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Protection of Indigenous Peoples' Rights: A Legal Review of Local Wisdom-Based Natural Resource Management

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ABSTRACT

This article examines the protection of indigenous peoples' rights in local wisdom-based natural resource management in Indonesia from the perspective of national and international law. This research is normative in nature, using legislative, conceptual, and historical approaches. The results show that although the national legal framework has recognized customary rights and local wisdom of indigenous peoples, its implementation still faces significant structural, institutional, and normative obstacles. Overlapping regulations between forestry, mining, plantation, and agrarian laws often harm the rights of indigenous peoples. On the other hand, international legal instruments such as ILO Convention No. 169 and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) provide minimum standards of protection that have not been fully adopted by the Indonesian legal system. This article concludes that there is a need for regulatory harmonization, the establishment of specific laws for indigenous peoples, and the strengthening of indigenous institutions in natural resource management to realize ecological justice and sustainable environmental governance rooted in local wisdom values.
Keywords:*Indigenous Communities, Local Wisdom, Natural Resources, Customary Rights, Customary Law, Ecological Justice.*

INTRODUCTION

Indonesia is a country with extraordinary cultural and indigenous diversity. It is estimated that there are more than 1,340 ethnic groups spread across the archipelago, most of which have customary legal systems and local wisdom that govern their relationship with nature and the resources around them.[1] This local wisdom is not just a tradition passed down from generation to generation, but rather a knowledge system that has been tested for centuries in maintaining ecosystem balance and the sustainable use of natural resources.

At the international level, recognition of the rights of indigenous peoples has progressed significantly since the second half of the 20th century. ILO Convention No. 169 of 1989 was a major milestone in establishing standards for the protection of indigenous peoples' rights, particularly regarding rights to land, territories, and natural resources.[2]

[1] Sutiari, Desak Ketut, Susalman Moita, and Wa Kuasa Baka. "Pengelolaan Sumber Daya Alam Pesisir Dengan Kearifan Lokal Di Beberapa Wilayah Indonesia." *Bakti Cendekia* 1.2 (2024): 69-76. https://jurnal.ichisultra.or.id/index.php/bakticendekia/article/view/6

[2]ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries, adopted 27 June 1989, 28 ILM 1382 (entered into force 5 September 1991).

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This development was further strengthened by the ratification of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) in 2007, which provides comprehensive recognition of the collective and individual rights of indigenous peoples, including the right to self-determination, the right to customary land, and the right to maintain and develop their traditional knowledge systems.[3] In Indonesia, constitutional recognition of customary law communities is regulated in Article 18B paragraph (2) of the 1945 Constitution, which states that the state recognizes and respects customary law communities and their traditional rights.[4] However, in practice, the implementation of this constitutional recognition remains far from adequate. Various agrarian and natural resource conflicts involving indigenous communities continue, demonstrating a clear gap between das Sollen (the law as it should be) and das Sein (the law as it is).

Law No. 41 of 1999 concerning Forestry, for example, initially failed to adequately recognize customary forests, stating that they were part of state forests. This view was recently corrected through Constitutional Court Decision No. 35/PUU-X/2012, which affirmed that customary forests are forests located within the territories of indigenous communities and are not part of state forests. [5][6]

The legal challenges faced by indigenous communities in managing natural resources are increasingly complex due to overlapping regulations across various sectors, from forestry and mining to plantations and coastal management. These sectoral regulations are often out of sync and do not provide adequate protection for indigenous peoples' rights. Furthermore, the lack of effective law enforcement mechanisms and the weak institutional capacity of indigenous communities are additional factors exacerbating the situation.[7]

The local wisdom of indigenous communities in managing natural resources has proven effective as a sustainable environmental management system. Concepts such as sasi in Maluku, subak in Bali, lubuk larangan in Sumatra, and various other customary management systems are concrete manifestations of indigenous communities' ability to manage natural resources wisely. These systems not only maintain ecosystem sustainability but also ensure the equitable distribution of benefits among community members.

The greatest irony in this context is that just as local wisdom is beginning to gain academic and international recognition as a model for sustainable management, the implementation of the law on the ground often erodes the existence of indigenous communities and their traditional management systems. The massive expansion of extractive industries, the conversion of forest land, and the establishment of conservation areas without the involvement of indigenous communities often result in the

[3]United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), GA Res. 61/295, UN Doc. A/RES/61/295 (13 September 2007).

