

Reorganizing Indigenous Peoples' Regulations to Achieve the Sustainable Development Goals

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Abstract

This research examines the regulation of indigenous peoples' rights within Indonesia's national legal framework and identifies gaps between sustainable development aspirations and the implementation of existing regulations. A normative juridical method is applied to analyse legal documents, as well as assess the integration of customary law in the context of national legal pluralism. Results show that while there is constitutional recognition of indigenous peoples' rights, there are inconsistencies in actual implementation, particularly in support of sustainable economic goals. It was also found that indigenous economic development initiatives are often hampered by inadequate infrastructure and access to technology. Education relevant to indigenous needs and wider market access for indigenous products need improvement. Indigenous participation in policy formation and social protection still needs to be strengthened. In conclusion, legal reforms are needed that include improved frameworks to protect and develop the rights of indigenous peoples and ensure sustainable development goals in national development).

Keywords: *Economic Goals; Environmental Goals; Indigenous Peoples; Social Goals; Sustainable Development*

Abstrak

Penelitian ini mengkaji regulasi hak-hak masyarakat adat dalam kerangka hukum nasional Indonesia dan mengidentifikasi kesenjangan antara aspirasi pembangunan berkelanjutan dan implementasi regulasi yang ada. Metode yuridis normatif diterapkan untuk menganalisis dokumen hukum, serta menilai integrasi hukum adat dalam konteks pluralisme hukum nasional. Hasil penelitian menunjukkan bahwa meskipun ada pengakuan konstitusional atas hak-hak masyarakat adat, terdapat inkonsistensi dalam implementasi sebenarnya, terutama dalam mendukung tujuan ekonomi berkelanjutan. Ditemukan juga bahwa inisiatif pembangunan ekonomi masyarakat adat sering terhambat oleh infrastruktur yang tidak memadai dan akses terhadap teknologi yang terbatas. Pendidikan yang relevan dengan kebutuhan masyarakat adat dan akses pasar yang lebih luas untuk produk-produk adat perlu ditingkatkan. Partisipasi masyarakat adat dalam pembentukan kebijakan dan perlindungan sosial masih perlu diperkuat. Kesimpulannya, diperlukan reformasi hukum yang mencakup kerangka kerja yang lebih baik untuk melindungi dan mengembangkan hak-hak masyarakat adat serta memastikan tujuan pembangunan berkelanjutan dalam pembangunan nasional.

Keywords: Tujuan Ekonomi; Tujuan Lingkungan; Masyarakat Adat; Tujuan Sosial; Pembangunan Berkelanjutan



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A. INTRODUCTION

Customary law is an unwritten law based on its characteristics and is considered a norm that must be followed and recognised by the community¹. Customary law is a moral treasure in society, which is recognised as true and its existence in society in accordance with Article 18B(2) of the 1945 Constitution. Together, our country also has legal regulations from law-making institutions and organisations and other legal regulations. In other words, customary law and state law have different binding power where they are constitutionally similar but different in form and aspect. Indonesia, which adapts pluralism in its legal system, places customary law as one of the legal instruments that are applied together with religious law and Western law to form national law². Legal pluralism exists as a form of criticism of centralism and positivism in the application of law to the people, and is able to provide adaptations and legal competition in the social field that works in the community order³. In addition, positive law is considered not yet applicable in Indonesia due to the level of complexity of the process to understand formal law and material law, which requires time to understand its complexity. Thus, customary law becomes an alternative for indigenous peoples to solve a problem through deliberation in the context of the law in their area.

Sustainable development is the development carried out by the state to achieve a good standard or quality of life in all aspects, this is in accordance with Law No. 32 of 2009 on Environmental Protection and Management. The Sustainable Development Goals (SDGs) is the 2030 Agenda, which is an agreement on sustainable development based on human rights and equality by adapting 3 (three) main pillars, namely social, economic and environmental, where all three must be in balance⁴. The SDGs are based on the principles of universality, integration and inclusion to ensure that no one is left behind⁵. The scope of the SDG goals is to improve people's economic welfare in a sustainable manner, development that maintains the sustainability of people's social lives, development that maintains the quality of the environment, and development that ensures equity and sustainable governance. It also means

¹ Murtir Jeddawi and Abdul Rahman, "Identifikasi Hukum Adat Yang Masih Berlaku Dalam Penyelesaian Persoalan Sosial Di Desa Kawo Kabupaten Lombok Tengah," *Jurnal Konstituen* 2, no. 2 (2020): 89–100.

