

Protecting the Land Tenure Rights of Papuan Indigenous Peoples After New Autonomy Region

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Abstract

The Issues with indigenous peoples are very frequent, the impact of development, investment, and deforestation is accompanied by land conversion activities for oil palm plantations and mining, making the rights of indigenous peoples marginalized. In this context, this study seeks to investigate: (1). What problems are experienced by the Papuan Indigenous Peoples and what protection should be accepted by legal and human rights approaches; (2). What are the challenges of Special Autonomy in Papua following the stipulation of the latest Special Autonomy Law, especially in Southwest Papua, and what kind of projections and challenges are needed to protect the Papuan people at large? This research uses socio-legal methods to identify legal procedures related to socio-cultural, and political-economic aspects of the Papuan community. The result of this study shows that several points are specified to protect Indigenous Peoples rights in Papua, especially after Special Autonomy, namely the importance of protecting the human rights of Indigenous Peoples related to the right to self-determination, recognition of adat rights, and basic rights that should have affirmative policies carried out by the state to ensure that Indigenous Peoples can play a major role in protecting the environment and contributing to climate change prevention. Investment or state authority must be limited to protect, promote, and respect Indigenous Peoples in Papua and also Southwest Papuans. Then, with regard to the DOB in Papua, of course, it must be returned to its noble goal of protecting the rights of the Papuan people in realizing welfare and independence. Abuse of various forms of authority, including special autonomy funds in Papua must be condemned and strictly processed.

Keywords: Indigenous Peoples; New Authonomy Areas; Papua; Socio-Legal

Abstrak

Problematika terhadap masyarakat adat sangat sering terjadi, dampak pembangunan, investasi, deforestasi disertai dengan aktivitas alih-fungsi lahan untuk perkebunan kelapa sawit dan pertambangan, menjadikan hak-hak masyarakat hukum adat menjadi tersingkirkan. Pada konteks ini kita perlu mengidentifikasi lebih dalam: (1). Bagaimana problematika yang dialami MHA Papua dan perlindungan yang harusnya diterima pendekatan hukum dan HAM; (2). Bagaimana tantangan Otsus Papua pasca UU Otsus terbaru, khususnya di Papua Barat Daya, proyeksi dan tantangan seperti apa yang dibutuhkan untuk melindungi masyarakat Papua secara luas. Penelitian ini menggunakan metode sosio-legal untuk mengidentifikasi prosedur hukum serta lebih dari itu berkaitan dengan aspek sosio-kultur, dan politik-ekonomi masyarakat Papua. Hasil penelitian ini adalah setidaknya ada beberapa point untuk melindungi hak MHA di Papua khususnya pasca Otsus, yaitu pentingnya melindungi hak asasi dari MHA, berkaitan dengan hak menentukan nasibnya sendiri, pengakuan terhadap hak ulayat, serta hak-

hak dasar yang harusnya ada kebijakan afirmatif yang dilakukan oleh negara untuk meastikan bahwa MHA dapat menjalankan peran besarnya dalam melindungi lingkungan hidup serta berkontribusi terhadap pencegahan perubahan iklim. Atas nama investasi atau otoritas negara yang berlebih, harus dibatasi dalam rangka perlindungan, pemajuan, dan penghormatan terhadap MHA, khususnya MHA di Papua. Kemudian, berkaitan dengan DOB di Papua termasuk di Papua Barat Daya, tentu harus dikembalikan kepada tujuan mulianya untuk melindungi hak masyarakat Papua dalam mewujudkan kesejahteraan dan kemandirian.

Kata Kunci: Masyarakat Hukum Adat; DOB; Papua; Sosio-Legal



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A. INTRODUCTION

The number of indigenous peoples in the world is estimated to hit 370 million people inhabiting 70 countries, equivalent to 22% of the world's total population and occupying/holding 80% of the world's biodiversity. Indigenous Peoples' activities, with the model of animal hunters, agricultural farming, plantations, and traditional fisheries/fishermen carried out by indigenous communities are not only for the purpose of survival.^{1,2}

Based on data from the National Indigenous Peoples Alliance (AMAN), there were 2,161 indigenous communities as of August 9, 2022. Of these, the majority or 750 indigenous communities are in Kalimantan. Furthermore, a total of 649 indigenous communities live in Sulawesi, 349 in Sumatra, 175 in Maluku, 139 in Bali and Nusa Tenggara, 54 in Papua, and 45 indigenous communities in Java.³

Recently, problems with indigenous peoples have been highly frequent. Development, investment, and deforestation accompanied by land conversion activities for oil palm plantations and mining have marginalized the rights of Indigenous Peoples. The Agrarian Reform Consortium (*Konsorsium Pembaharuan Agraria-KPA*) noted that throughout 2015-2018 there were 1,769 agrarian conflicts involving Indigenous Peoples, farmers, and rural communities.⁴

The increase in agrarian conflicts that occur every year reaches 13-15%. Meanwhile, YLBHI (2018) shows that there have been 300 cases of structural agrarian conflicts in 16 provinces with a land area of 488,407.77 hectares. This conflict is caused by the issuance of concession permits on community (adat) land by the government to entrepreneurs and other infrastructure development projects.⁵

¹ Kristen Carpenter and Alexey Tsykarev, "Indigenous Peoples and Diplomacy on the World Stage," in *AJIL Unbound*, vol. 115, 2021, <https://doi.org/10.1017/aju.2021.7>.

² Judith G Bartlett et al., "Identifying Indigenous Peoples for Health Research in a Global Context: A Review of Perspectives and Challenges," *International Journal of Circumpolar Health* 66, no. 4 (September 1, 2007): 287–370, <https://doi.org/10.3402/ijch.v66i4.18270>.

³ AMAN, "ALIANSI MASYARAKAT ADAT NUSANTARA" (www.aman.or.id, 2022).

⁴ Konsorsium Pembaruan Agraria, "MASA DEPAN REFORMA AGRARIA MELAMPAUI TAHUN POLITIK," 2018.

⁵ AMAN, "Mengarungi Badai Investasi: Catatan Akhir Tahun 2019 Aliansi Masyarakat Adat Nusantara," 2019.

On July 25, 2022, three laws were passed related to the establishment of new provinces in Papua, namely Law Number 14 of 2022 concerning the Establishment of South Papua Province, Law Number 15 of 2022 concerning the Establishment of Central Papua Province, and Law Number 16 of 2022 concerning the Establishment of Mountain Papua Province, followed by the expansion of Southwest Papua Province on December 9, 2022 through Law Number 29 of 2022 concerning the Establishment of Provinces of Papua Barat Daya.⁶

The establishment of a New Autonomous Region (*Daerah Otonomi Baru-DOB*) in Papua certainly raises pros and cons. On the one hand, the government hopes that the existence of DOB Papua can provide many benefits, one of which is to focus on development to expedite the creation of services to the community and improve people's welfare. However, some parties feel that the existence of DOB Papua will increasingly threaten indigenous peoples and adat law. With these pros and cons, whether the presence of DOB Papua, particularly Papua Barat Daya, can protect indigenous peoples and adat law amidst the intense development of Papua Barat Daya is questioned.⁷

Several studies have focused on the protection of indigenous peoples and their tenure rights, including the impacts of development and investment on the rights of indigenous peoples in various countries in Southeast Asia. They have been deprived of their right to determine their destiny over their territories in licensing clauses issued by the state and by court rulings that are impartial to indigenous peoples themselves.

