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Natural Resource Exploitation and the Legal Struggles of Indigenous Communities

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Abstract

The exploitation of natural resources in Indonesia often leads to conflicts between indigenous communities and government or private entities. This article examines the role of law in protecting the rights of indigenous peoples concerning the utilization of natural resources within their territories. Employing a normative legal research method based on secondary legal materials. The findings reveal that, although the rights of indigenous peoples are constitutionally recognized, as stipulated in Articles 18B(2) and 28I(3) of the 1945 Constitution of the Republic of Indonesia, their practical implementation remains inadequate. A significant challenge lies in the conflict between customary law and state law, particularly in the management of natural resources. Indigenous communities frequently face barriers in accessing and utilizing their resources due to regulatory frameworks that often disregard their interests. This article highlights the urgent need for harmonization between customary and state laws and emphasizes the importance of strengthening institutional capacities to support sustainable natural resource management. Preventive and repressive legal protections are essential to ensure that the rights of indigenous communities are not only formally acknowledged but also effectively safeguarded and implemented. By integrating UNDRIP principles into the national legal framework, Indonesia can promote social justice and environmental sustainability, ensuring that indigenous rights are respected and protected.

1. Introduction

Indonesia is one of the countries endowed with highly diverse natural resources. This is a blessing from Allah SWT to the Indonesian nation and its people, which must be preserved, conserved, and utilized responsibly to meet the needs and ensure the welfare of all Indonesians without exception.[1] As stipulated in Article 33(3) of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945), which states: "The land, waters, and natural resources contained therein shall be controlled by the state and utilized for the greatest prosperity of the people." Article 33(3) UUD NRI 1945 serves as the philosophical and juridical foundation for the government in managing natural resources in Indonesia. This foundation emphasizes that the government must utilize the available natural resources optimally for the welfare of all Indonesians, including ensuring the well-being of indigenous peoples. Natural resources constitute a critical asset for improving the country's economy.[2]

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[1] Marthen B. Salinding, "Prinsip Hukum Pertambangan Mineral Dan Batubara Yang Berpihak Kepada Masyarakat Hukum Adat," *Jurnal Konstitusi* 16, no. 1 (April 1, 2019): 148–69, https://doi.org/10.31078/jk1618.

[2] Mersiana Sahureka and Andjela Sahupala, "Penguatan Lembaga Adat 'Kewang' Dalam Konservasi Sumber Daya Alam Di Desa Haruku," *MAANU: Jurnal Pengabdian Kepada Masyarakat* 1, no. 1 (March 31, 2023): 33–39, https://doi.org/10.30598/maanuv1i1p33-39; Diah Maharani, "Pembatasan Hak Menguasai Negara Oleh Masyarakat Adat Dalam Pengelolaan Sumber Daya Air," *Arena Hukum* 9, no.

The existence of natural resources constitutes one of the key assets for national development, where their utilization significantly impacts the Indonesian nation. The utilization of natural resources should always align with the principles of justice, democracy, and the sustainability of natural resource functions. Overemphasis on achieving economic growth in natural resource utilization inevitably leads to the gradual degradation and deterioration of both the quality and quantity of these resources.[3] The use of natural resources must be directed toward the prosperity of the Indonesian people, particularly indigenous peoples who inhabit the areas where natural resource utilization practices take place. This must be done without disregarding the existence of indigenous peoples and their rights to natural resources. The existence of indigenous peoples has been acknowledged and respected by the state, granting them constitutional and traditional rights as stipulated in Article 18B(2) UUD NRI 1945, which states: "The state recognizes and respects indigenous peoples and their traditional rights as long as they continue to exist and are in accordance with societal development and the principles of the Unitary State of the Republic of Indonesia, as regulated by law."

As explained in the aforementioned article, the state guarantees the existence of indigenous peoples under conditions regulated by law. The provision in Article 18B(2) of the 1945 Constitution of the Republic of Indonesia is further reinforced by Article 28I(3), which states: "The cultural identity and rights of traditional communities shall be respected in harmony with the times and civilization".[4] This means that the rights of indigenous peoples will always be respected, provided they align with the evolving dynamics of modern times and civilization. The recognition of indigenous peoples by the state signifies that indigenous communities also have the right to utilize natural resources in Indonesia. This recognition is closely tied to the fact that the existence of indigenous peoples continues to be acknowledged by the state. Historically and currently, the utilization of natural resources inevitably occurs in areas surrounding the habitats of indigenous peoples, spanning both terrestrial and aquatic regions. Therefore, the issue of natural resource utilization by indigenous peoples remains a prominent topic of discussion among Indonesians. Based on the above explanation, this research aims to address the following questions: How does the existence of indigenous peoples relate to the utilization of natural resources? And what legal protections are afforded to indigenous peoples to safeguard their rights?