² Abdurrahman Misno, "Harmonisasi Hukum Adat Dan Hukum Islam Bagi Pengembangan Hukum Nasional Di Indonesia," *Al-Mashlahah Jurnal Hukum Islam Dan Pranata Sosial* 3, no. 05 (2017).

³ Della Sri Wahyuni, "Pluralisme Hukum Dalam Pembangunan Hukum Indonesia: Masalah Dan Tantangan Ke Depan," *Konferensi Asosiasi Filsafat Hukum Nasional (AFHI) Ke-3 Di Universitas Airlangga Surabaya*, 2013.

⁴ Daniela Firoiu et al., "Achieving Sustainable Development Goals (SDG): Implementation of the 2030 Agenda in Romania," *Sustainability* 11, no. 7 (2019): 2156; Justice Mensah, "Sustainable Development: Meaning, History, Principles, Pillars, and Implications for Human Action: Literature Review," *Cogent Social Sciences* 5, no. 1 (2019): 1653531; Kristinn Sv Helgason, "The 2030 Agenda for Sustainable Development: Recharging Multilateral Cooperation for the Post-2015 Era," *Global Policy* 7, no. 3 (2016): 431–40.

⁵ Heloise Weber, "Politics of 'Leaving No One behind': Contesting the 2030 Sustainable Development Goals Agenda," in *The Politics of Destination in the 2030 Sustainable Development Goals* (Routledge, 2018), 64–79; Inga T Winkler and Margaret L Satterthwaite, "Leaving No One behind? Persistent Inequalities in the SDGs," in *The Sustainable Development Goals and Human Rights* (Routledge, 2018), 51–75.

improving the quality of life from one generation to the next without compromising the opportunities of future generations⁶. The success of sustainable development also requires social capital capable of coordinating and maintaining good working relationships between different government institutions, both vertically and horizontally, in order to prepare environmentally sound development plans and policies⁷.

Population pressure, modernisation demands, community knowledge, environmental conditions and government policies are directly linked to natural resource and environmental management and local community participation⁸. This indicates that the role or involvement of local communities is very important to avoid social conflict. Such a large role does not necessarily translate into a development agenda for indigenous peoples, with systemic discrimination inhibiting positive development, as well as life-threatening obstacles. Indigenous peoples often live in fear of their ancestral lands being diminished due to evictions and common discriminatory practices such as restrictions on access to clean water, health services and education. Unfortunately, current management is more focused on economic functions by the government, while ecological and social functions are less taken into account. A real example that often occurs is the misuse of natural resources by the government for certain interests without any intention to have a beneficial impact on indigenous peoples. Therefore, a sustainable development action is needed for the sustainability of indigenous peoples and cultural diversity.

Economic growth has led to the neglect of cultural aspects that are recognised in constitutional documents⁹. Economic development does not recognise traditional and social boundaries, leading to a dichotomy between development and human rights. Many human rights violations are often committed by the State in the context of comprehensive implementation of sustainable development instruments. According to Law No. 5/1960, the state is obliged to guarantee legal certainty over land rights for all people, but this cannot be realised, so that many land rights, especially the land of indigenous peoples, are still neglected¹⁰. Economic development and power struggles over natural resource management are the main factors that worsen the state's relationship with indigenous peoples.

Various efforts have been made to recognise community rights, including recognition of the rights of indigenous peoples¹¹. There is still a gap between policy and implementation,

⁶ UN Agenda, "2030 'to-Do List for People and Planet', Secretary-General Tells World Leaders Ahead of Adoption" (UN Press Release, 2015).

⁷ Ismid Hadad, "Gerakan Lingkungan Dan Advokasi Pembangunan Berkelanjutan" Dalam Iwan Jaya Azis, Lydia M., *Napitupulu, Arianto Patunru, Dan Budi Reksosudarmo*, 2010.

⁸ Annisa Weningtyas and Endang Widuri, "Pengelolaan Sumber Daya Air Berbasis Kearifan Lokal Sebagai Modal Untuk Pembangunan Berkelanjutan," *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi*, 2022, 129–44.