The protection of indigenous peoples in Papua shows the importance of discourse, including with regard to the implementation of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) as a principle that must be carried out by the state for its implementation, so that no exploitation of nature negates the basic rights of people in Southwest Papua, including strengthening the basic rights of indigenous peoples as part of human rights, both in civic and political, as well as economic, social, and cultural dimensions.⁸

The basic problem of protecting indigenous peoples in Papua has always been the gap between policies made by the Government and the conservation rights of indigenous Papuans, particularly to the use of natural resources due to the mining industry, rendering their human rights violated. The importance of recognizing adat rights, policies, as well as tenure arrangements and power relations locally will enable indigenous communities to secure their greatest access to land, by providing a role for conservation in supporting the process.⁹

Apart from several studies discussing similar topics encompassing the Papua and West Papua provinces of Indonesia, adat has been codified as an integral part of decentralised governance and development policies. Like the other regional problems in Indonesia, where

⁶ Zaka Firma Aditya and Sholahuddin Al-Fatih, "The Legal Protection System of Indigenous Peoples in Southeast Asia," *Legality: Jurnal Ilmiah Hukum* 31, no. 2 (September 21, 2023): 285–309, <https://doi.org/10.22219/ljih.v31i2.27619>.

⁷ Aditya and Al-Fatih.

⁸ Ani Widyani Soetjipto, "Journey to Justice: The United Nations Declaration on the Rights of Indigenous Peoples in the Context of West Papua," *JAS (Journal of ASEAN Studies)* 10, no. 1 (August 12, 2022), <https://doi.org/10.21512/jas.v10i1.8491>.

⁹ Paul A. Barnes et al., "The Gap between Policy and Practice for Human Rights in Conservation: A Case Study in Papua Province, Indonesia," *Oryx* 57, no. 3 (May 9, 2023): 360–69, <https://doi.org/10.1017/S0030605323000066>.

adat has been institutionalised, the institutionalisation of adat governance in West Papua is marked by contestation between different forms of adat institutions and the competition of political ideologies of national liberation. By tracing the history of various institutional frameworks in which adat and 'adat communities' are accommodated by the state, and elucidating non-state institutionalisation, adat remains a political battleground for various political actors in West Papua, including the Indonesian central government and Papuan independence movements. Then, the land and natural resources that exist in the territory of the existing society eventually undergo a form of expulsion and forcible control by the state in the name of national development and economic expansion. However, it has a major impact on the protection of indigenous peoples on the land tenure where they live and continue their activities. The protection and promotion of adat law is the main strategy for protecting the rights of indigenous peoples in Indonesia, including those in Papua.¹⁰ The protection of indigenous peoples has been imprinted by democratic regression on environmental politics, nationalist infrastructure development frameworks, along with controversial new laws. Tightening activities for indigenous groups and the promotion of democracy and civil liberties for vulnerable groups are the keys to the environment and democracy in Indonesia.¹¹ Regarding inadequate protection of human rights for vulnerable communities in Papua due to laws established by autocrats as well as the repression of the apparatus under the Joko Widodo regime, it is important that the civic space be protected communally between indigenous peoples, NGOs, academics, and other civil groups.¹² These dynamic interactions are intended to unravel the ties that bind the Indonesian state to West Papua. The collaborations and connections between Indonesian elites and dominant Western sections are counter-posed to the possibility of an alliance between West Papuans and poorer Indonesians – but only if Western solidarity organisers are attentive to the role Western (neo)imperialism plays in structurally determining the repression in form Indonesian colonization.¹³

This research seeks to discuss the protection of indigenous peoples in relation to tenure rights in the scope of not only a legal approach but also an interdisciplinary dimension to build an understanding in the lens of international mechanisms, as well as political, legal and economic aspects in order to protect and advance the Peoples. In this context, we need to identify more deeply: (1). What problems are experienced by the indigenous peoples of Papua and what protection should be accepted by legal and human rights approaches; (2). What are the challenges of Special Autonomy in Papua following the latest Special Autonomy Law, especially in Papua Barat Daya, and what projections and challenges are needed to protect the Papuan people at large?

¹⁰ Chloe Ginsburg and Stephanie Keene, "At a Crossroads: Consequential Trends in Recognition of Community-Based Forest Tenure from 2002-2017," *China Economic Journal* 13, no. 2 (2020), <https://doi.org/10.1080/17538963.2020.1755129>.

¹¹ Dirk Tomsa and Narissa Bax, "Democratic Regression and Environmental Politics in Indonesia," *Asian Studies Review* 47, no. 4 (2023), <https://doi.org/10.1080/10357823.2023.2189690>.

¹² Robertus Robet, Meila Riskia Fitri, and Marista Christina Shally Kabelen, "The State and Human Rights under Joko Widodo's Indonesia," *Cogent Social Sciences* 9, no. 2 (December 2023): 2286041, <https://doi.org/10.1080/23311886.2023.2286041>.

¹³ Connor Woodman, "The West Papuan Liberation Movement, Indonesian Settler Colonialism and Western Imperialism from an International Solidarity Perspective," *International Journal of Human Rights* 27, no. 6 (2023), <https://doi.org/10.1080/13642987.2022.2132235>.

B. METHOD

Identifying the rights of indigenous Papuans related to their land and tenure will need an identification carried out using a socio-legal study. This study is not limited to text; it deepens the context that includes all processes, ranging from 'law-making' to 'implementation of law'. The label socio-legal studies have gradually become a general term encompassing a group of disciplines that apply a social scientific perspective to the study of law, including the sociology of law, legal anthropology, legal history, psychology and law, the study of judicial political science, and comparative science.¹⁴

The socio-legal approach constitutes the social sciences, including political science, economics, culture, history, anthropology, communication and a number of other sciences, which are combined with approaches known in legal science, such as learning about law, principles, doctrines and statutory hierarchies. The socio-legal approach, thus, serves a single concept for the combination. The legal analysis carried out has a broad and interdisciplinary perspective in describing the issues raised in this research.¹⁵

C. RESULTS AND DISCUSSIONS

1. Papuan Adat Law Peoples: Problems & Protection

Prior to the second amendment in 2000, the 1945 Constitution recognized the Indigenous Peoples in its capacity as a “*volksgemeenschappen*”, a term to designate local alliances that have autonomy and self-governing capacity. The explanation of Article 18 of the Constitution mentions Nagari in Minangkabau and Villages in Bali as examples. After the amendment, the 1945 Constitution reaffirmed its recognition of Indigenous Peoples in the Local Government Chapter Article 18B paragraph (2) of the 1945 Constitution. Not only that, in the Chapter on Human Rights Article 28I paragraph (3), the constitution also mentions state respect for "cultural identity and traditional community rights".