[4]Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, Pasal 18B ayat (2): "Negara mengakui dan menghormati kesatuan-kesatuan masyarakat hukum adat beserta hak-hak tradisionalnya sepanjang masih hidup dan sesuai dengan perkembangan masyarakat dan prinsip Negara Kesatuan Republik Indonesia, yang diatur dalam undang-undang."

[5]Undang-Undang Nomor 41 Tahun 1999 tentang Kehutanan, Lembaran Negara Republik Indonesia Tahun 1999 Nomor 167. Lihat juga Putusan Mahkamah Konstitusi Nomor 35/PUU-X/2012 yang menegaskan hutan adat bukan hutan negara.

[6]Mahkamah Konstitusi Republik Indonesia, Putusan Nomor 35/PUU-X/2012, tanggal 16 Mei 2013, hlm. 178-179.

[7]Yance Arizona, "Peta Perundang-undangan tentang Masyarakat Adat di Indonesia", Epistema Institute Working Paper No. 01/2013 (Jakarta: Epistema Institute, 2013), hlm. 5-8.

marginalization and forced eviction of communities from their ancestral territories.[8] Based on the above background, this article aims to examine two main issues. First, it analyzes the national and international legal frameworks governing the protection of indigenous peoples' rights to natural resources. Second, it evaluates the mechanisms for implementing local wisdom in natural resource management, along with the obstacles and prospects for its future development. This research is expected to provide academic contributions and policy recommendations in efforts to strengthen the protection of indigenous peoples' rights in Indonesia.

METHODS

This research uses a normative legal research method, namely research that focuses on examining the application of rules or norms in positive law.[9] This method was chosen because this research aims to examine and analyze laws and regulations, court decisions, doctrines, and legal principles related to the protection of indigenous peoples' rights in local wisdom-based natural resource management. The approach used in this research includes three main approaches. First, the statute approach, which examines all laws and regulations related to the legal issue under study.[10] In the context of this research, this approach includes an analysis of the 1945 Constitution, various sectoral laws in the field of natural resources, and their derivative laws and regulations.

Second, a conceptual approach, which stems from the views and doctrines developing in legal science, aims to discover ideas that give rise to legal definitions, legal concepts, and legal principles relevant to the issue being studied. This approach is crucial for understanding the concepts of customary rights, local wisdom, customary law communities, and equitable natural resource management.[11] Third, a historical approach is used to understand the development of legal regulations regarding the rights of indigenous peoples from the colonial period to the reform era. This historical approach allows researchers to understand the philosophy and values underlying the formation of certain legal rules and to identify continuities and discontinuities in relevant legal policies.

The legal materials used in this study consist of three categories. Primary legal materials include relevant laws and regulations, court decisions, and international treaties. Secondary legal materials consist of legal literature in the form of books, scientific journals, research results, and papers related to the research theme. Tertiary legal materials include legal dictionaries, encyclopedias, and other sources that can assist in understanding primary and secondary legal materials. The analysis of legal materials was conducted qualitatively using legal interpretation methods, including grammatical, systematic, historical, and teleological interpretations. The results of the analysis were then presented descriptively and analytically to answer the problems formulated in this study.

RESULTS AND DISCUSSION

[8]Peraturan Menteri Agraria dan Tata Ruang/Kepala Badan Pertanahan Nasional Nomor 18 Tahun 2019 tentang Tata Cara Penatausahaan Tanah Ulayat Kesatuan Masyarakat Hukum Adat.

[9]Soerjono Soekanto dan Sri Mamudji, Penelitian Hukum Normatif: Suatu Tinjauan Singkat (Jakarta: Raja Grafindo Persada, 2015), hlm. 13-14.

[10]Peter Mahmud Marzuki, Penelitian Hukum (Jakarta: Kencana Prenada Media Group, 2016), hlm. 35-36.

[11]Johnny Ibrahim, Teori dan Metodologi Penelitian Hukum Normatif (Malang: Bayumedia Publishing, 2007), hlm. 295.

