The Seybold Report
ISSN 1533-9211
DOI: 10.5281/zenodo.23659415

# THE LEGAL CONSTRUCTION OF *MBOLO RO DAMPA* AS A CUSTOMARY DISPUTE RESOLUTION MECHANISM IN BIMA

**AHMADIN[1], ARBA[2], DJUMARDIN[3] and FATAHULLAH[4]**
[1,2,3,4] University of Mataram, Mataram, Indonesia.
Email; [1]bimaahmadin13@gmail.com

**Abstract**

This research is motivated by the condition that in the midst of widespread local conflicts that require a quick and harmonious resolution, the Mbolo Ro Dampa tradition of customary deliberation in the Bima community has become an alternative mechanism that is effective, efficient, and maintains social harmony..This research aims to answer questions regarding the nature of mbolo ro dampa in resolving disputes, the legal position of mbolo ro dampa in the dispute resolution system in Indonesia, and the ideal legal construction of mbolo ro dampa as a model for dispute resolution based on local wisdom.This research is a normative-empirical legal research using the Philosophical approach, legislative approach, conceptual approach, historical approach, and the sociological approach. This research uses primary data sources as the main data and secondary data as supporting data consisting of primary legal materials and secondary legal materials. The results of the study indicate that, Mbolo ro dampa in dispute resolution is essentially a dispute resolution mechanism based on customary law that places deliberation, togetherness, agreement, peace, and restoration of social relations as the main goal. The legal position of mbolo ro dampa in the dispute resolution system in Indonesia has not been specifically regulated by legislation but is supported by constitutional recognition and is placed as an institutional form as well as a dispute resolution mechanism that originates from the customary values of the community based on local wisdom.The recommendation is that Mbolo Ro Dampa should be positioned as a dispute resolution mechanism oriented toward deliberation, agreement, restoration, and peace, so that it becomes more than just a preservation of customary traditions, but also develops into a legal model responsive to community needs. In its implementation, strengthening Mbolo Ro Dampa requires support from capacity building among customary leaders, documentation of customary law, community oversight, and synergy with village governments and law enforcement agencies.

**Keywords:** Legal Construction, Customary Law, Mbolo Ro Dampa, Dispute Resolution.

## INTRODUCTION

According toFriedrich Carl vonSavignyLaw is a product of the lives of people living in a particular society and is a product of that society's culture. It embodies the cultural history of a nation and reflects inner beliefs rooted in the common experiences of the community. (Aulia, 2020) This thinking provides a holistic position for law in society and builds a sustainable law from the past, present, and future. This thinking is demonstrated by the understanding that the focus of law is not limited to the present but also the future, where sustainable harmony will be established between humans, nature, and the Creator. This holistic perspective can only be achieved through full spiritual or religious awareness, where humans are connected through empathy as a whole cosmos. (Purwati, 2021)

Martin Kryger also stated that law as tradition (law as tradition) because law with the development of culture always follows the direction of legal development or vice versa, that law develops and grows in line with the development and growth of the culture of its society.

The Seybold Report
ISSN 1533-9211
DOI: 10.5281/zenodo.23659415

This indicates that law cannot be separated from society, meaning that society is the main source of law and it is not surprising that Donald Dworkin stated that society is a factory of rules. (Hadi, 2015) The legal structure, as also conveyed by Paper, that his belief in the context of law is inseparable from tradition because it has a function that is parallel to legislation or the formation of law to provide order to society. Therefore, there is no contradiction between tradition and legislation related to their functions. Therefore, tradition has developed into a custom that is adhered to by every community as a legal norm. On that basis, several customary legal norms have been accepted by legislation as part of the positive legal system in a modern state. This means that positive law that is rational can form based on tradition because within both there is the same social function to form and maintain social order. (Azhari, 2014)

Based on research conducted by the World Bank, most Indonesians obtain justice not only from courthouses but also from informal settlement mechanisms in their communities. According to Matt Stephans, a World Bank study conducted in West Nusa Tenggara, Maluku, West Sumatra, Central Kalimantan, and East Java, as many as 80% (eighty percent) of disputes in society are resolved informally in their communities without any formal court involvement at all (Usman, 2013). Furthermore, according to Daniel S. Lev, (Lev, 1990) in resolving conflicts in society, Indonesia prioritizes a familial, accommodative, and conciliatory process to reach a compromise. This is the method preferred by the community because it avoids unnecessary involvement of third parties. As seen in Java and Bali, an open attitude to conciliation is a widespread cultural value of the community. Awareness and relativity, then by quoting Anderson that "Javanese tolerance is described as tending to avoid conflict in the context of legal relations, prioritizing procedure over substance."

