

Protection of Customary Rights of Indigenous Communities in The Midst of National Development

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Entered : June 30, 2026

Accepted: July 24, 2026

Revised : July 17, 2026

Published: July 31, 2026

ABSTRACT

The customary rights of indigenous peoples are constitutional rights guaranteed by Article 18B paragraph (2) and Article 28I paragraph (3) of the 1945 Constitution of the Republic of Indonesia. However, in practice, the recognition and protection of these rights often clash with the national development agenda that is oriented towards the massive exploitation of natural resources. This article aims to examine in depth the forms of legal protection for the customary rights of indigenous peoples and to identify various challenges arising from the expansion of national strategic projects, mining, and large-scale plantations. This research uses a normative juridical method with a legislative approach, a conceptual approach, and a case approach, which are analyzed qualitatively through a literature study of laws and regulations, court decisions, and contemporary agrarian law literature. The results of the study indicate that although the normative framework for the recognition of indigenous peoples has undergone significant development, particularly through its implementation in the field still faces structural obstacles in the form of weak inter-institutional coordination, minimal definitive determination of customary territories, and the dominance of investment interests in spatial planning policies. This article recommends strengthening the customary territory database, harmonizing sectoral regulations, and implementing the principle of free, prior, and informed consent as an absolute prerequisite for any development activity impacting customary lands. These steps are expected to create a more proportional balance between the agenda of accelerating national development and the sustainable fulfillment of the constitutional rights of indigenous communities.

Keywords: Customary Rights; Customary Law Communities; National Development; Legal Protection; Agrarian Law.

INTRODUCTION

Indonesia is a country that constitutionally recognizes the existence and traditional rights of indigenous legal communities as stated in Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which states that the state recognizes and respects indigenous legal community units and their traditional rights as long as they are still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia. This constitutional recognition is also strengthened by Article 28I paragraph (3) which emphasizes that the cultural identity and rights of traditional communities are respected in accordance with the development of the times and civilization.¹ This provision is the highest normative foundation that should guarantee the existence of customary rights as one form of traditional rights of indigenous legal communities to land, forests, water, and other natural resources located

¹ Gaitenidis, N. (2025). Indigenous Peoples, Cultural Heritage, and Traditional Knowledge: Untying the Gordian Knot of Human Rights and Intellectual Property in International Law. *International Journal on Minority and Group Rights*, 1(aop), 1-45. <https://doi.org/10.1163/15718115-bja10226>



within their customary territories. However, this constitutional guarantee at the implementation level often experiences a reduction in meaning, considering that customary rights can only be legally recognized if they fulfill a series of administrative requirements stipulated by subordinate laws and regulations, so that declaratory recognition in the constitution is not necessarily directly proportional to constitutive recognition in agrarian law practice. This condition is the starting point for various problems in protecting customary rights amidst the increasingly massive pace of national development.

The concept of customary rights itself is an inseparable part of customary law which regulates the relationship between customary law communities and the land and natural resources in their territory, which is characterized by communal, magical-religious, and is passed down from generation to generation.² Explains that customary rights are the authority and obligations of a customary law community related to land located within its territory, which is the residence and place of livelihood and livelihood of its members from birth until death, and also includes land that has not been cleared by the community members. This communal characteristic is what distinguishes customary rights from individual ownership rights as regulated in the national land law system which refers to Law Number 5 of 1960 concerning Basic Agrarian Regulations. Article 3 of the Basic Agrarian Law has actually recognized the existence of customary rights, with the condition that their implementation is adjusted to national and state interests and must not conflict with other higher laws and regulations. These conditions then become a legal loophole that allows the state to limit or even negate customary rights when faced with development interests that are claimed as national interests.³

The dynamics of national development in recent decades have shown an increasingly extractive tendency towards natural resources, marked by the expansion of mining business permits, large-scale palm oil plantations, national strategic infrastructure projects, and the development of industrial areas that often directly overlap with areas historically and factually controlled by customary law communities.⁴ Noted that agrarian conflicts between corporations holding business permits and indigenous communities are often triggered by overlapping land ownership claims, where the state, through its licensing scheme, tends to prioritize legal certainty for investors over legal certainty for indigenous communities who have historically controlled and managed the area for generations. This inequality in legal treatment is further exacerbated by the incomplete process of identification, verification, and determination of indigenous territories in most regions in Indonesia, so that the legal status of customary land is often in an ambiguous condition between being recognized as the rights of indigenous communities or being categorized as state land that can be burdened with management rights or business use rights for third parties.

Constitutional Court Decision Number 35/PUU-X/2012⁵ became an important milestone in the history of the recognition of the rights of indigenous legal communities in Indonesia, because through this decision the Constitutional Court confirmed that customary forests are no longer part of state forests, but rather forests located in the

²Wignjosoebroto, S., & Prasetyo, T. (2021). Pluralisme hukum dan masyarakat hukum adat (Cet. ke-2). Kencana. hlm. 45.

³ Diantoro, T. D. (2025). A Critical Review of the Actualization of the Right to Control by the State Doctrine in the Policy on Revocation of Forest Area Permits/Concessions. *Jurnal Pembangunan Hukum Indonesia*, 7(2), 71-93. <https://doi.org/10.14710/jphi.v7i2.71-93>

⁴Wardhani, N. K. (2022). Konflik agraria antara investasi dan hak masyarakat hukum adat di kawasan perkebunan. *Jurnal Ilmu Hukum*, 18(1), 33-50. hlm. 36.

⁵Putusan Mahkamah Konstitusi Nomor 35/PUU-X/2012 tentang Pengujian Undang-Undang Nomor 41 Tahun 1999 tentang Kehutanan.

territory of indigenous legal communities.⁶ Argues that the ruling opens up new legal political space for the recognition of indigenous communities, but its implementation in the field does not immediately change the reality of natural resource control, considering that the process of establishing customary forests requires prior recognition through regional regulations on indigenous communities, which in reality only a small number of local governments in Indonesia have. This gap between progressive constitutional norms and the reality of stagnant implementation is the fundamental problem that will be examined further in this article.

Besides the issue of determining customary territories, another equally crucial challenge is the presence of deregulation policies through Law Number 11 of 2020 concerning Job Creation⁷ which aims to simplify the business licensing process to encourage investment, but on the other hand has the potential to reduce the mechanism for community participation, including indigenous legal communities, in the decision-making process related to the use of space and natural resources.⁸ He stated that the recognition of indigenous communities in the Job Creation Law is conditional and procedural, and therefore does not automatically strengthen their bargaining position in the face of large-scale business expansion. This situation raises concerns that the spirit of regulatory simplification could potentially sacrifice the substantive rights of indigenous communities in the interest of accelerating economic development.

