

Local Wisdom in Customary Law as an Instrument for Environmental Protection

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Entered : 16 July 2025
Accepted: 22 July 2025

Revised : 25 July 2025
Published : 29 July 2025

ABSTRACT

Local wisdom in customary law plays a crucial role in maintaining environmental sustainability, particularly in indigenous communities that still uphold traditional values. However, this role has not been fully recognized and integrated into the national environmental legal system. This study aims to analyze how customary law functions as an environmental protection instrument and propose strategies for its integration within the national legal framework. The approach used is descriptive qualitative with a juridical-sociological research method, conducted through case studies in three indigenous communities: the Baduy (Banten), Dayak Kenyah (North Kalimantan), and Subak Bali. Data collection techniques included interviews, observation, and documentation studies, which were then analyzed thematically. The results show that customary legal practices such as Leuweung Kolot, Tane' Olen, and the Subak system have proven effective in maintaining environmental sustainability through customary norms, social sanctions, and spiritual values. However, formal recognition of customary territories remains limited. In conclusion, customary law has great potential as a legitimate and sustainable environmental protection instrument, and therefore needs to be substantively integrated into national environmental policy through a collaborative and community-based approach.

Keywords: Customary Law, Local Wisdom, Indigenous Communities, Environment

INTRODUCTION

Environmental issues have become a global concern with increasing ecosystem destruction, climate change, and the massive exploitation of natural resources. Amidst the various modern solutions offered, attention to local approaches based on traditional wisdom is beginning to gain ground in academic discourse and environmental policy (Atkinson, 2020). One potential yet often marginalized approach is the role of customary law, which embodies ecological values, in maintaining environmental balance, particularly in the territories of Indonesia's indigenous communities. Indonesia is a country with high cultural diversity, including customary legal systems that thrive and thrive within communities. Customary law functions not only as a social regulatory mechanism but also as a natural resource management system rooted in spiritual values and the sacred relationship between humans and nature (Supriadi, 2009). In indigenous communities, the relationship with the environment is not only material, but also symbolic and transcendental. Therefore, nature conservation is an integral part of local religious and cultural practices.

Local wisdom embodied in customary law makes a significant contribution to environmental conservation efforts. This is reflected in various customary prohibitions, such as the forbidden forest system (Leuweung Kolot) of the Baduy people (Lubis, 2010),



the 'Tane' Olen concept of the Dayak people (Satria, 2012), and the Subak irrigation system based on Tri Hita Karana in Bali (Koentjaraningrat, 2009). These systems demonstrate that indigenous communities possess effective internal mechanisms for maintaining the sustainability of natural resources, even long before the concept of "sustainable development" was introduced into global discourse. However, despite these practices' proven success in preserving local ecosystems, the role of customary law often lacks adequate formal recognition within the national legal system. In many cases, indigenous communities are criminalized or lose their rights to their territories when confronted with development projects, resource exploitation, or the expansion of extractive industries (Bakker, 2018). This reflects structural inequalities within the legal system that have not fully accommodated legal pluralism.

Although Law No. 32 of 2009 concerning Environmental Protection and Management recognizes the role of indigenous communities, its implementation in the field remains minimal and tends to be symbolic (Kartodihardjo, 2018). Many indigenous communities have yet to receive official recognition for their customary rights. In fact, the process of identifying indigenous communities is often hampered by formal-legal criteria that are incompatible with the socio-cultural realities of indigenous communities (Fitriani, 2016). Furthermore, previous studies have primarily portrayed local wisdom in descriptive narrative form, without delving further into how the integration of customary law can be developed systematically within the national environmental law framework. Several studies, such as those by Budiman (2015) and Kusumanto (2010), highlight conservation-oriented local practices, but few have proposed concrete strategies for strengthening customary law within state policy. This gap demonstrates the need for a new approach that goes beyond merely symbolically appreciating local wisdom to embodying it as a legal instrument that is equal to and complementary to the state legal system. The concept of legal pluralism, which allows for the coexistence of various legal systems within a single jurisdiction, needs to be implemented more progressively in Indonesian environmental policy (Huma, 2014). This aligns with a multicultural approach to sustainable development that prioritizes local community participation (Satria, 2012).