⁹ Ronald Inglehart, *Modernization and Postmodernization: Cultural, Economic, and Political Change in 43 Societies* (Princeton university press, 2020); Wentao Gu et al., "Entrepreneurship and High-Quality Economic Development: Based on the Triple Bottom Line of Sustainable Development," *International Entrepreneurship and Management Journal* 17 (2021): 1–27.

¹⁰ Muhammad Irfan Hilmy, "Prospek Tanah Adat Dalam Menghadapi Pembangunan Nasional," *Waskita: Jurnal Pendidikan Nilai Dan Pembangunan Karakter* 4, no. 1 (2020): 41–56.

¹¹ Asriati Asriati and Muh Zulkifli Muhdar, "Studi Perbandingan Hak-Hak Masyarakat Adat: Hukum Nasional Dan Hukum Internasional," *Petium* 8, no. 2 (2020): 170–86; Jawahir Thontowi, "Perlindungan Dan Pengakuan Masyarakat Adat Dan Tantangannya Dalam Hukum Indonesia," *Jurnal Hukum Ius Quia Iustum* 20, no. 1 (2013): 21–36.

formal recognition of customary law through local regulations or village government policies that recognise and protect the rights of indigenous peoples¹². Regulating the mechanism for resolving disputes between adat and customary law and positive law, with the participation of adat leaders and village government officials. Unfortunately, these efforts have not been implemented optimally. This is in line with research conducted by¹³, SDGs often ignore culture as a dimension of development, but indigenous peoples still contribute. In ¹⁴ research, the SDGs have influenced policies relating to indigenous peoples in Australia and Aotearoa New Zealand, as well as how indigenous peoples develop their own indicators to meet their development needs. ¹⁵ states that in indigenous societies, communities play a central role in transforming territories into collective spaces where fauna, flora and people live together in harmony.

They maintain this harmony through social mechanisms and customary governance structures for the proper functioning of relationships and land management¹⁶. stated that the Kaingang people believe that sharing their culture with outsiders will greatly alleviate their current situation. Meanwhile¹⁷, in his research found that the Smangus have gone through a period of struggle where they tried to survive, seek a better life, and reunite under the Tnunan co-operation system. They have changed from relying on wild harvests to ecotourism and lodging businesses¹⁸. indigenous peoples have in-depth knowledge and practices of natural resource management, which are often more effective in maintaining biodiversity than conventional approaches. Indigenous peoples play a critical role in maintaining some of the most important biodiverse landscapes on the planet. Stable governance and security to achieve sustainable development, ensure access to justice and build effective, accountable and inclusive institutions at all levels is still unevenly felt, so the essence of the SDGs has not been fully realised.¹⁹ Access to justice is also essential for all members of society to access productive resources, develop personally and participate in sustainable development, and requires law enforcement efforts.

Research related to customary law and sustainable development has shown that despite constitutional and legislative recognition of indigenous peoples' rights, there are significant gaps in the practical implementation of these policies. Particularly, an unsolved problem is the lack of effective mechanisms for dispute resolution between customary law and positive law, which hinders indigenous peoples' access to justice and their participation in sustainable development. Further studies are needed to evaluate how legal pluralism can operate effectively in Indonesia, considering both economic, ecological, and social aspects. In addition, there is a need to identify ways in which customary law can contribute to the development of ecotourism and other self-sustaining enterprises that support the economic and social sustainability of indigenous communities. This research also aims to fill the knowledge gap on how indigenous

¹² Betha Rahmasari, Ariza Umami, and Tirta Gautama, "Pengaruh Hukum Adat Dalam Pengaturan Pemerintahan Desa: Perspektif Normatif," *Muhammadiyah Law Review* 7, no. 2 (2023): 60–77.

¹³ Watene & Yap (2015)

¹⁴ Yap & Watene (2019)

¹⁵ Magni (2017)

¹⁶ Renwick et al. (2020)

¹⁷ Yu (2018)

¹⁸ Sahoo et al. (2022)

¹⁹ Nala Sari Tanjung, Dwi Sadono, and Cahyono Tri Wibowo, "Tingkat Partisipasi Masyarakat Dalam Pengelolaan Hutan Nagari Di Sumatera Barat," *Jurnal Penyuluhan* 13, no. 1 (2017): 14–30.

peoples can utilise their traditional knowledge in managing natural resources, which is important for biodiversity conservation. The research is expected to provide new insights that will help align development policies with the needs and rights of indigenous peoples, ensuring that no one is left behind in the national development process.

