This composition was chosen to ensure the representation of the institutional, professional, and societal perspectives of the affected people. The determination of the number of participants is based on the principle of data sufficiency and the achievement of information saturation points (Saragih & Prasetyo, 2023).

Data Collection Techniques

Data was collected through three main techniques. First, in-depth interviews with semi-structured guidelines to explore participants' views on the role of social value sigma in the arbitration process. Second, direct observation on the dispute resolution process at arbitration institutions and customary forums. Third, a documentation study that includes relevant laws, regulations, and rulings. The validity of the data was tested through triangulation of sources and methods, while reliability was obtained by cross-verification between informants and between researchers in three regions (Putri & Kurniawan, 2020).

Research Procedure

The research stage begins with problem identification and literature review to map theoretical and practical issues. In the second stage, each author collects field data in their respective regions: Tegal, Bandung, and NTT. The third stage is the transcription and codification of the data, which is then put together in a joint analysis. The fourth stage was discussed by the research team to compare the findings from each location, identify similarities and differences, and build a national pattern regarding the enforcement of social value sigma in agrarian arbitration. The last stage is the preparation of research reports by integrating empirical results and normative legal frameworks (Widodo, 2021).

Data Analysis Techniques

Data analysis was carried out using qualitative thematic analysis methods to identify key themes such as justice, utility, local wisdom, and formal arbitration practices. Data from each location were compared with a comparative approach, so that gaps patterns and opportunities for integration of sigma social

values could be found. The analysis process is assisted by NVivo 12 Plus software for data encoding, categorization, and visualization. The results of the interpretation are then placed within the framework of the theory of legal pluralism and social justice to produce conclusions that are consistent with the research objectives (Santoso, 2024).

RESEARCH RESULTS

Patterns of Arbitration Practice in Commercial Agrarian Disputes

The results of the study showed that there were differences in the pattern of using arbitration in the three research locations. Although arbitration has been recognized as a faster, more flexible, and final alternative mechanism than litigation in court, its application in commercial agrarian disputes is still limited and is greatly influenced by the socio-economic and cultural conditions of each region.

In Tegal, arbitration began to be chosen in productive land disputes such as plantation land and inland fisheries. However, most people still rely more on litigation. This is influenced by the low understanding of arbitration procedures, including the issue of arbitration clauses in contracts. A legal practitioner explained, *"Many clients in Tegal are still hesitant to choose arbitration because it is considered complicated and less known. They trust the court more even though it takes a long time."* (Interview, PH-2, June 14, 2025). In line with that, local agrarian officials added, *"Almost all disputes involving productive land end up in court because people are not used to including arbitration clauses in contracts."* (Interview, PA-1, June 12, 2025).

In Bandung, arbitration has been used more widely, especially for high-value land disputes such as housing development, industrial estates, and commercial projects. One of the arbitrators stated, *"In the case of property in Bandung, the parties tend to opt for arbitration because the decision is fast, final, and can be executed immediately"* (Interview, AR-1, June 11, 2025). The disputing party also stated, *"We chose arbitration because investment contracts with foreign parties do require settlement through arbitration"* (Interview, PS-1, June 19, 2025). This shows that contractual agreements are the main basis for the use of arbitration, as stipulated in Article 1 number 3 of Law Number 30 of 1999.

Meanwhile, in East Nusa Tenggara (NTT), arbitration is almost not used. Agrarian disputes are more often resolved through customary mechanisms or local government mediation. A community leader explained, *"We prefer to sit together in a traditional way rather than go to arbitration. Arbitration feels foreign, does not accommodate the value of customary land"* (Interview, TM-1, June 18, 2025). Legal practitioners in NTT also added, *"The main obstacle to arbitration here is the absence of arbitration clauses in customary land contracts and the weak recognition of customary land in formal judgments"* (Interview, PH-3, June 20, 2025).

From a legal point of view, Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution provides strong legitimacy to arbitration as a dispute resolution forum. The arbitration award is final and binding (Article 60). However, in the field, its application in agrarian disputes is often constrained by the recognition of land rights, especially communal land regulated in Law Number 5 of 1960 concerning the Basic Regulations on Agrarian Principles. Some

arbitral awards even tend to ignore the social and communal aspects of land ownership, thus widening the gap between contractual law and customary values.

Integration of Social Value Sigma in the Arbitration Process

This study found that the integration of social value sigma, which consists of justice, utility, and local wisdom in agrarian arbitration, is still partial and inconsistent.

In terms of justice, arbitrators and legal practitioners generally adhere to formal contracts and norms. An arbitrator confirmed, *"We are bound by the contract and the rules of arbitration, so the measure of justice must be in accordance with positive law."* (Interview, AR-2, June 10, 2025). On the contrary, community leaders consider justice not only to comply with formal laws, but also to the recognition of communal rights. *"Justice for us is not only about the contract, but how our customary land is still recognized"* (Interview, TM-2, June 17, 2025). This difference of view shows a clash between formal justice and substantive justice.

