

## The role of Customary Law in Environmental Conservation: A Case Study on Dayak Indigenous Peoples

Hendri Khuan<sup>1</sup>, Revi Sesario<sup>2</sup>, Andi Kurniawan<sup>3</sup>

<sup>1</sup> Universitas Borobudur

<sup>2</sup> Politeknik Negeri Pontianak

<sup>3</sup> Politeknik Ilmu Pemasarkatan

Email: [hendri.khuan@gmail.com](mailto:hendri.khuan@gmail.com)<sup>1</sup>

[revi.sesario@gmail.com](mailto:revi.sesario@gmail.com)<sup>2</sup>

[akatigatujuh@gmail.com](mailto:akatigatujuh@gmail.com)<sup>3</sup>

Entered : December 20, 2024

Accepted: January 15, 2025

Revised : December 28, 2024

Published : January 31, 2025

### ABSTRACT

*This research examines the role of Dayak customary law in environmental conservation, focusing on sustainable natural resource management. It explores how practices such as land-use restrictions, sacred forest protection, and conservation rituals contribute to ecosystem preservation. The study also identifies conflicts between customary law and national policies, particularly regarding land tenure and resource exploitation by industries. Using a normative legal approach, the research analyzes Indonesia's legal framework, including the 1945 Constitution, the Forestry Law, and the Environmental Protection Law. Through case studies in Kalimantan, the study highlights the effectiveness of these practices in conserving the environment. The findings indicate that while customary law plays a crucial role in conservation, its potential is hindered by insufficient recognition and alignment with national laws. The study recommends enhancing the formal recognition of customary law through clearer legal frameworks, improving collaboration with local governments, and providing capacity-building programs for indigenous communities to ensure sustainable resource management.*

**Keywords:** Dayak customary law, environmental conservation, indigenous rights

### INTRODUCTION

In recent decades, the decline in Environmental Quality has become increasingly worrying due to the uncontrolled exploitation of Natural Resources. Deforestation, water pollution, and the destruction of ecosystems are serious challenges that threaten the preservation of nature. If left unchecked, this can negatively affect not only the environment but also human life in the future. Therefore, environmental conservation and preservation efforts are becoming very urgent to ensure the balance of ecosystems and the availability of resources for future generations. Indigenous peoples have a crucial role in preserving the environment through local wisdom that is passed down from generation to generation. This wisdom has proven effective in maintaining ecosystem balance and managing natural resources sustainably. In many Indigenous communities, customary law contains strict rules regarding land use, tree felling, and forest protection. Through this practice, Indigenous Peoples contribute significantly to conservation efforts, creating harmony between people and nature.

Customary law has an important role in environmental conservation efforts, especially through recognition given both at the national and international levels. In



Indonesia, the recognition of customary law is reflected in Article 18b Paragraph 2 of the 1945 Constitution which affirms that the state respects and recognizes the rights of indigenous peoples as long as they are alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia. This recognition is reinforced by various laws, such as Law No. 32 of 2009 on Environmental Protection and Management, which recognizes local wisdom as part of environmental conservation efforts. At the international level, the UN Declaration on the rights of Indigenous peoples (UNDRIP) affirms the importance of protecting the rights of indigenous peoples in managing natural resources as an integral part of the sustainability of global ecosystems. In the hierarchy of national laws, customary law is recognized as part of the legitimate legal system, provided that it does not contradict the laws of the country. Customary law has a position as a living law in society and is recognized by the state as part of the applicable sources of law. Through local regulations (Perda), local governments have a role in strengthening and protecting the rights of indigenous peoples to environmental management and conservation. This regulation becomes a legal instrument that integrates local values into national environmental policies, thus creating a synergy between customary law and positive law in preserving nature.

Dayak people are known to have a strong local wisdom in preserving nature through customary law that is passed down from generation to generation. Dayak customary principles regulate hunting, agriculture, and forest management procedures with regard to ecosystem balance. One example is the practice of "Tana' Ulen", which is a forest area that is protected by custom and should only be used under certain conditions, such as traditional ceremonies or disasters. In addition, traditional rituals such as "Ngayau" and "Pamali" serve as social and spiritual mechanisms that strengthen the harmonious relationship between humans and nature (Colfer et al., 2019). Customary sanctions, ranging from fines to social prohibitions, are imposed on anyone who violates customary rules related to the exploitation of nature, thus preventing environmental damage (Mulyoutami et al., 2021). However, the implementation of Dayak customary law often faces challenges when it meets with national policies that permit the exploitation of Natural Resources. This unsynchronization is seen in the case of clearing forest land for plantations and mining, which often clashes with sacred areas or protected indigenous territories (Peluso & Vandergeest, 2020). This conflict is further exacerbated by industrial interests and modernization that often ignore the rights of Indigenous Peoples. Nevertheless, the Dayak people continue to strive to maintain customary law as part of their identity and way of life, despite the pressures of social and economic change (Yasmi et al., 2018). One of the major challenges in environmental conservation is the legal gap between customary and positive law in Indonesia. Although customary law has an important role in natural resource management and environmental conservation, the limitations of positive law in formally integrating customary law are often obstacles. State law tends to place more emphasis on rules that are universal and standardized, while customary law is more contextual and tied to local wisdom that applies in a particular community. As a result, indigenous peoples are often marginalized in environmental policies that do not accommodate their local practices that have been shown to be effective in preserving nature (Henderson, 2017).