This research aims to examine the regulation of indigenous peoples' rights in existing laws and regulations, to understand the extent to which current regulations support the existence and rights of these communities. Furthermore, this research will identify how previous literature has explored the needs of indigenous peoples as well as aspects of sustainable development goals that are relevant to their lives. Through this analysis, it is expected to identify gaps between existing laws and regulations and the real needs of indigenous peoples as revealed in previous literature, thus providing an overview of areas that require improvement or further development in legal and policy frameworks. The entire research process is geared towards providing constructive recommendations towards improving the protection and empowerment of indigenous peoples in achieving sustainable development.

This research makes a theoretical contribution by developing an understanding of the role of customary law in a national legal framework that supports the Sustainable Development Goals (SDGs). From a theoretical perspective, this research proposes that the integration of customary law in national legal systems can offer more sustainable and equitable solutions for natural resource management, in line with the principles of social and ecological justice. Practically, the results suggest more effective implementation mechanisms for policies that recognize and protect the rights of indigenous peoples, thereby providing tangible benefits to these marginalized groups. This includes recommendations for improved supporting infrastructure and relevant education for indigenous peoples, ensuring they can fully participate in the national economy. Furthermore, the research supports more inclusive policy formulation, by involving indigenous peoples in the decision-making process, thereby increasing the effectiveness and sustainability of development interventions.

B. METHOD

Data analysis methods used in evaluating legal materials include systematic qualitative techniques to understand and interpret legal norms and principles contained in legal documents. The use of this method enables the researcher to identify and analyze the normative structure and its implications for the prevailing legal practice. The approach applied in this research is normative juridical, which is an approach that relies on library materials as the main source of information. This normative juridical approach allows researchers to examine and analyse legal norms contained in various applicable laws and regulations²⁰. The research focuses on legal norms with the aim of identifying and assessing the system of norms that form the basis of existing legal operations, including relevant principles and rules. In the context of mapping legal norms, this research also includes legal doctrines that have been developed by experts, so that they can be understood in a broader and deeper context. The review of existing legal theories and concepts became an important part of this process, providing a theoretical framework for the research. A literature approach was used to obtain various secondary data

²⁰ Peter Mahmud Marzuki, "Penelitian Hukum, Edisi Revisi, Cetakan Ke-12," *Jakarta: Kencana*, 2016.

sources including textbooks, laws and regulations, and other legal documents relevant to the research topic. This research uses secondary data as the main source of information for the analysis and discussion of the legal issues studied. The secondary data includes official documents, reference books, research reports, and other relevant sources, where researchers are not directly involved in collecting primary data but use data that has been collected by other parties as the basis for analysis. The legal materials used in this research are divided into primary legal materials and secondary legal materials. Primary legal materials used are legal documents that are official and binding, such as Law of the Republic of Indonesia Number 41 of 1999 concerning Forestry, Law of the Republic of Indonesia Number 27 of 2007 concerning Management of Coastal Areas and Small Islands, Law of the Republic of Indonesia Number 23 of 2014 concerning Regional Government, and Law Number 5 of 1960 concerning Basic Agrarian Principles. Meanwhile, secondary legal materials include publications written by leading jurists, articles from law journals, scholars' opinions, and juridical precedents relevant to the research topic. The research also considered the outcomes of recent symposiums and conferences exploring current issues in the field of customary law and natural resource management. This approach allows for a thorough and layered analysis of the dynamics of customary laws and their adaptation in the context of national and international law.

C. RESULTS AND DISCUSSIONS

1. Sustainable Development and Indigenous Peoples Right

The results show a direct link between sustainable development goals and the rights of indigenous peoples, where the fulfillment of these rights is key in achieving balanced development²¹. Income diversification, women's economic empowerment, technology, innovation and education, as well as access to local and global markets, are economic pillars that strengthen indigenous peoples' sovereignty in determining the direction and form of development they want. Meanwhile, community participation, cultural recognition, social protection and multicultural education underline the social goals that support indigenous peoples' right to actively participate in the development process. On the environmental aspect, natural resource management, biodiversity conservation, ecological knowledge, and ecosystem balance are the basis for indigenous peoples to secure and manage the environment in accordance with their traditions, which also affirms their position in governance and natural resource management.

