

# Agreement Between Communities: Tradition and Practice in Sawai Village, North Seram Sub-District, Central Maluku

Syadzwina Hindun Nabila<sup>1</sup>, Agustina Balik<sup>2</sup>, Wijaya Natalia Panjaitan<sup>3</sup>

Fakultas Hukum, Universitas Pattimura, Ambon, Indonesia

[syadzwinahn@gmail.com](mailto:syadzwinahn@gmail.com)

*\*corresponding author*

## Article info

Received: Jan 12, 2025

Revised: March 25, 2025

Accepted: April 29, 2025

DOI: <https://doi.org/10.31599/krtha.v19i1.3627>

**Abstract :** *This research aims to examine and analyze the Solutions in Conflict Resolution over Agreements made by the Community of Sawai Village, North Seram District, Central Maluku Regency. Agreements are part of the relationships between citizens in their daily lives. The agreements used by the community of Sawai Village, Central Maluku Regency, often rely on verbal agreements and frequently depend on trust and individual reputation within the community, where verbal agreements are considered complete upon the delivery and acceptance of an item. The agreements made are often unwritten and based on social norms and traditions. Sawai Village, as the oldest village in Maluku, is surrounded by natural beauty rich in marine resources and forests, and has a strong social structure, where social norms and customs function as regulators of behavior and interactions among individuals. The use of verbal agreements also has the potential to harm both parties. One of them is the lack of verifiable evidence in case of a dispute. This ambiguity can lead to conflicts between parties, where each individual may have a different interpretation of the contents of the agreement. Without written documentation, the dispute resolution process becomes difficult and often relies on witness testimony, which can vary. The research method used is sociological legal research, which is a combination of doctrinal legal research methods and empirical legal research methods. The results of this research indicate that the spoken agreements made by the community in Sawai Village are a phenomenon that reflects strong social and cultural values, and serve as a practical transaction tool in daily life. Although its validity is recognized by law, the main challenge lies in proving and enforcing it when disputes arise.*

**Keywords :** *Agreement; Spoken Agreement; Indigenous Community*

**Abstrak :** Penelitian ini bertujuan untuk mengkaji dan menganalisis Solusi Penyelesaian Konflik atas Perjanjian yang Dibuat oleh Masyarakat Desa Sawai, Kecamatan Seram Utara, Kabupaten Maluku Tengah. Perjanjian merupakan bagian dari hubungan antar warga masyarakat dalam kehidupan sehari-hari. Perjanjian yang digunakan oleh masyarakat Desa Sawai, Kabupaten Maluku Tengah, seringkali mengandalkan kesepakatan lisan dan sering kali bergantung pada kepercayaan dan reputasi individu dalam masyarakat, di mana kesepakatan lisan dianggap selesai setelah penyerahan dan penerimaan suatu barang. Perjanjian yang dibuat seringkali



tidak tertulis dan didasarkan pada norma dan adat istiadat sosial. Desa Sawai, sebagai desa tertua di Maluku, dikelilingi oleh keindahan alam yang kaya akan sumber daya laut dan hutan, serta memiliki struktur sosial yang kuat, di mana norma dan adat istiadat sosial berfungsi sebagai pengatur perilaku dan interaksi antar individu. Penggunaan kesepakatan lisan juga berpotensi merugikan kedua belah pihak. Salah satunya adalah tidak adanya bukti yang dapat diverifikasi jika terjadi perselisihan. Ketidakjelasan ini dapat menyebabkan konflik antar pihak, di mana setiap individu mungkin memiliki interpretasi yang berbeda terhadap isi perjanjian. Tanpa dokumentasi tertulis, proses penyelesaian sengketa menjadi sulit dan seringkali mengandalkan keterangan saksi, yang dapat bervariasi. Metode penelitian yang digunakan adalah penelitian hukum sosiologis, yaitu gabungan antara metode penelitian hukum doktrinal dan metode penelitian hukum empiris. Hasil penelitian ini menunjukkan bahwa perjanjian lisan yang dibuat oleh masyarakat Desa Sawai merupakan fenomena yang mencerminkan nilai-nilai sosial dan budaya yang kuat, serta berfungsi sebagai alat transaksi praktis dalam kehidupan sehari-hari. Meskipun keabsahannya diakui oleh undang-undang, namun tantangan utamanya terletak pada pembuktian dan penegakannya ketika terjadi sengketa.