At least a few things affirm the protection of Indigenous Peoples in the constitution of the 1945 Constitution: (1). The constitutive interpretation has deviated from the original intent of Article 18B paragraph (2) and Article 28I paragraph (3) of the 1945 Constitution. The point of these two articles is that in Indonesia there are adat law peoples and their traditional rights, and the state recognizes their legitimacy.¹⁶ Meanwhile, constitutive recognition pre-supposes that the Indigenous Peoples and their rights are not legitimate; therefore, the state must provide them through administrative procedures;

In practical terms, constitutive interpretation is almost impossible. It will take thousands (even hundreds of thousands of regulations) to recognize the existence of Indigenous Peoples throughout Indonesia while making just one recognition regulation takes up to 15 years. Third,

¹⁴ Brian Z Tamanaha, *Realistic Socio-Legal Theory: Pragmatism and a Social Theory of Law* (Oxford university press, 1997).

¹⁵ Herlambang Perdana Wiratraman and Widodo Dwi Putro, “Tantangan Metode Penelitian Interdisipliner Dalam Pendidikan Hukum Indonesia,” *Mimbar Hukum - Fakultas Hukum Universitas Gadjah Mada* 31, no. 3 (January 29, 2020): 402, <https://doi.org/10.22146/jmh.44305>.

¹⁶ Rebecca Anne Riggs et al., “Forest Tenure and Conflict in Indonesia: Contested Rights in Rempek Village, Lombok,” *Land Use Policy* 57 (November 2016): 241–49, <https://doi.org/10.1016/j.landusepol.2016.06.002>.

legal product recognition is needed as an administrative measure to ensure that Indigenous Peoples's rights interact equally with other rights under the country's legal system and no new rights are given.¹⁷

As an affirmation, regarding the Protection of Indigenous Peoples, Article 18B paragraph (2) of the 1945 Constitution reads: "The State recognizes and respects the unity of Indigenous Peoples and its traditional rights as long as it is alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia, which are stipulated in the 1945 Indonesian Constitution." According to Thontowi, traditional rights are: "... special or special rights inherent and possessed by a community of people on the existence of geneological similarities, territorial similarities, and other adat objects, rights to adat land, rivers, forests and practised in their communities." This relates to adat territories that have been recognized by the constitution as a traditional right attached to the Indigenous Peoples which is declaratively protected by the Constitution.¹⁸

Indigenous Peoples are community groups protected by the Constitution, especially in Article 18 of the 1945 Constitution (1945 Constitution). In the minutes of the BPUPKI session dated July 15, 2023, Soepomo's proposal, explained: "... The rights of origin in areas of a privileged nature must be commemorated also.... Second, small areas that have original arrangements, are Dorfgemeinschaften, small areas that have original arrangements such as villages in Java, Nagari in Minangkabau, hamlets and clans in Palembang, huta and curia in Tapanuli, gampong in Aceh..."¹⁹

Constitutional Court Decision Number 35/PUU-X/2012 (Constitutional Court Decision 35) affirms that adat forests are no longer part of the state, but are an inseparable part of land rights for indigenous peoples. Thus, indigenous peoples have the absolute right to self-determination over adat lands which are then released to exploitation.

The practice of neo-liberalism is a serious problem for the agrarian conflicts that continue to date²⁰ in various regions in Indonesia, including in Papua. State recognition of adat land seems to be negated by the presence of foreign investment under the pretext of increasing economic growth but at the same time it marginalizes the living space of the Papuan people. The impact can provide corporate power hegemony with the investments made, at the same time marginalizing Indigenous Peoples's inherent rights to recognition and protection of its adat land.²¹

The concept of legal protection in the destruction of natural resources is a concern in the context of efforts to prevent and overcome the destructive impact of natural damage. As a result, there need to be legal and human rights mechanisms, as well as legal protection in order to

¹⁷ KPA, "Catatan Akhir Tahun 2020 Konsorsium Pembaruan Agraria (KPA)" (kpa.or.id, 2020).

¹⁸ Syahrul Fitra B Herlambang P Wiratraman, Agung Wibowo, Erasmus Cahyadi, "PANDANGAN HUKUM HUTAN ADAT PAPUA DAN PAPUA BARAT, Perkumpulan Untuk Pembaharuan Hukum Berbasis Masyarakat Dan Ekologis (HuMa)," 2018.

¹⁹ R I Sekretariat Negara, "Risalah Sidang BPUPKI PPKI 28 Mei 1945–22 Agustus 1945," *Sekretariat Negara Republik Indonesia, Jakarta*, 1995.

²⁰ Sébastien Boillat, M. Graziano Ceddia, and Patrick Bottazzi, "The Role of Protected Areas and Land Tenure Regimes on Forest Loss in Bolivia: Accounting for Spatial Spillovers," *Global Environmental Change* 76 (September 2022): 102571, <https://doi.org/10.1016/j.gloenvcha.2022.102571>.

²¹ Laksmi A Savitri, "Rentang Batas Dari Rekognisi Hutan Adat Dalam Kepengaturan Neoliberal," *Jurnal Wacana Nomor* 33 (2014): 61–98.

anticipate. This legal protection is sought to protect communities affected by air pollution, protection from deforestation, and protection of non-human species/biota. As well as the protection of water and clean air as basic human rights.²²

The meaning of legal protection for Indigenous Peoples according to Jimly Ashidiqie is given as follows: (1). The existence of an adat law community is also related to its traditional rights; (2) The recognized existence involves the unity of Indigenous peoples, so that they are given per-alliance of indigenous peoples who exist in Indonesia; (3). Adat law communities still exist and are recognized for their existence; (4). The scope of indigenous peoples in their particular environment (lebensraum).²³ Therefore, the protection of indigenous peoples' tenure rights has implications for guarantees, guaranteeing that the natural resources are not further damaged and environmental degradation can be minimized

According to Soetandyo Wignjosoebroto, identification regarding four conditions for Indigenous Peoples recognition in Indonesia, namely (a) as long as they are alive; (b) in accordance with the development of society; (c) the principles of the Unitary State of the Republic of Indonesia; and (d) stipulated in law, ipso facto and ipso jure are arrangements that require indigenous peoples to prove their own existence. Instead, the policy of recognizing or not recognizing the society remains in the hands of the authority.²⁴

Maintaining ecosystem stability and preventing climate change is one of the tough tasks undertaken by Indigenous Peoples. By surviving, indigenous peoples who rely on the sustainable use of natural resources without damaging the environment can be categorized as an act of "Harmony of Nature", and referred to as a strategy to deal with climate change.

