



The Urgency of Special Legislation for Indigenous Peoples in Indonesia

Strengthening Legal Protection and Cultural Heritage

Ahmad Rayhan, Winda Talita Putri, and Farhan Ardhi Nugroho

Universitas Sultan Ageng Tirtayasa

ahmadrayhan@untirta.ac.id

Abstract

Indigenous communities in Indonesia are vital to preserving the nation's rich cultural diversity and local wisdom. They safeguard a heritage that spans ancient languages, customs, and traditional knowledge. However, these communities face challenges such as the legal recognition of customary land, the protection of basic rights, and environmental preservation. This study employs a normative legal research method to analyse relevant laws and regulations regarding the existence and protection of indigenous communities. It highlights the urgency of enacting specific legislation to safeguard their rights and improve their social and environmental welfare. The findings show that while indigenous communities are numerous, diverse, and widely distributed, they often suffer from the erosion of their rights—including customary land rights (Ulayat Land), the right to revive traditions, and the right to live as Indigenous Peoples. Despite partial efforts by the government through the 1945 Constitution, the Agrarian Law, and the Human Rights Law, a clearer and more robust legal framework in the form of a Special Law on Customary Communities is needed. Such legislation would enhance legal protection and address legitimacy challenges, ultimately strengthening the safeguarding of indigenous rights across Indonesia.

Keywords: customary law, customary law communities, draft law on Indigenous Peoples



This work is licensed under the [Attribution-ShareAlike 4.0 International](https://creativecommons.org/licenses/by-sa/4.0/).

Introduction

Indonesia is one of the countries in the world with distinctive socio-cultural characteristics. This is evident in the composition of Indonesian society, which comprises a variety of ethnicities, religions, and languages. Multiculturalism is intrinsic to the Indonesian nation and serves as the unifying force that binds the country together. The collective worldview of the Indonesian people is reflected in their national ideology and philosophy, notably in the values of Pancasila and the motto Bhinneka Tunggal Ika. Although these expressions denote different aspects (ethnicity, religion, and language), they nonetheless underscore Indonesia's unity. Moreover, this unity is observable not only in theory but also in daily life, as diverse ethnic groups coexist within the same communities and workplaces.

Indonesia, as a nation-state, is manifested not solely as a geopolitical entity but also as a mosaic of social groups and socio-cultural systems that originate from its myriad ethnic communities, which collectively form its subnational culture. In 2010, there were more than 30 distinct ethnic groups in Indonesia, including groups from Aceh, Batak, tribes from Jambi, Sumatra, Java, Sundanese, Dayak, tribes from NTT and NTB, Papua, and ethnic Chinese, all of whom are administratively recognized as Indonesian citizens (Adha & Susanto, 2020).

The Alliance of Indigenous Peoples of the Archipelago (AMAN) defines Indigenous Peoples as groups that reside in a specific geographical area based on their ancestral origins, possess unique socio-cultural values, exercise sovereignty over their land and natural resources, and regulate the continuity of their lives through law and traditional institutions. In Indonesia, the existence of indigenous communities is recognized by the State Constitution, particularly in Article 18B of the 1945 Constitution, which mandates that the State recognize and respect the unity of customary law communities and their traditional rights, provided that these communities continue to exist in accordance with the nation's development and the principles of the Unitary State of the Republic of Indonesia. Additionally, the rights of Indigenous Peoples are enshrined in international instruments such as the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), which outlines both individual and collective rights in the realms of culture, identity, education, health, work, language, and more. Moreover, ILO Convention No. 169 of 1989 concerning Indigenous and Tribal Populations was the first international agreement to address the challenges faced by Indigenous Peoples, aiming to provide a comprehensive legal framework for the advancement of their rights. However, Indonesia has not ratified either of these international instruments.

As a country rich in cultural diversity, Indonesia cannot be separated from the presence and contributions of its Indigenous Peoples. Indigenous communities play a pivotal role in enriching the nation's cultural fabric through their languages, customs, and locally transmitted knowledge, which have been preserved across generations. They are not only custodians of traditional values but also primary actors in maintaining the abundant natural environment across various regions of Indonesia. Despite the significant diversity and

contributions of these communities, they continue to face formidable challenges in terms of legal recognition and the protection of their rights. In this context, a comprehensive understanding of the role and presence of Indigenous Peoples is not only of cultural importance but also essential for achieving sustainable and inclusive development in Indonesia (Muslih & Rayhan, 2023).

Indigenous Peoples are vulnerable communities, many of whom reside in areas that have not been officially designated as customary land by the government; as a result, they are exposed to conflicts with those in power. Traditional territories located in forest areas frequently face the threat of forced eviction, particularly in the context of infrastructure development, extractive industries, and other development activities. Natural resource conflicts often arise when economic interests clash with their traditional rights. The integration of customary and national law remains an ongoing process, and current efforts tend to focus solely on assistance programs for indigenous communities rather than on developing and securing the communities' rights themselves. Moreover, many regional governments have not yet established and drafted regulations specifically governing indigenous communities in their jurisdictions. Consequently, indigenous communities are marginalized, and the customary rights they possess do not receive definitive protection from regional authorities, leaving them vulnerable to the impacts of investments made by these authorities (Haq et al., 2022).

There is a pressing need for special legislation—currently being drafted by the DPR regarding Customary Law Communities—that would enhance the legal status and rights of these communities in relation to their traditions, culture, and land, among other aspects. The Draft Law on Indigenous Peoples is intended to provide clear recognition and robust protection for the rights of Indigenous Peoples. This draft law is critical as it would serve as a legal umbrella for customary law communities. The lack of recognition and protection of their rights, both at the individual and community levels, undermines their prosperity and gives rise to conflicts within customary law communities, thereby posing a threat to national security and stability.

