



THE ROLE OF NOTARIES IN LAND LAW REFORM: REFLECTING THE ISLAMIC LEGAL CIVILIZATION OF THE BANTEN SULTANATE

Haryanto¹

¹Universitas Dharma Indonesia

email: tugas.dosenharyanto@gmail.com

Article Info :

Received:

DDMMYY

Revised:

DDMMYY

Accepted:

DDMMYY

Abstract

This article examines the strategic role of notaries in contemporary land law reform through a historical reflection on the Islamic legal civilization of the Banten Sultanate. The study addresses the persistence of agrarian conflicts, overlapping land claims, uncertified ownership, and tensions between positive law and socio-religious legitimacy in Banten Province. Using a normative and socio-legal legal-historical approach, the research analyzes statutory regulations, historical records, scholarly literature, and contemporary agrarian developments. The findings demonstrate that the Banten Sultanate developed an integrative legal system combining Islamic law, customary norms, and state authority, particularly in land administration and dispute resolution. These historical values remain relevant for contemporary legal development. Notaries occupy a strategic position as legal intermediaries capable of harmonizing formal legality with community values. The study concludes that an interdisciplinary notarial approach incorporating positive law, Islamic legal principles, and local wisdom can strengthen legal certainty while promoting substantive justice in land governance.

Keywords: Banten Sultanate, Land Law Reform, Notarial Function, Islamic Legal Tradition, Agrarian Governance.



©2022 Authors.. This work is licensed under a Creative Commons Attribution 4.0 International License.
(<https://creativecommons.org/licenses/by/4.0/>)

INTRODUCTION

Banten possesses a distinctive legal heritage rooted in the governance of the Banten Sultanate. Historical evidence demonstrates that Islamic law, customary institutions, and state authority were integrated into a coherent legal order governing civil relations, commerce, inheritance, waqf, and land ownership (Azra, 2004; Guillot, 2008). The Sultanate's legal system reflected a synthesis of Islamic jurisprudence and local customs, creating a model of governance that was both religiously legitimate and socially accepted (Ricklefs, 2008). However, contemporary Banten continues to face significant agrarian disputes, including overlapping land certificates, customary land conflicts, inheritance disputes, and forced evictions. Reports issued by the Indonesian Agrarian Reform Consortium indicate that agrarian conflicts remain among the most persistent socio-legal challenges in Indonesia, including in Banten Province (Konsorsium Pembaruan Agraria [KPA], 2024). Such conflicts demonstrate the continuing tension between formal land administration and community-based notions of ownership and legitimacy.

Previous studies have examined the history of the Banten Sultanate (Guillot, 2008), Islamic legal traditions in Indonesia (Azra, 2004; Zainuddin Ali, 2013), and agrarian governance (Sumardjono, 2008) as separate fields of inquiry. Nevertheless, limited scholarship has explored how the legal values developed during the Sultanate period may inform the contemporary role of notaries in resolving land disputes. This gap is particularly important because notaries increasingly encounter legal situations involving uncertified land, informal transactions, and competing claims based on customary and religious legitimacy (Zainal Abidin, 2021). The novelty of this study lies in connecting historical Islamic legal institutions of the Banten Sultanate with contemporary notarial functions in land administration and dispute prevention. The article argues that legal reform should not merely focus on procedural compliance but should also incorporate substantive justice, social legitimacy, and community trust (Rahardjo, 2007).

Beyond the historical and doctrinal dimensions, the urgency of this research is further reinforced by the evolving landscape of land governance in Indonesia. Although the Indonesian government has implemented various land administration reforms, including the Complete Systematic

Land Registration Program (*Pendaftaran Tanah Sistematis Lengkap*—PTSL), land disputes remain prevalent due to overlapping claims, inconsistencies in land records, and competing legal perceptions regarding ownership rights (Ministry of Agrarian Affairs and Spatial Planning/National Land Agency [ATR/BPN], 2024). These challenges reveal that legal certainty in land administration cannot be achieved solely through bureaucratic registration mechanisms but requires broader consideration of sociological legitimacy and historical patterns of land tenure. The persistence of agrarian conflicts also reflects the broader phenomenon of legal pluralism in Indonesia. As a multicultural and multi-religious society, Indonesia recognizes the coexistence of state law, customary law (*adat*), and religious law as normative systems influencing citizens' legal behavior (Hooker, 2008). In many regions, including Banten, local communities continue to perceive land rights through the lens of inheritance traditions, communal recognition, and religious legitimacy rather than exclusively through state-issued documentation. Consequently, formal legal instruments often encounter resistance when they fail to accommodate the social realities underlying land ownership and possession (Bedner & Van Huis, 2008).