The legal struggles of indigenous communities in the context of natural resource exploitation have been widely explored; however, this study introduces a novel perspective by focusing on the dynamic legal frameworks addressing modern challenges, particularly in

1 (April 1, 2016): 32–52, https://doi.org/10.21776/ub.arenahukum.2016.00901.3; Mella Ismelina Farma Rahayu, Anthon F Susanto, and Liya Sukma Muliya, "Hak Masyarakat Adat Dalam Pengelolaan Sumber Daya Alam," *Journal of Indonesian Adat Law (JIAL)* 2, no. 3 (December 1, 2018): 1–22, https://doi.org/10.46816/jial.v2i3.5.

[3] Roni Sulistyanto Luhukay, "Pengusahaan Sumber Daya Alam Dengan Persetujuan Masyarakat Adat," *Ius Civile: Refleksi Penegakan Hukum Dan Keadilan* 6, no. 1 (April 28, 2022): 104–18, https://doi.org/10.35308/jic.v6i1.3805.

[4] Septya Hanung Surya Dewi, I Gusti Ayu Ketut Rachmi Handayani, and Fatma Ulfatun Najicha, "Kedudukan Dan Perlindungan Masyarakat Adat Dalam Mendiami Hutan Adat," *Legislatif* 4, no. 1 (2020): 79–82, https://doi.org/https://doi.org/10.15900/j.cnki.zylf1995.2018.02.001.

Southeast Asia. This article fills a gap in the literature by examining the interplay between national policy shifts concerning indigenous peoples and their impact on the protection of indigenous rights within the context of natural resource exploitation. Unlike Bankes[5], who emphasizes the role of international law, this article highlights the tension between national legal systems and local wisdom in safeguarding indigenous lands. Furthermore, while Fuentes[6] focuses on the jurisprudence of the Inter-American Court of Human Rights, this article broadens the discussion by exploring the role of domestic courts in ensuring the participation rights of indigenous communities, including the implementation of local mechanisms for consultation and benefit-sharing. The case of the Sami people in Norway, as discussed by Skogvang[7], offers valuable insights; however, the Southeast Asian context presents distinct dynamics, where conflicts often involve multinational corporations and weak legally-mandated consultation mechanisms. This study also contributes to the literature by examining how domestic legal frameworks can either strengthen or undermine the bargaining position of indigenous communities in the allocation of mining rights, as suggested by Godden et al.[8]. Thus, this article goes beyond addressing land rights issues by uncovering the complexity of indigenous communities' legal struggles to ensure environmental sustainability, social justice, and cultural preservation.

2. Methods

The research method used in this article is the normative legal research method. Normative legal research involves studying legal materials or secondary data. This method is also referred to as doctrinal legal research. It is conceptualized as the study of rules or norms that serve as standards for societal behavior regarding what is deemed appropriate. According to Sutadnyo Wigyosubroto, the term normative legal research is synonymous with doctrinal research, which refers to research on law that is conceptualized and developed based on the doctrines adhered to by those who create or further develop the concept. In this type of research, law is often conceptualized as what is written in legislation or as norms that function as standards for human behavior deemed appropriate.[9]

3. Results and Discussion

Issues surrounding the utilization of natural resources remain prevalent to this day. Demonstrations or rejections of development projects in customary land areas frequently occur, often driven by concerns among indigenous communities about potential

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[5] Nigel Bankes, "International Human Rights Law and Natural Resources Projects Within the Traditional Territories of Indigenous Peoples," *Alberta Law Review*, January 1, 2010, 457–96, https://doi.org/10.29173/alr191.

[6] Alejandro Fuentes, "Protection of Indigenous Peoples' Traditional Lands and Exploitation of Natural Resources: The Inter-American Court of Human Rights' Safeguards," *International Journal on Minority and Group Rights* 24, no. 3 (August 8, 2017): 229–53, https://doi.org/10.1163/15718115-02403006.