The tendency to compromise in resolving conflicts is widespread and not limited to villagers. Daniel S. Lev explains that consensus and compromise apply at almost every level of Javanese society and are contrary to the legal culture that tends to emphasize material and rights issues. Therefore, there are several reasons why people prefer to resolve their disputes through institutions outside the courts. These institutions have advantages or benefits, namely easy access, speed, affordability, and flexibility, full involvement of the disputing parties, closed/confidential resolution, and decisions that are acceptable to all parties. (Lev, 1990)

In addition to being based on the culture of dispute resolution through deliberation and consensus, also known as the concept of mbolo ro dampa, it is also guided by Pancasila and the 1945 Constitution of the Republic of Indonesia. As stated in the five principles of Pancasila, the laws applied are laws that guarantee a just, civilized, united, comfortable and happy life. Article 1 paragraph 3 of the 1945 Constitution of the Republic of Indonesia states that Indonesia is a state of law. As a state of law, Indonesia is obliged to provide and guarantee legal certainty and protection to every citizen in the life of the nation and state. (Lev, 1990)

Indonesia, as a state of law (rechtsstaat), did not undergo a process of social system struggles as occurred in Europe. Therefore, it did not have to carry out forced legal transplantation, especially without going through a process of deliberation or waiting for the destruction of the Indonesian social system. The process of the social system leaped from traditional and feudalism directly to a state of law. The substance of the state of law during the colonial period

The Seybold Report
ISSN 1533-9211
DOI: 10.5281/zenodo.23659415

was very complex, namely the application of legal dualism (Western law and customary law) in the same region simultaneously. Even more complex is that customary law itself is regional, communal, and religious, resulting in legal pluralism in Indonesia. For example, the birth of the Omnibus Law or omnibus law and the National Capital Law were formed with a fast-track legislation pattern or fast-track legislation that has implications for the realization of deliberation and ignores the mandate of Law Number 13 of 2022, which is the second amendment to Law Number 12 of 2011 concerning the formation of legislation. Likewise, the Constitutional Court decision number: 90/PUU-XXI/2023, the substance of which has implications for the potential birth of leaders aged 40 years and under who are currently serving as governors and/or district heads/mayors in Indonesia.

Legal construction as part of the concept of legal politics that is within the scope of values and this cannot be separated from social, cultural, political, economic, legal and other aspects that interact and influence each other in unity to form regulations. The right legal concept certainly prioritizes human rights and reflects the principle of justice as mandated in Pancasila. For example, in the concept of construction, Law Number 11 of 2008 concerning Information and Electronic Transactions (ITE) as amended by Law Number 1 of 2024. This law prohibits unlawful acts committed through technology, the internet by showing or violating morality, namely manners and politeness, good norms, good behavior, noble etiquette. This is regulated in Article 27 paragraph 1 of the Law, namely, every person intentionally and without the right to distribute and or transmit electronic information and / or electronic documents that are inciting, inviting, or influencing others so as to cause hatred or hostility towards individuals and / or community groups. If this is done to a child, then based on Article 52 paragraph 1 of the Law, a one-third increase in the principal sentence can be imposed, so that Pancasila is different from other basic norms, namely that Pancasila adheres to non-secular principles in creating certainty, justice and benefit.

Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Electronic Information and Transactions is a legal instrument aimed at realizing a digital space that is safe, ethical, and fair, and provides legal certainty in the use of information technology and electronic transactions. These changes were made to reduce multiple interpretations of several previous provisions while adapting regulations to technological developments, community needs, and the national legal system. From a customary law perspective, the existence of the ITE Law does not conflict with customary-based dispute resolution mechanisms such as Mbolo Ro Dampa, but can be seen as part of a complementary legal system within the framework of legal pluralism. If a dispute stems from the use of electronic media, such as the dissemination of information that gives rise to conflict, insults, defamation, or misunderstandings through digital media, the resolution can still be preceded by a customary deliberation mechanism through Mbolo Ro Dampa as long as the case is within the scope permitted by law and does not override the state's authority over criminal acts that must be processed according to statutory regulations.

The values underlying Mbolo Ro Dampa, such as deliberation, social restoration, moral responsibility, respect for the dignity of all parties, and the restoration of social harmony, are

The Seybold Report
ISSN 1533-9211
DOI: 10.5281/zenodo.23659415

closely aligned with the spirit of Law No. 1 of 2024, which emphasizes the importance of creating a digital space that is just, ethical, and protects the interests of the community. Therefore, customary resolution can serve as a preventive and restorative mechanism to mitigate social conflicts arising from the use of information technology, without eliminating the validity of positive legal norms if an act meets the elements of a criminal offense. Within the context of national legal construction, Mbolo Ro Dampa can be positioned as a dispute resolution mechanism based on local wisdom that strengthens peaceful conflict resolution, while Law No. 1 of 2024 provides a formal legal framework to guarantee legal certainty, protection of rights, and law enforcement against violations in the digital space. Therefore, the relationship between the two is complementary, namely, state law provides legitimacy for the protection of legal interests in cyberspace, while customary law plays a role in restoring social relations and maintaining the balance of community life through a deliberation and peace approach.

