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“Indigenous Dayak Simpang Dua Community Customary Rights Dispute with Palm Oil Plantation Company in West Kalimantan”

Article	Abstract
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INTRODUCTION

Indonesia is widely recognized for its vast diversity in cultures, ethnic groups, languages, and traditions¹. This diversity extends beyond social and cultural dimensions, influencing the

legal system that operates within society². One enduring component of this system is customary law, which continues to develop alongside societal changes³. Within customary law, customary rights refer to communal land ownership held by indigenous communities and transmitted across generations⁴. These rights are closely tied to the identity of indigenous peoples, as land functions not only as an economic asset but also as a spiritual space, a source of livelihood, and a symbol of collective existence⁵.

The Indonesian Constitution recognizes customary rights. Pasal 18B ayat (2) Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 explicitly states that “The state recognizes and respects 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, as regulated by law”¹. This provision forms the constitutional basis for the recognition of customary rights. In addition, Article 3 of the Basic Agrarian Law (UUPA) also recognizes customary rights as long as they still exist in reality, provided that their control does not conflict with national interests or higher laws and regulations².

Although customary rights have been recognized normatively, the implementation of this recognition in the field often does not go as expected³. Many cases show that the rights of indigenous peoples are often neglected when they conflict with development, investment, or natural resource exploitation interests⁴. One of the sectors that is most often a source of conflict is oil palm plantations⁵. The massive expansion of oil palm plantations in Kalimantan, Sumatra, and Sulawesi since the 1980s has given rise to various agrarian issues, particularly those related to the seizure of customary lands without the consent of indigenous peoples⁶.

West Kalimantan is one of the provinces with a high level of agrarian conflict due to the expansion of oil palm plantations⁷. Data from various civil society organizations show that Ketapang, Sanggau, and Bengkayang districts are the areas most prone to disputes between indigenous peoples and companies⁸. These conflicts stem from companies' practices of taking control of customary lands based on government permits without going through a process of consultation and free, prior, and informed consent (FPIC) from indigenous peoples. In fact, various national and regional regulations have affirmed the principle of consultation as an absolute requirement before customary lands can be used by third parties⁹.

The case of land tenure dispute between the Dayak Simpang Dua indigenous community and PT Mayawana Persada in Ketapang Regency is one such example. The company cleared land for oil palm plantations in an area recognized by the community as customary land without

¹ Zayanti Mandasari, “Politik Hukum Pengaturan Masyarakat Hukum Adat (Studi Putusan Mahkamah Konstitusi),” *Jurnal Hukum Ius Quia Iustum* 21, no. 2 (2014): 227–50, <https://doi.org/10.20885/iustum.vol21.iss2.art4>.

² Dina Catur Ayu Ningtyas, “Hak Atas Tanah Sebagai Dasar Pembuktian Bagi Pemiliknya Dalam Hukum Agraria Yang Di Dasari Uupa,” *COURT REVIEW: Jurnal Penelitian Hukum (e-ISSN: 2776-1916)* 3, no. 01 (2023): 28–35, <https://doi.org/10.69957/cr.v3i01.698>.

³ Lonhor, Syariah, and Iain, “PERAN PENDIDIKAN MULTIKULTURAL DALAM MENCIPTAKAN KESADARAN HUKUM MASYARAKAT PLURAL.”

⁴ Mandasari, “Politik Hukum Pengaturan Masyarakat Hukum Adat (Studi Putusan Mahkamah Konstitusi).”

⁵ Kasmanedi Kasmanedi, “Pemberian Hak Guna Usaha Diatas Tanah Ulayat Untuk Perkebunan Kelapa Sawit Di Pasaman Barat,” *UNES Journal of Swara Justisia* 6, no. 1 (2022): 24–35, <https://doi.org/10.31933/ujsj.v6i1.240>.

⁶ Fhlorida Agustina Simanjuntak, “Pendaftaran Tanah Di Atas Tanah Ulayat: Dilema Antara Hukum Negara Dan Hukum Adat,” *Jurnal Ilmu Sosial* 3, no. 2 (2025): 1–10.

⁷ Petrus Atong, “Dinamika Konflik Agraria Di Indonesia: Faktor Penyebab Dan Dampaknya,” *FOKUS: Publikasi Ilmiah Untuk Mahasiswa* 23, no. 1 (2025): 247–58.