Legal Framework for the Protection of Indigenous Peoples' Rights to Natural Resources: National and International Perspectives

The development of international law regarding the rights of indigenous peoples has undergone significant evolution. Before the 1980s, there was no international legal instrument specifically regulating the protection of indigenous peoples' rights. It was not until the 1980s that the international movement for the recognition of indigenous peoples' rights began to gain real momentum. ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent States was the first binding international legal instrument to comprehensively regulate the rights of indigenous peoples. This Convention establishes the fundamental rights of indigenous peoples to their lands, territories, and natural resources and requires states to consult with indigenous peoples before adopting policies affecting their interests. [12]

The principle of Free, Prior, and Informed Consent (FPIC), established by ILO Convention No. 169, is the minimum procedural standard that must be met in any decision-making process related to the rights of indigenous peoples. This principle requires that the consent of indigenous peoples must be obtained freely and without coercion, before the planned activity is implemented, and based on complete and comprehensive information regarding the potential impacts.[13] The UNDRIP, passed in 2007, while not legally binding (soft law), provides much more comprehensive recognition of the rights of indigenous peoples. This declaration affirms the right of indigenous peoples to self-determination, the right to the lands, territories, and natural resources they have traditionally owned, occupied, or used, and the right to maintain, protect, and develop their cultural heritage, traditional knowledge, and indigenous wisdom.[14]

Within the framework of international environmental law, the Convention on Biological Diversity (CBD), adopted in 1992, is another important instrument. Article 8(j) of the CBD explicitly recognizes the importance of the traditional knowledge of indigenous peoples in the conservation of biodiversity and obliges States parties to respect, protect, and maintain indigenous knowledge, innovations, and practices relevant to the conservation and sustainable use of biodiversity.[15] Indonesia has ratified the CBD through Law Number 5 of 1994, so it is bound by the obligation to implement Article 8(j) in its national legal system.[16] Furthermore, the Nagoya Protocol on Access to Genetic

[12] Soetijono, Irwan Kurniawan, Nur Amaliah Ranie, and Dominikus Rato. "Pengakuan Konstitusional Hak Masyarakat Adat Atas Sumber Daya Alam di Indonesia." *KUNKUN: Journal of Multidisciplinary Research* 2.1 (2025): 75-93. https://ejournal.mediakunkun.com/index.php/kunkun/article/view/259

[13]Rosemary J. Coombe, "The Recognition of Indigenous Peoples' and Community Traditional Knowledge in International Law", 84 St. Thomas Law Review 385 (2001), hlm. 390-393.

[14] Mubarok, Asnawi, et al. "Perlindungan hak atas tanah masyarakat adat di era otonomi daerah: Tantangan dan peluang." Almufi Jurnal Sosial Dan Humaniora 1.2 (2024): 69-77. https://doi.org/10.63821/ash.v1i2.291

[15]Konvensi Keanekaragaman Hayati (Convention on Biological Diversity/CBD), Rio de Janeiro, 5 Juni 1992, 1760 UNTS 79, Pasal 8(j) mewajibkan negara pihak untuk menghormati, melindungi, dan memelihara pengetahuan, inovasi, dan praktik masyarakat adat.

[16]Undang-Undang Nomor 5 Tahun 1994 tentang Pengesahan Konvensi Perserikatan Bangsa-Bangsa mengenai Keanekaragaman Hayati.

Resources and Fair and Equitable Benefit Sharing adopted in 2010 strengthens the recognition of indigenous peoples' traditional knowledge related to genetic resources.[17]

At the national legal level, recognition of the rights of indigenous peoples in Indonesia has long historical roots. Long before independence, customary law was recognized in the Dutch East Indies legal system as the law applicable to indigenous groups. This recognition continued after independence, although in practice it was often displaced by the interests of economic development. The 1960 Basic Agrarian Law (UUPA) is the primary foundation for regulating land rights in Indonesia, including the recognition of customary rights of indigenous peoples. Article 3 of the UUPA stipulates that the implementation of customary rights and similar rights of indigenous peoples must be such that they align with national and state interests, which are based on national unity and must not conflict with other laws and regulations of a higher order.[18] While the UUPA recognizes customary rights, the terms "as long as they exist" and subject to national interests leave wide scope for interpretation for the state to ignore or limit these rights. Boedi Harsono noted that the concept of customary rights in the UUPA represents more of a minimal concession to customary law than a full recognition of the rights of indigenous peoples.[19]