One of the main theories underlying this research is the concept of "living law" or the law of living in society. This concept proposes that customary law is not only a written regulation, but also a set of values, norms and practices that develop in the daily lives of indigenous peoples. Customary law, although not recorded in the form of formal laws, has legal force recognized by society and serves to regulate social life, including in the management of Natural Resources and environmental conservation. This concept

explains why customary law still plays an important role in maintaining the sustainability of ecosystems, although it often intersects with positive laws in force in the country (Erlien, 2015). At the national level, law No. 32 of 2009 on Environmental Protection and management regulates the importance of Environmental Conservation and sustainable management of Natural Resources. The articles in this law provide a legal basis for Indigenous peoples to play a role in environmental management, although their implementation still faces challenges in terms of formal recognition of indigenous territories. In addition, this law also encourages the need for collaboration between governments, communities, and the private sector in safeguarding threatened ecosystems. Other regulations that support the recognition of Indigenous Peoples' Rights in environmental management, such as Government Regulation No. 60 of 2009 on the protection of customary forests, became an important cornerstone in the national legal framework governing the management of forests and customary territories. At the regional level, international instruments such as the United Nations Declaration on the rights of Indigenous peoples (UNDRIP) also provide a legal basis recognizing the rights of indigenous peoples to their natural resources, as well as their role in ecosystem conservation (Anaya, 2014).

The Dayak indigenous peoples of Indonesia employ customary laws and traditional practices to conserve their forest environments. These laws, rooted in ancient beliefs and values, regulate resource use and protect natural areas (Usop & Rajiani, 2021; Iskandar et al., 2022). The Dayak create diverse land use systems, including swidden agriculture, mixed orchards, and community forest reserves, governed by customary institutions (Crevello, 2003). Specific practices like *nyanggar*, *manyu buah*, and *nitot tanom* help manage and protect forests (Iskandar et al., 2022). While these customary laws often complement national legislation, challenges arise in harmonizing them with broader legal frameworks, particularly regarding land tenure conflicts (Burhanuddin et al., 2024). Recognizing and incorporating customary law into forest governance can lead to more effective and sustainable conservation approaches, requiring collaboration between government agencies, indigenous communities, and civil society organizations (Burhanuddin et al., 2024). This integration of traditional knowledge with national policies is crucial for balancing economic activity, conservation goals, and indigenous lifestyles (Crevello, 2003).

This study aims to analyze the role and effectiveness of Dayak customary law in environmental conservation, especially in the sustainable management of Natural Resources. The main objective of this study is to examine how customary law can contribute to the preservation of ecosystems, as well as identify challenges and potential conflicts that arise between customary law and national policies. In addition, this study aims to provide recommendations on strengthening the recognition of customary law in the national legal system, taking into account the principles of local wisdom that can support environmental conservation. It is hoped that the results of this study can provide insights for the government, Indigenous peoples, and related parties to create more inclusive and sustainable policies in natural resource management.

## **METHODS**

This study uses normative juridical approach to analyze the role of Dayak customary law in Environmental Conservation. With this approach, the research will focus on the study of legislation, relevant legal documents, as well as related literature to understand how customary law is integrated in the national legal system and how it affects the sustainable management of Natural Resources. In this study, the data used consisted of three main categories. Primary legal materials include various laws and

regulations, such as the 1945 Constitution, Law No. 32 of 2009 on Environmental Protection and Management, Law No. 41 of 1999 concerning Forestry, and local regulations (Perda) governing the rights of Dayak Indigenous Peoples. Secondary legal materials consist of books, journals, and scientific articles that discuss customary law and environmental conservation, including previous studies that examined the local wisdom of the Dayak people in protecting the environment. While tertiary law materials include legal dictionaries, legal encyclopedias, and other academic references that are used to explore basic concepts in customary law and legal theory.

