

Indigenous Peoples' Natural Resource Rights: Why Environmental Law Protection Fails in Indonesia?

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ABSTRACT

Indonesia possesses abundant natural resources and is home to hundreds of indigenous communities whose customary territories have long been managed through traditional ecological knowledge that supports environmental sustainability. Despite constitutional and statutory recognition of indigenous peoples' natural resource rights, persistent conflicts over land, forests, and resource exploitation demonstrate significant weaknesses in their legal protection. This study examines the protection of indigenous peoples' natural resource rights from the perspective of environmental law, and the legal and institutional obstacles that hinder effective implementation. The research employs a normative legal method using statutory and conceptual approaches by analyzing the 1945 Constitution, Law No. 5 of 1960, Law No. 32 of 2009, Constitutional Court Decision No. 35/PUU-X/2012, ILO Convention No. 169, and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) 2007. The findings reveal that Indonesia has established a relatively comprehensive legal framework recognizing indigenous peoples' rights, however, this recognition remains largely declaratory because it is not supported by coherent implementing legislation or effective institutional mechanisms. Consequently, indigenous communities continue to experience tenure insecurity, overlapping land claims, exclusion from decision-making, and unequal access to justice. The study demonstrates that the principal failure lies not in the absence of legal recognition but in fragmented governance and weak enforcement. It contributes by proposing integrated legal and institutional reforms that align environmental protection with the effective realization of indigenous peoples' natural resource rights.

KEYWORDS *Indigenous Peoples, Natural Resources, Environmental Law, Customary Land Rights, Legal Protection*

TABLE OF CONTENTS

I. INTRODUCTION	2
II. PROTECTION OF INDIGENOUS PEOPLES' RIGHTS TO NATURAL RESOURCES IN THE PERSPECTIVE OF ENVIRONMENTAL LAW	8
III. ANALYSIS OF THE CONSTITUTIONAL COURT DECISION NUMBER 35/PUU-X/2012 ON THE PROTECTION OF THE RIGHTS OF INDIGENOUS PEOPLES	12
IV. THE ROLE AND POSITION OF INDIGENOUS PEOPLE IN ENVIRONMENTAL PROTECTION IN INDONESIA	13
A. <i>The Role of Indigenous Peoples' Local Wisdom in Natural Resources Conservation</i>	13
B. <i>The Role of Indigenous Peoples in Climate Change Mitigation and Adaptation</i>	15
C. <i>Indigenous Peoples' Participation in Natural Resources Management Decision-Making</i>	16
V. OBSTACLES IN THE IMPLEMENTATION AND PROTECTION OF INDIGENOUS PEOPLES' RIGHTS TO NATURAL RESOURCES	17
VI. CONCLUSION	19

I. INTRODUCTION

Indigenous peoples are increasingly recognized as indispensable actors in environmental conservation and sustainable natural resource governance.¹ Across the world, indigenous communities have developed sophisticated systems of customary law and traditional ecological knowledge that regulate the use of forests, water, land, and biodiversity while maintaining ecological balance over generations.² Their customary institutions are widely acknowledged as contributing to biodiversity conservation, climate resilience, and sustainable development. Consequently, international legal instruments, particularly the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) 2007 and the ILO Indigenous and Tribal Peoples Convention (No. 169), affirm that indigenous peoples possess collective rights over their traditional lands, territories, and natural resources and must be able to participate effectively in decisions affecting them.³ These developments demonstrate an evolving international

¹ Neil M. Dawson, et al. "The Role of Indigenous Peoples and Local Communities in Effective and Equitable Conservation." *Ecology and Society* 26, no. 3 (2021): 19. <https://doi.org/10.5751/ES-12625-260319>

² John A. Parrotta, and Mauro Agnoletti. "Traditional Forest-related Knowledge and Climate Change." In *Traditional Forest-related Knowledge: Sustaining Communities, Ecosystems and Biocultural Diversity*. (Dordrecht: Springer Netherlands, 2011), pp. 491-533. https://doi.org/10.1007/978-94-007-2144-9_13

³ Mauro Barelli, "The Role of Soft Law in the International Legal System: The Case of the United Nations Declaration on the Rights of Indigenous Peoples." *International & Comparative Law Quarterly* 58, no. 4 (2009): 957-983. <https://doi.org/10.1017/S0020589309001559>. See also

consensus that environmental protection and indigenous rights are complementary objectives rather than competing legal interests, including in Indonesia.

Indonesia presents a particularly significant context for examining this relationship. As one of the world's megabiodiversity countries, Indonesia possesses abundant forests, mineral deposits, marine resources, and other strategic natural resources that constitute a major foundation of national economic development.⁴ At the same time, Indonesia is home to hundreds of indigenous communities (*Masyarakat Hukum Adat*, MHA) distributed throughout the archipelago, from Sabang to Merauke, whose livelihoods and cultural identities have long depended on customary territories and natural resources.⁵ Indonesian law defines indigenous peoples as communities that have occupied particular geographical territories for generations, possess ancestral ties to those territories and natural resources, and maintain distinctive customary institutions and legal systems governing their traditional lands.⁶ For these communities, natural resources are not merely economic assets but constitute the foundation of their social organization, cultural identity, religious beliefs, and spiritual values. Consequently, the protection of indigenous peoples' rights cannot be separated from the protection of their customary territories and the ecosystems upon which their existence depends.

The close relationship between indigenous peoples and the environment has also become increasingly relevant within contemporary environmental law.⁷ Numerous studies demonstrate that ecosystems managed by indigenous communities frequently exhibit higher levels of biodiversity and lower rates of environmental degradation than areas managed through purely extractive

Jérémie Gilbert, *Indigenous Peoples' Land Rights under International Law*. (Leiden: Brill Nijhoff, 2016). See also United Nations. *United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)* 2007. Available online at https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf; International Labour Organization. *ILO Indigenous and Tribal Peoples Convention (No. 169)*. Available online at <https://www.ohchr.org/en/instruments-mechanisms/instruments/indigenous-and-tribal-peoples-convention-1989-no-169>

⁴ Kurniawan, Robi, and Shunsuke Managi. "Economic Growth and Sustainable Development in Indonesia: An Assessment." *Bulletin of Indonesian Economic Studies* 54, no. 3 (2018): 339-361. <https://doi.org/10.1080/00074918.2018.1450962>

⁵ The exact number of Indigenous Peoples (*Masyarakat Hukum Adat*/MHA) in Indonesia cannot be determined with certainty because no single official database exists. The Indigenous Peoples Alliance of the Archipelago (*Aliansi Masyarakat Adat Nusantara*—AMAN) estimates that Indonesia is home to more than 2,500 indigenous communities across the archipelago. However, the number of communities formally recognized by government regulations is considerably lower, as legal recognition depends on administrative verification and the fulfillment of statutory requirements at the national and regional levels. See also Constitutional Court of the Republic of Indonesia, *Constitutional Court Decision No. 35/PUU-X/2012*. Available online at https://en.mkri.id/download/decision/pdf_Decision_35PUU-X2012.pdf

⁶ See Adriaan Bedner, and Stijn Van Huis. "The Return of the Native in Indonesian Law: Indigenous Communities in Indonesian Legislation." *Bijdragen tot de taal-, land-en volkenkunde/Journal of the Humanities and Social Sciences of Southeast Asia* 164, no. 2 (2008): 165-193. <https://doi.org/10.1163/22134379-90003655>; Greg Acciaoli, "From Customary Law to Indigenous Sovereignty: Reconceptualizing Masyarakat Adat in Contemporary Indonesia." In *The Revival of Tradition in Indonesian Politics*. (London: Routledge, 2007), pp. 315-338.