[7] Susann Funderud Skogvang, "Legal Questions Regarding Mineral Exploration and Exploitation in Indigenous Areas," *SSRN Electronic Journal* 22, no. 1 (August 22, 2013): 321–44, https://doi.org/10.2139/ssrn.2313741.

[8] Lee Godden et al., "Accommodating Interests in Resource Extraction: Indigenous Peoples, Local Communities and the Role of Law in Economic and Social Sustainability," *Journal of Energy & Natural Resources Law* 26, no. 1 (March 2008): 1–30, https://doi.org/10.1080/02646811.2008.11435176.

[9] Amiruddin Amiruddin and Zainal Asikin, *Pengantar Metode Penelitian Hukum* (Jakarta: PT. Raja Grafindo Persada, 2006).

environmental pollution or misuse of natural resources. However, it is important to note that not all development projects lead to the misuse of natural resources or have negative impacts on indigenous communities. It is evident that agricultural lands, such as plantations, rice fields, and forests, are increasingly being converted into residential areas, tourist destinations, or sites for company establishments. Such developments often result in conflicts between communities and the government or legal entities undertaking the construction projects. These developments are now beginning to encroach on lands owned by indigenous communities, commonly referred to as *ulayat* or communal land.

Indigenous lands are often situated in areas with high natural resource potential, such as coastal regions. Coastal areas, for instance, are highly popular tourist destinations. The utilization of these resources could, in fact, be leveraged to increase the local income of indigenous communities if managed properly. However, in many cases, indigenous communities face restrictions in utilizing their own natural resources. These limitations create a variety of problems, particularly concerning claims of customary land ownership and the utilization of natural resources. Indigenous communities frequently encounter conflicts with existing laws, such as the classification of customary forests as state forests. Additionally, they face challenges navigating complex formal mechanisms and licensing schemes when attempting to access and utilize the natural resources available in their environment. Indigenous communities have existed long before the establishment of the state.[10] In fact, the UUD NRI 1945 mandates the government to protect the rights of all Indonesian citizens, including the rights of indigenous communities, who are also citizens of Indonesia, to inhabit customary forests.[11] Thus, the government is obligated to fulfill this mandate in accordance with the provisions outlined in the UUD NRI 1945. However, in practice, numerous issues persist beyond those previously mentioned, and these problems have yet to be adequately addressed or minimized to this day.

The mandate is enshrined in the UUD NRI 1945 and Law Number 5 of 1960 concerning Basic Agrarian Principles (Law No. 5/1960). The management and utilization of natural resources are regulated under Law No. 5/1960, as articulated in Article 1, which states: "The entire territory of Indonesia is a unity of land and water belonging to the entire people of Indonesia, united as the Indonesian nation, and all the earth, water, and space, including the natural resources contained therein, are a blessing from God Almighty and constitute national wealth." The existence of Law No. 5/1960 serves to elaborate on the provisions outlined in Article 33, paragraph (3) of the UUD NRI 1945, which declares that the earth, water, and natural resources contained within Indonesian territory are controlled by the state and must be utilized for the prosperity of the people.[12]

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[10] Yunia Indah Setiawati, "Harmonization of Natural Resource Utilization Rights by Indigenous Peoples in the Indonesian Legal System," *Indonesian State Law Review (ISLRev)* 1, no. 1 (November 1, 2018): 17–36, https://doi.org/10.15294/islrev.v1i1.26937.

[11] Dewi, Handayani, and Najicha, "Kedudukan Dan Perlindungan Masyarakat Adat Dalam Mendiami Hutan Adat."

[12] Setiawati, "Harmonization of Natural Resource Utilization Rights by Indigenous Peoples in the Indonesian Legal System."

3.1. The Existence of Indigenous Legal Communities in Natural Resource Utilization

The existence of indigenous communities in the control and utilization of natural resources is inseparable from their collective rights, which have been recognized by the constitution and various laws and regulations in Indonesia. Historically, indigenous communities possess local wisdom deeply embedded in the practices of managing their customary territories. This wisdom is implemented through traditional value systems that include regulations on territorial boundaries, the utilization of natural resources, and mechanisms for dispute resolution. In relation to the state's recognition of the existence of indigenous legal communities, Article 18B paragraph (2) of the UUD NRI 1945 explicitly stipulates that the state recognizes and respects the unity of indigenous legal communities and their traditional rights, as long as they are still alive and in accordance with societal development and the principles of the Unitary State of the Republic of Indonesia. Therefore, the recognition of the rights of indigenous communities must be positioned as part of the state's obligation to protect human rights.