Theoretical discussions concerning legal pluralism provide an important framework for understanding the contemporary role of notaries. According to Griffiths (1986), legal pluralism emerges when multiple normative orders coexist within a single social field and simultaneously influence legal decision-making. Within the Indonesian context, notaries frequently operate at the intersection of these normative orders, particularly when authenticating legal transactions involving inherited land, customary property rights, or religiously grounded claims. Therefore, the effectiveness of notarial services cannot be assessed merely through procedural compliance with statutory requirements but must also be evaluated based on their capacity to accommodate social expectations and prevent future disputes. Furthermore, the relevance of notarial institutions in land governance has increased significantly following the expansion of economic development, urbanization, and infrastructure projects throughout Indonesia. Large-scale investments often require extensive land acquisition processes, which may affect communities possessing historical or customary claims over land. In such situations, notaries play a critical role in ensuring that legal transactions are conducted transparently, fairly, and in accordance with both legal norms and principles of social justice (Sumardjono, 2008). Their involvement becomes particularly important in preventing legal uncertainty arising from undocumented transfers, defective inheritance arrangements, or conflicting ownership claims.

Another important dimension concerns the relationship between land administration and access to justice. Contemporary legal scholarship increasingly recognizes that legal certainty should not be understood solely as compliance with formal procedures but must also encompass fairness, participation, and substantive justice (Rahardjo, 2007). This perspective is particularly relevant in regions such as Banten, where historical experiences continue to shape public perceptions regarding legal legitimacy. The legal institutions of the Banten Sultanate historically derived authority not only from political power but also from religious credibility and social acceptance, thereby creating a legal culture characterized by strong community participation and trust (Azra, 2004; Guillot, 2008). In this regard, revisiting the legal heritage of the Banten Sultanate offers more than a historical inquiry; it provides an analytical framework for rethinking contemporary legal institutions. The integration of Islamic legal values, customary norms, and governmental authority during the Sultanate period demonstrates that effective legal governance requires a balance between formal legality and social legitimacy. Accordingly, the contemporary notarial profession should be viewed as a strategic institution capable of translating these historical values into modern legal practices, thereby contributing to sustainable land governance, conflict prevention, and the realization of substantive justice within Indonesia's plural legal system.

RESEARCH METHODS

This research employs a combined normative legal and socio-legal methodology within a legal-historical framework. Normative analysis focuses on legislation governing land registration, notarial authority, agrarian administration, and civil law (Marzuki, 2017; Soekanto, 2008). Historical sources concerning the Banten Sultanate are examined to identify legal principles relevant to contemporary practice. Secondary materials include academic journals, government reports, agrarian conflict reports, and legal scholarship. The socio-legal dimension evaluates how legal norms operate within

contemporary society and how notaries interact with communities whose legal consciousness remains influenced by religious and customary values (Yusuf, 2017).

RESULTS AND DISCUSSION

Historical Foundations of the Banten Sultanate Legal System

The legal system of the Banten Sultanate illustrates a sophisticated integration of Islamic jurisprudence, local customs, and governmental authority. Judicial institutions such as *qadhi* courts exercised jurisdiction over civil disputes, inheritance matters, waqf administration, and land-related controversies (Guillot, 2008). Land tenure was recognized through various forms, including private ownership, waqf property, customary possession, and state-controlled land (Azra, 2004). Unlike contemporary formalistic approaches, dispute resolution during the Sultanate period prioritized reconciliation, social harmony, and substantive justice. Mediation and deliberation were commonly employed before formal adjudication. These mechanisms reflected Islamic principles of *sulh* (peaceful settlement), *adalah* (justice), and *maslahah* (public benefit) (Zainuddin Ali, 2013).