⁷ Laura Westra, *Environmental Justice and the Rights of Indigenous Peoples: International and Domestic Legal Perspectives*. (London: Routledge, 2012).

approaches.⁸ Traditional ecological knowledge, developed through generations of interaction with local ecosystems, enables indigenous communities to implement sustainable patterns of natural resource utilization while maintaining ecological integrity.⁹ Accordingly, the protection of indigenous peoples' rights should not be viewed solely as a matter of human rights or cultural preservation but also as an essential component of environmental governance and sustainable natural resource management.¹⁰

Despite this strategic role, Indonesia continues to experience persistent conflicts between economic development and indigenous peoples' natural resource rights.¹¹ Rapid expansion of mining operations, oil palm plantations, commercial forestry, infrastructure projects, and other resource-based industries has increasingly encroached upon customary territories. These developments have generated widespread disputes over land ownership, overlapping concessions, environmental degradation, and the displacement of indigenous communities. In many cases, indigenous peoples remain in a structurally disadvantaged position due to the absence of formal recognition of customary territories, overlapping administrative authorities, limited participation in decision-making processes, unequal access to justice, and inadequate legal protection. These conditions reveal a persistent tension between economic development policies and the constitutional commitment to protecting indigenous peoples and environmental sustainability.¹²

From a legal perspective, Indonesia appears to have established a relatively comprehensive framework for recognizing indigenous peoples' rights. Article 18B paragraph (2) of the 1945 Constitution recognizes the existence of customary law communities and their traditional rights, while Article 28I paragraph (3) guarantees respect for cultural identity and traditional communities as part of human rights protection. Equally important, Article 33 paragraph (3) provides that land, water, and natural resources are controlled by the State and utilized for the greatest

⁸ Nadia S. Santini, and Yosune Miquelajauregui. "The Restoration of Degraded Lands by Local Communities and Indigenous Peoples." *Frontiers in Conservation Science* 3 (2022): 873659. <http://dx.doi.org/10.3389/fcsc.2022.873659>; Yin Zhang, et al. "Governance and Conservation Effectiveness in Protected Areas and Indigenous and Locally Managed Areas." *Annual Review of Environment and Resources* 48, no. 1 (2023): 559-588. <https://doi.org/10.1146/annurev-environ-112321-081348>; Neil M. Dawson, et al. "Is it just conservation? A typology of Indigenous peoples' and local communities' roles in conserving biodiversity." *One Earth* 7, no. 6 (2024): 1007-1021. <https://doi.org/10.1016/j.oneear.2024.05.001>

⁹ Fikret Berkes, Carl Folke, and Madhav Gadgil. "Traditional Ecological Knowledge, Biodiversity, Resilience and Sustainability." In *Biodiversity Conservation: Problems and Policies. Papers From The Biodiversity Programme Beijer International Institute of Ecological Economics Royal Swedish Academy of Sciences*. (Dordrecht: Springer Netherlands, 1994), pp. 269-287. https://doi.org/10.1007/978-94-011-1006-8_15; Yadav Upriety, et al. "Contribution of Traditional Knowledge to Ecological Restoration: Practices and Applications." *Ecoscience* 19, no. 3 (2012): 225-237. <https://doi.org/10.2980/19-3-3530>

¹⁰ See Richard Howitt, *Rethinking Resource Management: Justice, Sustainability and Indigenous Peoples*. (London: Routledge, 2002).

¹¹ Chairul Fahmi, and Muhammad Siddiq Armia. "Protecting Indigenous Collective Land Property in Indonesia under International Human Rights Norms." *Journal of Southeast Asian Human Rights* 6, no. 1 (2022): 1-25. <https://doi.org/10.19184/jseahr.v6i1.30242>

¹² Muhammad Alrasyid Tamano, "Indonesian Palm Oil Industry: Environment Risk, Indigenous Peoples, and National Interest." *Law and Humanities Quarterly Reviews* 2, no. 4 (2023): 153-163. <https://doi.org/10.31014/aior.1996.02.04.93>; Nicola Colbran, "Indigenous Peoples in Indonesia: At Risk of Disappearing as Distinct Peoples in the Rush for Biofuel?." *International Journal on Minority and Group Rights* 18, no. 1 (2011): 63-92. <https://doi.org/10.1163/157181111X550987>

prosperity of the people.¹³ These constitutional provisions should be interpreted systematically to ensure that state control over natural resources does not marginalize indigenous peoples' customary rights. Similar recognition is reflected in the Basic Agrarian Law of 1960¹⁴, the Forestry Law¹⁵, the Environmental Protection and Management Law of 2009¹⁶, and various sectoral regulations. Furthermore, Constitutional Court Decision No. 35/PUU-X/2012 significantly strengthened indigenous land rights by declaring that customary forests are no longer classified as state forests but instead belong to indigenous peoples. Collectively, these legal developments suggest that Indonesia has established substantial normative recognition of indigenous peoples' natural resource rights.

Nevertheless, the existence of constitutional and statutory recognition has not translated into effective legal protection. Conflicts involving customary territories continue to occur across Indonesia, particularly in relation to mining, plantation expansion, forestry concessions, and infrastructure development.¹⁷ Indigenous communities continue to experience dispossession of customary lands, criminalization of traditional resource use, exclusion from environmental decision-making, and limited access to effective legal remedies.¹⁸ The persistence of these disputes indicates that legal recognition remains largely declaratory and has yet to produce meaningful legal certainty for indigenous peoples.¹⁹

Existing scholarship has examined this issue from several perspectives. One body of literature focuses on constitutional recognition and judicial protection of indigenous peoples' rights, particularly following Constitutional Court Decision No. 35/PUU-X/2012. These studies generally conclude that constitutional jurisprudence has significantly strengthened the legal status of customary forests

¹³ See Republic of Indonesia. *Undang-Undang Dasar Negara Republik Indonesia Tahun 1945*.

¹⁴ See Republic of Indonesia. *Undang-undang Nomor 5 Tahun 1960 tentang Peraturan Dasar Pokok-Pokok Agraria*. Available at <https://peraturan.bpk.go.id/Details/51310/uu-no-5-tahun-1960>

¹⁵ See Republic of Indonesia. *Undang-undang Nomor 41 Tahun 1999 tentang Kehutanan*. Available at <https://peraturan.bpk.go.id/Details/45373/uu-no41tahun1999>

¹⁶ See Republic of Indonesia. *Undang-undang Nomor 32 Tahun 2009 tentang Perlindungan dan Pengelolaan Lingkungan Hidup*. Available at <https://peraturan.bpk.go.id/details/38771/uu-no-32-tahun-2009>

¹⁷ A. Junaedi Karso, "Natural Resources Governance and the Vulnerability of Indigenous Communities in Indonesia." *Frontiers in Political Science* 7 (2025): 1601480. <https://doi.org/10.3389/fpos.2025.1601480>; Andrew McWilliam, "Historical Reflections on Customary Land Rights in Indonesia." *The Asia Pacific Journal of Anthropology* 7, no. 1 (2006): 45-64. <https://doi.org/10.1080/14442210600551859>; Adzraa Taqiyaah, and Arif Hidayat. "Laws Concerning Mineral and Coal Mining on Community Welfare from an Environmental Ethics Perspective." *Indonesian Journal of Environmental Law and Sustainable Development* 2, no. 2 (2023): 211-240. <https://doi.org/10.15294/ijel.v2i2.70333>

¹⁸ Aga Natalis, et al. "Exploring Intersectionality: The Legal Challenges Faced by Indigenous Women in Palm Oil Land Conflicts." *Diponegoro Law Review* 10, no. 2 (2025): 173-197. <https://doi.org/10.14710/dilrev.10.2.2025.173-198>; Mahamadaree Waeno, and Bima Setya Nugraha. "Decentralisation in Regional Governance Law: The Paradox and Non-Functionality of Indigenous Rights and Environmental Protection in Indonesia." *Journal of Law, Environmental and Justice* 3, no. 3 (2025): 739-774. <https://doi.org/10.62264/jlej.v3i3.211>

¹⁹ Sartika Intaning Pradhani, "Traditional Rights of Indigenous People in Indonesia: Legal Recognition and Court Interpretation." *Jambe Law Journal* 1, no. 2 (2018): 177-205. <https://doi.org/10.22437/jlj.1.2.177-205>; Finna Maessy Pangestika, and Mella Ismelina Farma Rahayu. "Unregistered Customary Land Ownership: Implications and Challenges in Practice." *The Indonesian Journal of International Clinical Legal Education* 6, no. 4 (2024): 531-550. <https://doi.org/10.15294/iccle.v6i4.15511>

and indigenous land rights.²⁰ However, they primarily concentrate on constitutional interpretation and judicial reasoning while paying limited attention to how environmental governance institutions affect the practical realization of those rights.

A second stream of research emphasizes agrarian reform, forest governance, decentralization, and natural resource administration. These studies identify overlapping legal regimes, inconsistent land administration, competing institutional authorities, and fragmented sectoral regulations as important sources of legal uncertainty affecting indigenous territories.²¹ Although they provide valuable insights into governance challenges, their analyses largely remain within the domains of agrarian law and public administration, without comprehensively examining environmental law as an integrated legal framework governing natural resource protection, ecosystem sustainability, and indigenous participation.