Some of the Indigenous Peoples's problems in combating climate change can be identified as follows: (1). Indigenous peoples are among the poorest of the poor, the layer most vulnerable to climate change; (2). They depend on crops that are otherwise marginalized as a result of industrialization and that has a direct effect on climate change affecting their economic conditions and livelihoods; (3). They live in geographic areas and ecosystems most exposed to the impacts of climate change, while also sharing complex cultural relationships with those ecosystems; (4). High levels of exposure and vulnerability to climate change force indigenous peoples to migrate, which in many cases is not a solution and can instead exacerbate social and economic vulnerability;²⁵ (5). Gender inequality, a key factor in the dispossession suffered by indigenous women, is magnified by climate change; (6). Many indigenous peoples continue to face exclusion from decision-making processes, often lacking recognition and institutional support. It limits their access to solutions, increases their vulnerability to climate change, undermines their ability to mitigate and adapt to climate change, and consequently poses a threat

²² Nigel South, "Green Criminology: Reflections, Connections, Horizons.," *International Journal for Crime, Justice and Social Democracy* 3, no. 2 (January 1, 2014): 6–21, <https://search.informit.com/doi/10.3316/agispt.20142518>.

²³ Jimly Ashidiqie, *Konsolidasi Naskah UUD 1945* (Yarsif Watampone, 2003).

²⁴ S Wignjosoebroto, *Pokok-Pokok Pikiran Tentang Empat Syarat Pengakuan Eksistensi Masyarakat Adat Dalam Inventarisasi Dan Perlindungan Hak Masyarakat Hukum Adat* (Jakarta: Komisi Nasional Hak Asasi Manusia, 2005).

²⁵ Terry Williams and Preston Hardison, "Culture, Law, Risk and Governance: Contexts of Traditional Knowledge in Climate Change Adaptation," *Climatic Change* 120, no. 3 (October 15, 2013): 531–44, <https://doi.org/10.1007/s10584-013-0850-0>.

to the progress made in securing rights from Indigenous Peoples themselves as the most vulnerable group.²⁶

2. International Law Instrument Regarding Protection of Indigenous Peoples

Further in the international mechanism of international law related to the protection of Indigenous Peoples, we can refer to the UN Declaration on the Rights of Indigenous Peoples (UN DRIPS),²⁷ Article 29: "Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources" and Article 32 (2): "States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of minerals, water or other resources".²⁸

In alignment with the acknowledgment of Indigenous Peoples in the Republic of Indonesia, compliance with the principles delineated in pertinent international legal instruments is paramount. The rights of indigenous peoples find explicit affirmation in two key documents: the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)²⁹ and the International Labour Organization's (ILO) Convention concerning Indigenous and Tribal Peoples in Independent Countries (1989) (the ILO Convention No 169). These instruments represent responses to the enduring historical discrimination faced by indigenous communities, addressing the infringement upon their fundamental rights. They serve as crucial references for articulating indigenous rights, affirming the legal existence of indigenous peoples, and establishing minimum standards for their recognition, participation, and due process. Despite the UNDRIP's status as soft law, lacking legal force, it holds weight as an instrument endorsed by governments and embraced as part of accepted international law norms. The ILO Convention, on the other hand, is a binding international legal instrument, albeit with limited signatories. Scholars emphasize the substantial roles of both in shaping future legal developments.³⁰

The UNDRIP received approval from the UN General Assembly with 143 votes in favor, including Indonesia, 4 against, and 11 abstentions. Notably, the four countries initially opposing the adoption later endorsed the UNDRIP: Australia (2009); New Zealand, Canada, and the US

²⁶ Morten Broberg, "Parametric Loss and Damage Insurance Schemes as a Means to Enhance Climate Change Resilience in Developing Countries," *Climate Policy* 20, no. 6 (July 2, 2020): 693–703, <https://doi.org/10.1080/14693062.2019.1641461>.

²⁷ Dorothee Cambou, "The UNDRIP and the Legal Significance of the Right of Indigenous Peoples to Self-Determination: A Human Rights Approach with a Multidimensional Perspective," *The International Journal of Human Rights* 23, no. 1–2 (February 7, 2019): 34–50, <https://doi.org/10.1080/13642987.2019.1585345>.

²⁸ Mauro Barelli, "Free, Prior and Informed Consent in the Aftermath of the UN Declaration on the Rights of Indigenous Peoples: Developments and Challenges Ahead," *The International Journal of Human Rights* 16, no. 1 (January 2012): 1–24, <https://doi.org/10.1080/13642987.2011.597746>.

²⁹ Yuko Osakada, "An Examination of Arguments over the Ainu Policy Promotion Act of Japan Based on the UN Declaration on the Rights of Indigenous Peoples," *The International Journal of Human Rights* 25, no. 6 (July 3, 2021): 1053–69, <https://doi.org/10.1080/13642987.2020.1811692>.

³⁰ Rosemary Nagy, "Transformative Justice in a Settler Colonial Transition: Implementing the UN Declaration on the Rights of Indigenous Peoples in Canada," *The International Journal of Human Rights* 26, no. 2 (February 7, 2022): 191–216, <https://doi.org/10.1080/13642987.2021.1910809>.

(in 2010). Nations endorsing the UNDRIP commit to recognizing and affirming the rights articulated within it, pledging efforts toward their realization. The concluding paragraph of the preamble declares the UNDRIP as a standard of achievement "to be pursued in a spirit of partnership and mutual respect."³¹

Both instruments, the UNDRIP and the ILO Convention, offer robust protection for the land and resource rights of indigenous peoples. They grant these communities the entitlement to own and control the lands and resources they traditionally inhabit or utilize. The special connection indigenous peoples share with their land is acknowledged, recognizing it as the primary source of their livelihood, social and cultural cohesion crucial to their identity, and spiritual well-being. Consequently, regardless of the prevailing land rights of other individuals within a specific state, the establishment of ownership over their lands becomes imperative.³² States are obligated to honour this special relationship, taking into consideration the traditional patterns of use and occupancy (Article 25 of the UNDRIP).

Specifically, under the UNDRIP, land, territories, and resources traditionally utilized or inhabited by indigenous peoples, accessed for subsistence or swidden agriculture are protected. Land rights extend beyond claims to traditional lands through long and continuous occupation; they encompass the lands currently occupied or used by communities and those acquired or used in the past (Article 26(2) of the UNDRIP). The affirmed content of land rights is comprehensive, encompassing ownership, use, development, and control.