The integrative nature of the Banten Sultanate's legal system demonstrates that legal authority was not conceived solely as an instrument of state power but as a mechanism for preserving social order, religious values, and communal welfare. The Sultan functioned not only as a political ruler but also as the guardian of Islamic norms and public morality, thereby creating a legal framework in which governance and religious legitimacy were closely intertwined (Ricklefs, 2008). This institutional arrangement allowed legal decisions to derive authority from both formal governmental structures and societal acceptance, fostering a high degree of compliance within the community. A particularly significant aspect of the Sultanate's legal civilization was its approach to land governance. Land was regarded not merely as an economic asset but as a social and spiritual resource connected to collective welfare and intergenerational responsibility. Islamic legal doctrines concerning ownership (*al-milk*), charitable endowment (*waqf*), inheritance (*fara'id*), and public interest (*maslahah*) substantially influenced the administration of land rights and obligations (Azra, 2004). Consequently, the exercise of property rights was balanced by social responsibilities, ensuring that private interests did not undermine broader communal welfare.

This perspective contrasts sharply with contemporary land administration systems, which frequently emphasize formal documentation and bureaucratic procedures as the primary determinants of legal ownership. While legal certainty remains a fundamental principle of modern land law, excessive reliance on formal registration mechanisms may inadvertently marginalize communities whose historical claims originate from customary possession, religious grants, or inherited rights that predate contemporary registration systems (Sumardjono, 2008). Such conditions often generate legal disputes in which formal legality and social legitimacy appear to conflict with one another. From the perspective of legal pluralism, the historical experience of the Banten Sultanate provides valuable insights into the coexistence of multiple normative orders within a single legal system. Griffiths (1986) argues that legal pluralism arises whenever diverse normative systems simultaneously regulate social behavior. The Sultanate effectively accommodated Islamic law, local customs, and governmental regulations without treating these normative sources as mutually exclusive. Instead, these legal traditions interacted dynamically to resolve disputes and maintain social harmony. This historical model offers an alternative framework for contemporary land governance, particularly in regions where customary and religious norms continue to influence public perceptions of justice and legitimacy.

The relevance of these historical principles becomes increasingly apparent when examining contemporary agrarian conflicts in Indonesia. Numerous disputes arise not because parties reject legal authority altogether, but because different actors rely upon competing sources of legitimacy. State institutions often prioritize documentary evidence and administrative registration, whereas local communities may emphasize historical possession, customary recognition, or religious inheritance rights (Bedner & Van Huis, 2008). The resulting tension reflects a broader challenge concerning how legal systems should reconcile formal certainty with substantive justice. Within this context, the role of notaries extends far beyond the traditional function of drafting and authenticating legal instruments. As public officials entrusted with ensuring legal certainty, notaries occupy a strategic position at the intersection of state law and societal norms. Their responsibilities increasingly require them to navigate complex legal relationships involving uncertified land, customary ownership claims, inheritance

disputes, and religiously grounded property arrangements. Consequently, effective notarial practice demands not only technical expertise in positive law but also an understanding of the sociological and cultural dimensions of legal relations (Mulyadi, 2020).

Moreover, the historical values embodied in the legal institutions of the Banten Sultanate align closely with contemporary theories of restorative justice and progressive law. Progressive legal theory emphasizes that law should serve human welfare rather than operate merely as a rigid system of rules (Rahardjo, 2007). Similarly, restorative approaches prioritize reconciliation, participation, and social harmony over adversarial dispute resolution. The Sultanate's reliance on deliberation, mediation, and community involvement demonstrates an early manifestation of these principles, highlighting the enduring relevance of indigenous legal traditions in contemporary legal development. Another important implication concerns the prevention of future disputes through preventive legal protection. Contemporary notaries possess significant opportunities to reduce legal uncertainty by ensuring that transactions involving land, inheritance, waqf property, and family assets are documented in a manner that accommodates both statutory requirements and social realities. Through comprehensive legal counseling, verification of ownership histories, and the preparation of legally valid agreements, notaries can function as preventive justice actors rather than merely administrative officials. Such a role is particularly important in regions characterized by overlapping legal traditions and complex patterns of land ownership.