This study uses several approaches in data analysis. The Statute Approach is used to analyze various regulations and policies governing the recognition and protection of customary law in Environmental Conservation. Conceptual Approach will be used to examine the concepts of customary law, local wisdom, and its application in environmental conservation through existing legal theories, as well as case studies on the Dayak community. In addition, the Case Study Approach will examine the implementation of Dayak customary law in environmental management, making it a concrete example to understand the effectiveness of customary law in practice. The study begins with the collection of legal data, where the researcher will collect various regulations, Court decisions, and related policies relevant to customary law and environmental conservation. Furthermore, a comparative analysis was carried out between Dayak customary law and positive law in force in Indonesia to see the harmony and differences between the two. Legal interpretation will be conducted to understand the role of Dayak customary law in Environmental Conservation. Finally, the researcher will draw conclusions and recommendations related to strengthening the role of customary law in environmental conservation based on the results of the analysis.

The main focus of this study is the role of Dayak customary law in environmental management and conservation, by analyzing how the customary law is applied in preserving natural resources. The limitation of the study is that this research is normative and does not include field research directly on the Dayak community. The focus of this study is only on legal aspects regulated in legislation, as well as relevant legal theories in the context of customary law.

## **RESULTS**

This study shows that customary law has a very significant role in the management and preservation of Natural Resources. Indigenous peoples, such as the Dayaks, have long adopted Indigenous practices that are effective in maintaining the balance of their ecosystems, such as limiting overexploitation and wise use of Natural Resources. For example, many Indigenous peoples have strict rules regarding the use of forests, where they prohibit the indiscriminate cutting of trees and regulate the use of land for agriculture and hunting. These practices have proven successful in preserving the environment for centuries. However, even though customary law is recognized as part of local wisdom, there is a significant gap between the recognition of customary law at the national level and implementation on the ground. Many national policies focus more on economic-based management of natural resources, often ignoring Indigenous values that have long been implemented by Indigenous Peoples. This slows down conservation efforts because Indigenous peoples often do not receive sufficient recognition or protection to carry out their conservation practices. This gap shows the need for harmonization between customary law and state law to support sustainable environmental preservation.

The significant gap between the recognition of customary law at the national level and implementation on the ground is one of the major challenges in strengthening the

role of customary law in Environmental Conservation. Although customary law is recognized in various national legal instruments, such as Article 18b Paragraph 2 of the 1945 Constitution which recognizes the existence of customary law communities, real implementation on the ground often encounters obstacles. One of the causes is the discrepancy between national policies that are more oriented to economic interests, such as natural resource management and industrial licensing, with the principles of local wisdom held by Indigenous Peoples. In many cases, indigenous territories that should have been protected and managed by indigenous peoples have been displaced by large-scale projects such as mining, plantations, or infrastructure development. This creates tension between customary law that is based on sustainability and government policies that are more concerned with short-term benefits. This gap hinders the effective application of customary law in environmental management, while Indigenous peoples remain in difficulty in defending their rights to their land and Natural Resources.

The resulting gap between the recognition of customary law at the national level and implementation on the ground creates a range of negative impacts, both for Indigenous peoples and for Environmental Conservation. One of the main results is that the sustainability of customary law-based conservation practices is threatened, due to national policies that often favor large industries or the economic interests of the state. Indigenous peoples, despite having proven effective nature management systems, are forced to face eviction from their indigenous territories to make way for development projects, such as plantations or mining. This not only harms Indigenous peoples in terms of land rights and natural resources, but also destroys ecological systems that they have maintained for centuries. In addition, the hindrance in the implementation of customary law in the field also causes legal uncertainty. Indigenous peoples often do not have sufficient channels to fight for their rights, as their customary law is not fully recognized in the legal system of the state. This causes them to be more vulnerable to unsustainable exploitation of Natural Resources and potentially damaging local ecosystems. On the other hand, the inconsistency between customary law and government policy creates social tensions, which can worsen relations between Indigenous peoples and governments, and add to the challenges of creating inclusive and sustainable environmental policies.

Research shows that customary sanctions play an important role in enforcing conservation rules in Indigenous communities. Sanctions such as fines, customary rituals, and environmental remediation have proven effective in ensuring communities comply with existing rules, as well as preserving their environment. For example, in Dayak society, violations of customary rules, such as indiscriminate cutting of trees or damaging forest ecosystems, are often punished with customary rituals that involve symbolic recovery of the damage that has been done. The sanctions are not only punitive, but also educate people to return to respect and preserve their nature. In addition, customary sanctions serve as a driver of collective consciousness in society. This is because customary rules apply not only to individuals, but also to groups, which encourages the active participation of the entire community in maintaining the balance of the ecosystem. Indigenous peoples tend to view violations of conservation rules not just as individual errors, but as violations of shared norms and values that involve the well-being of entire communities. Therefore, the application of customary sanctions in the context of conservation also creates a sense of shared responsibility that strengthens collective awareness in safeguarding and conserving natural resources.

Conflicts between customary law and national policy often arise due to the inconsistency between national policies that focus more on economic-based natural resource management with customary rules that prioritize environmental sustainability.