2. Rights and Recognition of Indigenous Peoples in the Forestry Law

Indigenous Peoples' rights have been recognized in Law of the Republic of Indonesia Number 41 of 1999 on Forestry as amended by Law of the Republic of Indonesia Number 6 of

²¹ Karen Giovanna Añaños Bedriñana, Bernardo Alfredo Hernández Umaña, and José Antonio Rodríguez Martín, "Living Well' in the Constitution of Bolivia and the American Declaration on the Rights of Indigenous Peoples: Reflections on Well-Being and the Right to Development," *International Journal of Environmental Research and Public Health* 17, no. 8 (2020): 2870; Dominic O'Sullivan, "Indigenous Peoples: Policy, Culture and the Sustainable Development Goals," in *Indigeneity, Culture and the UN Sustainable Development Goals* (Springer, 2023), 39–66.

2023 on the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 on Job Creation into Law (hereinafter referred to as the Forestry Law) as an integral part of forest resource management in Indonesia. In a formal legal context, this recognition not only shows the state's awareness of the existence and sovereignty of indigenous peoples, but also as a response to the state's obligation to protect their rights. This is in line with global sustainable forest management principles, which require forest management to focus not only on environmental and economic aspects but also on social and cultural aspects.

As the Forestry Law aims to support sustainability, the aspirations and participation of indigenous peoples must be part of forest governance. An approach that accommodates local customs and culture is important, as indigenous values rooted in national legal norms create a unique and responsible forest management framework. Article 67 paragraph (1) of the Forestry Law affirms the rights of indigenous peoples by granting three fundamental rights, which include the collection of forest products, forest management based on customary law, and empowerment for welfare. The right to collect forest products demonstrates the state's recognition of longstanding traditional practices, whereby indigenous communities take part of the forest to fulfill their daily needs.

Forest management based on customary law that does not conflict with the law is a representation of the integration between customary law and national law, emphasizing that although customary law is a living law in the community, its implementation remains within the broader corridors of national law. This allows indigenous communities to maintain forest management procedures that have been passed down from generation to generation, as long as they are in accordance with existing regulations. Finally, the empowerment of indigenous peoples in order to improve their welfare is the recognition of their role as agents of forest management. Through this empowerment, it is hoped that there will be an increase in the capacity of indigenous peoples to manage forests in a more effective and efficient manner, so as to create a balance between conservation and meeting the economic needs of indigenous peoples. The recognition and protection of indigenous peoples' rights in the Forestry Law has deep meaning for environmental sustainability and social justice, providing space for them to develop sustainable forest management practices. The enforcement of these rights is not only limited to the use of forest resources but also recognizes the identity and autonomy of indigenous peoples in participating and making decisions related to forest management.

The existence of customary law communities within the framework of the Forestry Law in Indonesia illustrates a fundamental recognition of social groups that inhabit and manage forests according to hereditary traditions. This can be seen in the explanatory memory of Article 67 paragraph (1) of the Forestry Law. The criteria for recognizing customary law communities formulated in the law include their existence as a community, or *rechsgemeenschap*, which indicates a social and cultural unit that has its own order and value system. The institutional aspect reflected in the customary ruling apparatus signifies not only a leadership structure but also an authority that is respected and followed by members of the community.