The operation of law, besides being influenced by formal regulations, can also be influenced by living norms, as American sociologist William Graham Summers, in his classic work Folkways (1906), identified three types of norms: customs (folkways), mores, and law. Customs are the weakest norms and refer to customs, traditions, customs, or characteristics that are prioritized but do not have serious sanctions. Mores refer to more serious customs that involve moral judgments and sanctions in the form of rewards or punishments. Mores include prohibitions against behavior that is considered to seriously threaten a group's way of life. For example, lying, cheating, theft, and murder are almost certainly included in mores. Law is a formal model of control, codified rules of behavior. Customs and mores are examples of informal models of social control and are characteristic of small, homogeneous cultures with simple technology and broad consensus, while law is the institutionalization or crystallization of mores. Deviant acts are acts that violate the expectations of a group and crimes are acts that violate criminal law. (Hagan, 2013) Acts can be divided into mala prohibita or prohibitions and mala in se or commands. Acts categorized as mala prohibita refer to acts that are bad because they are prohibited, namely acts that are not considered bad in themselves, but are violations because the law defines them as such. Traffic violations, prostitution, traffic violations, and others are examples. In addition to those that may influence the course or progress of social change, namely factors that encourage or support and inhibit it, it can be mentioned contact with other cultures, advanced education systems, tolerance of deviant behavior, open stratification, heterogeneous populations, and dissatisfaction with certain areas of life. Then other factors in inhibiting or slowing down the process of change include, the process of scientific development that is late, the attitude of society that is too traditionalistic, the existence of interests that have been deeply ingrained, the fear of the occurrence of instability in the integrity of society, prejudice against new things, ideological obstacles, customs that are very strong institutionalized. (Soekanto, 1991) Customs that have been embedded in community life actually emphasize the importance of community cultural values as guidelines for policy formulation in the formation of law. Therefore, this research focuses on how to construct laws viewed from cultural values into habits that apply in society with social behavior. In Bima Regency, social conflicts such as juvenile delinquency, legal injustice, and

The Seybold Report
ISSN 1533-9211
DOI: 10.5281/zenodo.23659415

environmental exploitation often occur repeatedly and are difficult to handle through formal mechanisms. The official approach by the government is considered insufficient to reduce and prevent the recurrence of these conflicts. Instead, the community relies more on informal mechanisms, especially Mbolo Ro Dampa, as a means of conflict resolution that is more socially acceptable and effective in creating agreements between disputing parties.

*Mbolo ro dampa*Also known as "Mbolo Rasa," the Bima tradition of customary consensus-building is based on the values of togetherness, mutual cooperation, and the restoration of social relations through dialogue. This tradition functions not only in the context of marriage or family gatherings, but also as a channel for resolving social and inter-religious conflicts collectively, safely, and effectively. The Bima community practices this tradition in various situations, such as inter-village disputes, religious conflicts, and various other social issues. Its effectiveness is proven by its ability to create consensus without involving lengthy litigation processes, maintaining harmony, and reducing the potential for future conflict. Amidst widespread local conflicts that require quick and harmonious resolution, the Mbolo Ro Dampa tradition of customary deliberation in the Bima community is an alternative mechanism that is effective, efficient, and maintains social harmony. Through theoretical and empirical analysis of the value of social capital, contact hypothesis or connecting relationships between people, and the cultural philosophy of Maja Labo Dahu, this study aims to document the role of Mbolo Ro Dampa as an alternative traditional dispute resolution that is academically relevant, as well as its potential to be integrated into formal conflict resolution policies. Therefore, this study can be formulated as the title "The Legal Construction of Mbolo Ra Dampa in Dispute Resolution in Bima".

## RESEARCH METHODS

This research is classified as a normative-empirical legal research that aims to determine whether the results of the application of law to legal events in concreto are in accordance or not in accordance with the provisions of laws and regulations. (Muhaimin, 2020) The approaches used are: Philosophical approach, statutory approach, conceptual approach, historical approach, and sociological approach. This research uses primary data sources as the main data and secondary data as supporting data consisting of primary legal materials and secondary legal materials. Data collection techniques use direct interview methods or direct observation or observation in the field or to the research location (Participants), namely the Bima Community, Bima Regency Regional Government, West Nusa Tenggara Province, Indonesia. From the data that has been collected, both obtained from the results of library research and field research, then a qualitative descriptive analysis is carried out, namely an analysis that describes the actual situation regarding certain facts.

## DISCUSSION

### 1. The Essence of Mbolo Ro Dampa In Resolving Disputes

The essence of Mbolo Ro Dampa in dispute resolution is rooted in the Bima people's view of life, which places social harmony as the primary goal of communal life. From the perspective

The Seybold Report
ISSN 1533-9211
DOI: 10.5281/zenodo.23659415

of the Bima indigenous community, disputes are not viewed merely as a clash of interests between two individuals, but rather as a disruption to the balance of social relations involving families, communities, and even shared moral values. Therefore, dispute resolution is not directed at determining who wins and who loses, but aims to restore damaged relationships, restore balance in community life, and create a peace that is acceptable to all parties. This view shows that the essence of Mbolo Ro Dampa is not merely a conflict resolution mechanism, but as a manifestation of the Bima people's philosophy of life that prioritizes togetherness, brotherhood, and harmony.(Soekanto, 2016)

Philosophically, Mbolo Ro Dampa is based on the recognition that humans are an inseparable part of collective life. Individuals are seen as having a moral responsibility to maintain order and harmony in their social environment. Therefore, every dispute is considered a shared problem that must be resolved through deliberation involving family members, traditional leaders, religious leaders, village government, and members of the community with social legitimacy. The involvement of these various elements demonstrates that dispute resolution is not merely a legal process, but also a social process that embodies the value of collective responsibility. In this context, the resulting decision is not only morally binding for the disputing parties but also gains social legitimacy from the community that participated in the deliberation process.