More recent scholarship has increasingly explored the contribution of indigenous peoples to biodiversity conservation, climate change mitigation, and sustainable development.²² These studies demonstrate that customary governance systems and traditional ecological knowledge significantly enhance environmental sustainability and ecosystem resilience. International scholarship likewise recognizes indigenous communities as essential partners in achieving global environmental objectives. However, much of this literature concentrates on the ecological value of indigenous knowledge while paying comparatively less attention to the legal and institutional failures that prevent indigenous peoples from exercising the very rights necessary to sustain those environmental functions.

Taken together, the existing literature demonstrates substantial progress in understanding indigenous peoples' rights from constitutional, agrarian,

²⁰ See Paulus Pora Putra Fajar, Sukardan Aloysius, and Husni Kusuma Dinata. "Implikasi Putusan Mahkamah Konstitusi Nomor 35/PUU-X/2012 Terhadap Pengaturan Hutan Adat dan Dampaknya Terhadap Hak Masyarakat Adat." *Perkara: Jurnal Ilmu Hukum Dan Politik* 2, no. 2 (2024): 39-61. <https://doi.org/10.51903/perkara.v2i2.1844>; Ahyar Ari Gayo, "Penegakan Hukum Konflik Agraria Yang Terkait Dengan Hak-hak Masyarakat Adat Pasca Putusan Mk No. 35/PUU-X/2012 (Agrarian Conflict Law Enforcement That Was Related to the Rights of Indigenous Peoples Following the Ruling of the Constitutional Court No. 35/PUU-X/2012)." *Jurnal Penelitian Hukum De Jure* 16, no. 2 (2016): 157-171. <https://doi.org/10.30641/dejure.2016.V16.157-171>; Faiq Tobroni, "Menguatkan Hak Masyarakat Adat atas Hutan Adat (Studi Putusan MK Nomor 35/PUU-X/2012)." *Jurnal Konstitusi* 10, no. 3 (2013): 461-482.

²¹ Samuel J. Spiegel, "Governance Institutions, Resource Rights Regimes, and the Informal Mining Sector: Regulatory Complexities in Indonesia." *World development* 40, no. 1 (2012): 189-205. <https://doi.org/10.1016/j.worlddev.2011.05.015>; Loso Judijanto, "Legal Review of Government Policies in Handling Agrarian Conflicts." *Journal of Scientific Insights* 2, no. 2 (2025): 88-101. <https://doi.org/10.69930/jsi.v2i2.330>; I. Gusti Ngurah Parikesit Widiatedja, "Fragmented Approach to spatial management in Indonesia: When it will be ended?." *Kertha Patrika* 43, no. 2 (2021): 145-166. <https://doi.org/10.24843/KP.2021.v43.i02.p03>; Rebecca Anne Riggs, et al. "Forest Tenure and Conflict in Indonesia: Contested Rights in Rempek Village, Lombok." *Land Use Policy* 57 (2016): 241-249. <https://doi.org/10.1016/j.landusepol.2016.06.002>

²² Priya Priyadarshini, and Purushothaman Chirakkuzhyil Abhilash. "Promoting Tribal Communities and Indigenous Knowledge as Potential Solutions for the Sustainable Development of India." *Environmental Development* 32 (2019): 100459. <https://doi.org/10.1016/j.envdev.2019.100459>; Ajay Kumar, et al. "Role of Traditional Ethnobotanical Knowledge and Indigenous Communities in Achieving Sustainable Development Goals." *Sustainability* 13, no. 6 (2021): 3062. <https://doi.org/10.3390/su13063062>; Ameyali Ramos-Castillo, Edwin J. Castellanos, and Kirsty Galloway McLean. "Indigenous Peoples, Local Communities and Climate Change Mitigation." *Climatic Change* 140, no. 1 (2017): 1-4. <https://doi.org/10.1007/s10584-016-1873-0>

environmental, and human rights perspectives.²³ Nevertheless, these studies generally treat these dimensions as separate analytical fields. Consequently, limited attention has been devoted to explaining how fragmented environmental governance, overlapping sectoral legislation, inconsistent institutional authority, and weak law enforcement collectively undermine the implementation of indigenous peoples' natural resource rights. The relationship between environmental law and the effective realization of indigenous rights therefore remains insufficiently theorized within Indonesian legal scholarship.

Although these studies have substantially advanced understanding of indigenous peoples' rights in Indonesia, the existing literature tends to examine constitutional law, agrarian law, environmental governance, and human rights as separate analytical fields. Few studies provide a comprehensive legal analysis that integrates these perspectives to explain why constitutional recognition has not produced effective environmental protection for indigenous peoples' natural resource rights. Moreover, limited attention has been given to the interaction between fragmented sectoral legislation, institutional coordination, environmental law enforcement, and access to justice as interconnected factors explaining implementation failure.

Against this background, this article offers a distinct contribution to the literature by examining indigenous peoples' natural resource rights through an integrated environmental law perspective. Unlike previous studies that predominantly focus on constitutional recognition, agrarian reform, or customary land tenure in isolation, this study analyzes how fragmented environmental governance, overlapping sectoral regulations, weak institutional coordination, and ineffective enforcement collectively undermine the realization of indigenous rights. By connecting constitutional law, environmental law, natural resource governance, and international indigenous rights standards within a single analytical framework, this research explains that the principal failure lies not in the absence of legal recognition but in the inability of Indonesia's environmental governance system to operationalize that recognition. Accordingly, the study contributes both theoretically by advancing an integrated environmental law approach to indigenous rights protection and practically by proposing coherent legal and institutional reforms to strengthen environmental justice and sustainable natural resource governance.

This article contributes to the literature in two respects. Theoretically, it advances environmental law scholarship by demonstrating that effective protection of indigenous peoples' natural resource rights depends not only on constitutional recognition but also on coherent environmental governance, institutional integration, and effective enforcement mechanisms. Practically, it proposes integrated legal and institutional reforms that harmonize environmental regulation, customary land governance, and indigenous participation in natural resource

²³ Sofia Monsalve Suarez, "The Human Rights Framework in Contemporary Agrarian Struggles." *The Journal of Peasant Studies* 40, no. 1 (2013): 239-290. <https://doi.org/10.1080/03066150.2011.652950>; Karen Engle, "On Fragile Architecture: The UN Declaration on the Rights of Indigenous Peoples in the Context of Human Rights." *European Journal of International Law* 22, no. 1 (2011): 141-163. <https://doi.org/10.1093/ejil/chr019>; Justin Kenrick, and Jerome Lewis, "Indigenous Peoples' Rights and the Politics of the Term 'Indigenous'." *Anthropology Today* 20, no. 2 (2004): 4-9. <https://doi.org/10.1111/j.0268-540X.2004.00256.x>

management. These reforms are essential for strengthening environmental justice, improving legal certainty, and promoting sustainable natural resource governance in Indonesia.

This article addresses that gap by examining indigenous peoples' natural resource rights through an integrated environmental law perspective. Unlike previous studies that predominantly focus on constitutional recognition, agrarian reform, or customary land tenure in isolation, this study analyzes how fragmented environmental governance, overlapping regulatory regimes, institutional incoherence, and weak enforcement collectively explain the persistent failure of legal protection. The central argument advanced in this article is that the principal weakness lies not in the absence of legal recognition but in the inability of Indonesia's environmental governance system to operationalize that recognition through coherent legislation, effective institutional coordination, and meaningful implementation.

Using normative legal research based on statutory and conceptual approaches, this article analyzes the 1945 Constitution, the Basic Agrarian Law, the Environmental Protection and Management Law, Constitutional Court Decision No. 35/PUU-X/2012, ILO Convention No. 169, and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). Through this integrated analysis, the study identifies the legal and institutional barriers that continue to hinder effective protection of indigenous peoples' natural resource rights.

II. PROTECTION OF INDIGENOUS PEOPLES' RIGHTS TO NATURAL RESOURCES IN THE PERSPECTIVE OF ENVIRONMENTAL LAW

At the national level, the strongest legal basis for indigenous peoples is in the 1945 Constitution of the Republic of Indonesia. Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia expressly states that the State recognizes and respects the Units of Customary Law Communities and their traditional rights as long as they are alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia, which are regulated in the Law. This constitutional provision is the basis for all regulations under it to provide protection to indigenous peoples.²⁴

Law Number 5 of 1960 concerning the Basic Regulations on Agrarian Principles is one of the first laws that recognizes the customary rights of indigenous peoples. Article 3 of Law Number 5 of 1960 concerning the Basic Regulations of Agrarian Principles states that the implementation of customary rights and similar rights of customary law communities as long as they in reality still exist, must be in such a way that it is in accordance with national and state interests, which are based on national unity and must not conflict with other higher laws and regulations. At this context, Mulyadi²⁵ emphasized that customary rights are a

²⁴ See Constitution of the Republic of Indonesia of 1945, Article 18B paragraph (2).