Further, States bear obligations to safeguard and facilitate the realization of these rights. This includes the legal recognition and protection of lands, territories, and resources (Article 26(3) of the UNDRIP). Robust processes must be established and implemented to recognize and adjudicate on land rights, ensuring fairness, independence, impartiality, openness, and transparency. These processes must duly consider the laws, traditions, customs, and land tenure systems of the concerned groups. Indigenous peoples have the right to participate in these processes (Article 27 of the UNDRIP). In essence, the UNDRIP mandates fair and mutually acceptable procedures for resolving conflicts between indigenous peoples and states, including negotiation, mediation, arbitration, national courts, as well as international and regional mechanisms for dispute resolution or avenues for complaints.

Other crucial elements concerning resource protection include security in the enjoyment of means of subsistence and development, the freedom to engage in traditional economic activities (Article 20 of the UNDRIP), conservation of 'vital medicinal plants, animals, and minerals' (Article 24 of the UNDRIP), preservation of the local environment, and safeguarding the productive capacity of lands, territories, and resources (Article 29 of the UNDRIP). Additionally, indigenous peoples have the right to determine and develop their own 'priorities and strategies for the development or use of their lands or territories and other resources' (Article 32 of the UNDRIP).

Concerning the lands traditionally inhabited by indigenous peoples, the ILO Convention asserts their rights to own and possess such land (Article 14(1)). In accordance with these rights,

³¹ Alexandra XANTHAKI, "Indigenous Rights in International Law over the Last 10 Years and Future Developments.," *Melbourne Journal of International Law* 10, no. 1 (May 1, 2009): 27–37, https://search.informit.org/doi/10.3316/agis_archive.20093267.

³² XANTHAKI.

governments are obligated to: identify the land; ensure effective protection of these rights; and establish suitable procedures for resolving land claims (Article 14(2)-(3)).

In relation to natural resources present not only in the lands they occupy but also those traditionally utilized, the ILO Convention explicitly recognizes the rights of the respective communities to participate in the use, management, and conservation of these resources (Article 15(1)). The term 'land' within this context encompasses the concept of territories, encompassing the entire environment of the areas occupied or otherwise utilized (Article 13(2)).

The ILO Convention also expressly acknowledges the rights of nomadic peoples, shifting cultivators, and other indigenous groups to use land for subsistence, even if they do not exclusively occupy it (Article 14(1)). Governments are tasked with implementing measures to protect these rights, including establishing appropriate penalties for unauthorized intrusion or use and preventive measures (Article 18).

In jurisdictions where the government retains ownership of resources, the concerned communities possess rights: to be consulted before exploration and exploitation activities; to partake in the benefits derived from such activities; and to receive fair compensation for any damages resulting from these activities (Article 13(2)). Consultation must occur before undertaking or permitting such activities, with the aim of assessing their impact on the interests of the communities (Article 15(2)).

ILO Convention 107 and 169, Article 3 mentions: "Indigenous peoples' right to self-determination and ensure to fulfill of it's right without discrimination" and Article 26 states "States to take measures to ensure that indigenous individuals have the opportunity to acquire education at all levels on at least an equal footing with the rest of the national community.

The provisions of the international human rights law mechanism,³³ explain that Indigenous Peoples have a major role that must be protected in safeguarding natural resources in the occupied area, States parties are also obliged to involve the participation of Indigenous Peoples in the self-determination of their own investments and have a direct impact on their right to self-determination, including basic rights that must be fulfilled such as, among others, education and health as protection and respect for Indigenous Peoples.

³³ Ida Aju Pradnja Resosudarmo et al., "Does Tenure Security Lead to REDD+ Project Effectiveness? Reflections from Five Emerging Sites in Indonesia," *World Development* 55 (March 2014): 68–83, <https://doi.org/10.1016/j.worlddev.2013.01.015>.

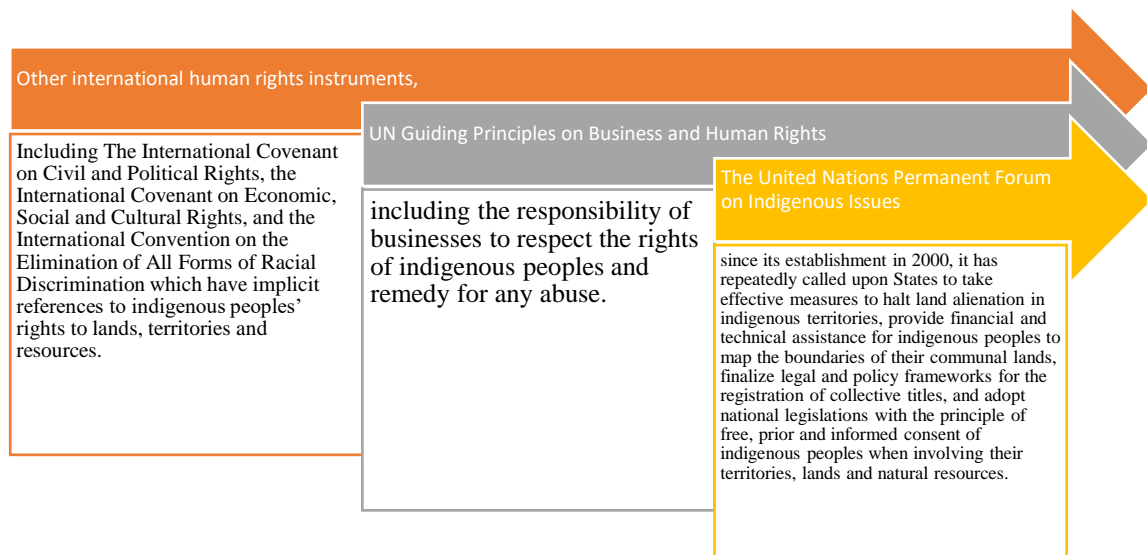


Table 1. Others International law instruments regarding protection of indigenous peoples.³⁴

The international law mechanism requires mandatory action in the context of making national legal regulations to ensure that legal and human rights mechanisms work and how affirmative policies must be carried out to ensure that the role of indigenous groups continues amid the rapid development of the international community. The large role of Indigenous People in overcoming various problems such as forest fires, environmental crimes, and climate change is a marker of the importance of awareness from every country to recognize, protect, and respect the rights of Indigenous peoples.³⁵

3. Indonesian Law Instrument Regarding Protection of Indigenous Peoples

Protection of Indigenous Peoples in Southeast Asia also deserves attention regarding the equality of fate experienced by indigenous peoples, protection hampered by issues of welfare, economy, marginalization, structural violence related to racial discrimination and political structures, as well as cultural factors related to aspects of development and protection of basic rights for Indigenous People in Indonesia as fundamental problems. This problem has never been resolved and become a crucial point of protection for them legally and in the political and economic dimensions.³⁶

Regarding the protection of Indigenous Peoples in Indonesia, especially in Papua, several options need to be taken for the establishment of adat forests in the Papua region. This matter refers to Special Region Regulation 22 of 2008 which governed the management of adat forests in accordance with the Forestry Law, which includes: (1). Forestry planning; (2). Forest

³⁴ Sergio Puig, "Indigenous Peoples under International Economic Law," in *At the Margins of Globalization*, 2021, <https://doi.org/10.1017/9781108596503.005>.