Following the 1998 reforms, a significant paradigm shift occurred in the recognition of indigenous peoples' rights. The amendments to the 1945 Constitution included Article 18B paragraph (2), which expressly recognized the existence of indigenous legal communities and their traditional rights. This clause provides a strong constitutional basis for the recognition and protection of indigenous peoples' rights, including rights to natural resources.[20] In the forestry sector, a significant development occurred through Constitutional Court Decision No. 35/PUU-X/2012, which changed the status of customary forests from being part of state forests to being stand-alone forests. This decision was a significant legal breakthrough because it recognized that customary communities have independent rights to customary forests in their territories, regardless of state claims over those territories.[21] Law Number 32 of 2009 concerning Environmental Protection and Management also recognizes local wisdom in environmental management. This law explicitly mentions local wisdom as one of the considerations in the preparation of environmental protection and management plans, and requires regional governments to consider local wisdom in implementing environmental protection and management.[22]

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[17]The Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity, Nagoya, 29 Oktober 2010, yang diratifikasi Indonesia melalui Undang-Undang Nomor 11 Tahun 2013.

[18]Undang-Undang Nomor 5 Tahun 1960 tentang Peraturan Dasar Pokok-Pokok Agraria (UUPA), Lembaran Negara Republik Indonesia Tahun 1960 Nomor 104, Tambahan Lembaran Negara Nomor 2043, Pasal 3.

[19]Boedi Harsono, Hukum Agraria Indonesia: Sejarah Pembentukan Undang-Undang Pokok Agraria, Isi dan Pelaksanaannya (Jakarta: Djambatan, 2008), hlm. 185-187.

[20] Manurung, Marzuki, et al. "POLITIK DAN RITUAL DALAM MASYARAKAT ADAT." Jurnal Analisis Keuangan dan Manajemen 10.1 (2026). https://journal.fexaria.com/j/index.php/jakm/article/view/887

[21] Sari, Reni Fatmala, Sapto Hermawan, and Andina Elok Puri Maharani. "Kepastian Hukum Hak Atas Tanah Masyarakat Adat Suku Anak Dalam Di Kawasan Hutan." National Conference on Applied Business, Education, & Technology (NCABET). Vol. 2. No. 1. 2022. DOI Issue : 10.46306/ncabet.v2i1

[22]Undang-Undang Nomor 32 Tahun 2009 tentang Perlindungan dan Pengelolaan Lingkungan Hidup, Lembaran Negara Republik Indonesia Tahun 2009 Nomor 140, Pasal 63 ayat (3).

At the regional level, various regional regulations have been issued to recognize and protect the rights of indigenous peoples and their local wisdom systems. Regional regulations on the recognition and protection of indigenous legal communities in various provinces and districts/cities represent a positive response to demands for the protection of indigenous peoples' rights at the local level.[23] However, the existing national legal framework still faces several fundamental weaknesses. Overlapping regulations between various sectors pose a serious obstacle to the implementation of indigenous peoples' rights protection. Laws in the mining, plantation, and forestry sectors often provide extensive space for natural resource exploitation without adequately considering indigenous peoples' rights.[24][25]Another problem is the lack of a specific law on indigenous peoples that could serve as a comprehensive legal framework. The draft law on Indigenous Peoples, which has been championed for years by various groups, including the Indigenous Peoples Alliance of the Archipelago (AMAN), has yet to be passed into law, leaving a legal vacuum that could potentially harm the interests of indigenous peoples.[26][27]

Implementation of Local Wisdom in Natural Resource Management: Obstacles and Prospects

Local wisdom in natural resource management is a complex knowledge system developed by indigenous communities through a long-term process of adaptation to the local environment. This system encompasses not only technical knowledge about how to utilize natural resources, but also moral values, social norms, and customary institutions that govern the relationship between humans and nature and among community members. Various studies have documented the effectiveness of local wisdom systems in maintaining the sustainability of natural resources. The sasi system in Maluku, for example, is a customary-based marine and terrestrial resource management mechanism that has proven effective in preserving coastal and marine natural resources. Sasi imposes a temporary ban on the extraction of certain resources for a specified period of time, essentially a highly sophisticated form of resource utilization rotation system.[28]

The Subak system in Bali is another example of local wisdom in managing water resources for agriculture. Subak is a community organization that specifically regulates rice field irrigation systems based on Hindu-Balinese religious values. This system has proven to be able to regulate the fair and efficient distribution of water among farmers for centuries, long before the modern concept of water resource management was introduced. UNESCO's recognition of Subak as a World Heritage Site in 2012 further strengthens its legitimacy as a sustainable management system. In Sumatra, the

[23]Peraturan Daerah Provinsi Kalimantan Tengah Nomor 16 Tahun 2008 tentang Kelembagaan Adat Dayak di Kalimantan Tengah sebagai salah satu contoh pengakuan kelembagaan adat pada level daerah.