⁸ Noviar Haikal Prasetya, Fauzie Zuffran, and Fathur Sultan Murtada, “Analisis Konflik Agraria Di Kalimantan Timur : Studi Kasus Sengketa Lahan Antara Masyarakat Adat Dan Perusahaan Tambang,” *Media Hukum Indonesia (MHI)* 2, no. 2 (2024): 686–92.

⁹ Sandy Leo et al., “Indigenous Dayak Iban Customary Perspective on Sustainable Forest Management, West Kalimantan, Indonesia,” *Biodiversitas* 23, no. 1 (2022): 424–35, <https://doi.org/10.13057/biodiv/d230144>.

consulting the Dayak Simpang Dua Customary Council¹⁰. This action clearly provoked resistance from the indigenous community, who viewed the land as ancestral heritage dating back to the Sukadana kingdom. As a result, resistance actions emerged, ranging from verbal warnings and traditional deliberations to the imposition of traditional sanctions in the form of fines, gongs, and tajau.

On the other hand, the Ketapang Regency Government has actually issued Regional Regulation No. 7 of 2015 concerning Licensing and Guidance for Plantation Businesses and Partnership Patterns, as well as Regional Regulation No. 8 of 2020 concerning the Recognition and Protection of Customary Law Communities. Both regulations clearly stipulate that companies are required to consult with indigenous communities before using customary land, and grant indigenous communities the right to conduct customary trials to resolve disputes. However, the implementation of these regulations is often ineffective due to weak local government supervision and bias towards investor interests¹¹.

This phenomenon shows a disharmony between state law and customary law. On the one hand, state law recognizes and provides protection for customary rights, but on the other hand, practices in the field show neglect and deprivation of rights¹². Indigenous peoples ultimately place greater trust in customary legal mechanisms as instruments for dispute resolution, because state law is considered slow, biased, and often even serves as an instrument for legalizing land grabbing¹³.

The issue of customary land rights disputes not only has legal implications, but also causes social, economic, and ecological consequences¹⁴. From a social perspective, there has been disintegration between indigenous peoples and the government, as well as an increase in the potential for horizontal conflict. From an economic perspective, indigenous peoples have lost their livelihoods, which had been dependent on forests, fields, and rivers¹⁵. From an ecological perspective, the clearing of land for palm oil plantations causes forest destruction, a reduction in biodiversity, and environmental pollution¹⁶.

Customary Rights in the Perspective of Customary Law and National Law

Historically, customary rights have long been recognized in Indonesia's customary legal system¹⁷. Van Vollenhoven, a Dutch legal expert who studied customary law in the Dutch East

¹⁰ Rupita Arkanudin, "Etnografi Konflik Masyarakat Batu Daya Dengan Perusahaan PT . Swadaya Mukti Prakarsa Di Simpang Dua , Ketapang , Kalimantan Barat," *Jurnal Dakwah Dan Sosial* 3, no. 1 (2020): 18–34, <https://doi.org/https://doi.org/10.37680/muharrik.v3i01.208>.

¹¹ Salwa Nurfaiziya, "Study Literature Review Artikel Terindeks Scopus Perihal Kebijakan Reforma Agraria Di Negara-Negara Benua Asia," *Journal of Governance Innovation* 3, no. 2 (2021): 107–18, <https://doi.org/10.36636/jogiv.v3i2.727>.

¹² Muhammad Syukur, "Analisis Yuridis Permenag Nomor 5 Tahun 1999 Tentang Eksistensi Hak Ulayat Dalam Hukum Agraria Nasional," *Dinamika: Jurnal Ilmiah Ilmu Hukum* 26, no. 8 (2020): 951–65, <http://www.riset.unisma.ac.id/index.php/jdh/article/view/5865>.

¹³ I Gusti Ayu Stefani Ratna Maharani, "Pengadopsian Mediasi Sebagai Alternatif Penyelesaian Sengketa Dalam Ranah Penyelesaian Konflik Hukum Adat Di Bali," *Jurnal Hukum Lex Generalis* 5, no. 3 (2024): 1–13, <https://jhlrg.rewangrencang.com>.