The urgency of studying the protection of customary rights is increasing with the rapid development of green industrial areas, renewable energy-based energy transition projects, and the expansion of food estate areas designated by the government as part of the national food security strategy. These projects generally require very large-scale land use, which often directly impacts areas historically controlled by indigenous communities, particularly in Kalimantan, Sulawesi, Maluku, and Papua, which still have relatively extensive natural forest cover and customary lands.⁹ Ironically, these projects, normatively claimed as part of the sustainable development and clean energy transition agenda, in practice often repeat old patterns of extractive development that ignore the rights of indigenous communities. Therefore, the terminology of sustainability used in policy narratives does not always align with social sustainability and justice for the indigenous communities whose territories are the location of the projects.

Academic studies on the protection of customary rights of indigenous peoples are also becoming increasingly relevant in the context of Indonesia's commitment to various international legal instruments, even though Indonesia has not yet ratified the International Labor Organization Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries. The absence of ratification does not necessarily eliminate the state's responsibility to respect the rights of indigenous peoples, considering that Indonesia also supported the United Nations Declaration on the Rights of Indigenous Peoples in 2007, which, although not legally binding, remains an important moral and political reference in assessing national policies related to indigenous peoples.

⁶Arizona, Y. (2021). Hutan adat dan politik hukum pengakuan masyarakat adat di Indonesia. *Jurnal Antropologi Indonesia*, 42(2), 140–159. hlm. 148.

⁷Undang-Undang Nomor 11 Tahun 2020 tentang Cipta Kerja, Lembaran Negara Republik Indonesia Tahun 2020 Nomor 245.

⁸Siregar, H. B. (2023). Rekognisi bersyarat hak masyarakat hukum adat dalam Undang-Undang Cipta Kerja. *Mimbar Hukum*, 35(1), 55–73. hlm. 60.

⁹ Toumbourou, T. D., Dressler, W. H., & Werner, T. T. (2022). Plantations enabling mines: Incremental industrial extraction, social differentiation and livelihood change in East Kalimantan, Indonesia. *Land Use Policy*, 119, 106157. <https://doi.org/10.1016/j.landusepol.2022.106157>

¹⁰Therefore, the study on the protection of customary rights in this article also needs to be placed within a comparative framework with developing international standards and norms, so that the resulting policy recommendations are not only relevant in the context of national law, but also in line with the development of the discourse on indigenous peoples' human rights globally.

Based on the background description, this article is written to answer two main questions, namely, first, what is the form of legal protection for customary rights of indigenous peoples in the Indonesian national legal system; and second, what are the challenges faced in protecting customary rights amidst the rapid flow of national development and what solutions can be offered to overcome these challenges. This study is expected to provide academic contributions to the development of equitable agrarian law, while also providing constructive input for policy makers in formulating regulations that are able to balance the interests of national development with the protection of traditional rights of indigenous peoples, so that the ideals of social justice for all Indonesian people, including indigenous peoples, can be realized in a real and sustainable manner.

The issue of customary land rights of indigenous peoples cannot be separated from the context of Indonesia's long agrarian history, which since the colonial era has been marked by tensions between the communal customary law system and the Western legal system based on the concept of individual ownership. The Dutch East Indies colonial government, through its agrarian policy at that time, implemented the doctrine of *domein verklaring*, which essentially asserted that all land for which written ownership by individuals could not be proven was declared state property. This doctrine systematically reduced the existence of communal rights of indigenous peoples to land, because indigenous peoples were generally unfamiliar with the system of written proof of land ownership as required by colonial law. The legacy of the *domein verklaring* doctrine, although formally abolished with the enactment of the Basic Agrarian Law in 1960, in reality still leaves traces in the perspective of the modern land bureaucracy, which tends to prioritize formal proof of ownership in the form of certificates over proof of customary and hereditary control.

In addition to historical issues, the complexity of protecting customary rights is also influenced by the diverse forms and characteristics of customary law communities spread throughout the Indonesian archipelago, from indigenous communities in Sumatra with their clan and *nagari* systems, to indigenous communities in Kalimantan with their Dayak customary territory system, to indigenous communities in Papua with their clan and tribal customary rights systems, to indigenous communities in Nusa Tenggara and Maluku with their *petuanan* and customary kingdom systems. This diversity makes it difficult to apply uniform criteria for recognizing customary law communities nationally, as each customary community has its own distinct institutional structures, land tenure systems, and inheritance mechanisms. This complexity is often the justification for the slow process of identifying and establishing customary law communities by local governments, although on the other hand, this diversity should be accommodated through a more flexible and participatory approach to the recognition process.

METHODS

This research uses a normative legal research method that focuses on the study of positive legal norms, legal principles, and legal doctrines related to the recognition and

¹⁰ Soetjipto, A. W. (2022). Journey to justice: The United Nations declaration on the rights of indigenous peoples in the context of West Papua. *Journal of asean Studies*, 10(1), 129-149. <https://doi.org/10.21512/jas.v10i1.8491>

protection of customary rights of indigenous peoples. The approaches used include a statute approach, which examines the 1945 Constitution of the Republic of Indonesia, the Basic Agrarian Law, the Forestry Law, the Village Law, the Job Creation Law, and implementing regulations related to the recognition of indigenous peoples; a conceptual approach, which is used to explore the concepts of customary law, customary rights, and indigenous peoples as they develop in agrarian law doctrine; and a case approach, which is used to analyze relevant court decisions, including Constitutional Court Decision Number 35/PUU-X/2012 and several Supreme Court decisions related to customary land disputes. The legal materials in this study consist of primary legal materials in the form of laws and court decisions, secondary legal materials in the form of books, scientific journals, and previous research results published within the last five years, and tertiary legal materials in the form of relevant legal dictionaries and encyclopedias. The legal material collection technique was carried out through library research by searching official legal regulations databases and accredited scientific journals. The collected legal materials were then analyzed qualitatively using descriptive-analytical techniques, namely presenting the obtained legal data and facts, then analyzed systematically to find patterns of relationships between norms and identify gaps between applicable legal norms and their implementation in the field. The results of the analysis were then interpreted using grammatical, systematic, and teleological interpretation methods to formulate comprehensive conclusions regarding the protection of customary rights of indigenous legal communities in the midst of national development.