**Kata kunci :** Perjanjian; Kesepakatan Lisan; Masyarakat Adat

## I. INTRODUCTION

Social relations between communities greatly influence the activities carried out in their interactions. One of the actual forms of interaction is the agreement between communities, which is an important element in social and cultural life in Indonesia, including in Sawai Village, North Seram Sub-district, Central Maluku. This village has a tradition of rich and local wisdom that conducts many agreement transactions as part of the relationship between residents. Oral agreements are usually settled by the delivery and receipt of goods in everyday life, while written agreements are usually carried out in modern society, relating to businesses with more complex legal relationships, and usually using authentic or underhand deeds, as well as using the title of the agreement. In practice in Sawai Village, agreements made by the community are often unwritten and based on social norms and traditions. Sawai Village as the oldest village in Maluku surrounded by natural beauty rich in marine products and forests has a strong social structure, where social norms and customs function as regulators of behavior and interactions between individuals. Many agreements are oral, and often rely on trust and the reputation of individuals in the community. An agreement can be understood as an act where one or more individuals commit themselves to another party or parties who accept the promise made. This definition is reflected in Article 1313 of the Civil Code, which states that an agreement is a legal act by which one or more people bind themselves to one or more other people.<sup>1</sup>

However, the use of oral agreements also has potentially detrimental effects on both parties. One of them is the lack of evidence that can be accounted for in the event

---

<sup>1</sup> Wijaya Natalia Panjaitan, Agustina Balik, and Syadzwina Hindun Nabila, "The Legal Dynamics of Pacta Sunt Servanda in Community Agreements" 18, no. 3 (2024): 786–97, <https://doi.org/https://doi.org/10.31599/krtha.v18i3.2995>.

of a dispute. This lack of clarity can lead to conflict between parties, where each individual may have a different interpretation of the contents of the agreement. Without written documentation, the dispute resolution process becomes difficult and often relies on witness testimony, which can vary. In situations like this, village officials play an important role as mediators to help resolve conflicts that arise. They not only function as regulators of norms and customs, but also as parties who can provide advice and support in resolving issues relating to oral agreements. However, there are times when village officials, in this case the Village Head, experience obstacles in resolving disputes between the two parties due to several things, first, the village head was never involved in making the agreement at the beginning of the agreement so that when a dispute occurs, the village head must hear from two different sides according to their respective interests. Second, the village head lacks knowledge of the principles in the agreement relating to the legal impact of the agreement so that the final way that can be passed is deliberation consensus which depends on the intention of both parties to be equally willing to resolve their problems properly.

Village government officials, in this case the Village Head, should be given in-depth knowledge and understanding of the effectiveness of oral agreements made with their legal impact to be able to help uphold justice and create more formal agreements. This is what encourages researchers to conduct research in Sawai Village, North Seram Sub-district, Central Maluku Regency in the hope that all the education delivered will create a role and initiative from the village head who also encourages residents to always document agreements, although simple, can be an important step in reducing the risk of conflict in the future and involve the role of village officials to participate in making agreements. Thus, the role of village officials is crucial in maintaining social harmony and ensuring that the practice of agreements can benefit all community members.

Previous research related to agreements made by the community has been conducted by Pariela, Hidayani, Hermansyah. Research conducted by Pariela on the agreement for the people of Negeri Eti<sup>2</sup>, explained that the agreement carried out by the Eti village community using the “Ngase” agreement system. The Ngase system is a form of cooperation between landowners and workers that is carried out at harvest time. The Ngase system divides the results into objects, which include annual crops such as cloves and nutmeg, as well as fishery products such as fish crackers. In this ngase system, the petuanan area provides land to be managed or harvested by the Negeri Eti government. The study focused more on discussing how the agreement was made and the results were given to the parties by negotiation, but did not explain if there was a dispute between the parties to the agreement.