[24]Sandra Moniaga, "Hak-Hak Masyarakat Adat dan Masalah Serta Kelestarian Lingkungan Hidup di Indonesia" dalam Sandra Moniaga dan Noer Fauzi (ed.), Hak-Hak Masyarakat Adat: Dari Teori ke Praktek (Jakarta: ELSAM, 1993), hlm. 23.

[25]Tri Hayati, "Rezim Hukum Pengelolaan Sumber Daya Alam: Menuju Konsep Pengelolaan Sumber Daya Alam yang Berkeadilan" (Disertasi, Universitas Indonesia, 2012), hlm. 134-138.

[26]Aliansi Masyarakat Adat Nusantara (AMAN), Laporan Tahunan 2022: Kondisi Masyarakat Adat Indonesia (Jakarta: AMAN, 2022), hlm. 18-25.

[27]Rancangan Undang-Undang tentang Masyarakat Adat yang hingga kini masih dalam proses pembahasan di DPR RI, merupakan legislasi yang ditunggu-tunggu untuk menjadi payung hukum yang komprehensif bagi perlindungan hak masyarakat adat di Indonesia.

[28] Vindy, Alfons, and Aryo Subroto. "Efektivitas Hukum Adat Sasi Dalam Pelestarian Sumber Daya Alam Pada Masyarakat Ambon: The Effectiveness of Sasi Customary Law in Preserving Natural Resources in the Ambon Community." Dialogia Iuridica 15.2 (2024): 078-099. https://doi.org/10.28932/di.v15i2.8432

Minangkabau indigenous people's lubuk larangan tradition is a river fish resource management system that applies principles of natural sustainability. Lubuk larangan designates certain parts of the river as no-fishing areas for specific periods, allowing fish populations to recover and reproduce naturally. This system is not only ecologically effective but also creates a mechanism for economic equity through communal harvests, the results of which are shared among all members of the community.[29]

From an environmental law perspective, these local wisdom systems actually contain principles that are in line with the concept of sustainable development adopted by modern environmental law, namely the precautionary principle, the principle of intergenerational equity, and the principle of public participation.[30] In fact, in many cases, the local wisdom of indigenous communities is more effective in its implementation than formal regulatory mechanisms administered by the state. Although the value and effectiveness of local wisdom in natural resource management have been well documented, the implementation of its legal recognition faces various complex and interrelated obstacles. These obstacles can be categorized into three main dimensions: normative-regulatory barriers, institutional barriers, and structural-political barriers.

In the normative-regulatory dimension, the main problem is fragmentation and overlapping regulations, which create legal uncertainty for indigenous communities. When an indigenous territory is designated as a state forest, mining area, or plantation area based on different sectoral laws, the legal position of indigenous communities becomes highly vulnerable because there is no clear mechanism to fairly resolve these normative conflicts.[31] Constitutional Court Decision No. 35/PUU-X/2012 has indeed provided a significant breakthrough in providing stronger legal status for customary forests, but its implementation remains very limited. Data from the Ministry of Environment and Forestry shows that the official designation of customary forests still faces a lengthy and complicated procedure, requiring regional regulations recognizing customary communities, the drafting of which often takes years.[32]

The Minister of Home Affairs Regulation Number 52 of 2014 concerning Guidelines for the Recognition and Protection of Indigenous Legal Communities has indeed established procedures for the recognition of indigenous legal communities, but these procedures are still highly bureaucratic and require administrative capacity that is often not possessed by indigenous communities who lack resources.[33] In the institutional dimension, the weak capacity of customary institutions is a factor that directly impacts the ability of indigenous communities to defend their rights. The process of

[29]Studi Kasus Masyarakat Adat Kasepuhan Banten Kidul, dokumentasi Sajogyo Institute, 2018. Lihat Yulian Hamzah dan Tim Peneliti, "Hutan Adat Kasepuhan: Pengakuan dan Tantangan" (Bogor: Sajogyo Institute, 2018), hlm. 45-60.