Previous research, such as that conducted by Muhammad Satriyo Mandiri et al. (2023) highlights the need for a special law to preserve the customary legal system in this modern era. Similarly, research by Shandy Alonso Eka Renanda (2024) indicates that there is a need to establish legal certainty for customary law, particularly because some customary laws conflict with the national law currently in force in Indonesia.

It is noteworthy that Indigenous Law Communities have not yet been legally recognized—in this case, as per the draft law specifically addressing customary law communities. To date, government recognition of Indigenous Peoples and their rights is either very rare or entirely absent. Recognizing Indigenous Peoples is further complicated by their demands for land and other natural resources. Against this background, the author is motivated to conduct research addressing the following issues: First, to examine indigenous communities in Indonesia and the legal basis underpinning their existence; second, to explore why Indigenous Peoples must be protected; and third, to investigate the urgency of

enacting customary community law as a means of legal recognition for Indigenous Peoples in Indonesia.

This study employs a normative juridical research approach, which involves identifying legal rules, principles, and doctrines to address the legal issues at hand. It utilizes secondary library data comprising primary legal materials in the form of statutory regulations relevant to the discussion, along with secondary legal materials—such as books, journals, and other scientific papers—that support and assist in case analysis (Rayhan et al., 2023).

The approaches used in this study are: (1) the Legislation Approach, (2) the Case Approach, and (3) the Historical Approach. The Legislation Approach involves examining existing legislation, including the 1945 Constitution, the Agrarian Law, and the Human Rights Law. The Case Approach focuses on reviewing existing legal cases related to Indigenous Peoples' Rights. The Historical Approach entails an investigation into the history of Indigenous Peoples and the evolution of their legal recognition.

The Legal Basis for Indigenous Peoples

Indigenous Peoples, or customary communities, are groups of people who share the same geographical area of origin and/or ancestral residence, a common cultural identity, and customary laws that continue to be respected while maintaining strong ties to the land and environment. They also uphold a value system that defines their political, economic, and social institutions, as well as their culture and legal practices. The United Nations (UN) defines Indigenous Peoples as various social groups—including minority indigenous groups and tribal groups—that possess a social and cultural identity distinct from the dominant community, which often places them at a disadvantage in the development process (Tumbel, 2020).

Article 18B, paragraph (2) of the 1945 Constitution states that the State recognizes and respects the unity of customary law communities and their traditional rights, provided they continue to exist and evolve in accordance with societal development and the principles of the Unitary State of the Republic of Indonesia, as specified in law. This implies that certain conditions must be met to recognize the existence of customary law communities in Indonesia: the community must exist as a cohesive social unit (*rechtsgemeenschap*); there must be institutions in the form of a traditional ruling apparatus; there must be a clearly defined customary territory; and there must be legal institutions and instruments, particularly customary courts, that continue to be adhered to (Triningsih, 2013). Respect for and recognition of traditional communities is also implicitly enshrined in Article 28I, paragraph (3) of the 1945 Constitution, which ensures that the cultural identity and rights of traditional communities are respected in accordance with ongoing developments and civilizations. Furthermore, Article 32, paragraph (1) mandates that the State promotes Indonesian culture within the context of global civilization by guaranteeing the freedom of the people to maintain and develop their cultural values.

In particular, indigenous communities exhibit a structured organization that can be

divided into six main groups: (1) A territorial legal community, as described by customary law experts during the Dutch East Indies era, refers to a society that remains orderly, with its members bound to a specific area of residence—both as a physical space for living and as a spiritual locale for ancestral worship. Members of such communities are united both externally and internally, and even those who travel temporarily abroad are still considered part of this territorial identity. Moreover, newcomers can join this unified society by fulfilling local customary requirements.

(2) A genealogical legal society is an orderly community unit in which members are bound by a common line of descent from a single ancestor, either directly through blood relations or indirectly through marriage or customary ties. Traditional law experts of the Dutch East Indies era identified three types of genealogical societies: patrilineal—where societal structure is determined solely by the father's lineage, as evidenced by the well-known 'genealogical clans' of the Batak people; matrilineal—where societal structure follows the mother's lineage, as seen in the kinship systems of the Minangkabau and Kerinci peoples; and bilateral or parental—where both parental lineages are considered equally, a structure that is generally observed over a few generations among groups in Aceh, Malay, Java, Kalimantan, and Sulawesi.

(3) A territorial-genealogical legal community is a permanent and orderly community unit in which members are not only bound to a specific geographic area but are also connected through hereditary relations, whether by blood or kinship. These territorial-genealogical societies can be distinguished in their original forms as well as in mixed forms (Sabardi, 1945).

Furthermore, (4) Indigenous Religious Communities: Among the various indigenous community units mentioned above, there exist customary communities that are specifically religious in certain areas. For instance, among the Batak people, there remains a belief in spirits (begu); they refer to themselves as 'sepebelegu' (spirit worshipers). These spirits are known by various names, such as 'begu na evil' (evil spirits), 'homang' (living spirits in the forest), and 'begu antuk' (spirit of disease), among others. In the northern region of the Batak community, an association called 'Horja' is present, and the Dayak people possess a concept of a supreme 'God' who inhabits both the upper and lower worlds. This belief is also evident in other regions, whereby individuals adhering to this religious sect are considered part of a religious indigenous community.