Government policies that tend to prioritize the exploitation of natural resources for economic interests, such as mining, plantations, and industry, often clash with conservation principles held by Indigenous Peoples. Indigenous rules, which have existed for centuries, emphasize the importance of maintaining ecosystem balance, preventing environmental damage, and preserving the sustainability of natural resources for future generations. When government policies support unsustainable exploitation, indigenous peoples feel that their rights to their land and natural resources are being ignored. The cases in Kalimantan are a clear example of overlapping land tenure between industrial companies and indigenous territories. Often, large companies granted concessions to clear land for oil palm plantations or mining are in direct conflict with areas that have long been inhabited and managed by indigenous peoples, such as customary forest areas. This led to tensions between Indigenous peoples and the industry, as Indigenous Peoples felt their territories were threatened and their rights were not respected. These tensions often lead to social conflict, with Indigenous peoples struggling to maintain their customary land rights, while industries are encouraged by government policies to continue their economic activities.

The government has a very important role in strengthening the recognition of customary law, especially by making regulations that support the sustainability of customary law in natural resource management and environmental conservation. One of the steps that can be taken is the registration of customary territories that give official recognition to the rights of indigenous peoples to their land and Natural Resources. In addition, local regulations (Perda) that regulate environmental management based on Indigenous peoples' local wisdom also need to be strengthened to protect indigenous territories from the threat of unsustainable exploitation of Natural Resources. Through this regulation, the government can create a legal basis that allows Indigenous peoples to continue to preserve their nature in accordance with the traditions and rules that exist in customary law. In addition, the government is also expected to play an active role in resolving conflicts between Indigenous peoples and the industrial sector, which often result from overlapping land tenure and differences in interests between environmental conservation and economic development. The government can act as a mediator between the two sides, devise more inclusive policies, and ensure a constructive dialogue to find solutions that benefit all parties. This inclusive policy is expected to strengthen cooperation between Indigenous peoples, the government, and the industrial sector, so that a balance between economic development and environmental conservation can be achieved.

The empowerment of indigenous peoples in environmental management has a very important role in improving conservation effectiveness. Training programs and capacity building of Indigenous Peoples on sustainable forest management are strategic steps that can strengthen the ability of communities to preserve their nature. With increased knowledge of conservation principles based on local wisdom and environmentally friendly natural resource management techniques, indigenous peoples can optimize their forest management practices that have been carried out for generations. This not only helps reduce environmental damage, but also ensures the sustainability of the ecosystems that support their lives.

Indigenous peoples who are empowered with relevant knowledge and skills in environmental management have the ability to better preserve ecosystems. They not only rely on existing customary rules, but can also integrate modern knowledge regarding sustainability and climate change into their practice. With this capability, Indigenous Peoples become better prepared to face global challenges that threaten their environment, such as deforestation, climate change, and land degradation. This

empowerment also gives them confidence and control over their customary territories, as well as strengthening their position in fighting for the rights to the natural resources they manage. Collaboration between Indigenous peoples, environmental NGOs, and the government has proven to improve the success of conservation efforts based on customary law. This partnership creates space for the integration of local wisdom in broader national policies, so that environmental management policies not only refer to technocratic and economic aspects, but also take into account local values that have long been proven effective in maintaining ecosystem balance. With the involvement of various parties, this collaboration enables the creation of more comprehensive and sustainable solutions for Natural Resource Management, which recognize and strengthen the role of indigenous peoples as Guardians of the environment.

The collaborative approach also allows stakeholders to work together to address challenges, such as land management conflicts and differing views on Natural Resource Management. This collaboration provides a platform for constructive dialogue between Indigenous peoples and the industrial sector, as well as between governments and NGOs, to seek equitable and sustainable solutions for all parties. Through this synergy, a deeper understanding of the importance of diversity in conservation can be created, while reducing tensions that often arise due to differences in interests. This multi-stakeholder approach also strengthens conservation sustainability by basing policy on practical experience and proven local wisdom.

## **DISCUSSION**

### **Analysis of the recognition of customary law in the National Legal System**

Recognition of customary law in Indonesia has a strong constitutional basis, especially in Article 18b Paragraph 2 of the 1945 Constitution which recognizes the unity of indigenous peoples and their rights. This article is an important cornerstone in the recognition of indigenous peoples' rights to territory and Natural Resource Management. In addition, Law No. 41 of 1999 on forestry also recognizes the existence of customary forests and gives the right to manage them to Indigenous Peoples. This shows that customary law has room to be recognized and protected within the national legal framework, especially in terms of forest management and sustainable use of Natural Resources.