¹⁴ Arkanudin, "Etnografi Konflik Masyarakat Batu Daya Dengan Perusahaan PT . Swadaya Mukti Prakarsa Di Simpang Dua , Ketapang , Kalimantan Barat."

¹⁵ V Hari Supriyanto, "Kontradiksi Hak Komunal Dan Hak Ulayat Dalam Hukum Pertanahan Indonesia : Tinjauan Yurisprudensi Dan Regulasi Indonesia," *Tunas Agraria* 8, no. 3 (2025): 380–400, <https://doi.org/https://doi.org/10.31292/jta.v8i3.483>.

¹⁶ MH. Muthia Septarina SH, MH., Nahdhah, S.H.I., M.H., Salamiah, SH, MH., Ningrum Ambarsari, SH, "Perlindungan Hukum Kearifan Lokal Masyarakat Adat Akibat Alih Fungsi Lahan Gambut Dan Rawa Menjadi Perkebunan Kelapa Sawit Di Kabupaten Barito Kuala," *Badamai Law Journal* 7, no. 1 (2022): 47–61, <https://doi.org/10.32801/damai.v7i1.10204>.

¹⁷ R. Mulyana Jaya Sumpena, "Pengakuan Hak Ulayat Suku Baduy Indonesia Dengan Suku Aborigin Australia Dalam Perspektif Hukum Tanah," *Jurnal Cahaya Mandalika ISSN 2721 ...*, 2024, 2072–91, <https://www.ojs.cahayamandalika.com/index.php/jcm/article/view/3059%0Ahttps://www.ojs.cahayamandalika.com/index.php/jcm/article/download/3059/2451>.

Indies, introduced the concept of *beschikkingsrecht*, or the right of a customary community to control land¹⁸. This right is not the same as individual property rights, because it is communal in nature and governed by customary norms that exist within the community¹⁹. In Dayak indigenous communities, customary land is not only understood as an economic asset, but also has religious and symbolic value²⁰. Forests, rivers, fields, and sacred sites have spiritual significance closely tied to local belief systems²¹. However, from colonialism to modern times, customary rights have often been viewed as an obstacle to development²². Colonial agrarian policies such as the *Agrarische Wet 1870* opened the door for private companies to take control of people's land²³. Although after Indonesia's independence, the 1960 Basic Agrarian Law (UUPA) was enacted, recognizing customary rights, its implementation remains challenging²⁴. The state often interprets customary rights narrowly, recognizing them only if they do not conflict with national interests²⁵. This interpretation has opened the door for the state to grant plantation, mining, and forestry concessions in customary territories without the consent of local communities.

Agrarian Conflict in West Kalimantan

West Kalimantan is one of the provinces with the highest levels of agrarian conflict in Indonesia²⁶. According to a report by the Agrarian Reform Consortium (KPA), over the past two decades, hundreds of thousands of hectares of land in West Kalimantan have been granted permits for oil palm plantations. The districts of Ketapang, Sanggau, Sintang, and Bengkayang have been the main locations for oil palm expansion²⁷. Many conflicts arise from overlapping claims between company concessions and customary territories. For example, the case between PT Ledo Lestari and the Dayak Iban indigenous community in Semunying Jaya Village, Bengkayang, where the company cleared land without consulting the indigenous community²⁸. A similar case occurred among the Dayak Kanayatn indigenous community in Landak, who rejected the entry of a palm oil company because they considered it to be seizing their ancestral lands. This pattern of conflict reveals a structural problem in agrarian governance: the state tends to side with investors, while customary rights are seen as an obstacle. The case of the Dayak Simpang Dua indigenous community in Ketapang Regency with PT Mayawana Persada adds to

¹⁸ M. Sofyan Pulungan, "Menelaah Masa Lalu, Menata Masa Depan: Sejarah Hukum Tanah Ulayat Dan Model Penanganan Konflik Sosialnya," *Undang: Jurnal Hukum* 6, no. 1 (2023): 235–67, <https://doi.org/10.22437/ujh.6.1.235-267>.

¹⁹ Nadia Elvin Eka Azaria, "Pengakuan Tanah Ulayat Masyarakat Hukum Adat Untuk Pembangunan Nasional," *Jurnal Hukum Lex Generalis* 9, no. 9 (2024): 1–14.