Hidayani's research on gold loan agreement with paddy field land as collateral<sup>3</sup>, explained that the agreement made in Raya Paleue Village, which is a gold loan agreement

---

<sup>2</sup> Marselo Valentino Geovani Pariela, Merry Tjoanda, and Ronald Fadly Sopamena, “Sosialisasi Hukum Perjanjian Bagi Masyarakat Adat Negeri Eti Kabupaten Seram Bagian Barat,” *Jurnal Dedikasi Hukum* 2, no. 3 (2022): 245–51, <https://doi.org/10.22219/jdh.v2i3.22415>.

<sup>3</sup> Sri Hidayani and Mahalia Nola Pohan, “Aspek Hukum Terhadap Perjanjian Pinjam Emas Dengan Jaminan Tanah Sawah Dalam Masyarakat Pidie Legal Aspects on Gold Loan Agreement with Village Land Guarantee in Pidie Society,” *Jurnal Mercatoria* 13, no. 2 (2020): 2541–5913, <https://doi.org/10.31289/mercatoria.v13i1.4241>.

with a guarantee of paddy field land, is a customary agreement that has been in effect for generations. The legal requirements of an agreement are contained in the Civil Code. The local government authorizes the relevant customary institutions to resolve existing disputes as written in Qanun No. 10 of 2008. This study only focuses on how the process of occurrence and the legal terms of the agreement made by the village community.

The research conducted by Hermansyah regarding the existence of freedom of contract in the agreement<sup>4</sup>, mentioned that the role of the government towards the existence of the principle of freedom of contract in current agreements in society is still lacking, as evidenced by the absence of laws specifically protecting weak parties in agreements in society and the absence of government participation in formulating agreements in the form of standard contracts made by large companies and agreements made between communities. In addition, the role of the government is also lacking in terms of supervision of agreements in the form of standard contracts in the community, which of course has a very one-sided substance. This research only provides legal phenomena that occur in agreements made by the community.

Based on these three studies, the research conducted in Sawai Village provides answers to the importance of gradual socialization to the baparaja and then forwarded to the community. The importance of understanding the legal bond in making agreements as contained in Article 1338 of the Civil Code which then requires good faith in its implementation.

In line with that, Negeri Rumahkay in its research applies a written agreement but the formulation in the agreement still does not answer the needs and provides equal protection for both parties, so through this research in sawai village, researchers examine the importance of socializing a good and correct draft contract to be used by village officials for the community in need. Of course, this draft is adjusted to the transactional interests carried out. This research aims to examine and analyze the Solution in Resolving Conflicts over Agreements made by the Sawai Village Community, North Seram District, Central Maluku Regency.

## II. RESEARCH METHODS

The research method used is sociological legal research, which is a combination research method between doctrinal legal research methods and empirical legal research methods. Doctrinal research is intended to conduct library research by identifying laws and regulations and collecting other data related to the problem under study.<sup>5</sup> Empirical research is intended to determine the application of the principle of Pacta Sunt Servanda in community agreements, namely by selecting a sample population, especially Sawai Village, North Seram Subdistrict, Central Maluku Regency with the consideration that at that location there are many legal actions of the community that make transactional agreements.<sup>6</sup>

## III. RESULTS

---

<sup>4</sup> H Nanang Hermansyah, "Analisis Yuridis Eksistensi Asas Kebebasan Berkontrak Dalam Perjanjian Dewasa Ini (Standar Kontrak) Di Masyarakat," n.d.

<sup>5</sup> Irianto, "Memperkenalkan Studi Sosiolegal Dan Implementasi Metodologisnya," in *Metode Penelitian Hukum Konstelasi Dan Refleksi* (Jakarta, 2018).

<sup>6</sup> Ronny Hanitijo Soemitro, *Metodologi Penelitian Hukum Dan Jurimetri* (Jakarta: Ghalia Indonesia, 1990).