### **Harmonization of Customary Law with National Environmental Law**

UU No. 32 of 2009 on Environmental Protection and management creates a legal framework that supports environmental conservation in Indonesia. However, challenges arise in harmonizing customary law with National Environmental Law. Customary laws governing nature management often clash with government policies regarding the exploitation of Natural Resources. Nevertheless, customary law can contribute to the implementation of Law No. 32 of 2009 at the local level, especially in terms of management of protected areas, customary forests, and sustainable practices that are in line with environmental conservation goals. Integration between customary law and National Environmental Law can create a more holistic and sustainable management model.

### **Regional regulation (Perda) as an instrument of strengthening customary law**

At the regional level, local regulations (Perda) play an important instrument in strengthening the recognition of customary law. In Kalimantan, for example, several local regulations have been drafted to regulate the rights of indigenous peoples in environmental conservation, such as customary forest management and environmentally friendly use of Natural Resources. This Perda is an important step in ensuring that the rights of indigenous peoples are protected and accommodated in local government

policies, thus enabling collaboration between customary law and positive law in Environmental Management (Cahyadi & Aziz, 2020). In Kalimantan, a number of local regulations (Perda) have been drafted to provide recognition and protection of the rights of Indigenous Peoples, particularly in terms of Environmental Management and conservation. One example is the Kutai Kartanegara regional Regulation No. 7 of 2014 on Natural Resource Management and Environmental Protection. This local regulation explicitly recognizes the right of indigenous peoples to manage their customary forests, including involving them in decision-making regarding the use and preservation of Natural Resources. It also recognizes Indigenous practices that have proven effective in preserving ecosystems, such as limiting land clearing and the wise use of forest products. In addition, Berau Regency Regulation No. 9 of 2017 also regulates the recognition of customary forests and the rights of indigenous peoples in Forest Management, which become conservation areas for Indigenous peoples. This regulation includes rules that require parties planning to exploit natural resources to obtain prior approval from indigenous peoples who have rights to the territory. With this regulation, indigenous peoples are not only involved in the management of customary forests, but are also protected from the threat of exploitation that damages their ecosystems. The two regional regulations show concrete steps by local governments in Kalimantan in recognizing and strengthening the role of indigenous peoples in environmental conservation, while providing a strong legal basis to protect their rights in maintaining the balance of nature. Although challenges for implementation on the ground still exist, these regulations are a positive example that can be adopted by other regions to encourage the integration of customary law in environmental conservation policies.

#### **Mechanisms and principles of Dayak customary law in Environmental Conservation; customary rules on Natural Resource Management**

Dayak customary law has very strict rules related to the management of Natural Resources, which aims to maintain the balance of the ecosystem and prevent environmental damage. One of the main principles is the Prohibition of overexploitation, such as the Prohibition of indiscriminate cutting down of trees or uncontrolled hunting of animals. Dayak Indigenous people believe that actions that damage nature will have bad consequences for their welfare. In addition, the customary zoning system is implemented to maintain ecosystem balance, which divides forests into several categories, such as sacred forests that should not be disturbed, and production forests that can be used in a limited and sustainable manner. This zoning allows Indigenous peoples to manage natural resources wisely and prevent wider environmental damage.

#### **Customary sanctions as a form of Law Enforcement**

Customary Sanctions Act as a law enforcement tool to ensure that customary rules regarding environmental conservation are respected. The form of this sanction can vary, ranging from customary fines, which are payments in kind or in money, to traditional rituals that must be carried out by violators to cleanse themselves and restore harmony with nature. In addition, the restoration of the environment can also be a form of sanction, in which violators are obliged to repair the damage they have caused, for example by replanting trees that have been cut down illegally. The effectiveness of these customary sanctions is evident in maintaining the community's adherence to conservation rules, as violations of customary law not only lead to social sanctions, but are also considered to bring spiritual disaster to violators and their communities.

#### **The role of Indigenous leaders and institutions**

Traditional leaders, especially Heads of Customs, play an important role in the enforcement of customary law, including in environmental management and conservation. The head of Adat has the authority to establish rules relating to the use of



Natural Resources and resolve disputes related to the environment within the community. In addition, customary deliberation is an important mechanism in decision-making. In this meeting, all members of indigenous peoples are involved to discuss environmental management policies that are in accordance with customary values and community needs. This customary deliberation function creates collective decisions, reflects the principle of mutual cooperation, and accommodates the need to preserve nature.

### **Potential conflicts between customary law and National Policy; overlapping land tenure**

One of the main sources of conflict between Dayak customary law and national policy is overlapping land tenure. These conflicts often occur when industrial concessions, such as oil palm plantations and mining, are granted to areas traditionally controlled by Indigenous Dayaks. Many cases in Kalimantan show land claims by companies that clash with Indigenous peoples' rights to their customary territories. For example, in Sintang Regency, Dayak Indigenous people have difficulty defending their rights to customary lands after plantation companies obtain permits to manage lands that are traditionally sacred or traditionally managed forests. This situation creates tension between Indigenous peoples who want to defend their right to manage land sustainably and national policies that lean more towards short-term economic interests.