²⁵ Lilik Mulyadi, *Eksistensi, Dinamika, dan Pelindungan Hukum Terhadap Hak Atas Tanah Ulayat Masyarakat Adat di Indonesia*. (Bandung: Penerbit Alumni, 2022).

series of authorities and obligations of a customary law community, which are related to land located within its territory.

In the field of forestry, Law Number 41 of 1999 concerning Forestry, in Article 4 states that all forests in the Territory of the Republic of Indonesia, including the natural resources contained therein, are controlled by the State for the greatest prosperity of the people. The control of forests by the State still pays attention to the rights of customary law communities, as long as the reality still exists and is recognized as true, and does not contradict the national interest.

Customary law communities are also given a place to protect the forests that are their territory, namely customary forests. This is emphasized in Government Regulation No. 45 of 2004 concerning Forest Protection, Article 8 paragraph (4) states that the protection of forests in areas whose management is handed over to indigenous peoples, is implemented and is the responsibility of indigenous peoples. The protection of forest areas by indigenous peoples is carried out based on traditional wisdom that applies in the indigenous peoples concerned with assistance from the government, provincial governments, and district/city governments.²⁶

In the customary rights area, there are parts of land that are not forests in the form of grazing fields, cemeteries that function to meet general needs, and lands owned individually that function to meet individual needs. The existence of individual rights is not absolute, at any time the rights are thinned and thickened. If it gets thinner and disappears, it will eventually become a common property again. The relationship between individual rights and customary rights is flexible.²⁷ The right to manage customary forests lies with customary law communities, but if in its development the customary law community in question no longer exists, then the customary forest management rights fall to the Government. The authority of customary rights is limited to the extent of the content of the authority of individual rights, while the authority of the state is limited to the extent of the content and authority of customary rights.²⁸

Based on the above, the relationship between the right to control the state and state forests, and the right to control the state over customary forests is regulated. Regarding state forests, the state has full authority to regulate and decide on the inventory, designation, utilization, management and legal relations that occur in the state forest area. Management authority by the state in the forestry sector should be given to the forestry ministry. As for customary forests, state authority is limited to the extent of the content of the authority covered by customary forests. Customary forests are also called clandestine forests, lordship forests, or other customary designations) are within the scope of customary rights, because they are in a single region (regional uniqueness) of customary law communities, whose demonstration is based on local wisdom and has an authoritative central dealing body in the entire area of its territory.

²⁶ Wahyu Nugroho, "Konsistensi Negara Atas Doktrin Welfare State dalam Pengelolaan Sumber Daya Hutan oleh Masyarakat Adat." *Jurnal Hukum Lingkungan Indonesia* 1, no. 2 (2014): 22-49. <https://doi.org/10.38011/jhli.v1i2.14>

²⁷ See Robin Perry, "Balancing rights or building rights? Reconciling the right to use customary systems of law with competing human rights in pursuit of indigenous sovereignty." *Harvard Human Rights Journal* 24, no. 1 (2011): 71-114.

²⁸ Nugroho, "Konsistensi Negara Atas Doktrin Welfare State dalam Pengelolaan Sumber Daya Hutan oleh Masyarakat Adat."

The residents of a customary law society have the right to open their customary forests to be controlled and cultivated for their land to meet their personal and family needs. Thus, it is not possible for the rights of the customary law community to be abolished or “frozen” as long as they meet the requirements within the scope of the definition of customary law community unity as referred to in Article 18B paragraph (2) of the 1945 Constitution.

From the perspective of environmental law, the recognition of indigenous peoples' rights is affirmed in Law Number 32 of 2009 concerning Environmental Protection and Management (UUPPLH). Article 63 paragraph (1) mandates the government to establish policies regarding procedures for recognizing the existence of customary law communities related to environmental protection and management. This provision shows that the existence of indigenous peoples is an important part of the environmental management system in Indonesia.

At the international level, indigenous peoples' rights to natural resources are recognized through several legal instruments. The most important of these is the ILO Convention (*International Labour Organization*) Number 169 of 1989. ILO Convention 169 is the first legally binding international legal instrument that regulates the rights of indigenous peoples. ILO Convention 169 sets out the basic principles of *indigenous peoples* and *tribal peoples*. This Convention applies to customary law societies in independent countries whose social, cultural and economic conditions distinguish them from other elements of national society and whose status is governed in whole or in part by their own customs or traditions or by special laws or regulations.²⁹ ILO Convention 169 is the first international legal instrument to recognize the collective rights of indigenous peoples. The convention also recognizes important indigenous peoples' rights, such as *Free and informed consent, consultation, dan compensation*.³⁰

In addition to ILO 169 of 1989, there is the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) which was established in 2007. UNDRIP is the main instrument that recognizes and upholds the rights of indigenous peoples. Based on this declaration, the state has an obligation to respect and fulfill the rights of these indigenous peoples. The declaration also recognizes the *right to free, prior and informed consent* as a prerequisite in deciding on activities that affect the territory and land of indigenous peoples or other laws that may affect the formation of indigenous peoples' rights. UNDRIP provides strong protection for indigenous peoples' rights to natural resources. However, as a *soft law*, of course, it is still an instrument that is not legally binding. Nevertheless, this declaration still has a significant influence and can be the first step towards the implementation of a binding instrument in the future or can develop into a customary international law.³¹

One form of protection that is developing in international environmental law is the application of the principle of *Free Prior and Informed Consent* (FPIC). This principle requires governments and companies to obtain the consent of indigenous peoples freely, preceded by the provision of complete information, and carried out

²⁹ Muazzin Muazzin. “Hak Masyarakat Adat (Indigenous Peoples) atas Sumberdaya Alam: Perspektif Hukum Internasional.” *PADJADJARAN Jurnal Ilmu Hukum (Journal of Law)* 1, no. 2 (2014): 322-345. <https://doi.org/10.22304/pjih.v1n2.a7>

³⁰ Muazzin.

³¹ Muazzin.

before activities that impact customary territories are carried out. Before the role of government and corporations became crucial, as for the application of the principles carried out, namely the principle of *Free, Prior and Informed Consent* (FPIC), the application of this principle makes the role of the government and corporations very crucial, especially in ensuring respect and protection for the rights of indigenous peoples.

The central government has the primary responsibility for integrating the principles of FPIC into a national legal framework that is in line with international legal standards, as stated in the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) and ILO Convention No. 169. These tasks include the development of a human rights impact assessment mechanism, a monitoring and evaluation system, and the provision of a fair and inclusive dispute resolution forum to ensure the protection of communities affected by development projects. At the local level, local governments play an important role in the drafting of regional regulations that recognize the existence and traditional rights of indigenous peoples, including the right to customary land.

In addition, local governments play a role as facilitators and mediators in ensuring that the consultation process is conducted transparently, free from pressure, and upholds the principles of social justice. In the forestry sector, this principle is often operationalized through market-based certification schemes, such as FSC (*Forest Stewardship Council*), which defines and implements FPIC differently depending on the national legal context, local politics, and resource ownership structure. Therefore, the effectiveness of FPIC implementation is highly dependent on how companies adapt their internal policies to applicable socio-political dynamics and legal norms.³² The protection of Indigenous Peoples' rights to existing natural resources is still not on target, thus causing prolonged conflicts/disputes over natural resources which in the end the customary law community is harmed and feels that justice has not been achieved. The existence of customary law communities cannot be separated from their customary rights. Many disputes are related to the customary rights of customary law communities.

One of the reasons is the lack of clarity regarding the limits of the existence or absence of customary rights. Conditional or incomplete recognition as stipulated in laws and regulations has proven to give rise to many problems that ultimately harm the customary law community. In this case, the State is responsible for fulfilling the rights of customary law communities, so it is felt that arrangements are needed related to the recognition and protection of customary law people's rights to land that provide more justice.³³

State control of land and natural resources is reciprocal with customary law people's rights to land and natural resources. In the doctrine of human rights, all rights are in the hands of citizens, in this case including customary law

³² See Patrick Anderson, "Free, prior, and informed consent? Indigenous peoples and the palm oil boom in Indonesia." In *The Palm Oil Controversy in Southeast Asia: A Transnational Perspective* (Singapore: ISEAS, 2013), pp. 244-258.