Another essence of Mbolo Ro Dampa is the belief that justice is measured not only by the formal application of rules, but also by the ability of a decision to create peace and sustainable social relations. Justice, from the Bima customary perspective, is substantive, namely justice that takes into account humanitarian values, propriety, balance, and the concrete conditions of the disputing parties. Thus, dispute resolution through Mbolo Ro Dampa emphasizes reaching a mutual agreement (consensus) rather than the application of punitive sanctions. This orientation reflects the character of customary law, which prioritizes the restoration of social relations over retaliation against the perpetrator. (Hadikusuma, 2014)

From a sociological perspective, the essence of Mbolo Ro Dampa lies in its ability to foster community participation in the dispute resolution process. Open deliberation provides an opportunity for various parties to express opinions, provide considerations, and seek mutually acceptable solutions. This participatory process fosters a sense of ownership over the resulting decisions, making their implementation easier to accept and comply with. Decisions born from mutual agreement are generally highly effective because they are not imposed through power but are built on a foundation of shared awareness and responsibility.

From a modern legal perspective, the essence of Mbolo Ro Dampa strongly aligns with the concept of restorative justice. Both emphasize dialogue, restoration of relationships, perpetrator responsibility, victim participation, and community involvement as key elements in conflict resolution. However, Mbolo Ro Dampa possesses its own unique characteristics, stemming from local cultural values that have been deeply rooted in the lives of the Bima people long before the concept of restorative justice emerged in contemporary legal studies. Therefore, Mbolo Ro Dampa is not only a traditional dispute resolution practice but also a concrete manifestation of a customary legal system with strong philosophical, sociological, and

The Seybold Report
ISSN 1533-9211
DOI: 10.5281/zenodo.23659415

cultural foundations. (Rato, 2015)

Ultimately, the underlying essence of Mbolo Ro Dampa practice is the pursuit of justice oriented toward restoring social relations, protecting human dignity, strengthening community solidarity, and maintaining balance in societal life. Its existence reflects that law is not merely an instrument for enforcing rules, but also a means of building social order, strengthening humanitarian values, and realizing sustainable peace. In the context of Indonesian legal pluralism, Mbolo Ro Dampa demonstrates that customary law remains relevant as a vibrant, effective, and responsive dispute resolution mechanism, while also being an essential part of building a national legal system that respects local wisdom and cultural diversity.

## 2. The Legal Status of Mbolo Ro Dampa In The Dispute Resolution System In Indonesia

The legal status of Mbolo Ro Dampa within Indonesia's dispute resolution system can be understood as a form of living customary law and a non-litigation dispute resolution mechanism that arose from the legal awareness of the Bima community. Mbolo Ro Dampa cannot be equated with state judicial institutions, as its authority stems primarily from the community's acceptance of and adherence to customary values, norms, and authority. However, its existence has a constitutional and legal basis as long as its implementation meets the requirements stipulated by national law. Adhar and Ardiansyah's research on Bima customary law shows that the Bima community still uses familial mechanisms, negotiation, and mediation to resolve disputes, particularly civil matters, so that settlements are not always brought to court. (Adhar & Ardiansyah, 2020)

Conceptually, the position of Mbolo Ro Dampa is based on the understanding of customary law as a law that is born, developed, and obtains binding power from the supporting community. Bushar Muhammad explains that customary law is essentially a law that regulates the behavior of a community that is truly alive and maintained by community members, including rules regarding sanctions and decisions given by parties who have authority in the customary community. (Bushar, 2006) Thus, Mbolo Ro Dampa is not only a social gathering or cultural tradition, but can have a normative dimension if it contains rules regarding how to resolve disputes, the authorized party to facilitate the resolution, the principles used, and the consequences for the party who receives the results of the deliberation.

This view aligns with Ter Haar's concept of beslissingenleer, namely that customary law acquires concrete form through decisions made by holders of customary authority that are accepted and implemented by the community. In the Bima context, the Mbolo Ro Dampa forum can be understood as a social space where customary norms are concretized through deliberation and agreement. Therefore, its legal standing is not solely determined by the presence or absence of codification in legislation, but also by the fact that these norms are still alive, adhered to, and function in regulating social relations in the community. (Bushar, 2013)

From a national legal perspective, recognition of customary law has a constitutional basis, particularly in Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which recognizes and respects customary law communities and their traditional rights as long as they are still alive, in accordance with societal developments and the principles of the

The Seybold Report
ISSN 1533-9211
DOI: 10.5281/zenodo.23659415

Unitary State of the Republic of Indonesia, and regulated by law. This provision provides a constitutional basis for the existence of customary-based dispute resolution mechanisms, including Mbolo Ro Dampa, but this recognition is not unlimited. Its existence and implementation must still be adjusted to societal developments, the principles of the rule of law, and the constitutional rights of citizens.

Thus, Mbolo Ro Dampa serves as a customary law-based dispute resolution mechanism in the non-litigation realm, while state courts remain the institutions with judicial authority based on positive law. This position demonstrates the complementary relationship between customary law and state law. Communities can first use customary deliberation mechanisms to seek mutually acceptable solutions, while courts remain available if customary resolution fails to yield an agreement or if the case legally requires resolution through state judicial mechanisms.