³⁵ Claire Charters, "The Sweet Spot between Formalism and Fairness: Indigenous Peoples' Contribution to International Law," *SSRN Electronic Journal*, 2021, <https://doi.org/10.2139/ssrn.3839826>.

³⁶ Isabel Inguanzo, "Paths to Recognition: Explaining Indigenous Peoples' Rights in Southeast Asia through Qualitative Comparative Analysis (QCA)," *Philippine Political Science Journal* 39, no. 1 (2018), <https://doi.org/10.1080/01154451.2018.1512256>.

management; (3). Research and Development, research, training, and forestry extension; and (4). Supervision

Technically, at least there is a scheme for recognizing the adat rights of existing communities, namely:³⁷ (1) Determination of adat land in adat villages: based on Article 76 paragraph (4) of the Village Law, adat villages constitute the units of Indigenous Peoples; adat village land represents Indigenous Peoples unitary land; with Adat Village Bylaws, adat land certificates can be issued; (2) Right to self Determination forests in adat villages, based on Law No. 41 of 1999 and clarified in Constitutional Court Decision 35/2012, as outlined in the Adat Village Regional Regulation, and verification and validation by the Minister of Environment and Forestry through the Director General of PSK, the Adat Forest Decree was issued; (3) Determination of adat land outside forest areas and Cultivation Right Title (HGU), based on Regulation of Agrarian and Spatial Planning Minister Number 10/2006, by making an application to the Regent / Governor of customs, then forming an IP4T team, then determining adat land, and registering National Land Agency (henceforth referred to as BPN); (4) Determination of adat land in forest areas, based on Regulation ATR 10/2016 by application to the Regent / Governor, forming a PTKH invention team, then the Minister of Environment and Forestry removed from the forest area, and registration with BPN

Several options provided in the legislation provide a way to protect adat and tenure land. However, this is not without loopholes. Because it is very dependent on the political will of authorized officials, the vulnerability experienced by indigenous peoples needs to be anticipated by accompanying them in fighting for their adat rights, considering that indigenous peoples and their adat are two inextricable elements.

4. Challenges and Opportunities of Adat Law Peoples After DOB of Southwest Papua Province

Special autonomy in Papua is regulated in Law Number 21 of 2001 covering authority in all fields of government, except the authority in the fields of foreign policy, security defense, monetary and fiscal, religion, and justice as well as certain authorities in other fields determined in accordance with the provisions of laws and regulations. The Papuan People's Council (MRP) guarantees the right to the protection of indigenous Papuans, as in line with Article 1 paragraph (6) jo Article 20 paragraph 1 letter d to facilitate complaints of indigenous peoples and the rights of indigenous Papuans in various fields, including in the agrarian sector.³⁸

Article 36 paragraph (2) Point d of Law Number 21 of 2001 gives authority in the allocation of the Provincial Budget in Papua of 10% for the empowerment of indigenous peoples, this is certainly an important affirmative policy for indigenous Papuans but must also be in conjunction with efforts to advance education, health, and other basic needs in ensuring that the budget is on target.³⁹

³⁷ Agung Djojosoekarto, *Kinerja Otonomi Khusus Papua* (KITLV, 2014).

³⁸ Jay Williams, "The Impact of Climate Change on Indigenous People - the Implications for the Cultural, Spiritual, Economic and Legal Rights of Indigenous People," *International Journal of Human Rights* 16, no. 4 (2012), <https://doi.org/10.1080/13642987.2011.632135>.

³⁹ Adiwana F. Aritenang, "The Effect of Intergovernmental Transfers on Infrastructure Spending in Indonesia," *Journal of the Asia Pacific Economy* 25, no. 3 (2020), <https://doi.org/10.1080/13547860.2019.1675352>.

Related to special autonomy in Southwest Papua Province regulated in Law Number 29 of 2022, there are various considerations for the expansion of the region, aiming to encourage development and progress in Southwest Papua Province, especially in Sorong Regency, South Sorong Regency, Raja Ampat Regency, Tambrauw Regency, Maybrat Regency, and Sorong City. In addition, some aspirations develop in communities in rural areas, which is considered necessary to improve governance, development, and public services to accelerate the realization of community welfare.

Normatively, the recognition of Indigenous Papuans as a Melanesian race accepted as indigenous Papuans is in line with Article 1 paragraph (6) and Article 1 paragraph (8) of Law Number 29 of 2022, where they have equal rights in protecting their interests, including the establishment of the Southwest Papuan People's Assembly to revive the customs and culture of indigenous Papuans, the protection of women, and freedom of religion guaranteed by the state. What is outlined in the legislation and what occurs on the ground are realized or are not different, which needs to be seen in the analysis of the gap between what is in the legislation and what is on the ground.⁴⁰

Following various problems that affect indigenous Papuans, there are at least some records of unsuccessful implementation of special autonomy in Papua.⁴¹ The substance of the Special Autonomy Law raises unresolved problems between the Papuan people and the Government, as stated in Article 2 paragraph (2) of Law No. 21 of 2001 concerning regional symbols and flags.

The political perspective in solving problems in Papua is emphasized on development efforts in realizing welfare. What has received less attention is the rampant phenomenon of political events such as expansion, demonstrations, the return of Special Autonomy, and regional elections. There is not much space for programs expected to improve the welfare of the Papuan people and eliminate the gap between the Central and Regional Governments, as well as indigenous Papuans and migrants.

Special autonomy funds that are not on target are used for development and programs aiming to improve people's living standards,⁴² but they are often corrupted and used for the benefit of the elite.

The implementation of monitoring and evaluation of the implementation of Special Autonomy in Papua should be carried out periodically in accordance with the mandate of the Special Autonomy Law. The fulfillment of fundamental rights of adat people is facing fund allocation issues following the enactment of the Special Autonomy Law of the Regional Government.

Special autonomy is certainly given to a wider community, but in reality, people do not understand it thoroughly. So, meaningful participation in the implementation of special autonomy loses its substantive meaning. Special autonomy in Papua provides the widest

⁴⁰ Gabriel Lele, "Asymmetric Decentralization, Accommodation and Separatist Conflict: Lessons from Aceh and Papua, Indonesia," *Territory, Politics, Governance* 11, no. 5 (2023), <https://doi.org/10.1080/21622671.2021.1875036>.

⁴¹ Djojosoekarto, *Kinerja Otonomi Khusus Papua*.