(5) Indigenous Communities Overseas: The traditional village community known as the Sadwirama religion represents a new form through which Balinese people maintain their Hindu traditions and religious practices in overseas areas. It can be argued that Javanese indigenous communities in transmigration areas, such as Lampung, have not established their own traditional village communities apart from the officially recognized villages. In contrast, Malay indigenous communities—such as those among the Batak, Aceh, Minangkabau, Lampung, and South Sumatra—tend to form kinship groups or traditional community units aimed at reinforcing customs in their home villages. For example, in Bandar Lampung, there are family groups corresponding to traditional communities such

as Way Kanan, Tulangbawang, Bandar Pak (Abung), and Way Seputih. Likewise, various overseas areas exhibit a range of family organizations under different names.

(6) Other Indigenous Communities: In addition to the indigenous community units overseas, where members are bound together by their shared geographic origins, community life also includes groups or organizations whose ties are based on similar occupational associations rather than on a common customary law or geographic origin. These groups are characterized by a shared sense of kinship and often comprise members from various ethnic groups and different religions (Ernawati & Baharudin, 2019).

Indonesia, as a country governed by the rule of law, maintains legitimacy in every aspect of life through written regulations ratified by the government—whether legislative, executive, central, regional, or lower-level regulations. Customary law communities derive their legal standing from Indonesian laws and regulations, including the following:

1945 Constitution

The 1945 Constitution began to mention customary law communities after its amendments, employing the term ‘unity of customary law communities’ as stated in Article 18B, paragraph (2). This article declares that the State recognizes and respects the unity of customary law communities and their traditional rights, provided that these communities continue to exist and evolve in accordance with societal development and the principles of the unitary state of the Republic of Indonesia, as specified by law. In its explanation, examples are provided of customary law communities—such as villages in Java and Nagari in Minangkabau—which are entitled to their rights of origin that must be respected by the state. Respect for and recognition of traditional communities is also implicitly regulated in Article 28I, paragraph (3) of the Constitution, ensuring that the cultural identity and rights of these communities are honored in line with the evolution of time and civilization. Upholding the cultural identity and rights of Indigenous Peoples requires that these rights be respected across all spheres of life, taking into account the principles of justice, democracy, human rights, and equality. There is thus a constitutional basis for recognizing the existence of Indigenous Peoples, consistent with the fundamental principles of Indonesian law and reflective of the nation’s legal consciousness. Moreover, the values of Indigenous Peoples must serve as a primary source for the formation of national law (Pohan, 2018).

Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles

Customary rights of indigenous communities are regulated under the Basic Agrarian Law (UUPA). These rights must be exercised in accordance with several provisions: first, they must persist as long as the land exists; second, they must conform to national and state interests; and third, they must continue to reflect national unity and not conflict with higher laws and regulations.

Law Number 39 of 1999 concerning Human Rights

The Human Rights Law safeguards the cultural identity of Indigenous Peoples, despite not providing a specific definition for them, and similarly protects their customary rights. Human rights violations occur when state policies, directly or indirectly, undermine or obstruct these rights. MPR Decree No. XVII/1998 concerning Human Rights further emphasizes that the cultural identity of traditional communities—including their rights to protected customary land—evolves with time and is a fundamental acknowledgment of human rights.

Local Wisdom of Indigenous Peoples in Indonesia

Indigenous communities in Indonesia continue to apply customary law as a recognised, binding legal system in daily life, reflecting the unique local cultures and traditions across the archipelago. In Sumatra, Indigenous Peoples demonstrate diverse local wisdom: the Batak community practises Dalihan Na Tolu, a kinship system based on blood relations, the wife's family, and the husband's family, reinforced by a patrilineal clan system and ceremonial rites (Lubis, 2020); the Nias people perform the Fahombo ritual symbolising maturity and construct traditional, earthquake-resistant houses (Omo Sebua) using indigenous technology (Suwartiningsih & Samiyono, 2014); the Minangkabau utilise a matri-lineal system, complemented by the Rumah Gadang and the Merantau tradition (Hastuti et al., 2013); the Mentawai are known for traditional tattoos that reflect social status, their communal Uma, and the spiritual leadership of Sikerei (Munandar et al., 2022); Malay communities preserve their heritage through traditional forms of poetry (Pantun and Syair) and ceremonies regulating life events (Hastuti et al., 2013); the Kerinci community maintains a traditional rice farming system and ceremonies like Kenduri Sko (Ferry & Ramadani, 2021); the Komering exhibit local wisdom through traditional arts and a robust kinship system (Febriyanto et al., 2021); the Rejang employ the Lebuak system to regulate land use and preserve history via oral traditions (Mahdi et al., 2019); and the Lampung community adheres to the Saibatin and Pepadun systems, with Tapis as a symbol of social status (Suwarno et al., 2022).

On the island of Java, indigenous communities also reveal rich local wisdom. The Baduy prohibit modern technology to live in harmony with nature, practising the Subak irrigation system and observing the Seba tradition, an annual journey to the seat of government as a mark of loyalty (Muslih & Rayhan, 2023). The Wiwitan Sundanese regard forests as sacred and strictly protect them, while the Ngaseuk tradition calls for rice planting to seek blessings from Dewi Sri, the goddess of fertility (Pajriah et al., 2020). The Samin community emphasises simplicity and harmonious living, resisting modernisation and colonial rule through pacifist practices (Darmastuti et al., 2016). The Tengger community performs the Kasada ceremony on Mount Bromo to offer thanks and request blessings, utilising indigenous environmental conservation knowledge (Joko & Tri Haryanto, 2014). The Osing maintain cultural traditions through ceremonies such as Barong Ider Bumi and preserve ancient manuscripts like Lontar Yusup (Maylinda, 2021). Additional practices

include mountain slope farming and the Yadnya Kasada ritual in Tengger, management of traditional lands (Sultan Ground) and celebrations such as Sekaten in Yogyakarta, community cleaning through the Village Merti, and the Nadran tradition coupled with Wayang Golek performances in Cirebon (Joko & Tri Haryanto, 2014; Widyakusuma & Arief, 2023; Sukmadi et al., 2020; Yadi Ruyadi, 2010).