³³ See Greg Acciaioli, "From Customary Law to Indigenous Sovereignty: Reconceptualizing Masyarakat Adat in Contemporary Indonesia." In *The Revival of Tradition in Indonesian Politics*. (London: Routledge, 2007), pp. 315-338. <https://doi.org/10.4324/9780203965498>; I. Gusti Agung Mas Rwa Jayantiari, et al. "The Rights of Customary Law Communities to Resources: The Relationship of Coexistence of State Law and Customary Law." *Jurnal IUS Kajian Hukum dan Keadilan* 13, no. 1 (2025): 187-198. <https://doi.org/10.29303/ius.v13i1.1329>

communities with communal rights that they have, while the state is an entity that is given the responsibility to recognize, promote, protect, and fulfill all the human rights of citizens. At this point, there is also an affirmation that the struggle of customary law communities in defending and reclaiming their homeland is a civic struggle (*act of citizenship*).³⁴

III. ANALYSIS OF THE CONSTITUTIONAL COURT DECISION NUMBER 35/PUU-X/2012 ON THE PROTECTION OF THE RIGHTS OF INDIGENOUS PEOPLES

The Constitutional Court Decision No. 35/PUU-X/2012 is one of the important milestones in the development of the protection of the rights of customary law communities in Indonesia. This decision was born from a request for a material review of several provisions in Law Number 41 of 1999 concerning Forestry submitted by the Alliance of Indigenous Peoples of the Archipelago (AMAN) together with a number of indigenous communities. The main problem in question was the status of customary forests which at that time were categorized as part of state forests. These arrangements are considered to reduce and even eliminate the rights of indigenous peoples to forest areas that they have controlled and managed for generations.

Through the ruling, the Constitutional Court stated that the phrase "customary forest is a state forest located within the territory of customary law communities" is contrary to the 1945 Constitution of the Republic of Indonesia. The court then emphasized that customary forests are no longer state forests, but forests that are within the territory of customary law communities. Thus, customary law communities are placed as legal subjects who have legal relations with their customary territories, including the forests in them. This ruling provides stronger legal certainty regarding the position of indigenous peoples in the control and management of natural resources (Meiliana et al., 2024).

From an environmental law perspective, the ruling has a very important meaning because it strengthens the role of indigenous peoples as protectors of the ecosystem. So far, various studies have shown that indigenous peoples have a natural resource management system that is based on local wisdom and is oriented towards sustainability. Recognition of customary forests not only aims to protect the communal rights of indigenous peoples, but also supports environmental conservation efforts. By giving greater space to indigenous peoples in managing their territories, the state indirectly encourages the creation of more sustainable and participatory environmental governance.³⁵

However, the implementation of the Constitutional Court Decision Number 35/PUU-X/2012 still faces various obstacles. One of the main obstacles is the

³⁴ See Andika Prawira Buana, and Moch Andry Wikra Wardhana Mamonto. "The Role of Customary Law in Natural Resource Management: A Comparative Study between Indonesia and Australia." *Golden Ratio of Mapping Idea and Literature Format* 3, no. 2 (2023): 167-186. <https://doi.org/10.52970/grmilf.v3i2.400>

³⁵ Mutiara I. Kadir, and Janwar Hippy. "Hutan Adat Pasca Putusan Mahkamah Konstitusi Nomor 35/PUU-X/2012: Konsekuensi Hukum dan otoritas Pemanfaatan oleh Masyarakat." *Arus Jurnal Sosial dan Humaniora* 5, no. 1 (2025): 828-837. <https://doi.org/10.57250/ajsh.v5i1.1141>

process of recognizing customary law communities which must first be determined through regional regulations or local government decisions. As a result, not all indigenous communities can immediately gain recognition for their customary territories and forests. In addition, there are still differences in perceptions between government agencies regarding the mechanism for recognizing customary forests, which causes the bureaucratic process to be long and convoluted. This condition shows that the success of the ruling has not been fully followed by adequate policy reform at the implementation level.

Therefore, the Constitutional Court Decision Number 35/PUU-X/2012 can be seen as a progressive step in the protection of indigenous peoples' rights to natural resources. However, the effectiveness of such protection still depends heavily on the government's commitment to accelerating the recognition of customary law communities, simplifying customary territory determination procedures, and harmonizing various sectoral regulations related to forestry, agrarian, and environment. Thus, the main goal of the decision to realize social justice and environmental sustainability can be optimally achieved.

IV. THE ROLE AND POSITION OF INDIGENOUS PEOPLE IN ENVIRONMENTAL PROTECTION IN INDONESIA

A. The Role of Indigenous Peoples' Local Wisdom in Natural Resources Conservation

Local wisdom is a set of values, norms, knowledge, and practices that develop in society and are inherited from generation to generation to regulate the relationship between humans and their environment. In the context of indigenous peoples, local wisdom not only serves as a social guideline, but also as a sustainability-oriented natural resource management mechanism. Indigenous communities in Indonesia have implemented environmental management systems based on local wisdom long before the concept of sustainable development was widely recognized in modern law. Therefore, the existence of local wisdom is one of the important aspects that need to be protected in the framework of environmental law.

Law Number 32 of 2009 concerning Environmental Protection and Management explicitly recognizes the importance of local wisdom in environmental management. Article 1 number 30 defines local wisdom as noble values that apply in the community's life system to protect and manage the environment in a sustainable manner. This recognition shows that Indonesia's environmental law not only relies on scientific and administrative approaches, but also provides space for traditional practices that have been proven to be able to maintain the balance of ecosystems.

Various forms of local wisdom of indigenous peoples have shown a real contribution to the conservation of natural resources. One example is the *Sasi* system applied by indigenous peoples in Maluku.³⁶ Through this system,

³⁶ The *Sasi* system is a customary natural resource management institution practiced primarily by indigenous communities in the Maluku Islands. Under this system, communities impose temporary prohibitions on harvesting specific natural resources—such as fish, shellfish, sea cucumbers,

communities set a temporary ban on the harvesting of marine products or forest products in a certain period to provide an opportunity for these resources to recover naturally. This practice has been proven to be able to maintain the sustainability of natural resources while preventing overexploitation. In addition, the Dayak indigenous people in Kalimantan are also familiar with the concept of *Tana Ulen*³⁷, which is a protected forest area that can only be used on a limited basis based on customary provisions. The system functions to maintain forest preservation and maintain ecological balance in customary territories.

The local wisdom of indigenous peoples also has an important role in mitigating climate change. Studies have shown that areas that are still managed under customary law tend to have lower rates of deforestation than areas that are exploitatively managed.³⁸ Indigenous peoples' traditional knowledge of planting patterns, forest utilization, water conservation, and biodiversity protection has become an effective instrument in maintaining the ecological function of an area. Thus, the protection of the rights of indigenous peoples indirectly supports the achievement of sustainable development goals and Indonesia's commitment to facing global climate change.

Nevertheless, the existence of local wisdom still faces various challenges. Modernization, the expansion of extractive industries, and weak recognition of customary territories often lead to the erosion of traditional practices that have played a role in protecting the environment. In many cases, indigenous peoples have lost access to their managed areas as a result of the granting of business licenses to third parties. This condition not only threatens the sustainability of

coconuts, or forest products—within designated areas for a predetermined period. The restrictions are established and enforced through customary law by traditional leaders and are lifted only after ecological recovery or agreed community objectives have been achieved. By regulating the timing, location, and intensity of resource extraction, the Sasi system prevents overexploitation, promotes ecosystem regeneration, and ensures equitable distribution of benefits among community members. Consequently, Sasi is widely recognized as an example of traditional ecological knowledge that contributes to biodiversity conservation, sustainable resource management, and community-based environmental governance. See Nurfani Indah Putri, et al. "Peranan Kearifan Lokal Sistem Sasi dalam Pengelolaan Sumber Daya Laut Indonesia." *Jurnal Ekologi, Masyarakat dan Sains* 2, no. 1 (2020): 12-19; Elva Lestari, and Arif Satria. "Peranan Sistem Sasi dalam Menunjang Pengelolaan Berkelanjutan Pada Kawasan Konservasi Perairan Daerah Raja Ampat." *Buletin Ilmiah Marina Sosial Ekonomi Kelautan dan Perikanan* 1, no. 2 (2015): 67-76. <http://dx.doi.org/10.15578/marina.v1i2.2073>; Asrul Asrul, Mohammad Gamal Rindarjono, and Sarwono Sarwono. "Eksistensi Sasi dalam Pengelolaan Lingkungan Hidup dan Peran Serta Masyarakat di Negeri Haruku Kabupaten Maluku Tengah Propinsi Maluku Tahun 2013." *GeoEco* 3, no. 1 (2017): 69-81.