Further regulations regarding the recognition and protection of the rights of indigenous communities, particularly in the context of natural resource utilization, are governed by various national legal instruments. The People's Consultative Assembly Decree (TAP MPR) No. XVII of 1998 on Human Rights regulates the protection of customary land rights of indigenous legal communities, as stated in Articles 30, 31, and 42. This regulation provides a normative foundation to ensure that the rights of indigenous legal communities are recognized within the national legal system. Additionally, Law No. 22 of 1999 on Regional Government (Law No. 22/1999) and the Minister of Agrarian Affairs/Head of the National Land Agency Regulation No. 5 of 1999 on Guidelines for Resolving Issues of Customary Land Rights are relevant legal instruments for resolving conflicts over customary land. Law No. 41 of 1999 on Forestry (Law No. 41/1999)[13] grants legitimacy to the rights of indigenous legal communities in managing forest areas, as long as such management does not conflict with public interests and environmental sustainability principles.

In the context of natural resource utilization, Article 1, number 9 of Law No. 32 of 2009 concerning Environmental Protection and Management (Law No. 32/2009) defines natural resources as elements of the environment consisting of both biological and non-biological resources that collectively form an ecosystem. Therefore, the utilization of natural resources by indigenous communities residing within the territory of the state must be carried out with regard to the principles of justice, sustainability, and national interest.[14] This utilization is not only aimed at meeting the needs of indigenous communities but also at making a positive contribution to national development, including environmental conservation. As a concrete step to provide legal certainty regarding indigenous land rights, the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency issued Regulation No. 9 of 2015 concerning Procedures for Determining Communal Rights to Indigenous and Certain Area Communities' Land. Under this regulation, communal rights are defined as joint

[13] Martua Sirait, Chip Fay, and A. Kusworo, "Bagaimana Hak-Hak Masyarakat Adat Dalam Mengelola Sumber Daya Alam Diatur?," 2001.
[14] Setiawati, "Harmonization of Natural Resource Utilization Rights by Indigenous Peoples in the Indonesian Legal System."

ownership of land by an indigenous legal community or a community in a specific area. These communal rights encompass the mechanisms for the recognition and determination of indigenous land rights through the establishment of cooperatives, community groups, or customary institutions that meet specific requirements. This regulation aims to provide legal guarantees for the land ownership of indigenous legal communities while encouraging more organized management in line with traditional values.

The discussion of the rights of indigenous legal communities must be linked to the framework of international law, particularly the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).[15] This Declaration, adopted by the United Nations General Assembly in 2007, guarantees the rights of indigenous peoples to their lands, territories, and resources.[16] UNDRIP exerts stronger moral and political pressure on governments to fulfill their obligations toward indigenous communities, including the recognition and protection of customary land rights. The Declaration emphasizes that indigenous peoples have the right to self-determination, which includes control over the lands and resources that are integral to their identity and sustainability. The implementation of UNDRIP principles within national law can strengthen the state's commitment to ensuring that indigenous communities receive formal recognition and substantive protection of their rights.

However, the recognition of the rights of indigenous legal communities cannot be assessed solely from the aspect of formal legality.[17] The national legal framework must consistently integrate the principles of justice, sustainability, and inclusivity in the management of natural resources within indigenous legal communities' territories. The state must ensure that indigenous peoples can exercise their rights without facing the threat of marginalization, whether from external parties or internal conflicts.[18] In other words, the recognition of indigenous rights must be accompanied by tangible efforts to provide protection and restitution for rights that may have been taken or violated. This regulation becomes even more relevant when linked to the rights of indigenous legal communities over customary lands as a key element in the utilization of natural resources. The state has an obligation to ensure that the management of natural resources by indigenous legal communities is in line with their traditional values and does not contradict national interests.[19] A map of indigenous territories or a legitimate territorial deed can serve as an important

[15] Asriati Asriati and Muh Zulkifli Muhdar, "Studi Perbandingan Hak-Hak Masyarakat Adat: Hukum Nasional Dan Hukum Internasional," *PETITUM* 8, no. 2 (October 29, 2020): 170–86, https://doi.org/10.36090/jh.v8i2.768.