⁴² Yvonne Kunz et al., "'The Fridge in the Forest': Historical Trajectories of Land Tenure Regulations Fostering Landscape Transformation in Jambi Province, Sumatra, Indonesia," *Forest Policy and Economics* 81 (August 2017): 1-9, <https://doi.org/10.1016/j.forpol.2017.04.005>.

possible space for the Papuan people, especially Indigenous Peoples in Papua to organize themselves and support the protection and the improvement of the well-being of the Papuan people and community empowerment programs. The problem then arises when the local elite, which later becomes an extension of the central government bureaucracy, is not ready to manage special autonomy funds to be appropriately allocated to the benefit of the Papuan people.⁴³

The results of research by Greenpeace and INDEF reported that more than 20 percent of Papua's land has shifted in terms of its function for the purpose of land-based industrial permits, such as mining, industrial timber plantations (*Hak Tanam Industri-HTI*), forest concession rights (*Hak Penguasaan Lahan-HPH*), or oil palm plantations. More than 7.5 million hectares (ha) of forest are prone to deforestation because they are in oil palm, industrial timber plantations, and mining concessions. This is exacerbated by abundant natural resources, which is inversely proportional to uneven economic welfare in Papua. The results of the study show that the poverty rate in Papua reached 26.5 percent, while West Papua was 21.6 percent in 2021. Since 2002-2021, the poverty rate in Papua had also continued to decrease, but the figure is relatively small per year.

D. CONCLUSION

According to the analysis, at least several points have been set to protect Indigenous Peoples rights in Papua, especially after Special Autonomy, including the importance of protecting the human rights of Indigenous Peoples, related to the right to self-determination, recognition of adat rights, and basic rights that should have affirmative policies carried out by the state to ensure that Indigenous Peoples can play a major role in protecting the environment and contributing to climate change prevention. Investment or state authority must be limited to protect, promote, and respect Indigenous Peoples in Papua.

With regard to the DOB in Papua, of course, it must be returned to its noble goal of protecting the rights of the Papuan people in realizing welfare and independence. Abuse of various forms of authority, including special autonomy funds in Papua, must be condemned and strictly processed. Therefore, various kinds of obstacles in realizing a prosperous and just Papua and its progress can be minimized to make Papua large and autonomous, with the perspective and choice of the Papuan people themselves.

E. REFERENCE

- Aditya, Zaka Firma, and Sholahuddin Al-Fatih. "The Legal Protection System of Indigenous Peoples in Southeast Asia." *Legality: Jurnal Ilmiah Hukum* 31, no. 2 (September 21, 2023): 285–309. <https://doi.org/10.22219/ljih.v31i2.27619>.
- AMAN. "ALIANSI MASYARAKAT ADAT NUSANTARA." www.aman.or.id, 2022.
- . "Mengarungi Badai Investasi: Catatan Akhir Tahun 2019 Aliansi Masyarakat Adat Nusantara," 2019.

⁴³ I Ngurah Suryawan, "'Komin Tipu Komin': Elit Lokal Dalam Dinamika Otonomi Khusus Dan Pemekaran Daerah Di Papua," *Jurnal Ilmu Sosial Dan Ilmu Politik* 15, no. 2 (2011): 140–53, <https://doi.org/10.22146/jsp.11390>.

- Aritenang, Adiwan F. “The Effect of Intergovernmental Transfers on Infrastructure Spending in Indonesia.” *Journal of the Asia Pacific Economy* 25, no. 3 (2020). <https://doi.org/10.1080/13547860.2019.1675352>.
- Asshiddiqie, Jimly. *Konsolidasi Naskah UUD 1945*. Yarsif Watampone, 2003.
- Barelli, Mauro. “Free, Prior and Informed Consent in the Aftermath of the UN Declaration on the Rights of Indigenous Peoples: Developments and Challenges Ahead.” *The International Journal of Human Rights* 16, no. 1 (January 2012): 1–24. <https://doi.org/10.1080/13642987.2011.597746>.
- Barnes, Paul A., Sabhrina Gita Aninta, Tomi Ariyanto, Mukhlis Jamal Musa Holle, M. Khairul Ikhawan, and Herdhanu Jayanto. “The Gap between Policy and Practice for Human Rights in Conservation: A Case Study in Papua Province, Indonesia.” *Oryx* 57, no. 3 (May 9, 2023): 360–69. <https://doi.org/10.1017/S0030605323000066>.
- Bartlett, Judith G, Lucia Madariaga-Vignudo, John D O’Neil, and Harriet V Kuhnlein. “Identifying Indigenous Peoples for Health Research in a Global Context: A Review of Perspectives and Challenges.” *International Journal of Circumpolar Health* 66, no. 4 (September 1, 2007): 287–370. <https://doi.org/10.3402/ijch.v66i4.18270>.
- Boillat, Sébastien, M. Graziano Ceddia, and Patrick Bottazzi. “The Role of Protected Areas and Land Tenure Regimes on Forest Loss in Bolivia: Accounting for Spatial Spillovers.” *Global Environmental Change* 76 (September 2022): 102571. <https://doi.org/10.1016/j.gloenvcha.2022.102571>.
- Broberg, Morten. “Parametric Loss and Damage Insurance Schemes as a Means to Enhance Climate Change Resilience in Developing Countries.” *Climate Policy* 20, no. 6 (July 2, 2020): 693–703. <https://doi.org/10.1080/14693062.2019.1641461>.
- Cambou, Dorothée. “The UNDRIP and the Legal Significance of the Right of Indigenous Peoples to Self-Determination: A Human Rights Approach with a Multidimensional Perspective.” *The International Journal of Human Rights* 23, no. 1–2 (February 7, 2019): 34–50. <https://doi.org/10.1080/13642987.2019.1585345>.
- Carpenter, Kristen, and Alexey Tsykarev. “Indigenous Peoples and Diplomacy on the World Stage.” In *AJIL Unbound*, Vol. 115, 2021. <https://doi.org/10.1017/aju.2021.7>.
- Charters, Claire. “The Sweet Spot between Formalism and Fairness: Indigenous Peoples’ Contribution to International Law.” *SSRN Electronic Journal*, 2021. <https://doi.org/10.2139/ssrn.3839826>.
- Djojosoekarto, Agung. *Kinerja Otonomi Khusus Papua*. KITLV, 2014.
- Ginsburg, Chloe, and Stephanie Keene. “At a Crossroads: Consequential Trends in Recognition of Community-Based Forest Tenure from 2002-2017.” *China Economic Journal* 13, no. 2 (2020). <https://doi.org/10.1080/17538963.2020.1755129>.
- Herlambang P Wiratraman, Agung Wibowo, Erasmus Cahyadi, Syahrul Fitra B. “PANDANGAN HUKUM HUTAN ADAT PAPUA DAN PAPUA BARAT, Perkumpulan Untuk Pembaharuan Hukum Berbasis Masyarakat Dan Ekologis (HuMa),” 2018.
- Inguanzo, Isabel. “Paths to Recognition: Explaining Indigenous Peoples’ Rights in Southeast Asia through Qualitative Comparative Analysis (QCA).” *Philippine Political Science Journal* 39, no. 1 (2018). <https://doi.org/10.1080/01154451.2018.1512256>.