The analysis in this study also uses a limited historical approach to trace the development of customary rights regulations from the colonial period to the contemporary era of agrarian law reform, in order to understand the roots of the structural problems that cause the weak protection of customary rights in the context of current national development. All legal materials that have been collected and analyzed are then presented systematically in the form of a discussion that is divided into two main subsections, namely a discussion on the form of recognition and legal protection of customary rights in the national legal system, and a discussion on the challenges and solutions to the protection of customary rights in the midst of national development, as an effort to comprehensively answer the formulation of the problems that have been set in this study, so that the flow of the discussion can be followed sequentially from the normative aspect to the practical and solution-oriented aspects.

RESULTS AND DISCUSSION

Recognition and Legal Protection of Customary Rights of Indigenous Law Communities in the National Legal System

The recognition of customary rights of indigenous peoples in the Indonesian national legal system is built through a multi-layered legal construction, starting from the constitutional level to technical regulations at the regional level. At the constitutional level, as previously mentioned, Article 18B paragraph (2) and Article 28I paragraph (3) of the 1945 Constitution of the Republic of Indonesia¹¹ is the highest philosophical and normative foundation that recognizes the existence of indigenous legal communities and their traditional rights, including customary rights to land and natural resources. However, this constitutional recognition is conditional, namely as long as the indigenous legal community is still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia, as stipulated in the law. This conditional phrase is then further translated into various sectoral laws and regulations,

¹¹Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, Pasal 18B ayat (2) dan Pasal 28I ayat (3).

so that the recognition of customary rights ultimately depends heavily on administrative processes at the regional level, particularly the establishment through regional regulations regarding the recognition and protection of indigenous legal communities.¹²

At the legal level, Article 3 of Law Number 5 of 1960 concerning Basic Agrarian Regulations¹³ recognize the implementation of customary rights of indigenous legal communities as long as they actually still exist, with the condition that their implementation must be in accordance with national and state interests and must not conflict with higher laws and regulations.¹⁴ Explains that the provision places customary rights in a subordinate position to national interests, so that in practice the state has very broad authority to limit or even eliminate customary rights when deemed to conflict with greater development interests. This kind of legal construction is basically consistent with the doctrine of *domein verklaring* inherited from the colonial legal system, in which the state positions itself as the holder of supreme power over land, so that the rights of indigenous peoples tend to be positioned as exceptions whose existence must be proven, rather than as basic rights that are automatically protected.

Important developments occurred after the issuance of Constitutional Court Decision Number 35/PUU-X/2012¹⁵, which states that the phrase "state forest" in Article 1 number 6 of Law Number 41 of 1999 concerning Forestry, insofar as it does not include forests located in the territory of customary law communities, is contrary to the 1945 Constitution of the Republic of Indonesia.¹⁶ The ruling fundamentally revised the state's perspective on customary forests, from their original categorization as part of state forests to rights-based forests under the control of indigenous communities. The ruling's implications are far-reaching, impacting not only the forestry sector but also opening up legal arguments for recognizing indigenous peoples' rights in other sectors, such as mining, plantations, and spatial planning.

As a follow-up to this decision, the government issued Regulation of the Minister of Home Affairs Number 52 of 2014 concerning Guidelines for the Recognition and Protection of Indigenous Legal Communities¹⁷, which regulates the stages of recognition of customary law communities through the formation of customary law community committees at the regional level, identification of the existence of customary law communities, verification and validation, to determination through regional head decisions and regional regulations.¹⁸ Identified that although this regulation provides a fairly detailed procedural framework, its implementation on the ground has been very slow, as many local governments do not yet have regional regulations on indigenous legal communities, while the identification and verification process requires in-depth academic studies and involves various stakeholders who often have different interests, including local governments, companies holding business permits, and indigenous communities themselves. As a result, to date the number of indigenous legal communities

¹² Dieterle, C. (2025). When 'best practice' means formalising: foreign large-scale land investments on customary tenure in Uganda and Sierra Leone. *Review of International Political Economy*, 32(3), 847-870. <https://doi.org/10.1080/09692290.2025.2451149>

¹³Undang-Undang Nomor 5 Tahun 1960 tentang Peraturan Dasar Pokok-Pokok Agraria, Pasal 3.

¹⁴Santoso, M. A. (2021). Hukum agraria: Kajian komprehensif. Kencana. hlm. 88.

¹⁵Putusan Mahkamah Konstitusi Nomor 35/PUU-X/2012 tentang Pengujian Undang-Undang Nomor 41 Tahun 1999 tentang Kehutanan.

¹⁶Purnamasari, Op.Cit., hlm. 80.

¹⁷Peraturan Menteri Dalam Negeri Nomor 52 Tahun 2014 tentang Pedoman Pengakuan dan Perlindungan Masyarakat Hukum Adat.

¹⁸Hutagalung, M. (2022). Penetapan wilayah adat sebagai prasyarat pengakuan hak ulayat: Kajian atas Permendagri Nomor 52 Tahun 2014. *Jurnal Hukum Lingkungan Indonesia*, 8(2), 112-130. hlm. 118.

that have been officially recognized through regional regulations remains far less than the estimated number of indigenous legal communities spread throughout Indonesia.

On the other hand, the Ministry of Environment and Forestry has also issued Regulation of the Minister of Environment and Forestry Number 9 of 2021 concerning Customary Forests and Rights Forests.¹⁹ This is an improvement on the previous regulation, which governed the mechanism for establishing customary forests through applications from recognized customary law communities. Similarly, the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency issued Ministerial Regulation No. 18 of 2019 concerning Procedures for Establishing Communal Rights to Land of Indigenous Communities²⁰, which opens up the option of registering customary land as communal rights that can be registered in the national land registration system²¹ is of the view that the presence of this communal rights scheme is an important breakthrough because for the first time the national land registration system accommodates communal forms of ownership which previously had no place in the legal framework of land which was dominated by the concept of individual ownership as regulated in the Basic Agrarian Law.

However, the proliferation of regulations across various ministries and institutions has actually given rise to new problems in the form of overlapping authority and disharmony in norms between sectors²² noted that the pluralism of regulations regarding the recognition of indigenous peoples, spread across the forestry, land, and regional government sectors, creates uncertainty regarding which institution has the final authority to determine the status of indigenous peoples, especially when each ministry applies different criteria and procedures. The absence of a single, integrated reference framework causes the recognition process to be protracted, and it is not uncommon for an indigenous community to have to go through repeated identification processes at different institutions only to obtain partial and sectoral recognition, rather than comprehensive recognition of all its traditional rights.