[16] Muazzin Muazzin, "Hak Masyarakat Adat (Indigenous Peoples) Atas Sumber Daya Alam: Perspektif Hukum Internasional," *PADJADJARAN Jurnal Ilmu Hukum (Journal of Law)* 1, no. 2 (2014): 322–45, https://doi.org/10.22304/pjih.v1n2.a7.

[17] Aulia Vivi Yulianingrum, "Mempertegas Kedudukan Hukum Kesatuan Masyarakat Hukum Adat Dalam Memenuhi Hak- Hak Konstitusional," *Yuriska : Jurnal Ilmiah Hukum* 10, no. 1 (February 4, 2020): 73, https://doi.org/10.24903/yrs.v10i1.268.

[18] Yogie Kusuma Wardhana, Baharudin Baharudin, and Anggalana Anggalana, "Analisis Yuridis Pengakuan Dan Pemenuhan Hak-Hak Tanah Masyarakat Hukum Adat Lampung," *Pagaruyuang Law Journal* 6, no. 2 (January 17, 2023): 195–211, https://doi.org/10.31869/plj.v0i0.4066.

[19] Mella Ismelina Farma Rahayu, Anthon F Susanto, and Liya Sukma Muliya, "Hak Masyarakat Adat Dalam Pengelolaan Sumber Daya Alam," *Journal of Indonesian Adat Law (JIAL)* 2, no. 3 (December 1, 2018): 1–22, https://doi.org/10.46816/jial.v2i3.5.

instrument to strengthen the legal position of indigenous communities. This instrument provides legitimacy to territorial claims and functions as a dispute resolution tool that can minimize the risk of both horizontal and vertical conflicts.

The existence of indigenous communities in the utilization of natural resources reflects sustainability and local sovereignty, which are integral parts of national development.[20] By ensuring the recognition, protection, and empowerment of indigenous legal communities, the state not only fulfills its constitutional obligations but also supports the realization of social justice and environmental preservation.[21] Therefore, the management of natural resources by indigenous communities should be viewed as a collaborative effort based on the principles of justice, sustainability, and equality.[22] The recognition of the rights of indigenous peoples is not only a tangible manifestation of human rights protection but also an important instrument in creating harmony between humans and the environment within the framework of the Unitary State of the Republic of Indonesia, committed to international standards. The recognition and protection of the rights of indigenous legal communities are integral to efforts aimed at achieving social justice and environmental sustainability in Indonesia. By integrating the principles of the UNDRIP into the national legal framework, Indonesia can ensure that the rights of indigenous peoples are respected and protected. Furthermore, this recognition can make a significant contribution to inclusive and sustainable national development. Therefore, the recognition of indigenous rights is not only a legal obligation but a moral and political responsibility that must be fulfilled by the state.

3.2. Legal Protection for Indigenous Communities in Defending Their Rights

Legal protection for indigenous legal communities is a concrete manifestation of the principle of the rule of law, which demands the recognition, respect, and fulfillment of human rights by the state, including the rights of indigenous peoples.[23] In this context, Article 18B paragraph (2) and Article 28I paragraph (3) of the 1945 Constitution of the Republic of Indonesia outline the constitutional obligation for the state to recognize and respect indigenous communities and their traditional rights, as long as these are in accordance with societal development and the principles of the Unitary State of the Republic of Indonesia. This regulation demonstrates that the rights of indigenous communities hold a fundamental position within the Indonesian legal system.[24] The recognition of these rights aligns with Indonesia's commitment to various international instruments, such as the UNDRIP. Therefore, legal protection for indigenous legal communities is both a constitutional obligation[25] and a moral and legal responsibility of the state to ensure substantive justice.

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[20] Rahayu, Susanto, and Muliya.

[21] Faharudin, "Analisis Interaksi Kedaulatan Masyarakat Adat Di Indonesia," *LAWYER: Jurnal Hukum* 1, no. 1 (March 31, 2023): 1–6, https://doi.org/10.58738/lawyer.v1i1.133.

[22] Yulianingrum, "Mempertegas Kedudukan Hukum Kesatuan Masyarakat Hukum Adat Dalam Memenuhi Hak- Hak Konstitusional."

[23] Siti Barora, "Perlindungan Masyarakat Hukum Adat Dalam Konstitusi Sebagai Perwujudan Asas Equality Before The Law," *De Jure Jurnal Ilmiah Ilmu Hukum* 1, no. 2 (August 13, 2020): 153, https://doi.org/10.33387/dejure.v1i2.2022.