Research on the development of Bima customary law also shows that Bima customary law has undergone changes over time through a process of synthesis between customary law and Islamic law, transplantation of colonial law, integration, and the development of positive law after the reformation. Ridwan et al. found that living customary law can be found in the Donggo community with flexibility and various forms of sanctions. (Ridwan, Dimyati & Azhari, 2016) This finding is important for the position of Mbolo Ro Dampa, because it shows that Bima customary law cannot be seen as a static relic of the past, but rather as a social norm that continues to adapt to the development of the national legal system. In this context, Mbolo Ro Dampa, a social norm, can be placed within the framework of Indonesian legal pluralism. Legal pluralism recognizes that more than one normative system can exist within a society, namely state law, customary law, and, in the context of Bima society, Islamic legal norms. Bima customary law itself demonstrates the historical relationship between custom and Islam. Therefore, Mbolo Ro Dampa can be seen as a manifestation of legal pluralism that allows communities to resolve disputes based on norms they consider closest to the values of justice and social life. This position is also evident in research on Bima customary law, which found that dispute resolution through negotiation and mediation is carried out based on community customs and habits and prioritizes deliberation and consensus. (Ridwan, Dimyati & Azhari, 2016) From an alternative dispute resolution perspective, Mbolo Ro Dampa is closely related to Alternative Dispute Resolution (ADR), particularly negotiation and mediation. Negotiation occurs when parties, with the assistance of family or community leaders, attempt to reach an agreement, while mediation involves a third party with social authority to help the parties reach a settlement. Research by Adhar and Ardiansyah specifically shows that in Bima society, negotiation is one of the primary methods of dispute resolution, and if an agreement is not reached, it can be continued through mediation with the involvement of community leaders as mediators. (Ridwan, Dimyati & Azhari, 2016) This mediation is further strengthened when linked to Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. This law demonstrates that the Indonesian legal system does not solely provide for court channels, but also recognizes out-of-court dispute resolution. From an academic perspective, mechanisms such as Mbolo Ro Dampa can be positioned as a form of community-based dispute resolution, characterized by a greater emphasis on peace, social restoration, and mutual acceptance rather than on the victory of one party.

The Seybold Report
ISSN 1533-9211
DOI: 10.5281/zenodo.23659415

In civil case resolution, the results of Mbolo Ro Dampa essentially derive their power primarily from the agreement of the parties. Therefore, it is necessary to distinguish between socio-customary power and executory power under state law. Customary agreements voluntarily accepted by the parties can form the basis for resolving their relationship, but do not automatically have the executory power of a court decision. If the parties desire stronger legal force, the results of the peace settlement can be set forth in a written agreement and, in accordance with available legal mechanisms, can be linked to the peace process through the judicial system. This is important to prevent Mbolo Ro Dampa from being mistakenly positioned as an institution that replaces state courts.

In relation to the perspective of Law Number 48 of 2009 concerning Judicial Power, the existence of Mbolo Ro Dampa can also be linked to the state's obligation to explore the legal values and sense of justice that exist in society. Article 5 paragraph (1) of the Judicial Power Law emphasizes that judges are obliged to explore, follow, and understand the legal values and sense of justice that exist in society. This provision has an important meaning because it shows that national law does not completely close itself to norms that develop in society. Within this framework, the practice of Mbolo Ro Dampa can be a source of information regarding the values of justice that exist in Bima society, especially when a dispute finally enters the judicial process.

The position of Mbolo Ro Dampa is also increasingly relevant when linked to the development of the restorative justice approach. The essence of resolution through Mbolo Ro Dampa is not only to determine who is right and who is wrong, but also to attempt to restore relations between disputing parties, restore social balance, and maintain societal harmony. This characteristic aligns with the restorative approach, which prioritizes reparation of losses, perpetrator responsibility, victim involvement, and the restoration of social relations. Therefore, theoretically, Mbolo Ro Dampa can be constructed as a local model of dispute resolution that has restorative value.

However, this construction must be viewed critically. Not all resolutions through Mbolo Ro Dampa can automatically be considered to be in accordance with national law. Customary mechanisms must still respect human rights, the principle of voluntariness, equality of parties, protection of vulnerable groups, and prohibitions against actions that violate statutory regulations. In other words, customary law has space within the national legal system as long as it does not conflict with higher legal principles and the fundamental rights of citizens. This constitutes an important limitation in constructing Mbolo Ro Dampa as a recognized dispute resolution mechanism in a state governed by the rule of law.

In Bima society, this position has a strong sociological basis. Adhar and Ardiansyah note that dispute resolution through familial means, negotiation, and mediation are still used by the Bima community, while custom is seen as an important part of community social life. (Ridwan, Dimyati & Azhari, 2016) In fact, the existence of Bima customary law has historical roots in the governmental practices of the Bima Sultanate, including what is known as the Law of Speech. The study states that customary rules related to dispute resolution are still part of the practice of resolving cases outside the courts. (Ridwan, Dimyati & Azhari, 2016)

The Seybold Report
ISSN 1533-9211
DOI: 10.5281/zenodo.23659415

Therefore, academically, the position of Mbolo Ro Dampa can be constructed in three layers. First, as living law, namely norms that live and are adhered to by the Bima community. Second, as a custom-based ADR mechanism, namely a means of resolving disputes outside the courts through deliberation, negotiation, mediation, and peace. Third, as a manifestation of legal pluralism, because its existence interacts with state law and Islamic law in the life of the Bima community. These three layers show that Mbolo Ro Dampa does not exist outside the Indonesian legal system, but rather exists in the space of customary law whose existence has gained a place in the national legal system through the recognition of customary law communities and the laws that live within the community.