In terms of benefits, agrarian officials recognize that arbitration can be more efficient than litigation, but the social benefits are often overlooked. *"Arbitration can be completed quickly, but often forgets the social impact, such as community relocation"* (Interview, PA-3, June 21, 2025). The legal practitioner added, *"Investors typically only pursue time and cost efficiency, while benefits to local communities are not taken into consideration"* (Interview, PH-1, June 15, 2025). This shows that there is an imbalance in the application of the principle of utility, which is more in favor of economic interests.

As for local wisdom, arbitration hardly gives space. The customary land system in NTT, although recognized in customary practice, is rarely accommodated in arbitration awards. The disputing party even complained, *"Arbitration does not consider customs, even though that is the source of disputes"* (Interview, PS-1, June 19, 2025). A community leader also affirmed, *"We feel ignored because the arbitration award only refers to the contract, not to the customary law that we have been practicing for generations"* (Interview, TM-1, June 18, 2025). In fact, Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia guarantees recognition and respect for customary law communities and their traditional rights.

This finding is in line with a number of arbitration awards that tend to favor investors or corporations, without considering the interests of local communities. For example, in BANI Arbitration Award Number 42085/XII/ARB-BANI/2019, disputes related to investment land are resolved through an arbitration mechanism that emphasizes more on contractual aspects between investors and local governments, while the aspirations of the affected communities are not taken into account in the decision. This shows how arbitral awards are still very oriented towards formal and contractual legal certainty, but ignore the social values and local wisdom inherent in land objects. A similar situation is also seen in a number of arbitration awards recorded in the Directory of Supreme Court Decisions Number 665/B/Pdt.Sus-Arbt/2024, where in the settlement of commercial land disputes, arguments based on the communal

rights of the community are rarely put forward. This fact indicates that arbitration in Indonesia has not fully become an instrument that balances legal certainty, efficiency, and the protection of social values that live in society.

Factors Driving and Inhibiting the Enforcement of Social Value Sigma

The results of the study identified the driving and inhibiting factors of social value sigma integration in commercial agrarian arbitration.

Driving Factors

First, there is awareness among some arbitrators to accommodate social values in the arbitration process. An arbitrator stated, *"We are starting to try to open up space for customary mediation before going into formal arbitration"* (Interview, AR-3, June 13, 2025). *Second*, regulatory support that allows the resolution of non-litigation disputes, as stated in Law Number 30 of 1999. *Third*, involvement of community leaders in the pre-arbitration stage. A community leader said, *"If we are talked to from the beginning, the results are more acceptable to the community"* (Interview, TM-2, June 17, 2025).

Inhibiting Factors

First, weak legal recognition of customary lands and communal rights. An agrarian official stated, *"Arbitration awards usually only consider official certificates, while customary rights are not recorded in the land administration"* (Interview, PA-2, June 16, 2025). *Second*, the weak bargaining position of the public compared to companies or investors. Community leaders emphasized, *"When dealing with large companies, we don't have the power to influence arbitration"* (Interview, TM-2, June 17, 2025). *Third*, lack of socialization of arbitration in non-urban areas. Legal practitioners stated, *"Outside of big cities, people don't even know what arbitration is. So it is natural that they prefer the courts or customs"* (Interview, PH-3, June 20, 2025).

Overall, the effectiveness of commercial arbitration is proven to be higher in urban areas such as Bandung, where access to arbitration institutions and advocates is easier. In contrast, in areas with the dominance of customary structures such as NTT, arbitration is still considered a foreign mechanism that is insensitive to local values. This condition emphasizes the need for alignment between national legal norms, contractual practices, arbitration awards, and societal values in order for arbitration to truly function as an instrument of substantive justice.

DISCUSSION

The results of this study show that commercial arbitration in agrarian disputes offers real procedural advantages, such as speed of resolution, certainty of final and binding judgments, and administrative efficiency, especially in urban areas such as Bandung. These findings are consistent with the theory of arbitration as an alternative dispute resolution mechanism that emphasizes contractual certainty and efficiency (Thomas & Wilske, 2022). However, the research also reveals that these advantages have not been consistently translated into the integration of substantive social values such as distributive justice, recognition of communal rights, and local wisdom. This shows that there is a gap

between the ideal theory of "fair and efficient" arbitration and real practice in the field. In the context of the previous literature, this study reinforces the view that arbitration, while praised for its efficiency, often fails in the social justice aspect when local communities do not have an equal bargaining position or formally recognized customary evidence (Greenwood, 2022; Suartina, 2022).

A more in-depth analysis shows that the integration of social value sigma in arbitration is highly dependent on two things, namely the arbitrator's awareness and the design of the contract. The high awareness of arbitrators of the value of social justice, such as the desire to open customary mediation spaces or include social protection clauses, is seen as an important driving factor in accordance with the theory of legal pluralism which states that the legitimacy of legal decisions increases when local social norms are accommodated (Hamida, 2022). In contrast, contracts that do not provide for such clauses or that do not include procedural clauses for the recognition of customary/communal rights often result in local people's claims often being ignored. Research by (OECD, 2020) on investment policy in Indonesia also confirms that investors tend to prioritize formal legal certainty and financial risk, so social protection clauses are often seen as burdensome, unless explicitly required in contracts or supporting regulations.