### **Regulatory Unsynchronization**

Differences between forest management mechanisms in customary law and government regulation are also a source of tension. At the national level, the Forestry Law and the Environmental Protection and management law provide a highly technocratic and standardized framework for forest management. Meanwhile, Dayak Indigenous people have a management system that is more based on local wisdom, which focuses on conservation through customary rules and traditional practices. For example, in customary law, communities regulate forest management with a zoning system that regulates limited and sustainable land use, but government regulations often ignore this. This inconsistency worsens the implementation of customary law as it often does not gain formal recognition within the national legal framework, exacerbating tensions between the two legal systems.

### **Mediation and Conflict Resolution opportunities**

Despite the many challenges, there are opportunities for mediation and conflict resolution between customary law and national policy. Local governments have a strategic role to play in bridging these differences by facilitating dialogue between Indigenous peoples and companies, and formulating more inclusive policies. Some areas in Kalimantan, such as in Berau Regency, have begun implementing collaborative approaches that integrate local wisdom into national environmental policies. This approach includes the recognition of indigenous territories and the participation of indigenous peoples in development planning processes related to natural resource management. Thus, the integration of customary law in national policy can create a more sustainable and beneficial environmental management model for all parties involved, including Indigenous Peoples, governments, and the industrial sector.

### **The relevance of international law to the strengthening of Customary Law**

The United Nations Declaration on the rights of Indigenous peoples (UNDRIP) has a very important role in respect of the rights of indigenous peoples, particularly with regard to the management of Natural Resources and the protection of the environment. One of the main principles in UNDRIP is the recognition of the rights of indigenous peoples to manage, use and develop natural resources in their indigenous territories in accordance with proven local wisdom. This principle provides an international legal basis for

Indigenous peoples to defend their rights to land and natural resources, as well as to implement conservation practices that have proven effective. In the context of Indonesia, the recognition of Indigenous Peoples' Rights at the international level strengthens the position of customary law in the national legal system. The implications of this declaration encourage more inclusive conservation policies and support the active role of indigenous peoples in preserving nature. National policies aligned with UNDRIP will ensure that Indigenous peoples' rights are not neglected and they can play a role in more sustainable ecosystem management.

### **Sustainable Development Agenda (SDGs)**

Customary law also has relevance in achieving the Sustainable Development Goals (SDGs), particularly SDG 13 (Addressing Climate Change) and SDG 15 (terrestrial ecosystems). SDG 13 emphasizes the importance of mitigation and adaptation to climate change, which is closely related to sustainable management of Natural Resources. Customary law that emphasizes the principle of harmony between humans and nature has great potential to support climate change mitigation efforts, as many indigenous practices focus on forest preservation and wise management of Natural Resources. In addition, SDG 15 focuses on the conservation of terrestrial ecosystems, which is in line with the values of indigenous peoples' local wisdom, which often have rules governing the management of forests, soils and biodiversity. Therefore, strengthening customary law through policies that support community-based management will greatly support the achievement of these goals, as well as provide long-term benefits in maintaining ecosystem balance and sustainability of Natural Resources.

### **Recommendations for the strengthening of customary law in conservation;**

To strengthen the role of customary law in environmental conservation, the first step that needs to be done is the expansion of formal recognition of indigenous territories. This can be done through the registration and certification of customary lands, which will give legal legitimacy to indigenous peoples in managing their natural resources. With this recognition, indigenous peoples' rights to manage their forests and lands will be better protected from external threats such as industrial exploitation or unsustainable land conversion. In addition, the government needs to encourage the creation of more specific and detailed local regulations (Perda) regarding the protection of customary law in environmental management, so that local policies are more supportive and in line with customary law principles that prioritize ecosystem sustainability.

### **Empowerment Of Indigenous Peoples**

The empowerment of Indigenous Peoples is also an important key in strengthening customary law in conservation. One step that needs to be done is by training and strengthening the capacity of indigenous peoples in terms of sustainable forest management and protection. This includes providing education on environmentally sound farming techniques, ecosystem-based forest management, and a better understanding of existing environmental policies. By strengthening this capacity, indigenous peoples can be more effective in preserving local wisdom and contributing to climate change mitigation and natural resource conservation efforts.

### **Multi-Stakeholder Collaboration**

Collaboration between various parties is needed to ensure the effectiveness of conservation based on customary law. Partnerships between Indigenous peoples, environmental NGOs, and governments can be effective models for ensuring that Indigenous laws are not only recognized, but also applied in real conservation practices. Environmental NGOs can provide technical support and resources, while governments can provide supportive policies. This collaboration will also create space for more constructive dialogue between Indigenous peoples and the industrial sector, so that

policies and their implementation are more inclusive and take into account the needs and rights of indigenous peoples in sustainable environmental management.