Thus, it can be formulated that the legal position of Mbolo Ro Dampa in the dispute resolution system in Indonesia is as a non-litigation customary law-based dispute resolution mechanism, based on deliberation, kinship, consensus and restoration of social relations, whose existence obtains sociological legitimacy from the community and constitutional legitimacy from the recognition of customary law communities, but its implementation remains within the boundaries of national law, human rights, and the principles of the rule of law. Such construction allows Mbolo Ro Dampa not only to be maintained as the local wisdom of the Bima community, but also to be developed as a dispute resolution model that contributes to the development of national law, especially in strengthening ADR and restorative justice.

### 3. The Ideal Legal Construction Of Mbolo Ro Dampa As A Model For Dispute Resolution Based On Local Wisdom

*Mbolo Ro Dampa*can be understood as a customary deliberation mechanism oriented towards reaching a mutual agreement in resolving issues that arise in society. Etymologically, the term Mbolo Ro Dampa consists of the words mbolo, ro, and dampa. Mbolo means gathering or deliberating, ro means together or collectively, while dampa implies an agreement or meeting point accepted by the parties. Thus, Mbolo Ro Dampa can be simply interpreted as gathering and deliberating together to reach an agreement. Nurrofika and Mukhamad Murdiono explain that the Mbolo Ro Dampa culture is a Bima culture that can be understood as deliberation and consensus, where people can gather without distinguishing between class, social status, or group. Thus, Mbolo Ro Dampa embodies the principles of equality and togetherness in the decision-making process. (Nurrofika & Murdiono, 2020) State recognition of customary law communities is stipulated in the 1945 Constitution of the Republic of Indonesia, meaning that the state must provide recognition to customary law communities in Indonesia to resolve disputes in accordance with the principles inherent in their respective regions. Article 18 B paragraph (2) of the 1945 Constitution of the Republic of Indonesia states that, "The state recognizes and respects customary law community units and their traditional rights as long as they are still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia, which are regulated."

The Seybold Report
ISSN 1533-9211
DOI: 10.5281/zenodo.23659415

Based on this formulation, there are 4 elements that must be considered as conditions for the existence of customary law communities in Indonesia, including:

1. As long as you are alive;
2. In accordance with the development of society;
3. Principles of the Unitary State of the Republic of Indonesia;
4. What is regulated in law.

Despite various criticisms of the formulation of this article, Article 18 B paragraph (2) mandates that the recognition and protection of indigenous communities be regulated by law in law. Therefore, the ideal legal construction of Mbolo Ro Dampa as a model for resolving disputes based on local wisdom in the Bima community is essentially an effort to place the practice of customary deliberation that has existed in the community into a dispute resolution framework that is more systematic, measurable, and has social and legal legitimacy. Mbolo Ro Dampa has been empirically used as a customary approach in resolving conflicts in the Bima community. Research by Arihan, Ahmad Zuber, and Bagus Haryono regarding the conflict between Renda Village and Ngali Village shows that conflict resolution is carried out through deliberation and consensus called Mbolo Ro Dampa, by upholding the values of Maja Labo Dahu and can be accompanied by the determination of sanctions against perpetrators of violations. (Arihan, Zuber & Haryono, 2018)

From a legal construction perspective, the existence of Mbolo Ro Dampa needs to be understood as a living law in society. This means that law is not only viewed as written norms created by the state, but also as norms that are born, developed, accepted, and adhered to in community life. Therefore, the legal construction of Mbolo Ro Dampa is ideally not intended to eliminate its traditional character, but rather to provide an institutional and procedural form so that these traditional values can function optimally in the dispute resolution system. This idea aligns with studies of local wisdom-based dispute resolution, which show that local wisdom can be a source of dispute resolution as long as it can be integrated with modern legal principles and positive law. (Aprita & Purwasi, 2025)

**Building A Construction Requires Several Steps, Namely:**

1. Value construction. Mbolo Ro Dampa must be based on the values of deliberation, consensus, togetherness, kinship, peace, respect for the dignity of the parties, and the restoration of social relations. These values mean that dispute resolution is not directed solely at determining the winner and loser, but rather at finding a solution acceptable to the parties and the community. In this context, dispute resolution based on local wisdom does have a different character than resolution through litigation. Rato explains that from a local wisdom perspective, conflict resolution is directed at efforts to create harmony, because dispute resolution not only resolves legal issues but also restores balance to community life. (Rato, 2013)