In the context of ecological sustainability, a community-based approach (community-based natural resource management) has proven to be more adaptive and sustainable than a state-centric approach (Kusumanto, 2010). Local wisdom provides effective mechanisms for social oversight, community control, and culturally based sanctions to limit overexploitation. Furthermore, the spiritual and mythological values embodied in customary law serve as moral reinforcement for communities to comply with environmental norms (Koentjaraningrat, 2009). Furthermore, customary law also offers an alternative paradigm for viewing nature. Rather than positioning nature as an economic object to be exploited, customary law views nature as a subject with the right to be respected and protected. This view is highly relevant to global movements such as Rights of Nature and Earth Jurisprudence, which are developing in Latin America and several European countries (Atkinson, 2020). However, to make customary law an effective and sustainable environmental protection instrument, a reconstruction of national law is needed that can bridge the legal diversity that exists within communities. This includes formal recognition of customary territories, empowerment of customary institutions, and involvement of customary communities in environmental decision-making processes (Bakker, 2018; Fitriani, 2016).

From a policy perspective, integrating customary law into the national environmental legal system can also strengthen environmental conservation efforts at the local level, reduce the potential for resource conflicts, and enhance ecological justice.

Therefore, strengthening customary law is not only of cultural importance but also strategic in addressing the ecological crisis currently facing Indonesia (Kartodihardjo, 2018). This study aims to fill a gap in the literature that examines customary law contextually and normatively as part of an environmental protection strategy. This research also offers a synthetic approach between customary law and state policy, prioritizing the principles of ecological justice and community participation (Satria, 2012; Kusumanto, 2010). As a novelty, this article not only identifies customary practices as ethnographic objects but also analyzes them as living legal norms relevant to Indonesia's environmental legal system. This article also proposes a framework for integrating customary law through a co-management and participatory governance approach, an approach that has been minimally applied in the context of environmental policy in Indonesia (Kartodihardjo, 2018; Atkinson, 2020).

By referring to the practices of various indigenous communities such as the Baduy, Dayak, and Bali, this article not only provides a comparative overview but also explores the potential for replicating local models within a broader policy framework. Through this approach, this article emphasizes that environmental sustainability can only be achieved if local communities are actively involved, and customary law is empowered as a legitimate instrument. Based on this, the purpose of this study is to analyze and demonstrate how local wisdom contained in customary law can function as an effective legal instrument in environmental protection in Indonesia, as well as to propose a strategy for integrating customary law into the national environmental legal system

METHODS

This study uses a descriptive qualitative approach with a juridical-sociological (empirical) research type, which aims to understand and analyze in depth how local wisdom in customary law functions as an instrument of environmental protection in various indigenous communities in Indonesia. This approach was chosen because it is able to capture the social meaning, normative structure, and ecological values that exist in indigenous communities, as well as their relationship to the environment spiritually, culturally, and legally. In addition, this type of research is exploratory-comparative, because it compares customary law practices in several regions to see general patterns and specific contexts that are relevant for integration in national environmental policy. This research was conducted in three main locations that represent the diversity of customary law practices in Indonesia, namely the Baduy indigenous community in Lebak Regency (Banten Province), the Dayak Kenyah indigenous community in Malinau Regency (North Kalimantan), and the Subak community in Tabanan Regency (Bali Province). These three communities were chosen because they have strong customary law systems and have been proven to contribute to sustainable environmental conservation. The research was conducted for four months, namely from February to May 2025.

The research data was collected through a combination of primary and secondary data collection techniques. Primary data collection was conducted through in-depth interviews with traditional leaders, customary stakeholders, and community members who understand customary law practices related to environmental conservation. Furthermore, the researcher conducted participatory observation during customary activities directly related to environmental conservation, such as forest prohibition ceremonies, Subak irrigation management, or customary patrols. Meanwhile, secondary data collection was conducted through documentary studies of customary law documents, environmental organization reports, news reports, laws and regulations, and literature studies containing theories of customary law, environmental law, and policies

on the recognition of indigenous peoples. Although the qualitative approach does not define variables operationally as in the quantitative approach, this study still focuses on three main variables: local wisdom in customary law, customary law mechanisms in environmental conservation, and strategies for integrating customary law into the national environmental law system. Supporting variables in this study include customary institutional structures, patterns of social sanctions against violations of customary law, and the role of formal regulations in the recognition of indigenous peoples.