In Kalimantan, Indigenous Peoples—predominantly from various Dayak tribes such as the Iban Dayak, Kanayatn Dayak, Ngaju Dayak, and Meratus Dayak—exhibit diverse local wisdom that reflects their close connection to nature and the environment. Their practices, while varying significantly among tribes, collectively underscore the region's cultural richness.

In Sulawesi, indigenous communities display local wisdom that highlights their intimate ties with nature, the environment, and social life. The Toraja perform the intricate Rambu Solo funeral ceremony, incorporating animal sacrifices, traditional dancing, and the Tongkonan as a social and spiritual centre, guided by the Aluk To Dolo belief system (Asriany, 2014). The Bugis value self-respect and solidarity through Siri' na Pacce and maintain maritime heritage with traditional Pinisi boats (Elfira, 2013). The Buton people observe the Karia ceremony and follow the Kadie system to structure their society (Kurniati et al., 2020), while the Minahasa utilise the Mapalus system and preserve ancestral heritage with the Waruga (Rayhan & Pramesty, 2023). Sangihe communities engage in the Masamper art form and the Mapanau tradition to seek ancestral blessings before major activities (Manurat et al., 2015). In Gorontalo, the Huyula system supports daily mutual cooperation and is celebrated through the Pulanga ceremony (Lamusu, 2020), and in Mandar, the Pangngae ceremony and the Sandeq boat reflect their vibrant maritime culture (Kasitowati, 2011).

In Bali and Nusa Tenggara, indigenous communities demonstrate rich local wisdom that manifests in their harmonious relationships with nature. The Balinese adhere to the Tri Hita Karana philosophy—promoting harmonious relations among humans, God, and nature—complemented by the Subak irrigation system and ceremonies such as Odalan and Ngaben, as well as traditional architectural principles embodied in Asta Kosala Kosali (Putra & Muliati, 2020). The Sasak community of Lombok practises Begawe—a system of mutual cooperation—and celebrates the Bau Nyale festival, an event centred on catching sea worms for luck and fertility, alongside traditional musical art like Gendang Beleq (Zuhdi, 2018). In Flores, the Manggarai people use the Lingko system for equitable land distribution, perform the Caci war dance as a symbol of courage, and preserve their heritage through the Mbaru Niang Traditional House (Niman et al., 2023). The Sumba community upholds the Marapu belief system and the Pasola festival, and constructs stilt houses such as the Uma Mbatangu to signify social and spiritual status (Supriyadi et al., 2023). The Rote community values the Sasando as a traditional musical instrument and relies on the palmyra plant (Lontar) as an essential resource (Ketti, 2021).

In Papua, indigenous communities exhibit a remarkable range of local wisdom. The Dani in the Baliem Valley practise a traditional agricultural system known as Wamena,

which involves crop rotation and periodic land clearing, underpinned by a clan-based social structure and a tribal war tradition for conflict resolution. The Asmat are renowned for sacred wood carving, perform the Mbismbu ritual, and celebrate the Tiwah Thanksgiving Party to mark harvests. The Korowai build tree houses for protection and depend on a hunting and gathering lifestyle. The Yali manage terraced farming systems in mountainous areas and hold communal rituals such as weddings, funerals, and harvest celebrations. The Kamoro sustain a tradition of wood carving and the Sasi system to protect natural resources, while the Arfak employ shifting cultivation and observe the Mambri tradition with dancing and singing to celebrate important events.

Although these examples demonstrate the diversity and richness of local wisdom among Indonesia's indigenous communities, the available data represents only a small fraction of these groups. It is imperative that the government formulates comprehensive Indigenous Peoples Legislation to provide stronger legal regulation for customary law communities across the nation.

Indigenous Peoples as Entities That Must Be Protected

Indigenous communities have the right to control, regulate, and manage the scope of life within their customary territories and all the natural resources contained therein. These communities play a vital role in enhancing cultural diversity and local wealth. The rights of Indigenous Peoples must be protected so that they can maintain their traditions, knowledge, and continuity of life. Several reasons for protecting Indigenous Peoples include (Muhlisin et al., 2017; Tobroni, 2016):

First, preserving the culture and traditions of Indigenous Peoples ensures that the values, customs, and habits that have evolved over time are maintained and not lost. Cultural preservation is essential to mitigate the impact of modernization, which has the potential to erode traditional values such as kinship, mutual cooperation, religious beliefs, and local customs. Numerous efforts have been made to preserve the culture and traditions of traditional law communities in Indonesia. One significant initiative is the recognition and protection of Indigenous Peoples' rights through statutory regulations. For example, Law Number 5 of 2017 concerning the Advancement of Culture underscores the importance of protecting and developing the culture of Indigenous Peoples as an integral part of national culture. Moreover, recognition and protection of Indigenous Peoples' rights is enshrined in Article 6 of Law Number 39 of 1999 concerning Human Rights, which essentially acknowledges their right to maintain and develop their cultural identity. Indigenous communities play an indispensable role in preserving long-standing cultural traditions. Maintaining ancestral heritage involves the preservation of both tangible objects and intangible attributes—such as identity, customs, traditions, and language—that are passed down from generation to generation.

Second, there is the issue of rights to land and natural resources, which is closely related to the profound connection Indigenous Peoples have with the land and natural resourc-

es within their territories. Law Number 5 of 1960 concerning Basic Agrarian Principles (UUPA) confirms that agrarian law, which governs earth, water, and space, is applicable to customary law, provided that it does not conflict with national and state interests. Land plays an essential role in customary law communities; it is not only an economic asset but also a place of residence and a source of livelihood for families and communities. Moreover, religious and magical beliefs often underpin Indigenous Peoples' rights to control and utilize their land. The rights of customary law communities to land are known as lordship rights or ulayat rights, a concept that Van Vollenhoven refers to as *beschikkingsrecht*.

