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Integration of Customary Law and State Law in Resolving Natural Resource Conflicts in Indigenous Areas

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Abstract
Conflicts over natural resource management in indigenous territories often arise from the misalignment between customary law, rooted in communal traditions, and state law, oriented toward formal regulations and economic interests. This study aims to analyze the mechanisms for integrating customary and state law in resolving such disputes, identify field challenges, and propose policy recommendations to strengthen indigenous rights. Using a qualitative literature review, data were drawn from books, journal articles, legislation, policy documents, and reports—primarily from the past decade—sourced from reputable academic databases. The analysis applied descriptive and thematic content analysis to identify integration models and their effectiveness. Findings reveal three main integration mechanisms: (1) normative-hybrid approaches, where state law formally recognizes customary rights; (2) joint institutional mechanisms involving both indigenous leaders and government agencies; and (3) procedural incorporation of customary processes into formal dispute resolution. While these mechanisms enhance legitimacy, foster compliance, and build trust, they face challenges including legal dualism, weak customary institutions, unclear legal protections, economic-political pressures, and inadequate monitoring. Case studies, such as those from West Kalimantan's Dayak communities, illustrate both the potential and limitations of hybrid models. Effective integration requires robust legal frameworks, strengthened indigenous capacity, and inclusive monitoring systems. This research underscores the importance of legally and culturally legitimate conflict resolution to promote sustainable environmental management and prevent recurrent disputes.

INTRODUCTION

The management of natural resources in customary territories often generates conflicts between indigenous communities and external parties, both governmental and private companies, especially when there are differing perceptions regarding land rights and environmental governance (Fitzpatrick, 2005; Lynch & Harwell, 2002)(Pitriani, 2024). In many cases, indigenous peoples adhere strongly to customary law, which has been passed down through generations as a guide for

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life and territorial management (Henley & Davidson, 2008; Moniaga, 2010). However, the existence of state law, with its formal regulatory apparatus, often fails to fully accommodate the principles of customary law (Bedner & van Huis, 2008). This misalignment can potentially lead to prolonged disputes that not only cause environmental degradation but also social disintegration (Colchester, 2002).

Customary law holds normative power at the local level, recognized under Law No. 6 of 2014 on Villages and Constitutional Court Decision No. 35/PUU-X/2012, which stipulates that customary forests are no longer considered state forests (Butt, 2014; Bedner, 2016). Nevertheless, in practice, the implementation of customary law still faces structural obstacles due to weak recognition in sectoral policies (Sirait, 2009; Arizona & Cahyadi, 2013). Many natural resource conflicts originate from overlapping claims between indigenous communal rights (hak ulayat) and business permits issued by the government (Afiff & Lowe, 2007). This situation highlights the gap between formal legal norms and the social realities experienced by indigenous communities (Bakker, 2008).

Conflicts over natural resource management in customary territories occur not only in Indonesia but also in many developing countries with legal pluralism (Benda-Beckmann & Turner, 2018; Fitzpatrick, 1997). The integration of customary law and state law has emerged as one approach increasingly discussed to minimize normative clashes and enhance the effectiveness of dispute resolution (Griffiths, 1986; Ubink, 2011). Such an approach has the potential to create synergy between local wisdom and principles of formal justice, thereby producing solutions more widely accepted by all parties (Woodman, 1996). In the Indonesian context, this integration is highly relevant considering the diversity of ethnic groups, cultures, and legal systems (Fauzi, 2014).

Conflict resolution based on the integration of customary and state law requires a framework capable of accommodating the legitimacy of both systems (Hooker, 1978; Davidson & Henley, 2007). This process involves not only legal aspects but also political, economic, and cultural dimensions that shape the dynamics of natural resource management (Li, 2001; Moniaga, 2010). Several regions have developed hybrid models of conflict resolution through customary mediation forums facilitated by local governments (Arizona, 2010). However, in-depth studies on the effectiveness of such models remain limited, making it necessary to conduct research that comprehensively captures the mechanisms of integration (Bedner & Arizona, 2019).

The urgency of this research lies in the pressing need to develop a model for resolving natural resource conflicts that is not only legally valid under state law but also accepted by indigenous communities, thereby reducing dispute escalation and strengthening sustainable environmental management (Colchester, 2002; Arizona & Cahyadi, 2013). Without effective integration, conflicts are likely to persist and hinder sustainable development in customary territories (Li, 2001).

Several previous studies have examined the relationship between customary and state law, such as Benda-Beckmann and Turner's (2018) study on legal pluralism in Southeast Asia and Ubink's (2011) research on customary law integration in West Africa. In Indonesia, Arizona and Cahyadi (2013) explored the recognition of indigenous peoples' rights in forestry policies, while Bedner and Arizona (2019) investigated adat-based mediation mechanisms in Kalimantan. However, research specifically focusing on integrating both legal systems for natural resource conflict resolution in customary territories remains scarce.