Agreement according to Article 1313 of the Civil Code is an act in which one or more people bind themselves to one or more other people. Based on this understanding, the agreement is interpreted as a relationship or agreement of the parties who mutually agree on a matter that has been determined together. This contract or agreement is a legal event where someone promises to do or not do something.<sup>7</sup> An agreement can be defined as a promise uttered and made by the party who promises to the party who accepts. Agreement if seen its definition in legislation is found in Article 1313 of the Civil Code which states that: “an agreement is an act by which one or more people bind themselves to one or more other people.”<sup>8</sup>

The agreement in Article 1313 of the Civil Code contains the element of binding as in the words “commit himself to one or more other people.”<sup>9</sup> An agreement is basically the basis for creating an obligation, as has been clearly stated in Article 1233 of the Civil Code<sup>10</sup> “Every obligation is born either by consent or by law.” An obligation derived from consent or agreement starts with an agreement made by the parties. This agreement creates a binding relationship with legal consequences arising from the implementation of the agreement. The definition of an obligation refers to Subekti's view that an obligation is “a legal relationship between two people or two parties, based on which one party is entitled to demand something from the other party, and the other party is obliged to fulfil that demand.”<sup>11</sup>

Oral agreements are a common phenomenon in rural communities, where social interactions take place in the context of trust and personal relationships. Despite the dominance of modern technology and legal systems, the practice of oral agreements is still an important part of community culture and tradition. In a legal context, oral agreements can be recognized as valid, although there are some challenges in enforcement especially when it comes to proof. Article 1313 of the Civil Code defines an agreement as an action taken by one or more persons to bind themselves to one or more persons. Based on this definition, agreements defined in the Civil Code include agreements in general, whether written or oral.<sup>12</sup> The terms of the agreement according to Article 1320 of the Civil Code, which is<sup>13</sup>: There is an agreement between the parties making the agreement, the legal capacity of the party making it. In the sense that the parties to the agreement are adults according to the law and are not under guardianship due to certain conditions, the existence of the agreed object, as well as the halal cause. This means that the agreement of the parties and the object does not conflict with the laws and regulations.

The four terms stipulated in this article also do not stipulate that the agreement must be in writing. For village communities, agreements are often reached through direct communication between the parties involved based on trust between them. This trust is

<sup>7</sup> Dr. Ahmadi Miru, *Hukum Kontrak dan Perancangan Kontrak*. Jakarta: PT. Raja Grafindo, hal. 1

<sup>8</sup> Abdulkadir Muhammad, *Hukum Perikatan* (Jakarta: Sinar Grafika, 2000).

<sup>9</sup> Syadzwina Hindun Nabila, “Kekuatan Hukum Non Disclosure Agreement Dalam Mencegah Bocornya Confidential Information Perusahaan” 4, no. April (2024): 155–66.

<sup>10</sup> Subekti R, *Kitab Undang-Undang Hukum Perdata*, Revisi (Jakarta: Pradnya Paramita, 1995).

<sup>11</sup> Subekti, *Hukum Perjanjian* (Jakarta: Intermasa, 2010).

<sup>12</sup> Juliati Br Ginting, “Kekuatan Mengikat Perjanjian Secara Lisan,” *The Juris* 6, no. 2 (2022): 429–36, <https://doi.org/10.56301/juris.v6i2.612>.

<sup>13</sup> R, *Kitab Undang-Undang Hukum Perdata*.

what binds their agreement so that then the principle of *pacta sunt servanda* applies to the agreement, which means that the agreement they agree on will apply like a law to the parties as referred to in Article 1338 of the Civil Code. For example, in Sawai Village, North Seram Sub-District, Central Maluku Regency, in the Land Lease Agreement, the parties usually meet to discuss the agreed terms, such as the rental price, time of implementation, and other terms.