³⁷ *Tana Ulen* is a customary forest conservation system practiced by the Dayak Kenyah and other Dayak communities in Kalimantan. Under this system, designated forest areas are protected through customary law, and the extraction of timber, wildlife, and other forest resources is subject to strict community rules and the authorization of customary leaders to ensure ecological sustainability and intergenerational resource conservation. See Cristina Eghenter, "What Is Tana Ulen Good For? Considerations on Indigenous Forest Management, Conservation, and Research in the Interior of Indonesian Borneo." *Human Ecology* 28, no. 3 (2000): 331-357. <https://doi.org/10.1023/A:1007068113933>; Anau Njau, et al. "Local Wisdom Practices of Dayak Indigenous People in the Management of Tana' Ulen in the Kayan Mentarang National Park of Malinau Regency, North Kalimantan Province, Indonesia." *Russian Journal of Agricultural and Socio-Economic Sciences* 91, no. 7 (2019): 156-167. <https://doi.org/10.18551/rjoas.2019-07.16>

³⁸ Aldi Pebrian, and Aullia Vivi Yulianingrum. "Peran Pemerintah dalam Pengelolaan Sumber Daya Alam berdasarkan Kearifan Lokal." *Jurnal Analisis Hukum* 6, no. 2 (2023): 264-276. <https://doi.org/10.38043/jah.v6i2.5014>

indigenous peoples, but also has the potential to eliminate environmental management systems that have been proven effective for centuries.

Therefore, the protection of indigenous peoples cannot be separated from the protection of their local wisdom. The state needs to strengthen policies that recognize and integrate local wisdom into the national environmental management system. By providing a wider space for participation to indigenous peoples, efforts to conserve natural resources can be carried out more effectively, equitably, and sustainably in accordance with the principles of modern environmental law.

B. The Role of Indigenous Peoples in Climate Change Mitigation and Adaptation

Climate change is one of the global environmental challenges that has a direct impact on the sustainability of natural resources and people's lives. In the Indonesian context, indigenous peoples have a very strategic position in climate change mitigation and adaptation efforts because for centuries they have implemented a sustainability-oriented natural resource management system. Indigenous peoples' traditional knowledge enables them to maintain ecosystem balance through wise management of forests, water resources, coastal areas, and biodiversity. Therefore, the existence of indigenous peoples is not only important in the protection of human rights, but also an integral part of the strategy of environmental protection and climate change mitigation.

Juridically, the recognition of indigenous peoples in environmental management has been reflected in various laws and regulations in Indonesia. However, these regulations have not fully placed indigenous peoples as the main actors in climate change mitigation and adaptation policies. In fact, indigenous peoples have a value system, local knowledge, and traditional practices that are proven to be able to maintain the sustainability of natural resources, especially forest areas that function as natural carbon sinks. In many customary territories, the practice of exploiting natural resources is carried out in a limited manner and pays attention to the carrying capacity of the environment so as to reduce the risk of ecosystem damage.

The success of indigenous peoples in protecting forest areas has a significant contribution to reducing greenhouse gas emissions. Customary forests managed based on local wisdom generally have a lower level of damage than areas that experience intensive industrial exploitation. In addition to serving as a carbon sink, the area also plays an important role in maintaining water availability, preventing erosion, and maintaining biodiversity. Thus, the protection of indigenous peoples' rights to their customary territories not only benefits the indigenous communities themselves, but also supports the achievement of sustainable development targets and Indonesia's commitment to facing global climate change.³⁹

Despite this, indigenous peoples' participation in climate change policy still faces various obstacles. One of them is the lack of optimal legal recognition of customary territories which causes indigenous peoples to often not be fully

³⁹ Ragil Meiliana Nur Fitri, and Sunny Ummul Firdaus. "Analisis Putusan Mahkamah Konstitusi Nomor 35/PUU-X/2012 dalam Memberikan Kedudukan dan Perlindungan Terhadap Hutan Adat." *Res Publica: Jurnal Hukum Kebijakan Publik* 8, no. 1 (2024): 87-98. <https://doi.org/10.20961/respublica.v8i1.75299>

involved in the planning and decision-making process related to natural resource management. In addition, development policies oriented towards the exploitation of natural resources often ignore the traditional knowledge possessed by indigenous peoples. As a result, various climate change mitigation and adaptation programs do not always run effectively because they do not take into account the social, cultural, and ecological conditions of the local community.

Therefore, strengthening the position of indigenous peoples in environmental and climate change policies is a very important step. States need to provide stronger legal recognition of indigenous territories, increase the participation of indigenous peoples in environmental policymaking, and integrate traditional knowledge into climate change mitigation and adaptation strategies. With this approach, the protection of indigenous peoples' rights can go hand in hand with efforts to maintain environmental sustainability and realize equitable development for all communities.

C. Indigenous Peoples' Participation in Natural Resources Management Decision-Making

Indigenous peoples' participation in decision-making is one of the important principles in the protection of indigenous peoples' rights to natural resources. In the perspective of modern environmental law, communities affected by a policy or activity in the use of natural resources must be given the opportunity to be actively involved in the process of planning, implementing, and supervising the policy. For indigenous peoples, participation is not only related to democratic rights as citizens, but also a form of respect for the historical, social, cultural, and spiritual relationships they have with customary territories and the natural resources that reside within them. Therefore, neglect of indigenous peoples' participation is often the cause of agrarian conflicts and environmental disputes in various regions.⁴⁰

In international environmental law, indigenous peoples' participation is realized through the principle of *Free, Prior and Informed Consent* (FPIC). This principle affirms that indigenous peoples have the right to be fully informed about a project or policy that will impact their customary territories, to be given the opportunity to express their opinions freely without pressure, and to be involved before decisions are made. The application of FPIC principles aims to ensure that development is not carried out at the expense of indigenous peoples' rights and environmental sustainability. Although Indonesia has adopted various participatory principles in environmental management, its implementation still faces various challenges on the ground.

In practice, indigenous peoples are often only involved in a formal manner without being given adequate space to influence the decisions to be made. The consultation process is often carried out after a business license has been issued or when a development project has been running. As a result, indigenous peoples have lost the opportunity to raise objections or alternative management that is more in line with the social and ecological conditions of their territories. This condition

⁴⁰ Bernadus Juk, et al. "Peran Partisipasi Masyarakat dalam Pengambilan Keputusan Tentang Pemanfaatan dan Pengelolaan Sumber Daya Alam." *International Journal of Demos (IJD)* 6, no. 3 (2024): 242-258.

shows that the participation provided does not fully reflect the principle of *meaningful participation* as developed in modern environmental law.⁴¹

Effective participation of indigenous peoples can actually provide various benefits for environmental protection. Local knowledge possessed by indigenous peoples can be an important source of information in planning sustainable natural resource management. Their experience in maintaining ecosystem balance, managing forest areas, utilizing aquatic resources, and maintaining biodiversity can help governments and businesses minimize negative impacts on the environment. In addition, the involvement of indigenous peoples from the beginning can also reduce the potential for social conflicts that often arise due to differences in interests in the use of natural resources.⁴²

Therefore, strengthening the participation of indigenous peoples needs to be one of the priorities in natural resource protection policies in Indonesia. The government needs to ensure that every licensing process, policy formulation, and implementation of development projects related to customary territories is carried out in a transparent and participatory manner. In addition, public consultation mechanisms should be designed in such a way that indigenous peoples can effectively convey their aspirations and interests. Thus, the participation of indigenous peoples is not only the fulfillment of administrative procedures, but also an instrument to realize social justice and environmental sustainability.

V. OBSTACLES IN THE IMPLEMENTATION AND PROTECTION OF INDIGENOUS PEOPLES' RIGHTS TO NATURAL RESOURCES

Juridical analysis of the rights of indigenous peoples in the management of natural resources under national law shows that there is formal recognition of these rights, although their implementation is far from adequate. The Indonesian Constitution, especially Article 18B paragraph (2), this recognition is strengthened by various laws, such as Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles, Law Number 41 of 1999 concerning Forestry also recognizes the rights of indigenous peoples in forest areas.⁴³

One of the main obstacles to legal protection for indigenous peoples is the overlapping of conflicting regulations and policies. On the one hand, there are regulations that recognize customary rights, but on the other hand, there are policies that provide adequate concession permits. The permitting process is often carried out without involving indigenous peoples and without considering the social and environmental impacts it causes. As a result, indigenous peoples often lose their rights to their land and natural resources, negatively impacting their livelihoods. In

⁴¹ Muhamad Alief Hidayat, and Sunny Ummul Firdaus. "Developing the Concept of Sustainable Development Regulation in Inclusive Policy and Guaranteeing Meaningful Participation." *International Conference on Democracy and National Resilience 2025 (ICDNR 2025)*. Atlantis Press, 2025. https://doi.org/10.2991/978-2-38476-529-4_14

⁴² Clara Kesaulya, Rocky S. Mantaiborbir, and Novyta Uktolseja. "Efektifitas Masyarakat Hukum Adat dalam Pengelolaan Sumber Daya Alam Wilayah Kecil Pulau-Pulau Perbatasan." *Jurnal Pendidikan Tambusai* 7, no. 3 (2023): 26250-26258.