Legal protection of customary rights can also be traced through judicial jurisprudence, particularly in disputes involving customary law communities against holders of plantation or mining business permits²³ conducted a study of a number of court decisions, including Supreme Court Decision Number 650 K/Pdt/2014²⁴, and found that courts tend to give varying considerations in assessing the existence of customary rights, depending on the strength of the evidence presented by indigenous communities, such as maps of customary areas, the history of hereditary land ownership, and recognition from the local government. In a number of decisions, courts tend to favor parties who have formal proof of ownership in the form of land title certificates or business permits issued by the government, even though indigenous communities can prove control factually and historically. This condition illustrates the existence of a

¹⁹Peraturan Menteri Lingkungan Hidup dan Kehutanan Nomor 9 Tahun 2021 tentang Hutan Adat dan Hutan Hak.

²⁰Peraturan Menteri Agraria dan Tata Ruang/Kepala Badan Pertanahan Nasional Nomor 18 Tahun 2019 tentang Tata Cara Penetapan Hak Komunal atas Tanah Masyarakat Hukum Adat dan Masyarakat yang Berada dalam Kawasan Tertentu.

²¹Yance, A. (2023). Hak atas tanah ulayat dalam perspektif hukum agraria nasional. Refika Aditama. hlm. 152.

²²Nurjaya, I. N. (2022). Pluralisme hukum agraria dan penyelesaian sengketa tanah ulayat. Jurnal Hukum Ius Quia Iustum, 29(1), 20–41. hlm. 25.

²³Napitupulu, E. (2025). Kajian putusan pengadilan terkait sengketa tanah ulayat versus izin usaha perkebunan. Jurnal Yudisial, 18(1), 33–52. hlm. 40.

²⁴Putusan Mahkamah Agung Nomor 650 K/Pdt/2014 tentang Sengketa Tanah Ulayat dengan Izin Usaha Perkebunan.

structural bias in the justice system that prioritizes formal-administrative legal certainty over substantive justice for indigenous communities.

This phenomenon is in line with the view²⁵ which states that legal protection for customary rights cannot be solely dependent on litigation mechanisms in court, considering the unwritten nature of customary law and its reliance on the testimony of customary leaders and documents that are not always standardized. Therefore, strengthening the administrative recognition mechanism through the determination of customary territories is far more strategic than relying on the lengthy and costly process of proving in court, while on the other hand, business activities that have the potential to harm indigenous communities continue to run without significant obstacles during the litigation process.

Apart from the issue of determining the status of customary forests, the aspect of recognizing customary rights is also closely related to the authority of villages in managing their assets and territories as regulated in Law Number 6 of 2014 concerning Villages.²⁶ The law recognizes the concept of customary villages as customary law community units that meet certain requirements and whose existence is recognized, which gives customary villages broader authority to regulate and manage the interests of local customary law communities, including in terms of managing customary land.²⁷ However, the transformation from customary law communities to customary villages according to the Village Law requires a complex restructuring process, as it must be adjusted to the existing village government structure. Therefore, in a number of areas, the transformation process has given rise to resistance from established village government officials, who are concerned about losing authority if their villages are transformed into customary villages with different institutional structures.

Another aspect that needs to be considered within the legal framework for protecting customary rights is their relationship to human rights, particularly the right to cultural identity and the right to a decent living as guaranteed by Law Number 39 of 1999 concerning Human Rights. Customary rights are not merely property rights to land, but also a manifestation of the collective identity of a customary law community, which contains spiritual, social, and cultural values that have been passed down from generation to generation.²⁸ Losing access to customary land, therefore, not only impacts the economic aspects of customary communities, but also has the potential to eliminate cultural identity and break the chain of traditional knowledge inheritance that has long been an integral part of the existence of customary law communities themselves. This human rights perspective should be a primary consideration in any development policy that impacts customary territories, so that the approach used is not solely based on economic calculations.

Furthermore, the protection of customary rights also needs to be viewed within the broader context of environmental law, given that indigenous communities generally possess local wisdom in sustainable natural resource management, which has been tested for centuries in maintaining the balance of ecosystems in their customary territories. This local wisdom, for example in the form of the forbidden forest system, *sasi*,

²⁵Sembiring, R. (2022). *Hukum adat dan pembangunan berkelanjutan di Indonesia*. Genta Publishing. hlm. 67.

²⁶Undang-Undang Nomor 6 Tahun 2014 tentang Desa, Pasal 103.

²⁷ Kridasakti, S. W., Rizkiana, R. E., Wahyuni, P. M., Senastri, N. M. J., & Yuningsih, H. (2025). The legitimacy crisis of Customary Villages under Indonesia's village Law. *Sriwijaya Law Review*, 432-456. <https://doi.org/10.28946/slrev.v9i2.3998>

²⁸ Gaitenidis, N. (2025). Indigenous Peoples, Cultural Heritage, and Traditional Knowledge: Untying the Gordian Knot of Human Rights and Intellectual Property in International Law. *International Journal on Minority and Group Rights*, 1(aop), 1-45. <https://doi.org/10.1163/15718115-bja10226>

or various other water and forest resource management wisdom, is basically in line with the principles of sustainable development as mandated in Law Number 32 of 2009 concerning Environmental Protection and Management. Thus, recognition of customary rights of indigenous communities is not only relevant from a social justice perspective, but also has a strategic contribution to efforts to mitigate climate change and preserve biodiversity. Therefore, it is appropriate for the state to view indigenous communities as strategic partners in natural resource management, not merely as parties whose interests must be aligned with the economic development agenda.

Another relevant institutional dimension to discuss is the role of customary institutions themselves in strengthening the legitimacy of customary rights recognition. Most regional regulations on the recognition of customary law communities require the existence of a clear customary institutional structure, such as a customary council, a customary deliberation body, or a customary leader recognized by the community, as an indicator of the community's continued existence.²⁹ While this requirement aims to ensure that recognition is granted to communities that genuinely maintain their customary law systems in a vibrant and sustainable manner, it also has the potential to become an obstacle for customary communities whose institutional structures have been weakened by modernization, population migration, and formal government intervention over the past several decades. Therefore, a more contextual approach is needed to assess the sustainability of customary institutions, without simply demanding a rigid and uniform institutional form across Indonesia.

Comparisons with practices in other countries can also enrich perspectives on the protection of customary rights in Indonesia. Several countries with significant indigenous populations, such as Canada, Australia, and the Philippines, have developed legal frameworks that explicitly recognize the territorial rights of indigenous peoples through separate legal instruments, such as aboriginal title in Canada and the Indigenous Peoples Rights Act in the Philippines. These legal frameworks generally position the recognition of indigenous peoples' rights as stand-alone rights, not solely dependent on lengthy administrative processes, but rather directly based on evidence of historical control, which can be demonstrated through various methods, including oral testimony and participatory mapping. This comparison demonstrates that Indonesia still has ample room to strengthen its legal framework for recognizing customary rights by adopting the best principles from these comparative practices, while not neglecting the unique characteristics and local wisdom of Indonesia's customary law system.