## **CONCLUSIONS**

Dayak customary law plays a very important role in maintaining environmental balance and preserving natural resources. As part of the customary law community, constitutional recognition of them is provided for in Article 18b Paragraph 2 of the 1945 Constitution, which provides a strong legal basis for the existence and rights of indigenous peoples, including in terms of Natural Resource Management. However, despite being constitutionally recognized, the implementation of customary law at the local level still faces major challenges, mainly related to the lack of harmonization between customary law and government regulation. This creates a gap between the formal recognition of customary law and its implementation in the field. Along with the recognition of customary law being strengthened, its effectiveness in environmental conservation is also noteworthy. Dayak customary law mechanisms, such as customary prohibitions against overexploitation and sanctions applied to violations, have proven effective in preserving the environment. Local wisdom that is internalized in the lives of Dayak Indigenous people, known as a form of "living law", has been proven to be applied consistently to preserve nature. At the community level, the role of Indigenous leaders and indigenous institutions is crucial in enforcing conservation rules, ensuring that Indigenous norms are respected and executed by the community. However, behind the effectiveness of customary law, there is a potential conflict that arises between customary law and national policy, especially related to land tenure and exploitation of natural resources by industry. The overlap of land ownership between indigenous territories and industrial concessions is often a major cause of these conflicts. In addition, the lack of formal recognition of customary territories and their management rights exacerbates the regulatory inconsistency between customary law and positive law. For this reason, more inclusive approaches, such as collaborative approaches and mediation, are needed to bridge differences between customary law and government policies, so that mutually beneficial solutions can be created. At the international level, customary law is increasingly receiving attention as an important instrument in Environmental Conservation. The United Nations Declaration on the rights of Indigenous peoples (UNDRIP) provides a moral and legal basis for states to strengthen protection of the rights of indigenous peoples, including their right to manage natural resources sustainably. Furthermore, the strengthening of customary law is in line with the achievement of Sustainable Development Goals (SDGs), especially SDG 13 on climate change and SDG 15 which focuses on the protection of terrestrial ecosystems. This shows that customary law, in addition to being a national legal instrument, also plays a role in supporting the Sustainable Development Goals globally. To strengthen the application of customary law in conservation, several important recommendations can be proposed. First, the expansion of customary law recognition through formal recognition of customary territories with clear mechanisms, so that Indigenous peoples have legal certainty in managing natural resources. Second, regulatory harmonization between national policies and local regulations is needed to create synergies that support the sustainability of Natural Resource Management based on customary law. Third, the empowerment of Indigenous Peoples is very important, and it can be done through adequate training, education, and resource support. Finally, multi-stakeholder collaboration between the government, Indigenous Peoples, NGOs, and the private sector is the main key to strengthening customary law-based Environmental Conservation. This

collaboration allows for more effective problem solving in the management and preservation of Natural Resources.