- Konsorsium Pembaruan Agraria. "MASA DEPAN REFORMA AGRARIA MELAMPAUI TAHUN POLITIK," 2018.
- KPA. "Catatan Akhir Tahun 2020 Konsorsium Pembaruan Agraria (KPA)." 2020.
- Kunz, Yvonne, Stefanie Steinebach, Christoph Dittrich, Brigitta Hauser-Schäublin, Ir. Rosyani, Endriatmo Soetarto, and Heiko Faust. "'The Fridge in the Forest': Historical Trajectories of Land Tenure Regulations Fostering Landscape Transformation in Jambi Province, Sumatra, Indonesia." *Forest Policy and Economics* 81 (August 2017): 1–9. <https://doi.org/10.1016/j.forpol.2017.04.005>.
- Lele, Gabriel. "Asymmetric Decentralization, Accommodation and Separatist Conflict: Lessons from Aceh and Papua, Indonesia." *Territory, Politics, Governance* 11, no. 5 (2023). <https://doi.org/10.1080/21622671.2021.1875036>.
- Nagy, Rosemary. "Transformative Justice in a Settler Colonial Transition: Implementing the UN Declaration on the Rights of Indigenous Peoples in Canada." *The International Journal of Human Rights* 26, no. 2 (February 7, 2022): 191–216. <https://doi.org/10.1080/13642987.2021.1910809>.
- Osakada, Yuko. "An Examination of Arguments over the Ainu Policy Promotion Act of Japan Based on the UN Declaration on the Rights of Indigenous Peoples." *The International Journal of Human Rights* 25, no. 6 (July 3, 2021): 1053–69. <https://doi.org/10.1080/13642987.2020.1811692>.
- Puig, Sergio. "Indigenous Peoples under International Economic Law." In *At the Margins of Globalization*, 2021. <https://doi.org/10.1017/9781108596503.005>.
- Resosudarmo, Ida Aju Pradnja, Stibniati Atmadja, Andini Desita Ekaputri, Dian Y. Intarini, Yayan Indriatmoko, and Pangestuti Astri. "Does Tenure Security Lead to REDD+ Project Effectiveness? Reflections from Five Emerging Sites in Indonesia." *World Development* 55 (March 2014): 68–83. <https://doi.org/10.1016/j.worlddev.2013.01.015>.
- Riggs, Rebecca Anne, Jeffrey Sayer, Chris Margules, Agni Klintuni Boedhihartono, James Douglas Langston, and Hari Sutanto. "Forest Tenure and Conflict in Indonesia: Contested Rights in Rempek Village, Lombok." *Land Use Policy* 57 (November 2016): 241–49. <https://doi.org/10.1016/j.landusepol.2016.06.002>.
- Robet, Robertus, Meila Riskia Fitri, and Marista Christina Shally Kabelen. "The State and Human Rights under Joko Widodo's Indonesia." *Cogent Social Sciences* 9, no. 2 (December 2023): 2286041. <https://doi.org/10.1080/23311886.2023.2286041>.
- Savitri, Laksmi A. "Rentang Batas Dari Rekognisi Hutan Adat Dalam Kepengaturan Neoliberal." *Jurnal Wacana Nomor* 33 (2014): 61–98.
- Sekretariat Negara, R I. "Risalah Sidang BPUPKI PPKI 28 Mei 1945–22 Agustus 1945." *Sekretariat Negara Republik Indonesia, Jakarta*, 1995.
- Soetjipto, Ani Widayani. "Journey to Justice: The United Nations Declaration on the Rights of Indigenous Peoples in the Context of West Papua." *JAS (Journal of ASEAN Studies)* 10, no. 1 (August 12, 2022). <https://doi.org/10.21512/jas.v10i1.8491>.
- South, Nigel. "Green Criminology: Reflections, Connections, Horizons." *International Journal for Crime, Justice and Social Democracy* 3, no. 2 (January 1, 2014): 6–21. <https://search.informit.org/doi/10.3316/agispt.20142518>.
- Suryawan, I Ngurah. "'Komin Tipu Komin': Elit Lokal Dalam Dinamika Otonomi Khusus Dan

- Pemekaran Daerah Di Papua.” *Jurnal Ilmu Sosial Dan Ilmu Politik* 15, no. 2 (2011): 140–53. <https://doi.org/10.22146/jsp.11390>.
- Tamanaha, Brian Z. *Realistic Socio-Legal Theory: Pragmatism and a Social Theory of Law*. Oxford university press, 1997.
- Tomsa, Dirk, and Narissa Bax. “Democratic Regression and Environmental Politics in Indonesia.” *Asian Studies Review* 47, no. 4 (2023). <https://doi.org/10.1080/10357823.2023.2189690>.
- Wignjosoebroto, S. *Pokok-Pokok Pikiran Tentang Empat Syarat Pengakuan Eksistensi Masyarakat Adat Dalam Inventarisasi Dan Perlindungan Hak Masyarakat Hukum Adat*. Jakarta: Komisi Nasional Hak Asasi Manusia, 2005.
- Williams, Jay. “The Impact of Climate Change on Indigenous People - the Implications for the Cultural, Spiritual, Economic and Legal Rights of Indigenous People.” *International Journal of Human Rights* 16, no. 4 (2012). <https://doi.org/10.1080/13642987.2011.632135>.
- Williams, Terry, and Preston Hardison. “Culture, Law, Risk and Governance: Contexts of Traditional Knowledge in Climate Change Adaptation.” *Climatic Change* 120, no. 3 (October 15, 2013): 531–44. <https://doi.org/10.1007/s10584-013-0850-0>.
- Wiratraman, Herlambang Perdana, and Widodo Dwi Putro. “Tantangan Metode Penelitian Interdisipliner Dalam Pendidikan Hukum Indonesia.” *Mimbar Hukum - Fakultas Hukum Universitas Gadjah Mada* 31, no. 3 (January 29, 2020): 402. <https://doi.org/10.22146/jmh.44305>.
- Woodman, Connor. “The West Papuan Liberation Movement, Indonesian Settler Colonialism and Western Imperialism from an International Solidarity Perspective.” *International Journal of Human Rights* 27, no. 6 (2023). <https://doi.org/10.1080/13642987.2022.2132235>.
- XANTHAKI, Alexandra. “Indigenous Rights in International Law over the Last 10 Years and Future Developments.” *Melbourne Journal of International Law* 10, no. 1 (May 1, 2009): 27–37. https://search.informit.org/doi/10.3316/agis_archive.20093267.