From the above description, it can be concluded that the legal framework for the recognition and protection of customary rights of indigenous communities in Indonesia has undergone progressive development, both through Constitutional Court decisions and various implementing regulations at the ministerial level. However, this normative development has not been accompanied by adequate institutional strengthening and regulatory harmonization, so that its implementation in the field still leaves various structural issues that require serious attention from policymakers, particularly in the context of accelerating national development that has the potential to threaten the existence of indigenous territories that have not yet received definitive legal recognition.

It should also be emphasized that the protection of customary rights is closely related to the principle of legal certainty as one of the main objectives of the national agrarian legal system, as reflected in the preamble to the Basic Agrarian Law, which calls for the creation of legal certainty for all Indonesian people, including indigenous

²⁹ Jzani, M. R. (2025). The Effectiveness of Restorative Justice in Resolving Criminal Acts: Interaction Between Ocu Customary Law and Positive Law. *Jurnal Ius Constituendum*, 10(3), 394-414. <https://doi.org/10.26623/jic.v10i3.12234>

communities. The protracted ambiguity of the legal status of customary land fundamentally contradicts this objective, as it creates uncertainty for both indigenous communities themselves and business actors seeking to invest in an area. Therefore, accelerating the determination of the legal status of customary areas is not only in the interests of indigenous communities alone, but also in the shared interests of all stakeholders, including the government and business actors, in order to create an investment climate that is legally certain and sustainable in the long term.

Challenges and Solutions for Protecting Customary Rights in the Midst of National Development

The first challenge faced in protecting customary rights amidst the pace of national development is the expansion of national strategic projects designated by the government as development priorities, including energy infrastructure, toll roads, industrial areas, and food estates³⁰ explained that the status of a national strategic project provides procedural convenience for the government and project implementers in land acquisition, including a faster mechanism for revoking land rights compared to general land acquisition. While this procedural convenience aims to accelerate infrastructure development deemed vital to the national economy, it also potentially disregards adequate consultation with indigenous communities whose territories are affected, particularly in areas whose legal status has not yet been definitively established as indigenous territories.

Similar problems also occur in the mining sector, where mining business permit concessions are often issued without considering the existence of indigenous territories that have not been officially mapped³¹ conducted a case study in the Kalimantan region and found that overlapping mining concessions with customary areas has become a source of prolonged conflict, considering that the mining licensing process generally only considers land status based on forest area data and regional spatial planning, without including verification of the existence of customary law communities who have in fact controlled and managed the area for generations. As a result, when mining activities begin operations, indigenous communities only realize that the area they consider to be customary land has been burdened with a mining business permit by a third party, so that the legal position of indigenous communities is very weak in defending their rights.

The second challenge relates to the weak implementation of the principle of free, prior and informed consent in every development activity that impacts customary areas³² emphasized that although this principle has been adopted in a number of sectoral policies, particularly in the forestry and environmental sectors, its implementation in the field is still merely a formality, where public consultations with indigenous communities are often carried out only to fulfill administrative obligations without providing real space for indigenous communities to express their rejections or submit certain conditions for business activity plans to be implemented in their areas. The absence of a firm enforcement mechanism for this principle causes the consultation process to function more as a formality of legitimacy for business actors, rather than as an instrument for protecting the substantive rights of indigenous communities.

³⁰Putri Jayanti, S. (2024). Perlindungan hukum masyarakat hukum adat dalam proyek strategis nasional. *Jurnal Yudisial*, 17(1), 1–19. hlm. 6.

³¹Situmorang, T. (2024). Konsesi pertambangan dan hak ulayat: Studi kasus di Kalimantan. *Jurnal Hukum Pertambangan dan Energi*, 6(2), 88–104. hlm. 91.

³²Wibisono, A. (2024). Free, prior and informed consent dalam praktik pengadaan tanah untuk kepentingan umum. *Jurnal Hukum Lingkungan*, 11(1), 45–63. hlm. 50.

The third challenge is the lack of a nationally integrated database of customary areas³³ revealed that the digitalization of land registration currently being intensively implemented by the National Land Agency through a comprehensive systematic land registration program has the potential to accelerate the registration of individual land rights, but on the other hand, it risks also accelerating the certification process for lands that are actually part of the customary territories of indigenous communities that have not been officially designated. Without a customary territory database integrated with the national land registration system, there is a significant risk that customary lands will be registered as individual property by unauthorized parties, thus administratively eliminating the legal traces of the existence of these customary rights.

The fourth challenge relates to institutional aspects and the decentralization of authority to recognize customary law communities to local governments³⁴ argues that the decentralization design, which places the authority to recognize indigenous communities at the district/city government level through regional regulations, has created significant disparities between regions, given the wide variety of institutional capacities, budgets, and political commitments of regional heads in responding to the existence of indigenous communities. Regions with high investment interests, particularly in the plantation and mining sectors, tend to be less responsive in issuing regional regulations on the recognition of indigenous communities, fearing that this will hinder investment in those regions. This situation indicates a tug-of-war between the regional economic development agenda and the constitutional obligation to recognize and protect the rights of indigenous communities.

To address these challenges, a number of comprehensive solutions are needed, involving improvements at the regulatory, institutional, and practical levels of development implementation. The first solution is to accelerate the development of a special law concerning indigenous legal communities, which has been long awaited but has yet to be ratified³⁵ emphasized that the existence of this special law is very urgent to unify various sectoral regulations that have been scattered and disharmonious, while also establishing a uniform definition, criteria, and mechanism for recognizing indigenous peoples throughout Indonesia, without having to rely entirely on the initiatives of each regional government whose capacity and commitment vary greatly. Ideally, this law should also regulate a dispute resolution mechanism that is faster and supports substantive justice, without neglecting legal certainty for the business world.

The second solution is to accelerate the determination of customary areas through a participatory approach involving participatory mapping by the indigenous communities themselves, the results of which are then integrated into a single national customary area map that serves as a reference for all ministries and institutions in the business licensing process and regional spatial planning³⁶ recommends that the central government take a more active role in facilitating and funding the participatory mapping process, given that regional budget constraints are often a major obstacle to the identification and verification of indigenous communities. Integrating indigenous territory maps into the national spatial planning and land information system will also prevent the issuance of business permits that overlap with indigenous territories from

³³Amalia, R. (2025). Digitalisasi pendaftaran tanah dan implikasinya terhadap pengakuan hak ulayat. *Jurnal Hukum dan Peradilan*, 14(1), 25–44. hlm. 30.