Data analysis was conducted using thematic analysis. The analysis process began with the transcription and reduction of data from interviews and field observations, which were then coded to identify key themes such as "customary rights," "prohibition on natural exploitation," "customary collective mechanisms," or "state recognition." Next, researchers grouped the findings by community and compared them to identify general and specific patterns. An interpretive synthesis was then conducted to link the empirical findings to the theoretical framework of customary law and environmental law. Source triangulation techniques were used to verify data validity by comparing the results of interviews, observations, and documents. Additionally, peer debriefing was conducted with academics or experts in environmental and customary law to test the accuracy of data interpretation

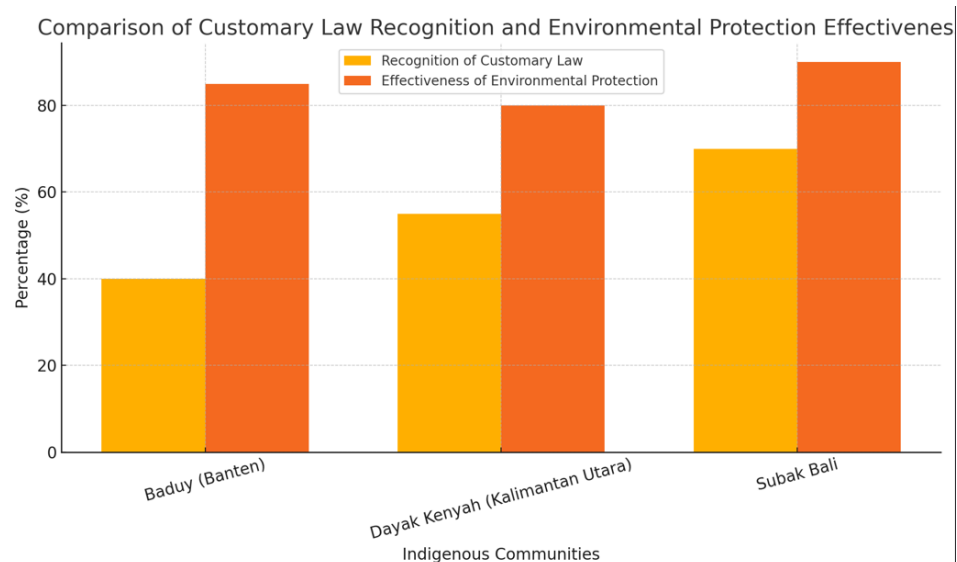
RESULTS AND DISCUSSION

1. Recognition of Customary Law and Environmental Conservation Practices

Research in three indigenous communities shows that, despite varying degrees of formal recognition of customary law, the effectiveness of environmental protection is relatively high. For example, in the Baduy indigenous community, a strict ban on logging activities in the Leuweung Kolot area demonstrates ecological wisdom based on spirituality and customary rules (Pinto, 2021). Although formal recognition of their customary rights remains limited, community adherence to customary norms is highly significant and has a direct impact on forest conservation in their areas. Similarly, the Dayak Kenyah community in North Kalimantan implements the Tane' Olen system, which collectively restricts access to protected forests. This practice reflects not only ecological awareness but also community solidarity in safeguarding shared livelihoods. Although the legalization of customary areas is still in progress, local, customary-based management has proven effective in preventing deforestation and illegal encroachment (Irawan, 2022).