Third, the recognition of traditional identities and rights is crucial, as Indigenous Peoples frequently experience discrimination and marginalization. Article 18B, paragraph 2 of the 1945 Constitution of the Republic of Indonesia mandates that the State recognizes and respects the unity of customary law communities and their traditional rights, as long as these communities continue to exist and develop in accordance with the evolution of Indonesian society and the principles of the Unitary State of the Republic of Indonesia, as regulated by law.

Fourth, customary law communities have existed for a long time—indeed, even before Indonesia's independence in 1945—and thus possess values and rules that have been in effect for generations. These enduring traditions must be consistently respected and maintained so that they remain effective for the respective customary law communities, and must not be disturbed or altered by subsequent regulations from Indonesia in a negative manner.

The Imperative for Indigenous Peoples Legislation in Indonesia: Establishing Legal Recognition and Protection

Indonesia, as a country rich in ethnic, linguistic, racial, religious, and cultural diversity, has indigenous communities spread throughout its regions. The existence of Indigenous Peoples cannot be ignored because they form an integral part of the nation's history and identity. However, this diversity also presents challenges, such as the threat of extinction of tribal languages, the loss of traditional laws, and the weak authority of traditional institutions. The Indigenous Law Communities Bill (RUU MHA) represents an important legal initiative to be implemented in Indonesia. This bill aims to protect the rights of customary law communities and secure their legal recognition. The Draft Law on Customary Law Communities (RUU MHA) has been proposed since 2009. Proposed by AMAN and its coalition, the bill was first included in the National Legislation Priority (Prolegnas) in 2013, and the DPR RI subsequently formed a Special Committee to review it. In 2016, AMAN held a peaceful demonstration at the HI Roundabout urging the DPR to ratify the MHA Bill immediately. In 2020, the MHA Bill was again included in Prolegnas with 'priority' status; however, it is still struggling in the discussion process and, to date, has not been ratified by the government (Saswoyo & Pura, 2023).

There is significant urgency for the immediate ratification of the MHA Bill. First, it

would provide clearer legal protection for customary law communities, allowing them to live safely, grow, and develop in accordance with their constitutional rights. Currently, many Indigenous Peoples still face legal challenges due to the ambiguous status of their customary laws. This bill would provide legal certainty and reduce the conflicts that occur within indigenous communities. Second, it would improve the state's relationship with customary law communities and ensure that Indigenous Peoples are recognized as equal citizens within Indonesia. Customary law communities must be protected so that they can live safely, grow, and develop as cohesive groups with dignity, free from discrimination and violence. Third, as a system for recognizing cultural identity, the ratification of the MHA Bill would acknowledge the cultural values and traditions inherent in the customary legal system, thereby strengthening the identity of Indigenous Peoples and fostering respect for cultural diversity in Indonesia. Fourth, the bill could reduce social conflicts, as many land and natural resource disputes arise from the unclear status of customary law. By providing clear legal recognition of the customary legal system, the bill is expected to reduce conflicts both within communities and between communities and the government. Fifth, as a protection for human rights, passing the MHA Bill has the potential to strengthen the protection of human rights, particularly the rights of Indigenous Peoples to maintain their cultural identity and manage their land and natural resources traditionally. This measure aligns with Indonesia's commitment to protecting the rights of certain minorities and indigenous groups (Julranda et al., 2022).

The impact of ratifying the Customary Law Community Bill would be to provide a solid legal basis and certainty for the recognition, protection, and empowerment of customary law communities. The Indigenous Law Communities Bill must be ratified immediately because it is integral to the human rights of Indigenous Peoples and the provision of legal protection and certainty. This protection extends beyond rights to land and natural resources to include the safeguarding of customary rights essential to the sovereignty of local communities and the right to practice their beliefs.

Conclusion

Indigenous communities in Indonesia are the guardians of cultural wealth and local wisdom, playing an essential role in maintaining the nation's cultural diversity. More than 40 million Indonesians reside in forest areas, and approximately 700 thousand Indigenous Peoples live in poverty. Poverty persists in their traditional territories due to overlapping claims, unequal control of natural resources, and inadequately formulated regulations and policies governing customary territories in forest areas. Development initiatives often exclude Indigenous Peoples, resulting in the confiscation of their traditional territories, and causing them to lose their homes, agricultural land, and livelihoods. The Customary Law Communities Bill is increasingly important as a critical step, as it includes provisions for protecting customary land rights—which are frequently subject to conflict and forced evictions in the context of development. This bill is essential to ensure that their culture, lan-

guage, and customs are preserved and respected, thereby supporting their role as stewards of the natural environment. Moreover, ensuring that Indigenous Peoples have equal access to basic services, economic opportunities, and participation in decisions that affect their lives fulfills Indonesia's commitment to human rights standards and empowers cultural diversity and local wisdom as valuable national assets.

Indonesia must immediately enact special legislation related to Indigenous Peoples, thereby providing a legal framework for the protection of customary rights. By adopting strong and sustainable laws concerning Indigenous Peoples, Indonesia will not only secure the protection of their rights but also build a more inclusive and sustainable foundation for national development. This is a strategic step to maintain both cultural and environmental sustainability, and to ensure that every citizen, including Indigenous Peoples, can live with dignity and prosper in accordance with democratic values and social justice.