This research aims to analyze the mechanisms of integrating customary and state law in resolving natural resource conflicts in customary territories, identify implementation challenges in the field, and formulate policy recommendations to strengthen the recognition and protection of indigenous peoples' rights.

METHOD

This study employs a qualitative approach using a literature review method. A literature review was chosen to examine in depth the concepts, theories, and practices of integrating customary law and state law in resolving natural resource conflicts in indigenous territories. According to Creswell (2018), qualitative literature reviews aim to formulate new understandings through critical analysis of various relevant scholarly sources, thus producing conceptual syntheses that can enrich both academic discourse and policy practices.

Data Sources

The data used in this study are secondary sources obtained from various scholarly materials, such as books, national and international journal articles, legislation, government policy documents, research reports, and the proceedings of relevant seminars or conferences. The literature was selected primarily from the past ten years to ensure relevance and up-to-date information, prioritizing reputable sources indexed in databases such as Google Scholar, Scopus, and Sinta (Sugiyono, 2019).

Data Collection Techniques

Data collection was conducted through library research, which involved identifying keywords, selecting literature based on research topics, and evaluating the quality and credibility of each source. This process included filtering literature according to inclusion criteria, such as direct relevance to the integration of customary law and state law, and its relation to conflict resolution in the context of natural resource management in Indonesia.

Data Analysis Methods

The data were analyzed using content analysis techniques, applied descriptively and thematically. This method aimed to identify patterns, concepts, and relationships among variables found in the literature, in order to develop a conceptual framework for effective integration between customary and state law. The analysis stages included data reduction, data presentation, and conclusion drawing (Miles, Huberman, & Saldaña, 2014). Through this approach, the study seeks to contribute both theoretically and practically to the understanding and development of fair and sustainable conflict resolution models in indigenous territories.

RESULT AND DISCUSSION

Integration Mechanism of Customary Law and State Law

The integration of customary law and state law in resolving natural resource conflicts in indigenous territories operates through a complex and dynamic interplay of legal pluralism. In many contexts, particularly in countries such as Indonesia, the Philippines, and certain Pacific Island states, this integration takes the form of a normative-hybrid approach, where state legislation formally recognizes customary norms as part of the national legal framework. For instance, Indonesia's Constitutional Court Decision No. 35/PUU-X/2012 acknowledged the existence of hutan adat (customary forests) as separate from state forests, thus granting indigenous communities the legal authority to manage these resources according to their traditional norms (Bedner & Arizona, 2019). This formal recognition transforms customary rulings into enforceable decisions within the state legal apparatus, thereby bridging the gap between local traditions and national governance structures.

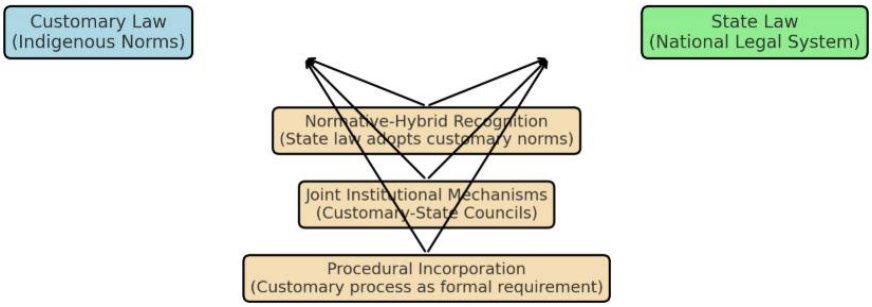

Figure 1. Mechanism of Integrating Customary and State Law in Resolving Natural Resource Conflict

Beyond normative recognition, integration often materializes through joint institutional mechanisms. These bodies—comprising indigenous leaders, local government officials, and sectoral agencies—serve as platforms for negotiation and conflict resolution. In the Philippines, the National Commission on Indigenous Peoples (NCIP) plays this mediating role, ensuring that disputes over ancestral domains are addressed through both the Katarungang Pambarangay system and indigenous dispute resolution procedures. Similarly, in the Indonesian province of Maluku, joint customary-state councils have been established to handle maritime disputes over fishing grounds, where the customary sasi system regulates harvesting seasons, and state fisheries law enforces penalties for violations (Tamanaha, 2011).

A third pathway emerges through procedural incorporation of customary processes into state dispute resolution. This is evident in New Zealand's recognition of Māori dispute settlement practices in environmental consent processes, where tikanga Māori (customary protocols) are integrated into hearings under the Resource Management Act (Ruru, 2018). In Indonesia, certain districts require that land disputes in customary territories first undergo musyawarah adat (customary deliberations) before they can be brought to formal court, effectively making customary mediation a precondition to litigation (Arizona & Cahyadi, 2013).