Furthermore, the reconstruction of historical legal values should not be understood as an attempt to replace modern legal institutions with historical models. Rather, it represents an effort to identify normative principles capable of enhancing the effectiveness and legitimacy of contemporary legal systems. The concepts of *sulh*, *adalah*, and *maslahah* offer normative foundations for developing a more inclusive model of land governance that balances legal certainty, social justice, and community participation. These principles are consistent with the constitutional mandate of Indonesia to establish a legal order that protects individual rights while promoting social welfare and equitable development. Accordingly, the legal heritage of the Banten Sultanate may be viewed as a valuable intellectual resource for contemporary land law reform. By incorporating historical experiences, sociological realities, and religious values into legal policy and notarial practice, Indonesia can develop a more responsive and context-sensitive approach to land governance. Such an approach has the potential to strengthen public confidence in legal institutions, reduce the incidence of agrarian conflicts, and promote sustainable legal development within a pluralistic society.

Contemporary Agrarian Challenges in Banten

Contemporary agrarian disputes in Banten reveal a persistent disconnect between formal legal requirements and community-based perceptions of legitimacy. Many citizens continue to rely on inheritance traditions, village documentation, customary recognition, and religious validation rather than exclusively on state-issued certificates (Sumardjono, 2008). According to KPA (2024), land conflicts involving overlapping claims, infrastructure projects, industrial expansion, and disputed ownership continue to increase throughout Indonesia. This situation demonstrates that legal certainty cannot be achieved solely through administrative formalities but must also consider social acceptance and historical legitimacy.

The persistence of agrarian disputes in Banten illustrates a broader structural challenge within Indonesia's land governance system, namely the coexistence of multiple sources of legal legitimacy that are not always fully accommodated by formal state institutions. While statutory regulations emphasize legal certainty through registration and certification mechanisms, local communities frequently perceive land ownership as deriving from historical possession, familial inheritance, communal acknowledgment, and religiously recognized transfers of rights. As a result, the formal validity of a land title does not always correspond to the social legitimacy recognized by local communities (Bedner, 2016). This phenomenon is particularly evident in disputes involving inherited land. In many rural areas of Banten, land ownership is transferred across generations through customary family arrangements without immediate registration before the competent authorities. Such practices are often regarded as legally and morally valid by community members because they are supported by witnesses, village officials, religious leaders, and longstanding patterns of possession. However, when economic development, land acquisition projects, or competing ownership claims arise, the absence of formal

documentation frequently creates legal uncertainty and increases the potential for conflict (Sumardjono, 2008).

The problem is further complicated by the rapid pace of industrialization and infrastructure development within Banten Province. As one of Indonesia's major industrial corridors, Banten has experienced significant land conversion for manufacturing facilities, transportation infrastructure, housing developments, and strategic national projects. Although these initiatives contribute to economic growth, they also generate legal disputes when land acquisition processes intersect with communities possessing historical, customary, or undocumented claims over land. In many instances, disagreements emerge not because ownership rights are entirely absent, but because different parties rely upon different legal frameworks to justify their claims (McCarthy & Robinson, 2016). From a socio-legal perspective, these conflicts demonstrate that land disputes are not merely technical questions of property administration but also involve issues of identity, social justice, and legal recognition. Land frequently represents more than an economic asset; it embodies family heritage, social status, cultural continuity, and community belonging. Consequently, legal solutions that focus exclusively on documentary evidence may fail to address the deeper social dimensions underlying agrarian conflicts (Yusuf, 2019). This observation supports the argument that effective land governance requires an approach capable of reconciling formal legality with social legitimacy.

The concept of legal legitimacy becomes particularly significant when examined through the framework of legal pluralism. Griffiths (1986) argues that multiple normative systems may simultaneously influence legal behavior within a society. In Indonesia, state law coexists with customary norms, religious principles, and local social practices. Agrarian conflicts frequently emerge when these normative systems produce different interpretations regarding ownership, transfer, and control of land. Therefore, resolving such disputes requires more than strict application of statutory rules; it requires an understanding of the normative environment within which legal relationships are formed and maintained. Within this context, notaries occupy a critical institutional position. As public officials entrusted with creating authentic legal instruments, notaries possess the authority to transform socially recognized transactions into legally enforceable documents. Their role is particularly important in circumstances involving inheritance settlements, grants (*hibah*), waqf property, customary land transfers, and family agreements concerning land ownership. By ensuring that these legal relationships are properly documented and registered, notaries contribute to the prevention of future disputes while simultaneously enhancing legal certainty (Adjie, 2018).