Numerous conflicts persist among customary law communities due to the non-finalization of the draft law on customary law communities. These conflicts predominantly occur between the customary law communities themselves and the government, which is responsible for protecting their rights. Although the state constitution—specifically Article 18B, paragraph (2) and Article 28I, paragraph (3) of the 1945 Constitution—along with several other laws and regulations, recognizes and respects the existence of customary law communities in accordance with the principles of the unitary state of the Republic of Indonesia, the current legislation appears to be overlapping, unsynchronized, and fragmented. In reality, some laws merely display articles that are seldom applied. The existence of customary law communities in Indonesia is critically at risk if the draft law on customary law communities remains incomplete. The cultural heritage inherited from these communities and environmental sustainability will be threatened with extinction if its ratification is continually postponed. To ensure that customary law communities fully experience their rights as human beings, the draft law on customary law communities must be ratified immediately.

References

Journal Articles and Conference Proceedings

Adha, M. M., & Susanto, E. (2020). Kekuatan nilai-nilai Pancasila dalam membangun keprabedian masyarakat Indonesia. *Al-Adabiya: Jurnal Kebudayaan dan Keagamaan*, 15(1), 121–138. <https://doi.org/10.37680/adabiya.v15i01.319>

Asriany, A. (2014). Kearifan lokal dalam pemeliharaan kerbau lokal di Desa Randan Batu Kabupaten Tana Toraja. *Nutrisi dan Makanan Ternak*, 12(2), 64–72.

Darmastuti, R., Bajari, A., Martodirdjo, H. S., & Maryani, E. (2016). Gethok tular, pola komunikasi gerakan sosial berbasis kearifan lokal masyarakat Samin di Sukolilo. *Jurnal ASPIKOM*, 3(1), 104. <https://doi.org/10.24329/aspikom.v3i1.103>

Esfendi, M., Sahrul, M., & Salma, S. (2020). Nilai kearifan lokal tradisi Manugal masyarakat Dayak Meratus Kalimantan Selatan pada materi geografi bidang lingkungan hidup (Kajian etnografi). *PADARINGAN (Jurnal Pendidikan Sosiologi Antropologi)*, 2(2), 260. <https://doi.org/10.20527/padaringan.v2i2.2158>

Elfira, M. (2013). Model kepemimpinan berbasis kearifan lokal di Minangkabau dan Bugis. In *Proceedings of the 5th International Conference on Indonesian Studies: "Ethnicity and Globalization"* (pp. 15–26).

Ernawati, & Baharudin, E. (2019). Dinamika masyarakat hukum adat dalam sistem ketatanegaraan di Indonesia. *Hukum dan Keadilan*, 6(2), 53–67. Retrieved from <https://ejurnal.stih-painan.ac.id/index.php/jihk/article/view/63>

Febriyanto, D., Nurjana, K., Anista, E., & Mardiansyah, D. (2021). Kearifan lokal dalam Hikayat Komering Pitu Phuyang. *Diglosia: Jurnal Kajian Bahasa, Sastra, dan Pengajarannya*, 4(3), 321–334. <https://doi.org/10.30872/diglosia.v4i3.227>

Ferry, D., & Ramadani. (2021). Local wisdom community in efforts to conserve indigenous forests of Nenek Lino Hiang Tinggi and Nenek Empat Betung Kuning in Kerinci District. *Jurnal Hutan dan Masyarakat*, 13(1), 30–48. <https://doi.org/10.24259/jhm.v13i1.11163>

Haq, I., Ibrahim, & Tiro, S. (2022). Artikulasi dan revitalisasi kultur natur masyarakat adat (Kajian atas resilensi masyarakat adat saat pandemi di dataran tinggi Kabupaten Gowa). *Sosio religius: Jurnal Ilmiah Sosiologi Agama*, 7(1), 43–67. <https://doi.org/10.24252/sosio religius.v7i1.30715>

Hastuti, E., Julianti, D., Erlangga, D., & Oswari, T. (2013). Kearifan lokal sosial budaya masyarakat Minang. In *Proceeding PESAT* (p. 8–9).

Joko, & Tri Haryanto. (2014). Kearifan lokal pendukung kerukunan beragama pada komunitas Tengger Malang, Jatim: Local wisdom supporting religious harmony in Tengger community, Malang, East Java, Indonesia. *Jurnal Analisa*, 21, 201–213.

Julranda, R., Siagian, M. G., & Zalukhu, M. A. P. (2022). Pembangunan hukum nasional dalam rancangan Undang-Undang Masyarakat Hukum Adat. *Jurnal Crepido*, 04(02), 171–183.

Karsudjono, A. J., Huda, I. U., Risanta, M., Munir, A., Rahayu, L., & Fatih, H. M. (2023). Bahu huma as local wisdom of the Dayak Meratus indigenous community to form people-centered economic independence, 4(2), 21–25.

Kasitowati, R. D. (2011). Sandeq dan roppo: Kearifan lokal suku Mandar pesisir, Sulawesi Barat. *Sabda: Jurnal Kajian Kebudayaan*, 6(1), 63. <https://doi.org/10.14710/sabda.v6i1.13305>

Ketti, N. C. (2021). Peranan kearifan lokal papadak dalam pengelolaan pesisir dan laut di Desa Nggodimeda dan Desa Siomeda, Kecamatan Rote Tengah. *Jurnal Pengelolaan Lingkungan Berkelanjutan (Journal of Environmental Sustainability Management)*, 4(2), 513–527. <https://doi.org/10.36813/jplb.4.2.513-527>

Kurniati, A., Kudus, I., Marwah, M., & Hartati, H. (2020). Pembelajaran kearifan lokal pakaian adat suku Buton bagi anak usia dini. *Jurnal Obsesi: Jurnal Pendidikan Anak Usia Dini*, 5(2), 1101–1112. <https://doi.org/10.31004/obsesi.v5i2.737>

Laike, R. J. (2019). Problematika pengakuan hukum terhadap hak ulayat masyarakat hukum adat.