A real-world example can be seen in the case of the Dayak Iban community in West Kalimantan, Indonesia. The community faced a conflict with a palm oil company over customary forest lands. The resolution involved a hybrid process: initial mediation was conducted by the temenggung (customary chief) under Dayak Iban law, followed by recognition of the mediated boundaries in a district head decree, granting the settlement legal force under state law. This approach not only resolved the dispute but also reinforced community governance structures, preventing future conflicts (Myers et al., 2017).

Such integration mechanisms present clear advantages: they enhance the legitimacy of conflict resolution, improve compliance with agreements, and foster community trust in state institutions. However, their success is highly contingent on political will, capacity building within customary institutions, and the absence of overpowering economic or political pressures from external actors. Without sustained institutional support, these hybrid mechanisms risk becoming tokenistic or ineffective in safeguarding indigenous rights over natural resources.

Table 1. Implementation Challenges in the Field

Challenge	Description
Legal dualism and normative conflict	Customary law based on communal rights often clashes with state law favoring individual ownership or business concessions.

Challenge	Description
Variable capacity of customary institutions	Not all communities have strong, organized traditional structures to act as equal partners with government.
Lack of legal clarity	Many recognitions of customary rights remain symbolic without clear enforcement instruments.
Economic and political pressures	Large-scale investments in mining, plantations, and infrastructure can undermine indigenous bargaining positions.
Weak monitoring and evaluation mechanisms	Conflicts recur because mediated agreements are not monitored or consistently enforced.

The integration of customary and state law in natural resource conflict resolution is hindered by normative tensions, institutional weaknesses, and political-economic pressures. Customary law's communal principles often conflict with state law's emphasis on individual or concession-based rights, while recognition of indigenous rights is frequently symbolic and unenforceable. Weak or eroded customary governance further limits effective participation. Large-scale investments, such as mining or palm oil plantations, often receive state permits without community consent, undermining indigenous claims. In the Dayak Hibun case, West Kalimantan, a palm oil concession overlapped with customary land; hybrid mediation combining customary rituals and district arbitration failed to prevent recurring disputes due to unclear legal protection and lack of monitoring (Colchester et al., 2011). This reflects broader challenges noted across Indonesia, where reforms remain incomplete and power imbalances persist (Bakker, 2008; Myers et al., 2017).

Policy Recommendations

Based on the analysis of the mechanisms and challenges above, several policy measures can be taken to strengthen the recognition and protection of indigenous peoples' rights:

1. Strengthening the national legal framework
   Revise or accelerate the enactment of the Indigenous Peoples Bill (RUU Masyarakat Adat) with provisions that explicitly mandate the integration of customary law into all licensing processes and natural resource dispute resolutions.
2. Establishment of a legal integration body
   Create a permanent institution at the provincial/district level to manage natural resource conflict mediation based on a combination of customary and state law.
3. Standardization of recognition and customary mediation procedures
   Develop a national protocol outlining the steps of customary mediation recognized within the state legal system.
4. Strengthening the capacity of customary institutions
   Implement training programs on law, natural resource governance, and customary territory documentation to enhance bargaining power.
5. Post-dispute monitoring systems
   Utilize GIS technology and conflict information systems to monitor compliance with mediation outcomes.
6. Inclusive multi-stakeholder engagement
   Ensure the participation of NGOs, academics, and civil society in overseeing the legal integration process.

CONCLUSION

The integration of customary law and state law in resolving natural resource conflicts in indigenous territories is essential to bridging legal pluralism and fostering sustainable environmental governance. Effective integration can transform disputes into opportunities for cooperation by legitimizing both legal systems and incorporating local wisdom into formal decision-making. However, its success is contingent on political will, institutional capacity, and legal clarity. Without these, integration risks remaining symbolic, unable to protect indigenous rights from economic and political pressures.

Practical Recommendations

Policymakers should establish binding legal frameworks, such as enacting the Indigenous Peoples Bill, to mandate the recognition of customary law in all natural resource governance. Provincial and district-level integration bodies should be formed to mediate disputes jointly with customary institutions. Training and documentation programs can strengthen indigenous communities' negotiating power, while GIS-based monitoring systems can ensure compliance with mediation outcomes. Multi-stakeholder oversight involving civil society, NGOs, and academia is critical to maintaining accountability.

Research Recommendations

Future studies should focus on evaluating the long-term effectiveness of hybrid conflict resolution models across different regions and resource sectors. Comparative research between Indonesian contexts and other legally pluralist nations could yield transferable best practices. Additionally, empirical studies on the socio-economic impacts of integrated dispute resolution on indigenous livelihoods would deepen understanding and guide more inclusive policy formulation.

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