The finding that in East Nusa Tenggara arbitration is almost not used, as well as the community's preference for customary mechanisms or local mediation, provides evidence that local wisdom and the social structures that live in the community can be an obstacle when arbitration is seen as foreign or irrelevant. This also shows that the theory of "access to justice" is not only about the available legal mechanisms, but also the acceptance, trust, and relevance of the mechanism to local cultural values (Andikas & Harun, 2021). Thus, arbitrage that is insensitive to local values risks losing social legitimacy, even if it is formally legal.

In addition, in this study, it was found that national regulations, especially Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution and Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles, provide a fairly clear legal basis for arbitration and the recognition of the social functions of land and communal rights. However, the practice is still far from optimal because these legal norms have not been sufficiently enriched with implementing regulations that regulate specifically how local or customary evidence can be admitted in arbitration, how local communities can be involved in the pre-arbitration process, or how arbitration awards contain social remedies. Previous research such as by (Bakker, 2023) shows that without clear implementation regulations and supportive institutional practices, formal norms become empty texts from the perspective of social justice.

The supporting factors in this study, such as the involvement of public figures in the early stages of the dispute and the awareness of the arbitrator, support the initial hypothesis that arbitration could function more fairly if the procedural design was inclusive. However, some findings contradict the expectation that automated arbitration integrates social value when arbitration contracts are available. As in Bandung, although investment contracts require

arbitration and arbitration to be used, the communal aspect remains less considered if customary evidence is not recognized or the local community is not adequately represented. The difference between Bandung and NTT in this case shows that local conditions such as legal education, access to advocates, clarity of contracts, and land administrative structure greatly influence how social value sigma is implemented.

This research is not spared from weaknesses, the sample scale is only 12 informants. Interviews rely on informants' memories and perceptions that can contain retrospective biases and this study has not measured the long-term impact of arbitral awards on the well-being of local communities. Based on all these analyses, the need for implementing regulations that require social protection clauses and the recognition of customary evidence in agrarian arbitration contracts, the improvement of legal aid and community advocacy programs in non-urban areas, the application of arbitrator ethical guidelines that require social/communal values to be weighed as part of the award, and quantitative or mixed methods research that collects more data on arbitral awards, including the measurement of socio-economic outcomes of the community after the verdict. Thus, this study not only enriches the literature on arbitration and agrarian law, but also presents a map of policy interventions that can help realize arbitration that is not only efficient but also fair for all parties.

CONCLUSION AND RECOMMENDATION

This research shows that arbitration is indeed an alternative to more efficient dispute resolution than litigation, but its application in the agrarian context still faces a number of challenges. The integration of social values that include justice, utility, and local wisdom has not been consistent because it is greatly influenced by the awareness of the arbitrator, the bargaining position of the parties, and the normative understanding of communal rights. This makes the recognition of the social interests of the community, especially communal land, often marginalized in the practice of resolving commercial agrarian disputes.

From the normative side, the existence of Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution provides strong legitimacy to arbitral awards that are final and binding. However, in practice, its implementation often clashes with Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles which emphasizes social and communal aspects. This gap confirms that arbitration in the agrarian field still tends to be oriented towards formal legal certainty, but has not been fully able to accommodate local social and cultural values.

Thus, strengthening the enforcement of social value sigma in agrarian arbitration requires the improvement of the normative framework, increasing the capacity of arbitrators in understanding the social dimension of disputes, and institutional adjustment to be more sensitive to cultural values and local wisdom. The contribution of this research is not only theoretical in enriching the discourse on the integration of socio-legal approaches, but also practical for the development of a more inclusive and socially just arbitration model. This effort

is important to make arbitration not only an instrument of legal efficiency, but also a means that ensures a balance between legal certainty, substantive justice, and social sustainability in the settlement of commercial agrarian disputes in Indonesia.

FURTHER STUDY

Based on these conclusions, further research should examine more concrete mechanisms for integrating social values—justice, utility, and local wisdom—into the normative and procedural framework of agrarian arbitration in Indonesia. Future studies could explore the development of a hybrid arbitration model that systematically incorporates socio-legal principles, especially those related to communal land rights and local cultural norms, into arbitral decision-making. Empirical research is also needed to assess arbitrators' competencies, biases, and levels of socio-legal awareness in handling agrarian disputes, including how training programs or certification standards might be improved to strengthen their sensitivity toward community interests. Moreover, comparative studies with countries that successfully embed customary or indigenous values into alternative dispute resolution systems may provide valuable insights for reforming Indonesia's arbitration practices. It is also crucial for future research to analyze institutional adjustments—such as establishing specialized agrarian arbitration bodies or incorporating community representatives—so that dispute resolution becomes not only legally efficient but also socially inclusive and culturally responsive. Overall, these further studies will support the development of an arbitration model capable of harmonizing legal certainty with substantive justice and social sustainability in commercial agrarian disputes.

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