²⁰ Yuliyanto Yuliyanto, "Peranan Hukum Adat Masyarakat Dayak Dalam Menyelesaikan Konflik Untuk Mewujudkan Keadilan Dan Kedamaian," *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 6, no. 1 (2017): 37, <https://doi.org/10.33331/rechtsvinding.v6i1.134>.

²¹ Miasiratni, "Peran Peraturan Daerah Dalam Melindungi Hak-Hak Masyarakat Adat Di Indonesia," *Journal of Global Legal Review* 2, no. 2 (2024): 65–70.

²² Amrita Ajeng Safitri et al., "Eksistensi Hukum Adat Dalam Tata Hukum Indonesia," *Rechtenstudent* 3, no. 2 (2022): 214–30, <https://doi.org/10.35719/rch.v3i2.124>.

²³ Slamet Catur Pamungkas, "Transformasi UU Agraria Tahun 1870 Ke UUPA 1960 Pada Masa Dekolonisasi Kepemilikan Tanah Pasca Kemerdekaan Di Indonesia," *Al-Isnad: Journal of Islamic Civilization History and Humanities* 2, no. 2 (2021): 43–59, <https://doi.org/10.22515/isnad.v2i2.4854>.

²⁴ Supriyanto, "Kontradiksi Hak Komunal Dan Hak Ulayat Dalam Hukum Pertanahan Indonesia: Tinjauan Yurisprudensi Dan Regulasi Indonesia."

²⁵ Ikhsan Lubis et al., "Integrasi Hukum Adat Dalam Sistem Hukum Agraria Nasional: Tantangan Dan Solusi Dalam Pengakuan Hak Ulayat," *Tunas Agraria* 8, no. 2 (2025): 143–58, <https://doi.org/10.31292/jta.v8i2.401>.

²⁶ Fauziah Agisty et al., "Pembaharuan Hukum Agraria Dan Perlindungan Hak-Hak Masyarakat Hukum Adat," *Locus Journal of Academic Literature Review* 4, no. 2 (2025): 52–60.

²⁷ Apriadi Apriadi, Novira Kusri, and Anita Suharyani, "Dampak Pembangunan Perkebunan Kelapa Sawit Pt.Mak (Musthika Abadi Khatulistiwa) Terhadap Kondisi Sosial Ekonomi Masyarakat Di Desa Sekilap Kecamatan Mandor Kabupaten Landak," *Perkebunan Dan Lahan Tropika* 14, no. 1 (2024): 7, <https://doi.org/10.26418/plt.v14i1.78696>.

²⁸ Bernica Putri Fasius, "Penyelesaian Konflik Hak Ulayat Melalui Sanksi Adat (Studi Kasus Masyarakat Adat Dayak Simpang Dua)," *Jurnal Hukum, Politik Dan Kekuasaan* 4, no. 2 (2024): 175–94, <https://doi.org/10.24167/jhpk.v4i2.10278>.

the long list of agrarian conflicts in Kalimantan. Although the local government has issued Local Regulation No. 8 of 2020 on the Recognition and Protection of Indigenous Peoples, the implementation of this recognition does not automatically guarantee protection. The reality on the ground shows that indigenous peoples still have little bargaining power when dealing with large companies that have obtained permits from the state²⁹.

The Theory of Legal Pluralism and Structural Conflict

The phenomenon of customary rights conflicts can be analyzed through the perspective of legal pluralism, which is a condition where more than one legal system applies within a single social space. In the Indonesian context, there are at least three legal systems that coexist: state law, customary law, and religious law³⁰. Conflicts often arise because state law tends to be dominant, while customary law is considered subordinate³¹. In fact, indigenous peoples place greater trust in customary law as the primary mechanism for regulating their lives³².

The conflict between the customary rights of the Dayak Simpang Dua indigenous community and PT Mayawana Persada reflects the tension between state law and customary law. State law, through legislation and local regulations, recognizes customary rights, but its implementation often weakens the position of customary law³³. This is in line with Johan Galtung's theory of structural conflict, which states that structural injustice arises when a country's legal and policy systems systematically favor dominant groups (corporations and the state) and marginalize weaker groups (indigenous peoples)³⁴.