[24] Setiawati, "Harmonization of Natural Resource Utilization Rights by Indigenous Peoples in the Indonesian Legal System."

[25] Yulianingrum, "Mempertegas Kedudukan Hukum Kesatuan Masyarakat Hukum Adat Dalam Memenuhi Hak- Hak Konstitusional."

The rights of indigenous communities recognized in the constitution, such as the right to recognition and respect for traditions and local wisdom, are non-derogable, meaning they cannot be diminished under any circumstances. This emphasizes that these rights cannot be seen as secondary rights that depend on specific conditions but are fundamental rights that must be protected by the state through adequate legal frameworks. The state, as the bearer of obligations, is responsible for ensuring that these rights are safeguarded from any form of violation, whether by internal or external parties.[26] Law No. 5/1960 is one of the legal foundations that provides protection for the communal rights of indigenous communities.[27] The principle of protection embedded in Law No. 5/1960 serves as the basis for both preventive and repressive legal protection for indigenous communities. Preventive protection includes the recognition of customary land rights, mechanisms for registering rights, and granting indigenous legal communities authority to manage their customary territories. For repressive protection, Law No. 5/1960 contains criminal provisions aimed at preventing exploitation and violations of indigenous communities' rights. These provisions demonstrate the state's commitment to providing comprehensive protection for indigenous legal communities, both in preventive and repressive dimensions.[28]

Preventive legal protection for indigenous communities includes various strategic measures, such as formal recognition through legislation, the establishment of mechanisms for registering customary land rights, and granting authority to indigenous legal communities to manage their territories and natural resources, which are part of their communal rights. This formal recognition is reflected in various laws, such as Law No. 41/1999, Law No. 26/2007 on Spatial Planning, and Law No. 27/2007 concerning Management of Coastal Areas and Small Islands. For example, Article 61 of Law No. 27/2007 emphasizes that the government recognizes, respects, and protects the rights of indigenous communities over coastal and small island areas that have been traditionally utilized. This recognition is a preventive step to ensure the sustainability of indigenous rights in the face of the challenges of changing times and modernization. Referring to repressive protection, legal protection for indigenous communities is realized through the strict enforcement of laws against violations of their rights.[29] For instance, the exploitation of natural resources that harms indigenous communities can be subject to sanctions under criminal provisions outlined in relevant laws. In addition, the establishment of fair and transparent dispute resolution mechanisms is also an important part of repressive protection. The state must ensure that indigenous communities have access to justice, including through the recognition of customary courts within the national legal system.[30] This step not only provides legal protection for indigenous communities but also

[26] Aryo Subroto, "Peran Negara Dalam Menjaga Eksistensi Masyarakat Hukum Adat," *Yuriska : Jurnal Ilmiah Hukum* 11, no. 1 (February 19, 2019): 59–73, https://doi.org/10.24903/yrs.v11i1.457.
[27] Anang Husni, Opan Satria Mandala, and Muhammad Bimarasmana, "Rights of Indigenous Peoples in the Politics of Agrarian Law in Indonesia," *Jurnal Fundamental Justice*, September 30, 2022, 91–112, https://doi.org/10.30812/fundamental.v3i2.1964.
[28] Subroto, "Peran Negara Dalam Menjaga Eksistensi Masyarakat Hukum Adat."
[29] Muhammad Aldi and Firmansyah Putra, "Pengakuan Dan Perlindungan Masyarakat Hukum Adat Berdasarkan Peraturan Perundang-Undangan," *Limbago: Journal of Constitutional Law* 3, no. 2 (June 22, 2023): 310–20, https://doi.org/10.22437/limbago.v3i2.21678.
[30] Aldi and Putra.

strengthens the legitimacy of the national legal system in accommodating the legal diversity present in Indonesia.

Legal protection for indigenous legal communities involves the role of regional governments through regional regulations that specifically govern the recognition and protection of indigenous rights. For example, the Regional Regulation of Lebak Regency No. 32 of 2001 on the Protection of the Ulayat Rights of the Baduy Indigenous Legal Community, the Regional Regulation of Nunukan Regency No. 3 of 2004 on the Ulayat Rights of Indigenous Legal Communities, and the Regional Regulation of Maluku Province No. 3 of 2008 on Ancestral Domains. These regulations demonstrate that the recognition and protection of indigenous legal communities is not only the responsibility of the central government but also of local governments as implementers of regional autonomy.[31]