Moreover, the preventive function of notaries aligns closely with contemporary theories of access to justice and conflict prevention. Rather than becoming involved only after disputes arise, notaries can play a proactive role by providing legal counseling, verifying ownership histories, identifying potential legal risks, and facilitating agreements that accommodate the interests of all parties involved. Such preventive legal protection reflects the principle that law should function not merely as an instrument of dispute resolution but also as a mechanism for maintaining social harmony and preventing conflict before it occurs (Rahardjo, 2007). The relevance of this preventive approach becomes increasingly apparent when viewed through the historical experience of the Banten Sultanate. As discussed previously, dispute resolution during the Sultanate period emphasized mediation, reconciliation, and communal consensus before formal adjudication. These principles remain valuable in contemporary land governance because they recognize that sustainable legal solutions depend upon social acceptance as much as formal legal validity. Accordingly, modern notarial practice may benefit from incorporating aspects of these historical traditions while remaining fully consistent with contemporary statutory requirements.

Ultimately, the persistence of agrarian disputes in Banten demonstrates that land law reform must extend beyond administrative modernization and legal formalization. Effective reform requires the development of legal institutions capable of bridging the gap between state law and societal expectations. In this regard, notaries are uniquely positioned to serve as mediating actors who facilitate the integration of legal certainty, historical legitimacy, and substantive justice. By performing this role effectively, notaries can contribute significantly to reducing agrarian conflicts and strengthening public confidence in Indonesia's land administration system.

The Strategic Role of Notaries in Land Law Reform

Within this context, notaries perform functions extending beyond document authentication. They serve as institutional bridges between state law and social reality. Effective notarial practice requires not only technical knowledge of statutory regulations but also an understanding of local legal culture, Islamic inheritance principles, and customary dispute-resolution practices (Zainuddin Ali, 2016). The study further finds that historical values inherited from the Banten Sultanate remain relevant in addressing modern land conflicts. Notaries can facilitate preventive legal protection through carefully drafted agreements, inheritance settlements, and land transfer instruments that accommodate both legal certainty and social legitimacy.

Such an approach is consistent with Progressive Legal Theory, which emphasizes substantive justice over rigid procedural formalism (Rahardjo, 2007). Therefore, notaries should be viewed not merely as public officials but as facilitators of legal harmonization capable of integrating positive law with societal expectations. The contemporary function of notaries must therefore be understood within a broader framework of legal governance and dispute prevention. In modern legal systems, legal certainty is no longer measured solely by the formal validity of legal documents but also by the capacity of legal institutions to ensure fairness, predictability, and social acceptance. As public officials entrusted with the authority to create authentic deeds, notaries possess a unique position in shaping legal relationships before disputes emerge. Their involvement at the transactional stage enables the identification of potential legal risks and the establishment of legal arrangements capable of minimizing future conflicts (Adjie, 2018). This preventive dimension is particularly important in land-related transactions because disputes frequently arise from ambiguities concerning ownership histories, inheritance rights, family agreements, and undocumented transfers. In many cases, the legal validity of a transaction may appear uncontested at the time of execution but subsequently becomes problematic when challenged by heirs, neighboring landowners, customary communities, or third parties claiming competing rights. Consequently, the notarial profession carries a significant responsibility not merely to record the intentions of the parties but also to verify the legal circumstances surrounding the transaction and ensure compliance with applicable legal requirements (Habib Adjie, 2018).

From a socio-legal perspective, the effectiveness of notarial services depends upon their ability to accommodate the realities of legal pluralism within Indonesian society. Indonesia's legal order is characterized by the coexistence of state law, Islamic law, and customary law, each of which may influence the behavior and expectations of citizens (Hooker, 2008). In regions such as Banten, where Islamic traditions and local customs continue to shape social relations, notaries frequently encounter legal transactions that cannot be fully understood through statutory interpretation alone. Rather, such transactions often involve underlying social norms, religious obligations, and customary practices that affect the parties' understanding of rights and responsibilities. The relevance of Islamic legal principles becomes particularly apparent in matters involving inheritance and family property. Islamic inheritance law (*fara'id*) continues to influence property distribution among Muslim families, including land ownership arrangements that subsequently require formal documentation and registration. In these circumstances, notaries perform a crucial role in translating religiously recognized rights into legally enforceable instruments capable of providing certainty and protection under national law (Zainuddin Ali, 2016). Their ability to harmonize religious norms with statutory requirements contributes significantly to reducing potential disputes among heirs and safeguarding property rights.