The existence of a clear customary jurisdiction provides territorial boundaries that bind these communities and defines the management areas over which they have authority. This territory is not just a geographical marker but also a framework within which their roles and

activities in natural resource management are recognized and protected by national law. Furthermore, the existence of customary legal institutions and tools, particularly customary courts, indicates that their internal justice systems are recognized and operate effectively to resolve disputes, maintain order and implement their customary laws. The continued practice of forest product collection signifies a traditional economic activity that is consistent with their way of life and essential for the fulfillment of daily needs. These activities are also reflective of traditional knowledge on sustainable forest management, where indigenous peoples often have a deep understanding of conservation and biodiversity sourced from long-standing practices and passed down from generation to generation

3. Indigenous and Recognition Peoples' Rights in the Coastal Zone Management Law

The rights of Indigenous Peoples in the context of the Coastal Zone Management Law represent the state's respect and protection of groups that have a deep connection to marine and coastal areas. Article 61 paragraph (1) of this law provides a legal framework that ensures that the existence and rights of Indigenous Peoples, Traditional Communities, and Local Wisdom are not only nominally recognized but also protected and respected. This recognition is fundamental in establishing synergistic cooperation between the government and communities in maintaining the sustainability of natural resources. The strong argument that emerges from the article is that the state should not ignore the existence and rights of indigenous groups that have long used and managed Coastal Areas and Small Islands. The sustainability of coastal area management relies not only on technocratic policies, but also on traditional experiences and practices that have proven effective for generations. Thus, local wisdom becomes an important instrument that must be taken into consideration in every aspect of development and conservation in coastal areas.

Furthermore, Article 61 paragraph (2) confirms that recognized rights are not just claims to land or resources, but also references that guide coastal resource management practices. This indicates that coastal management policies should refer to the existing value systems, laws and practices of Indigenous Peoples and Traditional Communities. This recognition and protection not only promotes nature conservation but also strengthens the social and cultural identity of these communities. The importance of integrating the rights of Indigenous Peoples in the management of Coastal Areas and Small Islands lies in the understanding that traditional practices and knowledge can provide adaptive and resilient solutions to environmental change. The involvement of Indigenous Peoples in decision-making ensures that the development process in coastal areas will not damage the ecosystem, but instead benefit the environment and the community simultaneously. This creates a strong foundation for the realization of sustainable development that is in line with environmental and socio-cultural interests.

The recognition of Indigenous Peoples in Law of the Republic of Indonesia Number 27 of 2007 on the Management of Coastal Areas and Small Islands as amended by Law of the Republic of Indonesia Number 6 of 2023 on the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 on Job Creation into Law (hereinafter referred to as the Coastal Zone Management Law) is an important aspect that shows the state's understanding and respect for the existence and rights of community groups that have historical and spiritual relationships with their environment. The definition presented in Article 1 point 33 makes it clear that

Indigenous Peoples are not only characterized by their permanent or semi-permanent residence in coastal areas, but also by the social life order and legal institutions that detail how they interact with natural resources and fellow humans. The strong relationship that exists between Indigenous Peoples and Coastal Resources and Small Islands goes beyond mere economic activity; it is a multifaceted relationship, encompassing the social, cultural, spiritual and identity dimensions created by these close ties.

Article 60 paragraph (1) supports this recognition by articulating a series of rights that allow Indigenous Peoples to access, manage, and benefit from Coastal Resources and Small Islands. This recognition of the right to access and utilize Coastal and Small Island Resources confirms that Indigenous Peoples are not merely objects of development, but also active subjects who play a role in natural resource management. Access to waters that have been designated as Coastal Waters Concession Rights (HP-3) gives these communities the opportunity to engage in the local economy and maintain their way of life. The provision for compensation for loss of access due to the granting of HP-3 is a recognition of the potential negative impacts of coastal management interventions and development efforts that may disrupt or even eliminate Indigenous Peoples' traditional livelihoods. This right affirms the principles of justice and equity in the socio-economic changes faced by these communities.

Furthermore, the right to carry out management based on applicable customary law, as long as it does not conflict with laws and regulations, provides space for the application of local wisdom that has proven its sustainability in maintaining the balance of coastal ecosystems. It also recognizes that customary value systems can contribute significantly to environmental conservation efforts. Then, the right to obtain information, file reports, and complaints and lawsuits, including compensation, provides a concrete mechanism of protection and enforcement of rights. Thus, indigenous peoples are given the tools to participate in decision-making, policy advocacy, and legal action to protect their interests and sustainability. In the context of Coastal Zone and Small Islands management, the recognition of Masyarakat Hukum Adat in the law marks a step forward in sustainability and conservation practices. It allows for the maintenance of a balance between development and conservation, where Indigenous Peoples play a frontline role in preserving the natural environment that has become an integral part of their identity and existence.