Furthermore, the principle of protection in Law No. 5/1960 provides the foundation for holistic legal protection for indigenous communities.[32] This principle reflects the notion of substantive justice, oriented towards legal certainty and protection for vulnerable groups, including indigenous communities. The recognition of customary land rights is not merely a formal acknowledgment, but encompasses concrete steps to ensure that these rights can be effectively exercised. This includes providing access to natural resources, empowering indigenous communities, and strengthening the institutional capacity of indigenous governance to manage their territories and resources sustainably. However, challenges in the implementation of legal protection for indigenous legal communities cannot be overlooked. One of the primary challenges is the conflict between customary law and state law, particularly in natural resource management. This conflict often arises from the differing paradigms between customary law, which focuses on ecological balance and sustainability, and state law, which tends to prioritize the exploitation of natural resources for economic purposes. To address this challenge, a more inclusive and dialogical approach is required between the government, indigenous communities, and other stakeholders. This approach should prioritize the principles of justice, sustainability, and respect for local wisdom as the foundation for building harmony between customary law and state law. Additionally, harmonization between customary law and state law requires strengthening institutional capacities, both at the national and local levels. The government must ensure that existing legal frameworks, including regional regulations, align with the principles of legal protection for indigenous communities. Strengthening institutional capacity involves the development of human resources, improved inter-agency coordination, and the use of information technology to support the management of data and information related to indigenous legal communities. These measures are expected to enhance the effectiveness of legal protection for indigenous communities while strengthening their position within the national legal system. The recognition of indigenous rights has significant implications in efforts to achieve the Sustainable Development Goals (SDGs). Indigenous communities, with their local wisdom and traditional knowledge, play a strategic role in supporting environmental sustainability

[31] Sahureka and Sahupala, "Penguatan Lembaga Adat 'Kewang' Dalam Konservasi Sumber Daya Alam Di Desa Haruku."
[32] Husni, Mandala, and Bimarasmana, "Rights of Indigenous Peoples in the Politics of Agrarian Law in Indonesia."

and biodiversity. Therefore, legal protection for indigenous communities is not only a constitutional obligation but also part of Indonesia's global responsibility in realizing equitable and sustainable development.

This recognition simultaneously serves as a guideline for legal protection for indigenous legal communities while they live within the state of Indonesia. In Law No. 5/1960, there is a protection function for all parties regulated within it as a consequence of the principle of protection embedded in the substance of the legislation. In terms of its content, Law No. 5/1960 provides both preventive and repressive protection functions for the communal rights of indigenous legal communities, such as the recognition of communal rights, registration of rights, granting of authority and equal rights, as well as the limitation of rights control to prevent the exploitation of rights and the work of others.[33] Additionally, there are criminal provisions that outline the form of repressive protection by the state for indigenous legal communities.

4. Conclusions

Natural resources are crucial for Indonesia's national development and the well-being of its citizens, particularly indigenous communities, for whom these resources are deeply intertwined with cultural and spiritual identity. While Articles 18B(2) and 28I(3) of the UUD NRI 1945 recognize the rights of indigenous peoples, the practical realization of these rights remains inadequate. Challenges stem from conflicts between state-centric natural resource management and customary laws, exacerbated by bureaucratic inefficiencies and limited institutional capacity. Indigenous communities frequently face disputes over land and resource utilization, particularly when customary lands are converted for commercial purposes. Although legal frameworks such as Law No. 5/1960 and Law No. 41/1999 exist to safeguard these rights, inconsistent implementation and enforcement undermine their effectiveness. Addressing these challenges requires harmonization between customary and state laws through constructive dialogue among the government, indigenous communities, and other stakeholders. Preventive legal protections must include formal recognition of communal land rights through mapping and registration, while repressive measures should focus on strict enforcement of laws and transparent dispute resolution mechanisms. Incorporating the principles of the UNDRIP into national policies offers a framework to promote justice, sustainability, and inclusivity. Empowering indigenous communities to sustainably manage natural resources fulfills constitutional obligations while contributing to Indonesia’s SDGs. By fostering collaboration and respecting indigenous rights, Indonesia can achieve equitable development that preserves cultural heritage, environmental sustainability, and national progress.

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[33] Husni, Mandala, and Bimarasmana.

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Amiruddin, Amiruddin, and Zainal Asikin. *Pengantar Metode Penelitian Hukum*. Jakarta: PT. Raja Grafindo Persada, 2006.

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