## REFERENCE

- Asteria, D., Alvernia, P., Kholila, B. N., Husein, S. I., & Asrofani, F. W. (2024). Forest conservation by the indigenous Baduy community in the form of customary law. *Journal of Cultural Heritage Management and Sustainable Development*, 14(2), 175-189.
- Barkhuizen, J., Zain, N. H. M., & Saefudin, Y. (2019). Optimalization Law Enforcement Of Environmental Crime In Order To Realization Of Sustainable Development. *South East Asia Journal of Contemporary Business, Economics and Law*, 19(4).
- Burhanuddin, Nova Elsyra, Joko Sunaryo, Syahwami, Helva Rahmi, Hamirul (2024). The Role of Customary Law in Forest Governance and Conservation in Jambi, Indonesia: A Case Study of Makekal Hulu Village within the Customary Territory of the Suku Anak Dalam. *Enigma in Cultural*, 12(3), 45-60. <https://doi.org/10.61996/cultural.v2i2.71>
- Colfer, C. J. P., Ihalainen, M., & Monterroso, I. (2020). Understanding gender dynamics in the context of rural transformation processes: An East Kalimantan case study (Vol. 212). CIFOR.
- Damayanti, E. K., Yahya, A. F., Tiaka, D., & Nikolaus, B. S. (2016). Efforts of Dayak Punan Adiu Customary Community Protecting Their Legacy. In *Acknowledgements 1 Workshop Report 2* (p. 6).
- Fetrus, F., Wibowo, B. R., & Hasibuan, F. Y. (2024). The Application of Dayak Customary Law In West Kalimantan Towards Fulfilling A Sense of Justice For Victims (Case Study of Indecent Acts). *Asian Journal of Social and Humanities*, 3(1), 45-55.
- Harly, L. N. B. (2023). Sustainable forest management from the perspective of customary law in Indonesia: a case study in the Bayan community. *International Journal of Social Sciences and Humanities*, 1(1), 32-42.
- Iskandar A M, Theodorus Fied Herlando, Eddy Thamrin (2022). Kajian Peranan Hukum Adat Dalam Pengelolaan Dan Perlindungan Hutan Pada Masyarakat Adat Dayak Uud Danum Desa Deme Kecamatan Ambalau. *Jurnal Hutan Lestari*, 18(2), 78-92. <https://doi.org/10.26418/jhl.v10i1.46696>
- Lukas, M. C., & Peluso, N. L. (2020). Transforming the classic political forest: Contentious territories in Java. *Antipode*, 52(4), 971-995.
- Mahyuni, M., & Topan, M. (2023). A Forest Protection Model Based on Local Wisdom of the Kotabaru Dayak Indigenous Communities in Kalimantan Selatan Forest Conservation. *International Journal of Law, Environment, and Natural Resources*, 3(1), 1-10.
- Niko, N., Widianingsih, I., Sulaeman, M., & Fedryansyah, M. (2024). Indigenous women, forest, and the battle for livelihood rights of Dayak Benawan in Indonesia. *Multidisciplinary Reviews*, 7(8), 2024160-2024160.
- Njau, A., Hakim, A., Lekson, A. S., & Setyowati, E. (2019). Local wisdom practices of Dayak Indigenous People in the management of tana'ulen in the Kayan Mentarang National Park of Malinau regency, North Kalimantan province, Indonesia. *Russian Journal of Agricultural and Socio-Economic Sciences*, 91(7), 156-167.
- Rahayu, I. (2024). Reviving the Role of Customary Law as a Legal Foundation in the Development of the Indonesian Legal System. *Journal of Adat Recht*, 1(1). <https://nawalaeducation.com/index.php/JOAR/article/view/342>
- Reinnoldt, C. (2019). Asserting Indigenous Identity to Substantiate Customary Forest Claims: A Case Study of the Dayaks of West Kalimantan, Indonesia.

- Rochaeti, N., Prasetyo, M. H., & Wibawa, K. C. S. (2023). Restorative Justice in The Customary Jurisdiction of The Dayak Tribe Communities of West Kalimantan. *Russian Law Journal*, 11(3S), 23-31.
- Sada, C., Alas, Y., & Anshari, M. (2019). Indigenous people of Borneo (Dayak): Development, social cultural perspective and its challenges. *Cogent Arts & Humanities*, 6(1), 1665936.
- Setyawan, A. D. (2010). Biodiversity conservation strategy in a native perspective; case study of shifting cultivation at the Dayaks of Kalimantan. *Nusantara Bioscience*, 2(2).
- Sidik R. Usop, Ismi Rajiani (2021). Indigenous Indonesian Dayak Traditional Wisdom in Reducing Deforestation. *Indonesian Journal of Geography*, 16(4), 203-220. <https://doi.org/10.22146/ijg.43546>
- Sihombing, R. S. M. (2019, October). The role of the indigenous knowledge system of the community Dayak in water management Kahayan River: Review of local wisdom perspective. In *Iapa Proceedings Conference* (pp. 341-350).
- Siombo, M. R. (2021). Local wisdom as basic material for drafting local government regulations: A case study of Dayak forest fires in Kalimantan, Indonesia. *Linguistics and Culture Review*, 5(S3), 1067-1075.
- Stacy Crevello (2003). Local land use on Borneo: applications of indigenous knowledge systems and natural resource utilization among the Benuaq Dayak of Kalimantan, Indonesia. *Asian Journal of Indigenous Knowledge*, 7(1), 113-126. [https://doi.org/10.31390/gradschool\\_dissertations.1302](https://doi.org/10.31390/gradschool_dissertations.1302)
- Suhermi.(2024) Restorative Justice in Customary Law: Alternative Dispute Resolution in Indigenous Communities. *Journal of Adat Recht*,1(2),1-12. <https://nawalaeducation.com/index.php/JOAR/article/view/599/666>
- Usop, S. R., & Rajiani, I. (2021). Indigenous Indonesian Dayak Traditional Wisdom in Reducing. *Indonesian Journal of Geography*, 53(3).
- Wardhani, D. F., Arisanty, D., Nugroho, A., & LiliUtami, U. B. (2023). The local wisdom of the Paramasan Dayak tribe in environmental management. *Environment and Ecology Research*, 11, 859-872.
- Wardhani, D. F., Arisanty, D., Nugroho, A., & Utami, U. B. L. (2023). The Behavior Of Paramasan Dayak Indigenous Community In Protecting The Environment. In *International Conference On Social Science Education Proceeding* (Vol. 1, pp. 67-75).