4. Division of Government Affairs related to Indigenous Peoples and PPLH

The division of government affairs in the context of recognition and protection of Indigenous Peoples (MHA) and the management of Environmental Protection and Management (PPLH) mandated by the Law of the Republic of Indonesia Number 23 Year 2014 on Regional Government (hereinafter referred to as the Regional Government Law), reflects the complexity and importance of coordination between various levels of government. Specifically, the responsibility of the Central Government in establishing recognition of Indigenous Peoples and local wisdom spread across more than one province creates a strong legal basis for the protection of Indigenous Peoples' rights. Furthermore, capacity building efforts undertaken by the Central Government must reach across regions, given the importance of cross-regional cooperation in addressing ecological and cultural issues that cross administrative boundaries.

At the Provincial level, the requirement to establish MHA recognition and capacity building for local wisdom found in more than one district marks their role as a link and moderator between national policies and local initiatives. This responsibility requires a deep understanding of indigenous and environmental diversity, as well as an understanding of the specific needs of each MHA in relation to EE. Meanwhile, District/City Governments focus on the recognition and capacity building of MHA that operate at a more local scale. This includes adapting environmental management practices to prevailing local wisdom, as well as accommodating traditional rights within an effective and sustainable EE framework.

5. Division of Government Affairs related to the Empowerment of Indigenous Peoples in the Local Government Act

The division of government affairs in the aspect of empowering Masyarakat Hukum Adat (MHA) as stipulated in the Law on Regional Government places the central government as the overall policy determinant for the empowerment of community institutions at the national level. The function of the central government in this case is not only as a regulator, but also as a facilitator that provides direction and support for the sustainability of the rich and diverse customs and cultures in Indonesia. This empowerment includes legality and recognition of institutions that operate within the national scope and have influence over many indigenous communities.

Meanwhile, the provincial government is tasked with concretizing the empowerment policy on a more focused scale. The province as an administrative entity that oversees several districts and cities must be able to identify and integrate community institutions and customary institutions in specific empowerment programs. The importance of this role arises from the need to bridge national policies with local conditions, especially when the same community of customary law actors is spread across districts or cities. At a more micro level, district/city governments have a more detailed and operational role. The empowerment of community institutions and customary institutions at the district and village levels includes technical and administrative capacity building, so that these institutions are able to manage and formulate their own policies according to the needs of the local communities they represent. This reflects a deep understanding of the heterogeneity of customary law practices in each region and the importance of giving local communities the autonomy to manage their resources and culture.

6. Indigenous Peoples' Rights in the Basic Agrarian Law

The rights of indigenous peoples in Law No. 5/1960 on Basic Agrarian Principles (hereinafter referred to as the Basic Agrarian Law) in Indonesia cover several important aspects. First, indigenous peoples can have land rights in the form of management rights as part of the implementation of the state's right to control Article 2 paragraph (4) of the Basic Agrarian Law. Customary law communities also recognize ulayat rights, which are a series of authorities and obligations of a customary law community relating to land located within its territory. This ulayat right has a place in national land law (Basic Agrarian Law), but at the level of law in action it still lacks legal protection when dealing with development interests. In addition, the Basic Agrarian Law also recognizes and respects the unity of customary law

communities 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.

7. Comparison of Indigenous Peoples' Rights Arrangements

There are significant differences in the legal frameworks and implementation of indigenous peoples' rights in Australia and New Zealand compared to Indonesia. In Australia and New Zealand, national legal frameworks have explicitly incorporated indigenous peoples' rights, including land rights and cultural recognition. Australia's Aboriginal Rights Act provides more explicit recognition of indigenous land rights, while in New Zealand, the Treaty of Waitangi serves as an important legal basis for the recognition of Maori rights. In Indonesia, however, while there is formal recognition in the Constitution and several sectoral laws, such as the Forestry Law and the Coastal Zone and Small Islands Management Law, there are still significant discrepancies in actual implementation on the ground.