³⁴Gunawan, B. (2025). Desentralisasi asimetris dan kewenangan daerah dalam pengakuan masyarakat hukum adat. *Jurnal Hukum Tata Negara*, 9(1), 60–79. hlm. 68.

³⁵Pratama, I. G. (2026). Rekonstruksi kebijakan agraria nasional yang responsif terhadap masyarakat hukum adat. *Jurnal Legislasi Indonesia*, 23(1), 1–18. hlm. 10.

³⁶Hutagalung, Op.Cit., hlm. 125.

the early planning stages, thereby minimizing potential conflicts long before business activities are actually implemented.

The third solution is to strengthen the application of the principle of free, prior, and informed consent as an absolute requirement, not just a formality, in every stage of planning and implementation of development projects that impact customary areas³⁷ proposes that this mechanism be explicitly regulated in legislation, complete with legal consequences in the form of revocation of business permits if the consultation process is not carried out adequately or if indigenous communities expressly reject planned business activities in their areas. Strengthening this principle also needs to be accompanied by the provision of legal assistance for indigenous communities so they can fully understand the implications of any planned business activities that will impact their areas and livelihoods.

The fourth solution is the development of a restorative and participatory agrarian conflict resolution model, as an alternative to litigation mechanisms which tend to be lengthy and expensive³⁸ offers a restorative governance model that emphasizes mediation and deliberation between indigenous communities, local governments, and business actors, prioritizing the restoration of relationships and the fulfillment of indigenous rights, rather than solely favoring one party. This model is considered more in keeping with the characteristics of customary law, which prioritizes deliberation and consensus, and can also be a faster and more equitable mechanism than conventional judicial processes, which often fail to address the socio-cultural complexities of customary land disputes.

The fifth solution is to strengthen inter-institutional coordination at the central level through the formation of a task force or special agency that handles customary law communities across sectors, tasked with harmonizing various sectoral policies that are currently spread across the Ministry of Home Affairs, the Ministry of Environment and Forestry, the Ministry of Agrarian Affairs and Spatial Planning, and other related ministries/institutions³⁹ emphasized that without a coordinating body with adequate authority, regulatory harmonization efforts will continue to be partial and incomplete, thus preventing the overlapping authority issues that have been a major obstacle to the recognition of indigenous communities from being fully resolved. Ideally, the establishment of such a coordinating body should be accompanied by strengthening institutional capacity at the regional level, including the provision of a dedicated budget for regional governments to more quickly and comprehensively identify and establish indigenous communities.

Another issue complicating the protection of customary rights is the weak synchronization between provincial and district/city spatial planning documents and the existence of indigenous territories that have not been officially designated. In the practice of preparing regional spatial plans, the allocation of other designated areas, such as agricultural, plantation, and industrial areas, is generally based on existing land use data and projected regional economic development needs, without specifically allocating space for indigenous territories whose existence has not been formally verified. As a result, when an indigenous community then applies for recognition of its territory, it is often already allocated in the regional spatial plan for another designated area that conflicts with the status of the indigenous territory, thus giving rise to policy conflicts that

³⁷Wibisono, Op.Cit., hlm. 58.

³⁸Ramadhani, F. (2022). Restorative governance: Model penyelesaian konflik agraria berbasis masyarakat adat. *Jurnal Rechts Vinding*, 11(2), 199–216. hlm. 205.

³⁹Fauzan, M. (2023). *Perlindungan hukum hak-hak masyarakat hukum adat atas sumber daya alam*. Deepublish. hlm. 210.

are difficult to resolve without revising the regional spatial plan that has been established through separate regional regulations, which generally requires a lengthy political and administrative process.

This complexity underscores the importance of mainstreaming customary territory data from the initial stages of drafting and reviewing spatial plans at the provincial and district/city levels. Local governments should actively involve institutions with customary territory databases, including civil society organizations concerned with indigenous communities and research institutions, in every process of drafting and revising spatial plans, so that potential conflicts between the allocation of space for investment purposes and the existence of customary territories can be identified and mitigated early on, long before the spatial plan is ratified and becomes a binding legal reference for all stakeholders, including investors seeking to invest in an area.

The fifth, equally important challenge is the funding and institutional capacity of indigenous communities themselves in fighting for recognition of their customary rights. The process of applying for recognition of indigenous communities, from the preparation of academic studies and mapping of customary territories to advocacy with local governments, requires financial resources and technical knowledge that indigenous communities generally do not possess independently. The reliance on assistance from civil society organizations and non-governmental organizations (NGOs) in this process demonstrates a significant gap between policy designs that require complex administrative processes and the actual capacity of indigenous communities to meet these requirements independently.⁴⁰ This situation further demonstrates the need for an active role for the state in facilitating the recognition process, rather than simply establishing administrative requirements without adequate technical support and funding for indigenous communities seeking recognition of their territories.

The economic dimension cannot be ignored in analyzing the relationship between national development and the customary rights of indigenous peoples. The government generally argues that large-scale development projects, including mining and plantations, will bring economic benefits in the form of jobs, local revenue, and local economic growth, which in turn will also be felt by indigenous communities around the project areas. However, empirical experience in various regions shows that these economic benefits are often not distributed proportionally to indigenous communities, given that the majority of the workforce absorbed in large-scale projects is skilled labor brought in from outside the region, while indigenous communities who lose access to their customary lands actually experience a decline in welfare due to the loss of traditional livelihoods based on agriculture, farming, and the use of forest products that have been the mainstay of their economy. This gap between the narrative of macroeconomic benefits and the reality of indigenous peoples' welfare at the micro level should be the subject of serious evaluation by policymakers in formulating truly inclusive development policies.

The sixth challenge relates to weak oversight of business actors' compliance with social and environmental responsibility obligations, particularly in areas that overlap with customary land that has not been officially designated but is in fact still inhabited and managed by indigenous communities. In many cases, companies holding business permits have indeed fulfilled formal obligations in the form of preparing environmental impact analysis documents and implementing corporate social responsibility programs, but the substance of these documents and programs often does not involve meaningful

⁴⁰ Robinson, R. S., Brass, J. N., Shermeyer, A., & Grossman, N. (2024). Reported effects of non-governmental organizations (NGOs) in health and education service provision: The role of NGO-government relations and other factors. *Development Policy Review*, 42(1), e12737. <https://doi.org/10.1111/dpr.12737>

participation from local indigenous communities, so that the programs implemented are not aligned with the real needs and aspirations of indigenous communities, and often even create new dependencies that erode the traditional economic independence of indigenous communities themselves.