⁴³ Adelina Muthi'ah Rosidy, et al. "Perlindungan Hukum Terhadap Hak-Hak Masyarakat Adat dalam Pengelolaan Sumber Daya Alam di Indonesia: Studi Kasus Masyarakat Adat Dayak di Kalimantan." *Quantum Juris: Jurnal Hukum Modern* 6, no. 4 (2024).

addition, the lack of access to information and legal assistance is also a major obstacle for indigenous peoples. Many indigenous peoples have no knowledge of their legal rights and do not know how to fight for those rights through legal channels. Access to adequate legal aid is also very limited, especially in remote areas, leaving indigenous peoples in a weak position to deal with conflicts with companies and governments.⁴⁴

The existing justice system is also often not on the side of indigenous peoples. The lengthy and expensive legal process is a major obstacle for indigenous peoples to fight for their rights. In addition, there is also a tendency for law enforcement officials to side with the interests of companies rather than protecting the rights of indigenous peoples. This shows that there is a structural bias in the legal system that harms indigenous peoples.⁴⁵

The most crucial condition at the legal level is the lack of a special law that comprehensively and integrally regulates the recognition and protection of customary law communities and all their rights. The absence of this kind of law causes customary law communities to have to depend on various regulations that are scattered and often overlap with each other. This sectoral and fragmented arrangement ultimately creates systemic legal uncertainty, as each sector has different standards and recognition mechanisms without any legal instrument capable of integrating and synchronizing them thoroughly.⁴⁶

The absence of this specific law also has an impact on the absence of uniform standards on the criteria of indigenous peoples, customary boundaries, and the rights inherent in them. Without clear legal certainty, indigenous peoples find it difficult to fight for their rights in front of the state and investors. Arbitrary and marginalized national laws often do not involve indigenous peoples, even though they should be given meaningful participation in every process. One clear example is the use of the pretext of land tenure for development that often ignores the rights of indigenous peoples to meereka land and territory. Uli Arta Siagian from Walhi Nasional stated that the problems faced by indigenous peoples were born out of state policies that constantly separated them from customary territories, forests, and natural resources, under the pretext of supporting economic growth that actually opens up the risk of exploitation.⁴⁷

Indigenous peoples have an important role in preserving the environment and local wisdom that has been proven to be sustainable in managing natural resources. Indigenous peoples in Indonesia have a very important role in maintaining cultural diversity and environmental sustainability as a group that has inhabited the archipelago long before the colonial era, indigenous peoples not only have unique cultural wealth but also a sustainable natural resource management system.

⁴⁴ See Pradhani, "Traditional rights of indigenous people in Indonesia: legal recognition and court interpretation." See also Rosidy, et al. "Perlindungan Hukum Terhadap Hak-Hak Masyarakat Adat dalam Pengelolaan Sumber Daya Alam di Indonesia: Studi Kasus Masyarakat Adat Dayak di Kalimantan."

⁴⁵ Rosidy, et al.

⁴⁶ Ni Wayan Galuh Candra Kirana, "Pengakuan dan Perlindungan Hak Ulayat Masyarakat Hukum Adat dalam Peraturan Perundang-Undangan Indonesia." *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 4, no. 2 (2026): 7916-7929. <https://doi.org/10.61104/alz.v4i2.5858>

⁴⁷ Sarjan Lahay, "Sulitnya Negara Akui dan Lindungi Masyarakat Adat." *Online HuMA*, March 18, 2025. Available at <https://www.huma.or.id/isu-strategis/sulitnya-negara-akui-dan-lindungi-masyarakat-adat>

However, their existence is often marginalized by development policies that prioritize the exploitation of natural resources without considering the sustainability and rights of indigenous peoples. Legal protection of the rights of indigenous peoples is critical to ensuring that they can not only survive but also preserve their cultural and environmental heritage. Legal protection of the rights of indigenous peoples is crucial to ensure that they can not only survive but also preserve their cultural and environmental heritage.⁴⁸

However, again, the main challenge lies in the implementation and enforcement of the law. Despite formal arrangements, many indigenous peoples still have difficulty in obtaining legal recognition of their land. The customary land certification process regulated by the government is often lengthy and bureaucratic, and does not always succeed in providing adequate protection. This shows that in addition to changes in the legal framework, changes in administrative practices and government policies are also needed to truly protect the rights of indigenous peoples.⁴⁹

VI. CONCLUSION

This study highlighted that the failure of environmental law to effectively protect indigenous peoples' natural resource rights in Indonesia does not stem from the absence of legal recognition, but from the disconnect between normative recognition and institutional implementation. Although the 1945 Constitution, sectoral legislation, Constitutional Court Decision No. 35/PUU-X/2012, and international instruments such as ILO Convention No. 169 and the United Nations Declaration on the Rights of Indigenous Peoples collectively establish a robust legal foundation for recognizing indigenous peoples' rights, these protections remain largely declaratory in practice. Fragmented governance, overlapping sectoral regulations, conditional recognition of indigenous communities, inconsistent institutional authority, and weak enforcement continue to generate legal uncertainty, tenure insecurity, exclusion from decision-making, and recurrent conflicts over customary territories. Consequently, Indonesia's environmental law regime has yet to fulfill its constitutional and international obligations to respect, protect, and realize indigenous peoples' rights while simultaneously promoting environmental sustainability.

The findings further demonstrate that effective protection of indigenous peoples' natural resource rights requires an integrated environmental governance framework rather than additional normative recognition alone. The study contributes to environmental law scholarship by showing that indigenous rights and environmental protection are mutually reinforcing objectives whose realization depends on coherent legislation, institutional coordination, meaningful participation through the principle of *Free, Prior and Informed Consent* (FPIC), and effective access to justice. Accordingly, legal reform should prioritize harmonization of sectoral natural resource laws, enactment of a comprehensive legal framework governing indigenous peoples, acceleration of customary territory recognition, and stronger implementation of Constitutional Court Decision No.

⁴⁸ Rosidy, et al. "Perlindungan Hukum Terhadap Hak-Hak Masyarakat Adat dalam Pengelolaan Sumber Daya Alam di Indonesia: Studi Kasus Masyarakat Adat Dayak di Kalimantan."

⁴⁹ Rosidy, et al.

35/PUU-X/2012. Embedding indigenous knowledge and customary governance within environmental decision-making would not only strengthen legal certainty and environmental justice but also enhance biodiversity conservation, climate resilience, and the long-term sustainability of Indonesia's natural resource governance.

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REFERENCES

- Acciaioli, Greg. "From Customary Law to Indigenous Sovereignty: Reconceptualizing Masyarakat Adat in Contemporary Indonesia." In *The Revival of Tradition in Indonesian Politics*. (London: Routledge, 2007), pp. 315-338. <https://doi.org/10.4324/9780203965498>
- Anderson, Patrick. "Free, prior, and informed consent? Indigenous peoples and the palm oil boom in Indonesia." In *The Palm Oil Controversy in Southeast Asia: A Transnational Perspective* (Singapore: ISEAS, 2013), pp. 244-258.
- Asrul, Asrul, Mohammad Gamal Rindarjono, and Sarwono Sarwono. "Eksistensi Sasi dalam Pengelolaan Lingkungan Hidup dan Peran Serta Masyarakat di Negeri Haruku Kabupaten Maluku Tengah Propinsi Maluku Tahun 2013." *GeoEco* 3, no. 1 (2017): 69-81.
- Barelli, Mauro. "The Role of Soft Law in the International Legal System: The Case of the United Nations Declaration on the Rights of Indigenous Peoples." *International & Comparative Law Quarterly* 58, no. 4 (2009): 957-983. <https://doi.org/10.1017/S0020589309001559>.
- Bedner, Adriaan, and Stijn Van Huis. "The Return of the Native in Indonesian Law: Indigenous Communities in Indonesian Legislation." *Bijdragen tot de taal-, land-en volkenkunde/Journal of the Humanities and Social Sciences of*