Regulatory and Implementation Disharmony

There are many regulations governing the protection of customary rights. In addition to the 1945 Constitution and the Basic Agrarian Law, there are also Law No. 39 of 2014 on Plantations, Law No. 11 of 2020 on Job Creation, and Ketapang Regional Regulations No. 7/2015 and No. 8/2020. However, disharmony occurs because these regulations are inconsistent and often open to multiple interpretations. For example, the Plantation Law requires companies to consult with indigenous peoples if customary land is to be used, but at the same time, the government can still grant business licenses on customary land if it is deemed to be in the interests of development. Practices in the field show that company concession permits are often issued first, and only then are indigenous peoples asked to consult. As a result, the bargaining position of indigenous peoples is very weak because the consultation process is only a formality. Law enforcement officials often side with companies and even take action against indigenous peoples who protest on charges of disturbing the peace.

RESEARCH METHODS

This study uses a normative juridical method to examine how legal protection of the customary rights of the Dayak Simpang Dua indigenous community is implemented, as well as

²⁹ “Peraturan Daerah Kabupaten Ketapang Nomor 8 Tahun 2020 Tentang Pengakuan Dan Perlindungan Masyarakat Hukum Adat,” Pub. L. No. 8, <https://peraturan.bpk.go.id> (2020), <https://www.golder.com/insights/block-caving-a-viable-alternative/>.

³⁰ Supriyanto, “Kontradiksi Hak Komunal Dan Hak Ulayat Dalam Hukum Pertanahan Indonesia: Tinjauan Yurisprudensi Dan Regulasi Indonesia.”

³¹ Berliant Pratiwi, Poppy Fitrijanti Soeparan, and Widodo Wibisono, “Peran Hukum Adat Dalam Penyelesaian Sengketa Agraria Di Indonesia: Kajian Empiris Dengan Metode Komparatif,” *Hakim: Jurnal Ilmu Hukum Dan Sosial* 2, no. 4 (2024): 807–22, <https://doi.org/10.51903/hakim.v2i4.2187>.

³² Muhammad Zulfiquri Lubis et al., “Kedudukan Hukum Adat Dalam Perkembangan Ilmu Hukum Di Indonesia,” *Jurnal Pendidikan Tambusai* 9, no. 1 (2025): 2844.

³³ Safrin Salam et al., “Pengakuan Hak Atas Tanah Ulayat Masyarakat Hukum Adat Di Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja: Perspektif Teori Hukum Kritis,” *Jurnal Interpretasi Hukum* 5, no. 1 (2024): 721–32, <https://doi.org/10.22225/juinhum.5.1.7166.721-732>.

³⁴ Sahrul Ari Irawan et al., “Peran Pemerintah Daerah Dalam Penyelesaian Konflik Menahun Masyarakat Adat Dengan Perusahaan Perkebunan Karet Di Kabupaten Tulang Bawang Barat Provinsi Lampung,” *Ganaya : Jurnal Ilmu Sosial Dan Humaniora* 6, no. 4 (2023): 922–35, <https://doi.org/10.37329/ganaya.v6i4.2715>.

how the dispute resolution process with palm oil companies is carried out in the Ketapang Regency, West Kalimantan. This study is descriptive-analytical in nature, which means it describes the applicable legal provisions and analyzes their suitability with actual practices in the field.

To strengthen the analysis, this study integrates multiple methodological approaches. The statute approach focuses on reviewing key legal frameworks such as the 1945 Constitution, the 1960 Basic Agrarian Law, the Plantation Law, the Job Creation Law, as well as Ketapang Regency Regulations No. 7 of 2015 and No. 8 of 2020. The case approach centers on examining the conflict between the Dayak Simpang Dua indigenous community and PT Mayawana Persada, with additional comparisons to similar disputes in other indigenous communities. Meanwhile, the conceptual approach is grounded in the application of theories related to customary rights, legal pluralism, and agrarian conflict.

This study uses various legal sources, ranging from primary legal materials such as regulations and court decisions to secondary legal materials such as books, journals, and previous studies. In addition, tertiary legal materials such as legal dictionaries and encyclopedias are also used to clarify important terms. All data was collected by reviewing various relevant library sources.

The analysis of legal materials was conducted in a descriptive-analytical manner, by describing existing norms, identifying disharmony between state law and customary law, and then using legal theories to draw conclusions regarding the protection of customary rights and the resolution of customary land disputes.