Meanwhile, the Subak community in Bali has gained stronger recognition as its system has been designated a world cultural heritage by UNESCO. This water management system is based on the Tri Hita Karana philosophy, which harmonizes the relationship between humans, nature, and God. The effectiveness of the Subak system in water conservation and agricultural land has been widely studied as a model for sustainable, custom-based agriculture (Yuliani et al., 2020). A visualization of the comparison between the level of customary law recognition and the effectiveness of environmental protection in these three communities can be seen in the following graph:

Figure 1. Comparison of Recognition of Customary Law and Effectiveness of Environmental Protection



2. Community Collaboration and Socio-Customary Mechanisms in Conservation

This research also found that the success of environmental protection does not depend solely on legal formalities, but rather on the sustainability of customary social mechanisms and community legitimacy. Customary sanctions such as social exclusion or material fines have proven more effective in enforcing regulations than top-down state sanctions (Mubarak, 2022). Internal enforcement of norms creates a strong sense of collective responsibility, as seen in the Dayak customary patrol system and the Subak irrigation scheduling by customary leaders. This approach aligns with the concept of community-based resource management (CBRM), which emphasizes the active participation of local communities in environmental management (Armitage et al., 2009). In fact, customary law functions as living law, adapting to the local ecological context, in contrast to state law, which tends to be homogenous and legalistic (Setiadi, 2023).

3. Structural and Political Barriers to the Recognition of Customary Law

Although customary law has proven effective in maintaining environmental sustainability, this research also identified structural barriers that hinder the formal recognition of customary territories. Many indigenous communities face administrative obstacles in the legalization of customary rights due to rigid and bureaucratic state criteria (Simarmata, 2021). Furthermore, the penetration of extractive industries such as palm oil plantations and mining often ignores the existence of indigenous communities, even giving rise to land conflicts that harm local communities (Wijaya, 2020). Research by Greenpeace (2022) also noted that most environmental conflicts in Indonesia occur in customary territories that have not received legal recognition, even though the communities have long maintained these areas for generations. Therefore, national policy needs to shift its paradigm from a state-centered approach to legal pluralism, which recognizes the existence of legal systems within communities (Santos, 2002).

4. The Urgency of Integrating Customary Law into the National Environmental Law System

To encourage the integration of customary law into the national environmental legal system, affirmative strategies are needed, such as strengthening customary institutions, granting autonomy in resource management, and involving indigenous communities in the environmental policy-making process (Siregar, 2019). The co-

management or collaborative governance model can be used as a reference in creating synergy between the state and indigenous communities in protecting the environment (Borrini-Feyerabend et al., 2013). These steps align with the political ecology approach that prioritizes ecological justice and social inclusion in resource management (Peluso & Watts, 2001). In this context, customary law is no longer positioned as subordinate to state law, but rather as a legitimate and functional legal partner within the framework of environmental protection.

5. Theoretical Reflections and Policy Implications

The results of this study confirm the findings of Elmhirst's (2011) study, which found that the strength of local communities in maintaining their natural resources lies in their local knowledge structures and strong social solidarity. Therefore, ignoring customary law represents a loss of potential sustainable local solutions. This study also strengthens Fraser's (2009) argument regarding the importance of recognition within a framework of social and environmental justice. From a legal perspective, the integration of customary law into the national legal system can be achieved through local recognition mechanisms in the form of regional regulations (*perda*), revisions to forestry laws, and strengthening customary institutions through legal aid and community legal education (Rinaldi, 2023). Without equal recognition, customary law will continue to be marginalized in the formal legal system, despite its vital role in the context of conservation

CONCLUSIONS

This research demonstrates that local wisdom in customary law plays a significant role as an effective, adaptive, and sustainable environmental protection instrument in various Indonesian indigenous communities such as the Baduy, Dayak Kenyah, and Subak Bali. Although formal recognition of customary law remains limited, community-based normative practices have been proven to maintain environmental sustainability through social sanctions, spiritual values, and collective management mechanisms. Structural barriers such as the lack of legalization of customary territories and the dominance of a state-centric approach are key challenges. Therefore, the integration of customary law into the national environmental legal system through substantive recognition, strengthening customary institutions, and collaborative models such as co-management is necessary to ensure ecological justice and support sustainable development. This conclusion addresses the research objective by emphasizing the urgency of making customary law a legitimate and functional part of Indonesia's environmental legal framework.

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