Furthermore, the historical experience of the Banten Sultanate demonstrates that effective legal institutions derive legitimacy not only from governmental authority but also from their responsiveness to societal expectations. The Sultanate's legal administration relied heavily on consultation, mediation, and consensus-building mechanisms that encouraged voluntary compliance and community participation (Guillot, 2008). Such practices reflect an understanding that legal stability is strengthened when legal decisions are perceived as fair, culturally appropriate, and socially legitimate. Contemporary notarial practice may benefit from incorporating these principles by emphasizing dialogue, transparency, and informed consent throughout the legal process.

The integration of historical legal values into modern notarial practice is also consistent with the concept of responsive law developed by Nonet and Selznick (1978). According to this theory, legal institutions should move beyond rigid formalism and become responsive to social needs, public expectations, and changing societal conditions. Within the context of land administration, responsiveness requires notaries to recognize that legal documents operate within broader social

environments characterized by diverse cultural traditions and normative frameworks. Consequently, authentic deeds should not merely satisfy procedural requirements but should also reflect substantive fairness and the legitimate interests of affected parties. Moreover, the increasing complexity of contemporary land governance has expanded the responsibilities of notaries beyond conventional document preparation. The digitalization of land administration systems, the growth of strategic infrastructure projects, and the emergence of sophisticated property transactions require notaries to possess interdisciplinary competencies encompassing land law, administrative law, inheritance law, dispute resolution, and legal ethics (Sutedi, 2020). These developments reinforce the need for a professional orientation that combines technical expertise with social sensitivity and historical awareness.

The findings of this study suggest that notaries can contribute significantly to the realization of sustainable land governance by serving as agents of legal integration. Through the preparation of authentic deeds, inheritance settlements, grants (*hibah*), waqf arrangements, and land transfer agreements, notaries facilitate the transformation of socially recognized rights into legally protected interests. In doing so, they help bridge the gap between formal legality and social legitimacy, thereby reducing the likelihood of future disputes and enhancing public confidence in legal institutions. Ultimately, the strategic role of notaries extends beyond administrative functions and enters the broader domain of legal development. By incorporating the principles of *sulh* (reconciliation), *adalah* (justice), and *maslahah* (public welfare) inherited from the legal civilization of the Banten Sultanate, contemporary notaries can contribute to a model of land governance that balances legal certainty with substantive justice. Such an approach not only reflects Indonesia's pluralistic legal heritage but also supports the broader objectives of national legal reform aimed at creating a more inclusive, equitable, and socially legitimate legal system.

Implications for Contemporary Legal Development

From a policy perspective, integrating local legal wisdom into contemporary land governance does not undermine legal certainty. Rather, it strengthens public trust in legal institutions. The historical experience of the Banten Sultanate demonstrates that legal effectiveness depends not only on coercive authority but also on social acceptance and moral legitimacy (Yusuf, 2019). Accordingly, future land law reform in Indonesia should recognize the importance of legal pluralism by accommodating constructive interactions between state law, Islamic law, and customary norms. Such an approach may reduce social conflict while improving the effectiveness of land administration systems. The recognition of legal pluralism within Indonesia's land governance framework is not merely a sociological necessity but also a constitutional imperative. Article 18B paragraph (2) of the 1945 Constitution acknowledges the existence of customary law communities and their traditional rights, provided that such rights remain consistent with national interests and legal development. This constitutional recognition indicates that Indonesian law does not adopt a purely legal-centralistic approach; instead, it embraces a pluralistic legal structure that accommodates diverse normative systems operating within society. Consequently, contemporary land law reform should not seek to eliminate legal diversity but rather establish mechanisms capable of harmonizing various sources of legal authority within a coherent regulatory framework (Bedner, 2016).