The Seybold Report
ISSN 1533-9211
DOI: 10.5281/zenodo.23659415

2. Institutional construction. The ideal Mbolo Ro Dampa requires a party or institution with social authority to facilitate deliberation. Traditional leaders, community leaders, religious leaders, village heads, or other community elements can be appointed as facilitators, depending on the type of dispute. However, the party leading the process should not act as a judge imposing a decision. Their role is more appropriate as a facilitator who maintains balance in the process, provides equal space for the parties, helps identify issues, and encourages the emergence of agreements. Thus, the authority of traditional leaders stems from community trust, while the results of Mbolo Ro Dampa gain legitimacy from the consent of the parties.
3. Procedural construction. To be a model for dispute resolution, Mbolo Ro Dampa ideally has clear stages, although they remain flexible in accordance with the character of Bima customary law. The first stage is the acceptance or complaint of the dispute; the second stage is the identification of the parties and the problem; the third stage is the summons of the parties; the fourth stage is the delivery of statements from each party; the fifth stage is deliberation to find common ground; the sixth stage is the formulation of an agreement; and the seventh stage is the implementation and monitoring of the agreement. This pattern makes Mbolo Ro Dampa not just an informal meeting, but a dispute resolution mechanism with a process structure.
4. Consensual construction. The Mbolo Ro Dampa decision ideally arises from the willingness of the parties, not from pressure or coercion. Agreement must be freely given after the parties have had an equal opportunity to express their interests. This principle is important because the primary strength of customary-based dispute resolution lies in the community's voluntary acceptance and compliance. In the context of Indonesian positive law, such a mechanism is related to the concept of alternative dispute resolution, which places settlement based on mutual agreement as a key characteristic of out-of-court dispute resolution.
5. Restorative construction. The ideal Mbolo Ro Dampa approach does not stop at a formal agreement but must be directed towards restoring social relations. The injured party is given space to express their loss and need for reparation, while the perpetrator is encouraged to take responsibility. This restoration can take the form of an apology, restitution, restoration of the situation, agreed-upon compensation, or other forms of customary resolution. In research on the Renda and Ngali conflicts, the Mbolo Ro Dampa approach was even linked to Maja Labo Dahu values and the imposition of sanctions for perpetrators of violations. (Arihan, Zuber & Haryono, 2018) Thus, the ideal construction combines deliberation, accountability, restitution, and reconciliation.
6. Construction of legal outcomes or products. Agreements resulting from Mbolo Ro Dampa should ideally be set out in written form, containing the identities of the parties, the subject matter of the dispute, the outcome of the agreement, each party's obligations, the implementation timeframe, and the consequences if the agreement is not implemented. Such documentation is crucial for providing legal certainty and preventing the recurrence of

The Seybold Report
ISSN 1533-9211
DOI: 10.5281/zenodo.23659415

similar disputes. Thus, the oral nature inherent in some customary practices can be supplemented with written documentation without diminishing the substance of the custom.

7. Construction of relations with national law. Mbolo Ro Dampa is ideally positioned as a community-based dispute resolution mechanism that operates within a space recognized by national law as long as it does not conflict with statutory regulations, human rights, public order and the principles of justice. Studies on the integration of local wisdom in dispute resolution show that Article 18B paragraph (2) of the 1945 Constitution provides a constitutional basis for the recognition and respect of indigenous legal communities and their traditional rights. (Aprita & Purwasi, 2025) Therefore, the legal construction of Mbolo Ro Dampa is ideally not positioned as a mechanism that is at odds with state law, but rather as a local wisdom-based dispute resolution mechanism that can function complementary to the national legal system.

With this construction, Mbolo Ro Dampa can be developed into a model with five main elements: first, customary values as the philosophical basis; second, the community and customary leaders as the institutional basis; third, deliberation as the resolution mechanism; fourth, agreement as the product of the resolution; and fifth, restoration of social relations as the ultimate goal. This model has a different character from litigation because it places the community and the parties as the primary actors in dispute resolution. (Arihan, Zuber & Haryono, 2018)

Theoretically, this model can also be interpreted through Lawrence M. Friedman's concepts of legal structure, legal substance, and legal culture. The structure can be realized through institutions or figures who implement Mbolo Ro Dampa; the substance consists of values, norms, and customary rules that form the basis for dispute resolution; while the legal culture consists of the attitudes of the Bima community who accept deliberation, peace, togetherness, and agreement as ways to resolve disputes. Thus, if these three elements are built in a balanced manner, Mbolo Ro Dampa has the opportunity to develop from a customary practice into a dispute resolution model based on local wisdom that has social legitimacy and legal relevance. (Friedman, 1975)

## CONCLUSIONS AND SUGGESTIONS

### 1. Conclusions

a. Mbolo ro dampa in dispute resolution is essentiallyA customary law-based dispute resolution mechanism that prioritizes deliberation, togetherness, agreement, peace, and the restoration of social relations. This mechanism is not solely focused on determining who is right and who is wrong, but rather emphasizes peaceful resolution by bringing together the parties, families, community leaders, and traditional leaders to reach a mutually acceptable agreement.

b. The legal position of mbolo ro dampa in the dispute resolution system in Indonesia has not been regulated specifically, comprehensively and operationally in legislation but is supported by constitutional recognition and is placed as an institutional form and dispute

The Seybold Report
ISSN 1533-9211
DOI: 10.5281/zenodo.23659415

resolution mechanism that originates from the customary values of the community based on deliberation, agreement, local wisdom and the restoration of social relations whose existence can be integrated into the national legal system as long as its implementation is in accordance with the law, human rights and the principles of justice.

c. The ideal legal construction of mbolo ro dampa as a model for dispute resolution based on local wisdomis a construction that combines the traditional values of the Bima community, particularly deliberation, togetherness, agreement, peace, and social restoration, with the principles of national law. Mbolo Ro Dampa is not only positioned as a social tradition, but is developed as a model for non-litigation dispute resolution based on customary law (living law) oriented towards restorative justice, by involving the parties, families, traditional leaders, and the community in a proportional manner. This ideal construction must still guarantee voluntariness, equality of the parties, good faith, procedural certainty, respect for human rights, and not conflict with laws and regulations.