[30] Mulyati, Suci. "KEBIJAKAN HUKUM SUMBER DAYA ALAM: PERSPEKTIF EKONOMI, KEARIFAN LOKAL DAN TRANSENDENTAL." Al-Ittihad: Jurnal Pemikiran dan Hukum Islam 11.2 (2025): 67-82. https://doi.org/10.61817/ittihad.v11i2.270

[31] Mustofa, Ragil, and Anita Anita. "Implikasi Hak Atas Tanah Masyarakat Adat dalam Penyelenggaraan Kegiatan Pertambangan Minerba di Indonesia." Jurnal Jendela Hukum 12.2 (2025): 123-139. https://doi.org/10.24929/jjh.v12i2.4665

[32] Farina, Thea, et al. "Pengakuan dan perlindungan hutan adat dalam mewujudkan hak masyarakat hukum adat di Provinsi Kalimantan Tengah." UNES Law Review 6.3 (2024): 9377-9389. https://doi.org/10.31933/unesrev.v6i3.1852

[33]Peraturan Menteri Dalam Negeri Nomor 52 Tahun 2014 tentang Pedoman Pengakuan dan Perlindungan Masyarakat Hukum Adat, Pasal 5-9 mengatur pembentukan panitia masyarakat hukum adat di tingkat kabupaten/kota.

modernization and the infiltration of external cultural values have eroded the authority of customary institutions in many regions. Meanwhile, the government has not provided adequate support for strengthening the capacity of these customary institutions, even though formal recognition of indigenous peoples' rights depends heavily on the ability of customary institutions to demonstrate their existence and vitality.[34]

From a structural-political perspective, powerful economic interests in the extractive natural resource sector pose the greatest obstacle to the implementation of indigenous peoples' rights protection. Investments in the mining, plantation, and forestry sectors create strong political pressure to accommodate corporate interests over those of indigenous peoples. In this context, indigenous peoples are often in a very weak position to negotiate their interests.[35] Case studies in various regions show that indigenous peoples' consent mechanisms, which should guarantee the protection of their rights, are often ignored or manipulated in practice. Consultation processes that should be free, dignified, and based on complete information are often carried out ceremonially without sufficient substance, simply to fulfill formal requirements.[36] Despite facing various obstacles, there have been several positive developments that offer hope for strengthening the protection of indigenous peoples' rights in natural resource management. Growing public awareness and pressure from civil society movements have prompted the government to take some positive steps, although they are far from sufficient.

The issuance of Presidential Regulation No. 88 of 2017 concerning the Settlement of Land Control in Forest Areas is a positive step, providing a mechanism to resolve conflicts between state forest claims and indigenous peoples' land control. While its implementation remains limited, this regulation at least paves the way for formal recognition of indigenous peoples' rights in forest areas.[37] The Social Forestry Program, initiated by the government in recent years, also provides a legal mechanism for indigenous and local communities to obtain management rights over forest areas. Through the Village Forest, Community Forest, Customary Forest, and Forestry Partnership schemes, communities can gain formal recognition of their rights to manage forest areas. However, the targets and implementation of this program still fall short of the government's stated targets.

Law Number 6 of 2014 concerning Villages also provides space for strengthening the rights of indigenous communities through the customary village mechanism. Customary villages are recognized as legal community units that have the right to regulate and manage government affairs and local community interests based on community initiatives, ancestral rights, and/or traditional rights recognized and respected within the government system of the Unitary State of the Republic of

[34]Bernhard Limbong, Masyarakat Adat dan Implementasi Hukum (Jakarta: Margaretha Pustaka, 2012), hlm. 201.

[35]Noer Fauzi Rachman, Land Reform dari Masa ke Masa (Yogyakarta: Tanah Air Beta, 2012), hlm. 112-115.

[36]Suraya Afiff dkk., "Litigasi sebagai Strategi Perjuangan Masyarakat Adat: Pembelajaran dari Pengalaman", Jurnal Hukum dan Pembangunan, Vol. 49 No. 2 (2019), hlm. 354-378.

[37]Perpres Nomor 88 Tahun 2017 tentang Penyelesaian Penguasaan Tanah dalam Kawasan Hutan, yang memberikan mekanisme pelepasan kawasan hutan untuk pengakuan tanah masyarakat adat, namun dalam praktiknya masih menemui berbagai kendala birokrasi.