In this regard, the historical experience of the Banten Sultanate offers an important model for understanding how different normative systems can coexist productively. The Sultanate successfully integrated Islamic legal principles, customary institutions, and governmental authority without creating rigid boundaries between these sources of law. Rather than viewing legal plurality as a threat to legal certainty, the Sultanate treated it as a resource for maintaining social order and resolving disputes in accordance with local realities (Guillot, 2008). This historical precedent suggests that contemporary legal reform should prioritize legal integration rather than legal uniformity. The challenge facing modern land administration lies in balancing the demands of economic development with the protection of socially recognized land rights. Indonesia's rapid industrialization, infrastructure expansion, and urban development have significantly increased the economic value of land, thereby intensifying competition over land ownership and control. In many cases, conflicts emerge because development policies prioritize formal legal documentation while insufficiently considering historical occupation, customary tenure, and communal land relationships (McCarthy & Robinson, 2016). As a result, affected communities may perceive state policies as legally valid but socially unjust, creating resistance and

undermining public confidence in legal institutions. This situation highlights the importance of adopting a justice-oriented approach to land governance. According to Rawls (1971), legal institutions derive legitimacy not only from procedural compliance but also from their capacity to distribute rights and opportunities fairly. Similarly, contemporary theories of agrarian justice emphasize that land governance should protect vulnerable groups while ensuring equitable access to resources and legal remedies (Franco et al., 2013). Within this framework, legal certainty should not be interpreted narrowly as administrative certainty but should also encompass substantive fairness and meaningful recognition of legitimate social interests.

The incorporation of local legal wisdom into land governance is particularly relevant in preventing what scholars describe as the "legitimacy gap" between law and society. This gap emerges when legal norms imposed through formal institutions fail to reflect the values, expectations, and lived experiences of the communities they are intended to regulate (Nonet & Selznick, 1978). Historical legal institutions such as those developed during the Banten Sultanate demonstrate that legal effectiveness increases when legal rules are perceived as morally justified and culturally appropriate. Consequently, the integration of local legal values into contemporary land administration may strengthen both legal compliance and institutional legitimacy. Within this broader framework, notaries possess a strategic role in operationalizing legal pluralism and enhancing legal legitimacy. Through their authority to draft authentic deeds, verify legal relationships, and facilitate legally binding agreements, notaries function as intermediaries between formal legal institutions and societal expectations. Their professional responsibilities increasingly require sensitivity to historical claims, customary arrangements, religious norms, and community perceptions of justice. By acknowledging these dimensions, notaries can help ensure that legal transactions are not only formally valid but also socially sustainable (Adjie, 2018).

Moreover, the future development of Indonesia's notarial profession should incorporate interdisciplinary competencies that extend beyond traditional legal doctrine. Legal education and professional training should equip notaries with knowledge of legal anthropology, sociology of law, Islamic jurisprudence, conflict resolution, and alternative dispute resolution mechanisms. Such competencies are necessary because contemporary land disputes frequently involve complex interactions among legal, cultural, economic, and political factors that cannot be adequately addressed through a purely positivistic understanding of law (Menski, 2006).

The integration of local legal wisdom also supports the broader objectives of sustainable development. International legal discourse increasingly recognizes that effective governance requires participatory decision-making, social inclusion, and respect for local communities. The United Nations Sustainable Development Goals, particularly Goal 16 concerning peace, justice, and strong institutions, emphasize the importance of legal systems that are accessible, accountable, and responsive to community needs (United Nations, 2015). In this context, the historical legal experience of the Banten Sultanate provides valuable lessons concerning the relationship between legal legitimacy, social participation, and institutional effectiveness. Ultimately, future land law reform in Indonesia should move beyond a dichotomous understanding that places formal legality and local legitimacy in opposition to one another. Instead, reform efforts should seek to construct an integrative legal framework capable of accommodating diverse normative traditions while maintaining legal certainty and national coherence. Such an approach would not only reduce the incidence of agrarian conflicts but also strengthen public trust in legal institutions and contribute to a more equitable system of land governance. The legal values inherited from the Banten Sultanate thus remain highly relevant as normative foundations for developing a responsive, inclusive, and socially legitimate legal order in contemporary Indonesia.

CONCLUSION

This study demonstrates that the legal civilization of the Banten Sultanate provides valuable insights for contemporary land law reform in Indonesia. The Sultanate developed an integrative legal system that successfully combined Islamic law, customary norms, and governmental authority within a framework emphasizing social harmony, substantive justice, and public welfare. Historical analysis reveals that land governance during the Sultanate period was not based solely on formal legal authority but also on social legitimacy and community acceptance. These historical principles remain highly relevant in addressing contemporary agrarian disputes in Banten, where tensions frequently arise between formal land administration systems and community-based perceptions of ownership,

inheritance, and legitimacy. The findings further confirm that legal pluralism continues to shape land relations in Indonesia, requiring legal institutions to move beyond rigid procedural formalism toward approaches capable of accommodating sociological realities and diverse normative traditions.