The sixth solution that can be offered is strengthening the institutional capacity of indigenous legal communities through a sustainable legal assistance program facilitated by the state, in collaboration with universities and civil society organizations that have expertise in the field of agrarian law and indigenous peoples' rights. This assistance program should include the provision of free legal aid, policy advocacy training, and facilitation of participatory mapping of indigenous territories, so that indigenous legal communities have a more equal bargaining position in dealing with business actors and local governments. Furthermore, the central government needs to allocate a special budget through a special allocation fund scheme or customary village funds specifically intended to accelerate the process of identification, verification, and determination of indigenous legal communities throughout Indonesia, so that the recognition process is no longer solely dependent on the fiscal capacity of each regional government, which varies greatly.

Another relevant dimension to consider in the protection of customary rights is the perspective of gender justice in the inheritance and management structures of customary land, considering that most customary legal systems in Indonesia still adhere to patrilineal descent, which tends to grant customary land management and inheritance rights to male members of indigenous communities, while indigenous women often have only secondary rights or are not even recognized at all in these inheritance structures. When land acquisition or compensation for customary land affected by development projects occurs, this unequal pattern of gender relations has the potential to prevent indigenous women from obtaining equal access to compensation or involvement in decision-making processes regarding the future of their customary territories. Therefore, every policy regarding the recognition and protection of customary rights should also integrate a gender justice perspective, by ensuring the meaningful involvement of indigenous women in every consultation and decision-making forum related to the use of customary land, without negating the existing customary legal system, but rather encouraging the internal evolution of the system towards a more inclusive and equitable direction for all members of indigenous communities, both men and women.

The seventh solution is to strengthen oversight mechanisms for the implementation of corporate social and environmental responsibilities in areas that overlap with customary lands, by requiring the meaningful involvement of indigenous communities in the development and evaluation of corporate social responsibility programs. Regional governments and relevant technical ministries need to strengthen their oversight functions to ensure that corporate social responsibility programs truly align with the real needs of indigenous communities, rather than merely symbolic charitable programs. Furthermore, reporting and complaint mechanisms are needed that are easily accessible to indigenous communities, so that any alleged violations of customary rights can be promptly followed up by the authorized agencies without having to wait for a larger conflict to escalate.

Ultimately, a balance between national development interests and the protection of customary rights of indigenous communities can only be achieved if the state views indigenous communities not as obstacles to development, but as legal subjects possessing constitutional rights equal to those of other citizens. A development paradigm solely oriented toward economic growth without consideration for social and ecological justice for indigenous communities will ultimately only give rise to protracted agrarian conflicts,

which will actually hinder the sustainability of development itself in the long term. Therefore, strengthening legal protection for customary rights is not merely a matter of fulfilling human rights, but also a long-term investment in creating sustainable and equitable national development for all elements of the nation.

CONCLUSIONS

Based on the discussion above, it can be concluded that the legal recognition and protection of customary rights of indigenous communities in Indonesia have undergone significant development, particularly since the enactment of Constitutional Court Decision Number 35/PUU-X/2012, which corrected the status of customary forests from part of state forests to customary rights forests, and was strengthened through various implementing regulations at the ministerial level that regulate the mechanism for recognizing customary communities and determining communal rights to land. However, this normative development has not been fully followed by effective implementation in the field, considering the process of identifying and determining customary areas is still slow, overlapping and disharmonious sectoral regulations, and weak enforcement of the principle of free, prior, and informed consent in every development activity that impacts customary areas. These challenges are increasingly complex amidst the strong flow of national development oriented towards accelerating investment, expanding national strategic projects, and digitizing the land registration system, which has the potential to accelerate the loss of legal traces of customary areas that have not been officially designated. This condition emphasizes that constitutional recognition alone is not enough without consistent policies and strong political commitment at all levels of government.

This study is limited by its reliance on a library-based approach that synthesizes secondary sources without incorporating primary empirical data from customary institutions or conflict resolution practices in specific regions. Consequently, the findings provide a conceptual understanding of the role of customary institutions but may not fully capture the diversity of their implementation across Indonesia. Future research is encouraged to employ empirical methods, such as interviews, field observations, or comparative case studies, to evaluate the effectiveness of customary institutions in different multicultural contexts and to examine how they adapt to contemporary legal and social challenges.

REFERENCE

- Amalia, R. (2025). Digitalisasi pendaftaran tanah dan implikasinya terhadap pengakuan hak ulayat. *Jurnal Hukum dan Peradilan*, 14(1), 25–44.
- Arizona, Y. (2021). Hutan adat dan politik hukum pengakuan masyarakat adat di Indonesia. *Jurnal Antropologi Indonesia*, 42(2), 140–159.
- Diantoro, T. D. (2025). A Critical Review of the Actualization of the Right to Control by the State Doctrine in the Policy on Revocation of Forest Area Permits/Concessions. *Jurnal Pembangunan Hukum Indonesia*, 7(2), 71-93. <https://doi.org/10.14710/jphi.v7i2.71-93>
- Dieterle, C. (2025). When ‘best practice’ means formalising: foreign large-scale land investments on customary tenure in Uganda and Sierra Leone. *Review of International Political Economy*, 32(3), 847-870. <https://doi.org/10.1080/09692290.2025.2451149>
- Fauzan, M. (2023). Perlindungan hukum hak-hak masyarakat hukum adat atas sumber daya alam. Deepublish.