Hibualamo: Seri Ilmu-Ilmu Sosial dan Kependidikan, 3(1), 23–30.

Lamusu, S. A. (2020). Kearifan lokal dalam sastra lisan Tuja'I pada upacara adat pinangan masyarakat Gorontalo. *Litera*, 19(3), 505–520. <https://doi.org/10.21831/ltr.v19i3.32400>

Lubis, M. A. (2020). Revitalisasi nilai-nilai kearifan lokal masyarakat hukum adat Batak Toba dalam melindungi eksistensi Danau Toba di mata dunia (Kajian hukum progresif). *Jurnal Dharma Agung*, 27(3), 1234. <https://doi.org/10.46930/ojsuda.v27i3.607>

Mahdi, I., Miinuddin, M., & Mike, E. (2019). Mengaktualisasikan kearifan lokal suku Rejang Bengkulu dalam Peraturan Daerah (Perda). In *International Seminar on Islamic Studies, IAIN Bengkulu* (pp. 154–162).

Mandiri, M. S., Trawocoadji, F. D., & Al Jibran, F. A. (2023). Urgensi Undang-Undang tentang Masyarakat Hukum Adat. *Civilia: Jurnal Kajian Hukum dan Pendidikan Kewarganegaraan*, 2(3), 210–220.

Manurat, N. E., Boham, A., & Harilama, S. H. (2015). Makna pesan adat Mandullu'u'tonna sebagai kearifan lokal masyarakat Sangihe dan Talaud (Studi pada masyarakat Kecamatan Melonguane, Kabupaten Kepulauan Talaud). *Acta Diurna*, 3(3), 1–10.

Maylinda, E. (2021). Pembangunan pariwisata berkelanjutan berbasis kearifan lokal di Desa Adat Osing, Kabupaten Banyuwangi, Provinsi Jawa Timur. In *Fakultas Politik Pemerintahan* (pp. 1–14).

Muhlisin, M., Ulumi, H. F. B., & Humaeni, A. (2017). Kebijakan pemerintah daerah dalam perlindungan masyarakat adat di Provinsi Banten: Studi kasus masyarakat adat Baduy dan Citorek. *Jurnal Kebijakan Pembangunan Daerah*, 1(1), 27–44. <https://doi.org/10.37950/jkpd.v1i1.4>

Munandar, A., Noer, M., Erwin, E., & Syahni, R. (2022). Keragaman bentuk kearifan lokal masyarakat suku Mentawai di kawasan wisata bahari Pulau Siberut. *Menara Ilmu*, 16(1), 1–10. <https://doi.org/10.31869/mi.v16i1.3243>

Muslih, M., & Rayhan, A. (2023). The role of Baduy women in strengthening Baduy local food as an innovation for food security in the Banten region. *Unram Law Review*. Retrieved from <http://www.unramlawreview.unram.ac.id/index.php/ulrev/article/view/247>

Niman, E. M., Tapung, M. Mantovani, Ntelok, Z. R. E., & Darong, H. C. (2023). Kearifan lokal dan upaya pelestarian lingkungan air: Studi etnografi masyarakat adat Manggarai, Flores, Nusa Tenggara Timur. *Paradigma: Jurnal Kajian Budaya*, 13(1), 1–16. <https://doi.org/10.17510/paradigma.v13i1.1160>

Pajriah, S., Muin, A., Yahya, A. N., & Janan, S. N. (2020). Model pendidikan nilai berbasis kearifan lokal pada masyarakat penganut kepercayaan Sunda Wiwitan untuk meningkatkan karakter siswa. *Jurnal Wahana Pendidikan*, 7(1), 103. <https://doi.org/10.25157/wa.v7i1.3272>

Pohan, M. N. (2018). Hukum adat Sumatera Utara dalam yurisprudensi di Indonesia. *Doktrina: Journal of Law*, 1(1), 1. <https://doi.org/10.31289/doktrina.v1i1.1607>

Prameswari, S. I., M. I. A., & Rifanjani, S. (2020). Kearifan lokal masyarakat adat Dayak Hibun dalam melestarikan hutan Teringkang di Dusun Beruak, Desa Gunam, Kecamatan Parindu, Kabupaten Sanggau. *Jurnal Hutan Lestari*, 7(4), 1668–1681. <https://doi.org/10.26418/jhl>

Putra, C. G. B., & Muliati, N. K. (2020). Spirit kearifan lokal Bali dalam akuntabilitas Desa Adat. *Jurnal Akuntansi Multiparadigma*, 11(3), 561–580. <https://doi.org/10.21776/ub.jamal.2020.11.3.32>

Rayhan, A., & Pramesty, W. A. (2023). Implementasi terhadap Minamata Convention on Mercury di Indonesia (Studi kasus mengenai pencemaran merkuri dan arsen di Teluk Buyat). *Tirtayasa Journal of International Law*, 2(1), 55. <https://doi.org/10.51825/tjil.v2i1.19111>

Rayhan, A., Taqiyya, S., & Safitriana, R. (2023). Kewenangan PTUN mengadili kasus fiktif positif perizinan pertambangan (Studi kasus Putusan No. 4/P/FP/2020/PTUN.PL). *Jurnal PLREV*, 1(2), 95–107. <https://doi.org/10.59605/plrev.v1i2.565>

Renanda, S. E., & R. M. S. (2024). Relevansi hukum adat dalam perkembangan hukum nasional pada era modern. *Jurnal Hukum dan Kewarganegaraan*, 3(7).

Sabardi, L. (1945). Konstruksi makna yuridis masyarakat hukum adat dalam Pasal 18B UUDN RI tahun 1945 untuk identifikasi adanya masyarakat hukum adat. In *Sabardi 1*.