However, the legality of oral agreements can be problematic when disputes arise. One of the main challenges is the lack of solid evidence to support either party's claim. In situations where there are no written documents, dispute resolution often relies on witness testimony. Unfortunately, witness testimony can vary, depending on each individual's perception. This has the potential to create legal uncertainty, especially if there are unreliable witnesses or differences in memory between witnesses. One concrete example of an oral agreement that is common in rural communities is a land lease agreement, where the lessee and lessor enter into a land lease agreement orally without a long period of time on the principle of trust. Although these agreements often go without problems, there are times when disputes arise, for example when the agreed price is not fulfilled by the lessee, or there are different price spikes within a certain period of time, causing losses to one of the parties. In these situations, the aggrieved party may find it difficult to prove their loss through the oral agreement.

From the perspective of legal impact, especially civil law, oral agreements in village communities can have several implications. First, the flexibility of oral agreements often eases the transaction process, allowing communities to adapt quickly to changing situations. On the other hand, the main disadvantage of oral agreements is the lack of legal certainty due to weak evidence. When disputes arise, the resolution process can be lengthy and complicated, and aggrieved parties may not get the justice they deserve. This is why the importance of legal information and education among villagers cannot be ignored, involving the participation of village officials. Many villagers may not fully understand their rights in the context of agreements. By providing a better understanding of the importance of documentation and how the principles in the validity of agreements, even in a simple form, communities can be trained to protect their interests more effectively. For example, recording an agreement in writing and analyzing its impact over time will provide stronger evidence in the future.

In addition, oral agreements also have a significant social impact because they involve trust between individuals, which is key to the social harmony of village communities. Relationships established through oral agreements can strengthen community solidarity, but can also lead to conflict if trust is violated. Even in situations where access to the formal legal system is limited, oral agreements do provide a practical alternative for villagers. However, in order to encourage healthy and sustainable transactional practices, researchers consider it imperative for village communities to transition to more formal practices, especially in the case of high-value or complex transactions. In legal practice, several cases have shown how oral agreements can be recognized in court, even if the evidence is not in writing. For example, the dispute between the phenomenal artist Wulan Guritno, who once sued her partner for approximately Rp 300,000,000 (three hundred million Rupiah), which was based on an oral agreement between the two. Although later the dispute ended in mediation, this is

because the oral agreement was recognised by the defendant so that there is certainty that the District Court accepted and recognised the lawsuit, which also proves that oral agreements are considered part of a valid agreement according to the Civil Code.

If a violation of this oral agreement occurs, the aggrieved party is entitled to demand fulfillment of the agreement up to and including damages. This applies to the extent that the injured party can prove that the transaction was made and that the loss was caused by the transaction. In a relationship of mutual trust, it is sometimes possible that people will do things that will unwittingly result in legal consequences, but this was not anticipated in advance due to the strong basis of trust. For example, in an agreement to borrow goods or money, there is no fixed date when the goods or money should be returned; what matters is the confidence that the borrower will return them.<sup>14</sup>

Facing the challenges and risks associated with oral agreements, researchers believe that a more innovative approach is needed to increase the legal awareness of the community so that their legal actions will provide justice and legal certainty. One way is through strengthening dispute resolution institutions at the village level, such as mediation or village deliberation, which requires the role of village officials, namely the Village Head as a leader who is trusted to protect the village community. Village officials play a central role in helping to resolve such disputes in ways that are in accordance with the rules and norms that apply at the village level.<sup>15</sup> While oral agreements can have legal validity, it is important for communities to understand and adopt practices that can reduce the risk of future disputes. Legal education conducted by village officials and increased awareness of the importance of documentation can help strengthen the position of parties in village communities in understanding the legal ramifications of their agreements.

#### IV. CONCLUSION

Oral agreements made by the community in Sawai Village are a phenomenon that reflects strong social and cultural values and serve as a practical transaction tool in daily life. Although its validity is recognised by law, the main challenge lies in proving and enforcing it when a dispute occurs. Therefore, the role of the village head is very important in increasing the knowledge and legal awareness of the village community in understanding the principles and validity of making agreements and their legal impact.