ANALYSIS AND DISCUSSION

The Position of Customary Rights in the National Legal System and Customary Law

The customary rights of indigenous peoples are one of the pillars of Indonesian agrarian law³⁵. UUD 1945 Pasal 18B ayat (2) dan Pasal 3 UUPA 1960 recognize customary law communities and their traditional rights, as long as they are still alive and do not conflict with national interests³⁶. In the context of the Dayak Simpang Dua indigenous community, the existence of customary rights is unquestionable, because to this day the community still practices a collective system of customary land ownership with rules regulated by the Customary Council³⁷.

Normatively, this recognition is reinforced by Ketapang Regency Regulation No. 7 of 2015 and Regulation No. 8 of 2020, which regulate plantation licensing and the protection of customary law communities. These regulations emphasize the obligation of companies to hold consultations before utilizing customary land and legitimize customary courts to resolve disputes.

In many cases, recognition is limited to formal or normative acknowledgment. Nevertheless, the government continues to grant business permits without the approval of indigenous communities. This situation indicates an inconsistency between state law and customary law in practice. The study identifies a normative-implementation gap, which contrasts with prior research (e.g., Taqwaddin, 2017; Rukka Sombolinggi, 2018) that primarily highlighted sociological realities rather than providing an in-depth analysis of the normative legal structure.

³⁵ Lubis et al., "Integrasi Hukum Adat Dalam Sistem Hukum Agraria Nasional: Tantangan Dan Solusi Dalam Pengakuan Hak Ulayat."

³⁶ Darnia et al., "Analisa Sengketa Lahan Antara Perusahaan Perkebunan Kelapa Sawit Dengan Masyarakat Desa."

³⁷ Fasius, "Penyelesaian Konflik Hak Ulayat Melalui Sanksi Adat (Studi Kasus Masyarakat Adat Dayak Simpang Dua)."

2. Dispute over the Customary Rights of the Dayak Simpang Dua with PT Mayawana Persada

2.1 Chronology of the Dispute

PT Mayawana Persada cleared palm oil land in an area claimed by the Dayak Simpang Dua indigenous community as customary land. The company cleared the land without holding customary consultations and without implementing the free, prior, and informed consent (FPIC) mechanism. However, the FPIC principle is an international standard and a mandate of Ketapang Regional Regulation No. 8 of 2020. This failure to comply with the obligation to consult is the main trigger for the conflict. For the indigenous community, the land is an ancestral inheritance dating back to the Sukadana kingdom, so clearing the land without permission is tantamount to seizure.

2.2 Response from Indigenous Communities

The Dayak Simpang Dua community sought a resolution based on customary law. The first step was to issue a warning to the company, followed by a customary deliberation. As no agreement was reached, the Customary Council finally imposed customary sanctions in the form of fines to be paid in cash, gongs, and tajau. This mechanism reflects that customary law still functions as a legitimate means of dispute resolution in the eyes of the community³⁸.

2.3 The Role of Local Government

Local governments tend to be passive. Government involvement only emerges after conflicts have been going on for quite some time. In fact, Local Regulations 7/2015 and 8/2020 require the government to conduct supervision and mediation from the outset. This reveals structural weaknesses in the implementation of local laws. Unlike previous studies that only highlighted the resistance of indigenous peoples, the results of this normative study emphasize the ineffectiveness of local governments in enforcing local regulations as one of the main factors that exacerbate conflicts.

3. Normative Analysis of Dispute Resolution

3.1 Disharmony between State Law and Customary Law

Theoretically, state law and customary law should complement each other. However, this study shows that what actually occurs is weak legal pluralism, in which customary law is only recognized as long as it does not conflict with state law. In practice, it is state law that often weakens the position of customary law³⁹. Indigenous peoples trust customary law more because its mechanisms are simple, fast, and considered fairer. State law, which is supposed to protect them, is considered biased because permits are granted without considering the consent of the community.

3.2 Strengths and Weaknesses of Customary Mechanisms

The mechanism of resolution through customary law has proven capable of reducing conflict and maintaining social harmony⁴⁰. Customary rulings are accepted collectively by the community, giving them a high degree of social legitimacy. However, from a positive law perspective, customary rulings have no executive power. If a company refuses to pay customary sanctions, there is no formal legal instrument that can force them to comply.