## 2. Suggestions

Mbolo Ro Dampa needs to be positioned as a dispute resolution mechanism oriented towards deliberation, agreement, restoration, and peace, so that it is not merely a preservation of customary traditions, but develops into a legal model responsive to community needs. In its implementation, strengthening Mbolo Ro Dampa needs to be supported by increasing the capacity of customary leaders, documentation of customary law, community oversight, and synergy with village governments and law enforcement agencies. With this construction, Mbolo Ro Dampa is expected to become a model for customary law-based dispute resolution that strengthens Indonesian legal pluralism while realizing restorative justice and social harmony in the Bima community.

**References**

1) Adhar dan Ardiansyah, Penyelesaian Sengketa Melalui Alternative Dispute Resolution (ADR) Menurut Hukum Adat Bima, JIHAD: Jurnal Ilmu Hukum dan Administrasi, Vol. 2, No. 1, 2020.

2) Aidul Fitrciada Azhari, Tradisi Bernegara dalam UUD 1945, Genta Publishing, Yogyakarta, 2014.

3) Ani Purwati, Tulisan sebagai bentuk penghormatan Prof. Dr. Esmi Warassih Pujirahayu, S. H., M. S yang akan purna bakti, 2021.

4) Arihan, Ahmad Zuber dan Bagus Haryono, Conflict Resolution Between of Renda Villagers and Ngali, Belo Subdistrict, Bima Regency of The Province of West Nusa Tenggara (NTB), Sodality: Jurnal Sosiologi Pedesaan, Vol. 6, No. 2, 2018.

5) Bryan A.Garner, Black' Law Dictionary, ST. Paul Minn, West Group, 1999.

6) Bushar Muhammad, Pokok-Pokok Hukum Adat, Edisi Revisi, Jakarta: Pradnya Paramita, 2006.

7) Bushar Muhammad, Asas-Asas Hukum Adat: Suatu Pengantar, Jakarta: Pradnya Paramita, 2013.

8) Daniel S Lev, Hukum dan Politik di Indonesia, Jakarta: LP3ES, 1990.

9) Dominikus Rato, Hukum Adat Suatu Pengantar Singkat Memahami Hukum Adat di Indonesia, Yogyakarta, LaksBang Justitia, 2015).

The Seybold Report
ISSN 1533-9211
DOI: 10.5281/zenodo.23659415

10) Dominikus Rato, Penyelesaian Sengketa Tanah Adat dalam Perspektif Kearifan Lokal pada Masyarakat Ngadhu-Bhaga, Kabupaten Ngada–NTT, Masalah-Masalah Hukum, Jilid 42, No. 3, 2013.

11) Frank E. Hagan, Pengantar Kriminologi Teori, Metode, dan Perilaku Kriminal, Bandung, Prenadamedia Group, 2013.

12) Hilman Hadikusuma, Hukum Adat Indonesia, Bandung: Mandar Maju, 2014.

13) Lawrence M. Friedman, The Legal System: A Social Science Perspective, New York: Russell Sage Foundation, 1975.

14) M Zulfa Aulia, Friedrich Carl Von Savigny Tentang Hukum, Hukum sebagai Manifestasi jiwa Bangsa, Vol. 3 No. 1. 2020.

15) Muhaimin, Metode Penelitian Hukum, Mataram University Press, 2020.

16) Nurrofika, M Murdiono, Tradisi Hanta Ua Puasebagai Upaya Pelestarian Budaya Religi Di Bima, JURNA ANTROPOLOGI: ISU-ISU SOSIAL BUDAYA-VOL.22 NO.01. 2020.

17) Rahmadi Usman, Pilihan Penyelesaian Sengketa di Luar Pengadilan, Bandung, PT. Citra Aditya Bakti, 2013.

18) Ridwan, Khudzaifah Dimyati dan Aidul Fitriciada Azhari, Perkembangan dan Eksistensi Hukum Adat: Dari Sintesis, Transplantasi, Integrasi Hingga Konservasi, Jurnal Jurisprudence, Vol. 6, No. 2. 2016.

19) Serlika Aprita dan Oktariani Purwasi, Peran Kearifan Lokal dalam Penyelesaian Sengketa: Integrasi Nilai Tradisional dengan Proses Hukum Modern, Jurnal Arbitrase Indonesia, Vol. 1, No. 2, 2025.

20) Soerjono Soekanto, Fungsi Hukum dan Perubahan Sosial, Jakarta, Citra Aditya Bakti, 1991.

21) Soerjono Soekanto, Hukum Adat Indonesia, Jakarta, Rajawali Pers, 2016.

22) Syofyan Hadi, Hukum Positif dan The Living Law (eksistensi dan keberlakuannya dalam masyarakat, Vol 13 No. 26, 2015.