---

<sup>14</sup> Wijaya Natalia Panjaitan, "Akibat Hukum Wanprestasi Atas Perjanjian Lisan Pinjam-Meminjam Oleh Pasangan Kekasih Yang Tidak Terikat Perkawinan," *PATTIMURA Legal Journal* 3, no. 1 (2024): 18–24, <https://doi.org/10.47268/pela.v3i1.13063>.

<sup>15</sup> Wijaya Natalia Panjaitan, "Peran Perangkat Desa Dalam Hal Penyelesaian Sengketa Keperdataan Di Negeri Rumahkay Kecamatan Amalatu Kabupaten Seram Bagian Barat," *AIWADTHU: Jurnal Pengabdian Hukum* 3, no. 2 (2023): 88, <https://doi.org/10.47268/aiwadthu.v3i2.1782>.

## BIBLIOGRAPHY

- Abdulkadir Muhammad. *Hukum Perikatan*. Jakarta: Sinar Grafika, 2000.
- Hermansyah, H Nanang. “Analisis Yuridis Eksistensi Asas Kebebasan Berkontrak Dalam Perjanjian Dewasa Ini (Standar Kontrak) Di Masyarakat,” n.d.
- Hidayani, Sri, and Mahalia Nola Pohan. “Aspek Hukum Terhadap Perjanjian Pinjam Emas Dengan Jaminan Tanah Sawah Dalam Masyarakat Pidie Legal Aspects on Gold Loan Agreement with Village Land Guarantee in Pidie Society.” *Jurnal Mercatoria* 13, no. 2 (2020): 2541–5913. <https://doi.org/10.31289/mercatoria.v13i1.4241>.
- Irianto. “Memperkenalkan Studi Sosiolegal Dan Implementasi Metodologisnya.” In *Metode Penelitian Hukum Konstelasi Dan Refleksi*. Jakarta, 2018.
- Julianti Br Ginting. “Kekuatan Mengikat Perjanjian Secara Lisan.” *The Juris* 6, no. 2 (2022): 429–36. <https://doi.org/10.56301/juris.v6i2.612>.
- Nabila, Syadzwina Hindun. “Kekuatan Hukum Non Disclosure Agreement Dalam Mencegah Bocornya Confidential Information Perusahaan” 4, no. April (2024): 155–66.
- Panjaitan, Wijaya Natalia. “Akibat Hukum Wanprestasi Atas Perjanjian Lisan Pinjam-Meminjam Oleh Pasangan Kekasih Yang Tidak Terikat Perkawinan.” *PATTIMURA Legal Journal* 3, no. 1 (2024): 18–24. <https://doi.org/10.47268/pela.v3i1.13063>.
- . “Peran Perangkat Desa Dalam Hal Penyelesaian Sengketa Keperdataan Di Negeri Rumahkay Kecamatan Amalatu Kabupaten Seram Bagian Barat.” *AIWADTHU: Jurnal Pengabdian Hukum* 3, no. 2 (2023): 88. <https://doi.org/10.47268/aiwadthu.v3i2.1782>.
- Panjaitan, Wijaya Natalia, Agustina Balik, and Syadzwina Hindun Nabila. “The Legal Dynamics of Pacta Sunt Servanda in Community Agreements” 18, no. 3 (2024): 786–97. <https://doi.org/https://doi.org/10.31599/krtha.v18i3.2995>.
- Pariela, Marselo Valentino Geovani, Merry Tjoanda, and Ronald Fadly Sopamena. “Sosialisasi Hukum Perjanjian Bagi Masyarakat Adat Negeri Eti Kabupaten Seram Bagian Barat.” *Jurnal Dedikasi Hukum* 2, no. 3 (2022): 245–51. <https://doi.org/10.22219/jdh.v2i3.22415>.
- R, Subekti. *Kitab Undang-Undang Hukum Perdata*. Revisi. Jakarta: Pradnya Paramita, 1995.
- Ronny Hanitijo Soemitro. *Metodologi Penelitian Hukum Dan Jurimetri*. Jakarta: Ghalia Indonesia, 1990.
- Subekti. *Hukum Perjanjian*. Jakarta: Intermasa, 2010.