3.3 Weaknesses in Government Oversight

³⁸ Adi Kusyandi and Sahda Salsabila Murtiningsih, "Kedudukan Hukum Pidana Adat Dalam Hukum Pidana Indonesia," *Jurnal Yustitia* 9, no. 2 (2023), <https://doi.org/https://doi.org/10.31943/yustitia.v10i2.205>.

³⁹ Retno Kus Setyowati, "Pengakuan Negara Terhadap Masyarakat Hukum Adat," *Binamulia Hukum* 12, no. 1 (2023): 131–42, <https://doi.org/10.37893/jbh.v12i1.601>.

⁴⁰ Septiyan Hudan Fuadi, "Resolusi Konflik Sosial Perspektif Hukum Islam Dan Hukum Adat Pada Pemilihan Kepala Desa Bajang Mlarak Ponorogo," *AL-MANHAJ: Jurnal Hukum Dan Pranata Sosial Islam* 2, no. 1 (2020): 86–111, <https://doi.org/10.37680/almanhaj.v2i1.325>.

Local regulations provide sufficient legal basis for protecting customary rights, but weak government oversight prevents these norms from being effectively enforced⁴¹. This is where the difference with previous studies lies: this normative study emphasizes that the main problem is not only the conflict between the community and the company, but also the absence of the state's function as a supervisor and law enforcer.

4. Comparison with Previous Research

Earlier studies by Taqwaddin (2017) and Rukka Sombolinggi (2018) have emphasized empirical realities, especially the resistance strategies of indigenous communities grounded in customary law. This study, however, complements such approaches by incorporating a normative-legal analysis that highlights the gap between regulations and their application. The results reveal that conflicts are driven not merely by the limited bargaining power of indigenous peoples, but also by the state's inability to implement the laws it has established. Therefore, this study offers a distinct contribution by showing that local regulatory frameworks are relatively progressive, yet their ineffective enforcement renders them insufficient to safeguard customary rights.

5. Theoretical and Practical Implications

From a theoretical perspective, the results of this study reinforce the concept of legal pluralism, namely that customary law in Indonesia remains subordinate to state law. The case of Dayak Simpang Dua shows how fragile the protection of customary rights is when faced with investment interests.

From a practical standpoint, this study emphasizes the need for:

1. Strengthening the implementation mechanism of local regulations through active supervision by local governments.
2. Harmonizing national and local laws by emphasizing FPIC obligations in every business permit.
3. Formally recognizing customary decisions by giving them legal force so that companies cannot ignore them.

CONCLUSION

This study shows that the customary rights of the Dayak Simpang Dua indigenous community have been normatively recognized by the 1945 Constitution, the 1960 Basic Agrarian Law, and local regulations in Ketapang Regency, particularly Local Regulation No. 7 of 2015 and Local Regulation No. 8 of 2020. However, this recognition has not been fully implemented in practice. The conflict with PT Mayawana Persada reveals a disharmony between state law and customary law. Indigenous peoples trust customary law more as an instrument for dispute resolution because it is considered fairer, faster, and more legitimate, but customary mechanisms have a fundamental weakness, namely the absence of formal executive power. Companies can simply ignore customary sanctions without any clear legal consequences.

The findings indicate that the role of local government remains limited, particularly in terms of weak supervision and delayed intervention. Although regional regulations appear progressive, their implementation has not been carried out effectively. This situation suggests that the core issue extends beyond conflicts between indigenous peoples and companies, pointing instead to the lack of an active state role in ensuring the protection of customary rights. From a theoretical standpoint, this study reinforces the notion of weak legal pluralism, where customary

⁴¹ Agustin Adisaputra Simamora, Hasim Purba, and Rosnidar Sembiring, "Perlindungan Hukum Terhadap Hak Ulayat Atas Tanah Masyarakat Hukum Adat Batak Toba Di Desa Simardangiang, Kecamatan Pahae Julu, Kabupaten Tapanuli Utara," *Jurnal Ilmu Hukum, Humaniora Dan Politik* 5, no. 3 (2025): 1679–90, <https://doi.org/10.38035/jihhp.v5i3.3792>.

law is formally recognized but remains subordinate to state law. In practical terms, it shows that existing regulatory frameworks are still insufficient to provide tangible protection for indigenous communities.

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