Indonesia.[38] From a progressive legal perspective, a number of strategic steps are needed to strengthen the protection of indigenous peoples' rights in natural resource management. First and most urgent is the ratification of the long-promoted Indigenous Peoples Bill, which would provide a comprehensive legal framework and resolve the various overlapping regulatory issues that have been a major obstacle.[39] Second, harmonization of various sectoral laws governing natural resources is needed to provide consistent and effective protection for the rights of indigenous peoples. This harmonization must be directed at prioritizing indigenous peoples' rights, which must be considered in every decision regarding natural resource management in their customary territories.[40] Third, it is necessary to develop effective and equitable conflict resolution mechanisms for indigenous peoples in disputes related to natural resource rights. These mechanisms must recognize legal pluralism and provide space for customary law-based dispute resolution as an equal alternative to the formal justice system. Fourth, strengthening the institutional capacity of indigenous peoples is a highly strategic investment to ensure that indigenous peoples have the ability to document, advocate, and defend their rights. These capacity-building programs must be designed in a participatory manner and respect customary values, not as an attempt to westernize or forcefully modernize traditional institutions. Fifth, the more substantive integration of local wisdom into environmental policies is crucial not only for protecting the rights of indigenous peoples but also for achieving sustainable development goals overall. The traditional ecological knowledge of indigenous peoples is a valuable intellectual asset that must be integrated into modern environmental planning and management.

CONCLUSIONS

Based on the analysis conducted, several key points can be concluded as follows. First, the legal framework for protecting indigenous peoples' rights to natural resources in Indonesia, both at the national and international levels, has undergone significant development in recent decades. Constitutional recognition in Article 18B paragraph (2) of the 1945 Constitution, Constitutional Court Decision Number 35/PUU-X/2012, and various sectoral and regional regulations reflect the increasing normative recognition of indigenous peoples' rights. Second, despite progress in normative recognition, the implementation of the protection of indigenous peoples' rights still faces very serious structural obstacles. Overlapping sectoral regulations, bureaucratization of recognition procedures, weak capacity of indigenous institutions, and the dominance of extractive economic interests are factors that systematically hinder the realization of indigenous peoples' rights in natural resource management.

The local wisdom of indigenous communities in natural resource management is a knowledge system that has proven effective and relevant as a model for sustainable management. Systems such as sasi, subak, lubuk larangan, and various other forms of local wisdom contain ecological and social principles that are substantively aligned with

[38]Undang-Undang Nomor 6 Tahun 2014 tentang Desa, Lembaran Negara Republik Indonesia Tahun 2014 Nomor 7, Pasal 95-97 tentang Badan Permusyawaratan Desa sebagai wadah pengembangan hukum adat pada level desa.

[39] Kirana, Ni Wayan Galuh Candra. "Pengakuan dan Perlindungan Hak Ulayat Masyarakat Hukum Adat dalam Peraturan Perundang-Undangan Indonesia." Al-Zayn: Jurnal Ilmu Sosial & Hukum 4.2 (2026): 7916-7929. https://doi.org/10.61104/alz.v4i2.5858

[40]Mahkamah Konstitusi Republik Indonesia, Putusan Nomor 31/PUU-V/2007 tentang Pengujian Undang-Undang Nomor 31 Tahun 2004 tentang Perikanan terhadap UUD 1945, yang antara lain menyinggung hak masyarakat adat atas sumber daya perikanan tradisional.

the goals of sustainable development and ecological justice. Fourth, to realize effective protection of indigenous peoples' rights in natural resource management, concrete steps are needed, including: the ratification of the Indigenous Peoples Bill as a comprehensive legal umbrella, harmonization of sectoral regulations that support indigenous peoples' rights, the development of equitable conflict resolution mechanisms, strengthening the capacity of indigenous institutions, and the substantive integration of local wisdom into environmental policies and natural resource management. Fifth, the protection of indigenous peoples' rights in natural resource management based on local wisdom is not only a demand for legal justice and human rights, but also a strategic investment for environmental sustainability and the achievement of the Sustainable Development Goals (SDGs) as a whole. Without integrating the knowledge and practices of local wisdom of indigenous communities, efforts to preserve the environment and manage natural resources sustainably will continue to face fundamental limitations.

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