Indonesia lacks a comprehensive regulation specifically addressing the rights of indigenous peoples, as their rights are currently governed by various sectoral laws, including the Agrarian Law, Forestry Law, and Coastal Zone Management Law. The recognition of indigenous peoples' rights in Indonesia is limited and contingent upon specific sectors, rather than being integrated into a comprehensive legal framework. The government has refrained from enacting specific legislation pertaining to indigenous peoples due to the belief that customary law is an integral component of the legal framework governing agrarian or other natural resources. In the Agrarian Law, the customary rights of indigenous peoples are acknowledged, but their enforcement is frequently impeded by development interests and natural resource management that prioritize extractive economic activities over the socio-economic sustainability of indigenous peoples²².

In addition, the lack of precise legislation also demonstrates the government's inability to deal with the complexity of Indonesia's indigenous diversity. The implementation of provisions contained in several sectoral laws is often disorganised and even redundant, leading to confusion. The regulation of indigenous peoples' rights in the agrarian law emphasises land tenure and gives less attention to other issues such as the right to education, health and political participation. In contrast to Australia and New Zealand, where indigenous rights are fully recognised and regulated in the national legal system, this is not the case in other countries.

There is therefore an urgent need for a comprehensive legal framework in Indonesia that not only recognises the existence of indigenous communities, but also safeguards and promotes their rights in the context of sustainable development. This law should have effective implementation methods to close the gap between formal recognition and actual application in practical situations. It is essential to ensure the genuine recognition and respect of indigenous peoples' rights in all aspects of their existence and to promote the achievement of comprehensive and equitable sustainable development goals. In the absence of comprehensive and integrated rules, the recognition of indigenous peoples' rights will remain a symbolic gesture with no tangible impact on their well-being and long-term viability.

²² Hilmy, "Prospek Tanah Adat Dalam Menghadapi Pembangunan Nasional."

D. CONCLUSION

This research reveals that current Indonesian legislation provides formal recognition of indigenous peoples' rights, but there is a gap between such recognition and effective implementation in practice. Indigenous peoples' income diversification through eco-tourism and handicrafts demonstrates potential that has not been fully recognized by the existing legal framework, which still tends to emphasize extractive activities over eco-nomic sustainability. Efforts to empower indigenous women's economy require more than just recognition; specific and measurable policy support is needed to ensure the strengthening of the role of indigenous women in all economic sectors. Meanwhile, the adoption of technology in recording and managing traditional knowledge still requires improvements in infrastructure and accessibility suitable for indigenous peoples. Access to quality and relevant education, which can enhance indigenous peoples' skills and production capacity, remains a key challenge. A more inclusive framework is needed to open up local and global markets for indigenous products. In the social aspect, there is an urgent need to integrate the active participation of indigenous peoples in the formulation of education policies and curricula, ensuring that public policies truly reflect cultural diversity and respect indigenous value systems. In addition, efforts to strengthen social protection must be prioritized to address the problems of discrimination and exploitation that indigenous peoples often face. The involvement of indigenous peoples in natural resource management, biodiversity conservation and ecosystem management should be further recognized in environmental policies. The existing land and water rights arrangements in the Basic Agrarian Law still require evaluation and improvement to protect indigenous peoples' customary rights. The division of government affairs, as stipulated in the Local Government Act, should reflect better cooperation between central and local governments and indigenous peoples to achieve inclusive sustainable development goals.

The implications of this research, both theoretical and practical, demonstrate the importance of integrating customary law in the national legal framework to support the sustainability of sustainable development in accordance with the principles of the SDGs. The research shows that despite constitutional recognition of indigenous peoples' rights, practical implementation still suffers from significant gaps, particularly in terms of economic empowerment and protection of land rights. Theoretically, the findings challenge the prevailing positive law paradigm and propose the need for a more inclusive legal pluralism approach that accommodates customary law as a living and effective legal system in the local context. However, this research has several limitations. First, the research is limited to document and literature analysis without involving primary data collection directly with indigenous communities. This may limit an in-depth understanding of the internal dynamics and perspectives of indigenous peoples. Secondly, this research has not fully explored the role and potential of women in indigenous communities, which can provide valuable perspectives on social and economic sustainability. The next research agenda recommended based on the results of this study is to conduct field studies to collect primary data directly from indigenous communities, with a particular focus on the role of women and traditional sustainable natural resource management practices. Future research should also explore legal and policy mechanisms that can support the integration of customary law in national law more effectively,

in-cluding evaluation of implementation and its impact on economic development and environmental conservation.

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