Saswoyo, A. B., & Pura, M. H. (2023). Urgensi pengundangan rancangan Undang-Undang Masyarakat Hukum Adat sebagai bentuk kesetaraan warga negara. *Jurnal Suara Hukum*, 5(1), 19–43.

Sukmadi, S., Kasim, F., Simatupang, V., Goeltom, A. D. L., & Saftara, I. (2020). Strategi pengembangan wisata berbasis kearifan lokal pada Desa Wisata Pagerharjo, Kecamatan Samigaluh, Kabupaten Kulon Progo, Yogyakarta. *Masyarakat Pariwisata: Journal of Community Services in Tourism*, 1(1), 1–12. <https://doi.org/10.34013/mp.v1i1.356>

Supriyadi, S., Gunawan, J., & Nurmadiyah, N. (2023). Upaya AMAN Sumbawa dalam peningkatan kesejahteraan masyarakat hukum adat di Sumbawa melalui BUMMA. *JIIP - Jurnal Ilmiah Ilmu Pendidikan*, 6(2), 1158–1163. <https://doi.org/10.54371/jiip.v6i2.1566>

Suwarno, S., Wibisono, D., & Syah, P. (2022). Makna dan fungsi nilai kekerabatan pada masyarakat adat Lampung Saibatin Marga Legun, di Desa Bulok, Kecamatan Kalianda, Kabupaten Lampung Selatan. *Sosiologi: Jurnal Ilmiah Kajian Ilmu Sosial dan Budaya*, 24(2), 290–323. <https://doi.org/10.23960/sosiologi.v24i2.341>

Suwartiningbih, S., & Samiyono, D. (2014). Harmoni sosial: Kearifan lokal masyarakat Nias. *Jurnal Societas Dei*, 1(1), 235–269. Retrieved from http://id.wikipedia.org/wiki/Suku_Nias

Tobroni, F. (2016). Menguatkan hak masyarakat adat atas hutan adat (Studi Putusan MK Nomor 35/PUU-X/2012). *Jurnal Konstitusi*, 10(3), 461. <https://doi.org/10.31078/jk1035>

Triningsih, A. (2013). Hak konstitusional masyarakat hukum adat dalam judicial review Undang-Undang Perkebunan. *Hak*, 18(3), 203–217.

Tumbel, Z. (2020). Perlindungan hukum terhadap hak-hak budaya masyarakat adat dalam perspektif hukum hak asasi manusia. *Lex Et Societatis*, 8(1), 5–14. <https://doi.org/10.35796/les.v8i1.28466>

Usfunan, J. Z., & Yustus Pondayar. (2022). Nilai-nilai kearifan lokal dalam masyarakat adat dalam pemilihan legislatif di Papua. *Japhtn-Han*, 1(2), 277–289. <https://doi.org/10.55292/japhtn->

han.v1i2.53

Usop, L. S. (2020). Peran kearifan lokal masyarakat Dayak Ngaju untuk melestarikan pahewon (hutan suci) di Kalimantan Tengah. *Enggang: Jurnal Pendidikan, Bahasa, Sastra, Seni, dan Budaya*, 1(1), 89–95. <https://doi.org/10.37304/enggang.v1i1.2465>

Widyakusuma, A., & Arief, R. (2023). Kajian nilai budaya tradisi pada arsitektur bangunan adat Jawa Bangsal Kencono Keraton Yogyakarta. *Jurnal Trave*, XXVII(1), 1–11.

Yadi Ruyadi. (2010). Model pendidikan karakter berbasis kearifan budaya lokal (Penelitian terhadap masyarakat adat Kampung Benda Kerep, Cirebon, Provinsi Jawa Barat untuk pengembangan pendidikan karakter di sekolah). In *Proceedings of the 4th International Conference on Teacher Education; Join Conference UPI & UPSI, November* (pp. 576–594). Retrieved from [http://file.upi.edu/Direktori/PROCEEDING/UPI-UPSI/2010/Book_3/MODEL_PENDIDIKAN_KARAKTER_BERBASIS_KEARIFAN_BUDAYA_LOKAL_\(Penelitian_terhadap_Masyarakat_Adat_Kampung_Benda_Kerep_Cirebon_Provinsi_Jawa_Barat_untuk_Pengembangan_Pendidikan_Karakter_di_Sekolah\)](http://file.upi.edu/Direktori/PROCEEDING/UPI-UPSI/2010/Book_3/MODEL_PENDIDIKAN_KARAKTER_BERBASIS_KEARIFAN_BUDAYA_LOKAL_(Penelitian_terhadap_Masyarakat_Adat_Kampung_Benda_Kerep_Cirebon_Provinsi_Jawa_Barat_untuk_Pengembangan_Pendidikan_Karakter_di_Sekolah))

Zuhdi, M. H. (2018). Kearifan lokal suku Sasak sebagai model pengelolaan konflik di masyarakat Lombok. *Mabasan*, 12(1), 64–85. <https://doi.org/10.26499/mab.v12i1.34>

Legal and Government Documents

Undang-Undang Dasar Negara Republik Indonesia Tahun 1945.

TAP MPR No. IX/2001 tentang Pembaharuan Agraria dan Pengelolaan Sumber Daya Alam.

Undang-Undang Nomor 5 Tahun 1960 tentang Pokok-Pokok Agraria.

Undang-Undang Nomor 7 Tahun 2004 tentang Sumber Daya Air.

Undang-Undang Nomor 6 Tahun 2014 tentang Peraturan Daerah.

Undang-Undang Nomor 32 Tahun 2009 tentang Perlindungan dan Pengelolaan Lingkungan Hidup.