The research further concludes that notaries occupy a strategic position in bridging the gap between formal legality and social legitimacy within Indonesia's plural legal system. Their role extends beyond the authentication of legal documents to include preventive legal protection, dispute prevention, legal counseling, and the harmonization of state law with Islamic and customary legal values. By incorporating the principles of *sulh* (reconciliation), *adalah* (justice), and *maslahah* (public welfare), contemporary notarial practice can contribute to a more responsive and socially legitimate model of land governance. Accordingly, future land law reform should promote constructive interaction between state law, Islamic law, and customary norms while strengthening the interdisciplinary capacity of notaries as agents of legal integration. Such an approach would enhance legal certainty, reduce agrarian conflicts, strengthen public trust in legal institutions, and support the development of a more inclusive, equitable, and sustainable land administration system in Indonesia.

REFERENCES

- Adjie, H. (2018). *Hukum Notaris Indonesia: Tafsir Tematik terhadap Undang-Undang Jabatan Notaris*. Bandung: Refika Aditama.
- Bedner, A. (2016). *Indonesian Land Law: Integration at Last? And for Whom?* In J. McCarthy & K. Robinson (Eds.), *Land and Development in Indonesia*. ISEAS Publishing.
- Bedner, A., & Van Huis, S. (2008). *The Return of the Native in Indonesian Law: Indigenous Communities in Indonesian Legislation*. *Bijdragen tot de Taal-, Land- en Volkenkunde*, 164(2–3), 165–193. <https://doi.org/10.1163/22134379-90003694>
- Franco, J. C., Borrás, S. M., & Kay, C. (2013). The Global Land Grab and Agrarian Justice. *Canadian Journal of Development Studies*, 34(4), 471–493. <https://doi.org/10.1080/02255189.2013.850189>
- Griffiths, J. (1986). What is Legal Pluralism? *Journal of Legal Pluralism and Unofficial Law*, 24(1), 1–55. <https://doi.org/10.1080/07329113.1986.10756387>
- Guillot, C. (2008). *Banten: Sejarah dan Peradaban Abad X–XVII*. Jakarta: Kepustakaan Populer Gramedia.
- Hooker, M. B. (2008). *Indonesian Syariah: Defining a National School of Islamic Law*. Institute of Southeast Asian Studies.
- McCarthy, J. F., & Robinson, K. (Eds.). (2016). *Land and Development in Indonesia: Searching for the People's Sovereignty*. Singapore: ISEAS Publishing.
- Menski, W. (2006). *Comparative Law in a Global Context: The Legal Systems of Asia and Africa*. Cambridge University Press.
- Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN). (2024). *Annual Report on Land Administration and Registration*. <https://www.atrbpn.go.id>
- Mulyadi, L. (2020). *Etika dan Profesionalisme Notaris dalam Praktik Kenotariatan*. Bandung: Citra Aditya Bakti.
- Nonet, P., & Selznick, P. (1978). *Law and Society in Transition: Toward Responsive Law*. New York: Harper & Row.
- Rahardjo, S. (2007). *Hukum Progresif: Hukum yang Membebaskan*. Jakarta: Kompas.
- Rawls, J. (1971). *A Theory of Justice*. Cambridge, MA: Harvard University Press.
- Sumardjono, M. S. W. (2008). *Tanah dalam Perspektif Hak Ekonomi Sosial dan Budaya*. Gadjah Mada University Press.
- Sutedi, A. (2020). *Peralihan Hak atas Tanah dan Pendaftarannya*. Jakarta: Sinar Grafika.
- United Nations. (2015). *Transforming Our World: The 2030 Agenda for Sustainable Development*. <https://sdgs.un.org/2030agenda>
- Yusuf, A. W. (2019). Sociological Aspects of Land Law in Indonesia. *Jurnal Hukum dan Pembangunan*, 49(2), 245–267.
- Zainuddin Ali. (2016). *Hukum Waris Islam di Indonesia*. Jakarta: Sinar Grafika.