- Gaitenidis, N. (2025). Indigenous Peoples, Cultural Heritage, and Traditional Knowledge: Untying the Gordian Knot of Human Rights and Intellectual Property in International Law. *International Journal on Minority and Group Rights*, 1(aop), 1-45. <https://doi.org/10.1163/15718115-bja10226>
- Gaitenidis, N. (2025). Indigenous Peoples, Cultural Heritage, and Traditional Knowledge: Untying the Gordian Knot of Human Rights and Intellectual Property in International Law. *International Journal on Minority and Group Rights*, 1(aop), 1-45. <https://doi.org/10.1163/15718115-bja10226>
- Gunawan, B. (2025). Desentralisasi asimetris dan kewenangan daerah dalam pengakuan masyarakat hukum adat. *Jurnal Hukum Tata Negara*, 9(1), 60–79.
- Hutagalung, M. (2022). Penetapan wilayah adat sebagai prasyarat pengakuan hak ulayat: Kajian atas Permendagri Nomor 52 Tahun 2014. *Jurnal Hukum Lingkungan Indonesia*, 8(2), 112–130.
- Jzani, M. R. (2025). The Effectiveness of Restorative Justice in Resolving Criminal Acts: Interaction Between Ocu Customary Law and Positive Law. *Jurnal Ius Constituendum*, 10(3), 394-414. <https://doi.org/10.26623/jic.v10i3.12234>
- Kridasakti, S. W., Rizkiana, R. E., Wahyuni, P. M., Senastri, N. M. J., & Yuningsih, H. (2025). The legitimacy crisis of Customary Villages under Indonesia's village Law. *Sriwijaya Law Review*, 432-456. <https://doi.org/10.28946/slrev.v9i2.3998>
- Napitupulu, E. (2025). Kajian putusan pengadilan terkait sengketa tanah ulayat versus izin usaha perkebunan. *Jurnal Yudisial*, 18(1), 33–52.
- Nurjaya, I. N. (2022). Pluralisme hukum agraria dan penyelesaian sengketa tanah ulayat. *Jurnal Hukum Ius Quia Iustum*, 29(1), 20–41.
- Peraturan Menteri Agraria dan Tata Ruang/Kepala Badan Pertanahan Nasional Nomor 18 Tahun 2019 tentang Tata Cara Penetapan Hak Komunal atas Tanah Masyarakat Hukum Adat dan Masyarakat yang Berada dalam Kawasan Tertentu.
- Peraturan Menteri Dalam Negeri Nomor 52 Tahun 2014 tentang Pedoman Pengakuan dan Perlindungan Masyarakat Hukum Adat.
- Peraturan Menteri Lingkungan Hidup dan Kehutanan Nomor 9 Tahun 2021 tentang Hutan Adat dan Hutan Hak.
- Pratama, I. G. (2026). Rekonstruksi kebijakan agraria nasional yang responsif terhadap masyarakat hukum adat. *Jurnal Legislasi Indonesia*, 23(1), 1–18.
- Purnamasari, D. (2023). Konflik tenurial kawasan hutan adat pascaputusan Mahkamah Konstitusi 35/2012: Evaluasi implementasi. *Jurnal Konstitusi*, 20(1), 77–96.
- Putri Jayanti, S. (2024). Perlindungan hukum masyarakat hukum adat dalam proyek strategis nasional. *Jurnal Yudisial*, 17(1), 1–19.
- Putusan Mahkamah Agung Nomor 650 K/Pdt/2014 tentang Sengketa Tanah Ulayat dengan Izin Usaha Perkebunan.
- Putusan Mahkamah Konstitusi Nomor 31/PUU-V/2007 tentang Pengujian Undang-Undang Nomor 5 Tahun 1960 tentang Peraturan Dasar Pokok-Pokok Agraria.
- Putusan Mahkamah Konstitusi Nomor 35/PUU-X/2012 tentang Pengujian Undang-Undang Nomor 41 Tahun 1999 tentang Kehutanan.
- Ramadhani, F. (2022). Restorative governance: Model penyelesaian konflik agraria berbasis masyarakat adat. *Jurnal Rechts Vinding*, 11(2), 199–216.
- Robinson, R. S., Brass, J. N., Shermeyer, A., & Grossman, N. (2024). Reported effects of non-governmental organizations (NGOs) in health and education service provision: The role of NGO–government relations and other factors. *Development Policy Review*, 42(1), e12737. <https://doi.org/10.1111/dpr.12737>
- Santoso, M. A. (2021). Hukum agraria: Kajian komprehensif. Kencana.

- Sembiring, R. (2022). Hukum adat dan pembangunan berkelanjutan di Indonesia. Genta Publishing.
- Simarmata, R. (2021). Rekognisi hak ulayat masyarakat hukum adat pascaputusan Mahkamah Konstitusi Nomor 35/PUU-X/2012. *Jurnal Hukum dan Pembangunan*, 51(2), 245–262.
- Siregar, H. B. (2023). Rekognisi bersyarat hak masyarakat hukum adat dalam Undang-Undang Cipta Kerja. *Mimbar Hukum*, 35(1), 55–73.
- Situmorang, T. (2024). Konsesi pertambangan dan hak ulayat: Studi kasus di Kalimantan. *Jurnal Hukum Pertambangan dan Energi*, 6(2), 88–104.
- Soetjipto, A. W. (2022). Journey to justice: The United Nations declaration on the rights of indigenous peoples in the context of West Papua. *Journal of asean Studies*, 10(1), 129–149. <https://doi.org/10.21512/jas.v10i1.8491>
- Toumbourou, T. D., Dressler, W. H., & Werner, T. T. (2022). Plantations enabling mines: Incremental industrial extraction, social differentiation and livelihood change in East Kalimantan, Indonesia. *Land Use Policy*, 119, 106157. <https://doi.org/10.1016/j.landusepol.2022.106157>
- Undang-Undang Dasar Negara Republik Indonesia Tahun 1945.
- Undang-Undang Nomor 11 Tahun 2020 tentang Cipta Kerja, Lembaran Negara Republik Indonesia Tahun 2020 Nomor 245, sebagaimana telah diubah dengan Peraturan Pemerintah Pengganti Undang-Undang Nomor 2 Tahun 2022.
- Undang-Undang Nomor 32 Tahun 2009 tentang Perlindungan dan Pengelolaan Lingkungan Hidup, Lembaran Negara Republik Indonesia Tahun 2009 Nomor 140.
- Undang-Undang Nomor 41 Tahun 1999 tentang Kehutanan, Lembaran Negara Republik Indonesia Tahun 1999 Nomor 167.
- Undang-Undang Nomor 5 Tahun 1960 tentang Peraturan Dasar Pokok-Pokok Agraria, Lembaran Negara Republik Indonesia Tahun 1960 Nomor 104.
- Undang-Undang Nomor 6 Tahun 2014 tentang Desa, Lembaran Negara Republik Indonesia Tahun 2014 Nomor 7.
- Wardhani, N. K. (2022). Konflik agraria antara investasi dan hak masyarakat hukum adat di kawasan perkebunan. *Jurnal Ilmu Hukum*, 18(1), 33–50.
- Wibisono, A. (2024). Free, prior and informed consent dalam praktik pengadaan tanah untuk kepentingan umum. *Jurnal Hukum Lingkungan*, 11(1), 45–63.
- Wignjosebroto, S., & Prasetyo, T. (2021). Pluralisme hukum dan masyarakat hukum adat (Cet. ke-2). Kencana.
- Yance, A. (2023). Hak atas tanah ulayat dalam perspektif hukum agraria nasional. Refika Aditama.