- Southeast Asia* 164, no. 2 (2008): 165-193.
<https://doi.org/10.1163/22134379-90003655>
- Berkes, Fikret, Carl Folke, and Madhav Gadgil. "Traditional Ecological Knowledge, Biodiversity, Resilience and Sustainability." In *Biodiversity Conservation: Problems and Policies. Papers From The Biodiversity Programme Beijer International Institute of Ecological Economics Royal Swedish Academy of Sciences*. (Dordrecht: Springer Netherlands, 1994), pp. 269-287. https://doi.org/10.1007/978-94-011-1006-8_15
- Buana, Andika Prawira, and Moch Andry Wikra Wardhana Mamonto. "The Role of Customary Law in Natural Resource Management: A Comparative Study between Indonesia and Australia." *Golden Ratio of Mapping Idea and Literature Format* 3, no. 2 (2023): 167-186.
<https://doi.org/10.52970/grmilf.v3i2.400>
- Colbran, Nicola. "Indigenous Peoples in Indonesia: At Risk of Disappearing as Distinct Peoples in the Rush for Biofuel?." *International Journal on Minority and Group Rights* 18, no. 1 (2011): 63-92.
<https://doi.org/10.1163/157181111X550987>
- Constitutional Court of the Republic of Indonesia, *Constitutional Court Decision No. 35/PUU-X/2012*. Available online at https://en.mkri.id/download/decision/pdf_Decision_35PUU-X2012.pdf
- Dawson, Neil M., et al. "Is it just conservation? A typology of Indigenous peoples' and local communities' roles in conserving biodiversity." *One Earth* 7, no. 6 (2024): 1007-1021. <https://doi.org/10.1016/j.oneear.2024.05.001>
- Dawson, Neil M., et al. "The Role of Indigenous Peoples and Local Communities in Effective and Equitable Conservation." *Ecology and Society* 26, no. 3 (2021): 19. <https://doi.org/10.5751/ES-12625-260319>
- Eghenter, Cristina. "What Is Tana Ulen Good For? Considerations on Indigenous Forest Management, Conservation, and Research in the Interior of Indonesian Borneo." *Human Ecology* 28, no. 3 (2000): 331-357.
<https://doi.org/10.1023/A:1007068113933>
- Engle, Karen. "On Fragile Architecture: The UN Declaration on the Rights of Indigenous Peoples in the Context of Human Rights." *European Journal of International Law* 22, no. 1 (2011): 141-163.
<https://doi.org/10.1093/ejil/chr019>
- Fahmi, Chairul, and Muhammad Siddiq Armia. "Protecting Indigenous Collective Land Property in Indonesia under International Human Rights Norms." *Journal of Southeast Asian Human Rights* 6, no. 1 (2022): 1-25.
<https://doi.org/10.19184/jseahr.v6i1.30242>
- Fajar, Paulus Pora Putra, Sukardan Aloysius, and Husni Kusuma Dinata. "Implikasi Putusan Mahkamah Konstitusi Nomor 35/PUU-X/2012 Terhadap Pengaturan Hutan Adat dan Dampaknya Terhadap Hak Masyarakat Adat." *Perkara: Jurnal Ilmu Hukum Dan Politik* 2, no. 2 (2024): 39-61. <https://doi.org/10.51903/perkara.v2i2.1844>
- Fitri, Ragil Meiliana Nur, and Sunny Ummul Firdaus. "Analisis Putusan Mahkamah Konstitusi Nomor 35/PUU-X/2012 dalam Memberikan Kedudukan dan Perlindungan Terhadap Hutan Adat." *Res Publica: Jurnal Hukum Kebijakan Publik* 8, no. 1 (2024): 87-98.
<https://doi.org/10.20961/respublica.v8i1.75299>

- Gayo, Ahyar Ari. "Penegakan Hukum Konflik Agraria Yang Terkait Dengan Hak-hak Masyarakat Adat Pasca Putusan Mk No. 35/PUU-X/2012 (Agrarian Conflict Law Enforcement That Was Related to the Rights of Indigenous Peoples Following the Ruling of the Constitutional Court No. 35/PUU-X/2012)." *Jurnal Penelitian Hukum De Jure* 16, no. 2 (2016): 157-171. <https://doi.org/10.30641/dejure.2016.V16.157-171>
- Gilbert, Jérémie. *Indigenous Peoples' Land Rights under International Law*. (Leiden: Brill Nijhoff, 2016).
- Hidayat, Muhamad Alief, and Sunny Ummul Firdaus. "Developing the Concept of Sustainable Development Regulation in Inclusive Policy and Guaranteeing Meaningful Participation." *International Conference on Democracy and National Resilience 2025 (ICDNR 2025)*. Atlantis Press, 2025. https://doi.org/10.2991/978-2-38476-529-4_14
- Howitt, Richard. *Rethinking Resource Management: Justice, Sustainability and Indigenous Peoples*. (London: Routledge, 2002).
- International Labour Organization. *ILO Indigenous and Tribal Peoples Convention (No. 169)*. Available online at <https://www.ohchr.org/en/instruments-mechanisms/instruments/indigenous-and-tribal-peoples-convention-1989-no-169>
- Jayantiari, I. Gusti Agung Mas Rwa, et al. "The Rights of Customary Law Communities to Resources: The Relationship of Coexistence of State Law and Customary Law." *Jurnal IUS Kajian Hukum dan Keadilan* 13, no. 1 (2025): 187-198. <https://doi.org/10.29303/ius.v13i1.1329>
- Judijanto, Loso. "Legal Review of Government Policies in Handling Agrarian Conflicts." *Journal of Scientific Insights* 2, no. 2 (2025): 88-101. <https://doi.org/10.69930/jsi.v2i2.330>
- Juk, Bernadus, et al. "Peran Partisipasi Masyarakat dalam Pengambilan Keputusan Tentang Pemanfaatan dan Pengelolaan Sumber Daya Alam." *International Journal of Demos (IJD)* 6, no. 3 (2024): 242-258.
- Kadir, Mutiara I., and Janwar Hippy. "Hutan Adat Pasca Putusan Mahkamah Konstitusi Nomor 35/PUU-X-2012: Konsekuensi Hukum dan otoritas Pemanfaatan oleh Masyarakat." *Arus Jurnal Sosial dan Humaniora* 5, no. 1 (2025): 828-837. <https://doi.org/10.57250/ajsh.v5i1.1141>
- Karso, A. Junaedi. "Natural Resources Governance and the Vulnerability of Indigenous Communities in Indonesia." *Frontiers in Political Science* 7 (2025): 1601480. <https://doi.org/10.3389/fpos.2025.1601480>
- Kenrick, Justin, and Jerome Lewis. "Indigenous Peoples' Rights and the Politics of the Term 'Indigenous'." *Anthropology Today* 20, no. 2 (2004): 4-9. <https://doi.org/10.1111/j.0268-540X.2004.00256.x>
- Kesaulya, Clara, Rocky S. Mantaiborbir, and Novyta Uktolseja. "Efektifitas Masyarakat Hukum Adat dalam Pengelolaan Sumber Daya Alam Wilayah Kecil Pulau-Pulau Perbatasan." *Jurnal Pendidikan Tambusai* 7, no. 3 (2023): 26250-26258.
- Kirana, Ni Wayan Galuh Candra. "Pengakuan dan Perlindungan Hak Ulayat Masyarakat Hukum Adat dalam Peraturan Perundang-Undangan Indonesia." *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 4, no. 2 (2026): 7916-7929. <https://doi.org/10.61104/alz.v4i2.5858>

- Kumar, Ajay, et al. "Role of Traditional Ethnobotanical Knowledge and Indigenous Communities in Achieving Sustainable Development Goals." *Sustainability* 13, no. 6 (2021): 3062. <https://doi.org/10.3390/su13063062>
- Kurniawan, Robi, and Shunsuke Managi. "Economic Growth and Sustainable Development in Indonesia: An Assessment." *Bulletin of Indonesian Economic Studies* 54, no. 3 (2018): 339-361. <https://doi.org/10.1080/00074918.2018.1450962>
- Lahay, Sarjan. "Sulitnya Negara Akui dan Lindungi Masyarakat Adat." *Online HuMA*, March 18, 2025. Available at <https://www.huma.or.id/isu-strategis/sulitnya-negara-akui-dan-lindungi-masyarakat-adat>
- Lestari, Elva, and Arif Satria. "Peranan Sistem Sasi dalam Menunjang Pengelolaan Berkelanjutan Pada Kawasan Konservasi Perairan Daerah Raja Ampat." *Buletin Ilmiah Marina Sosial Ekonomi Kelautan dan Perikanan* 1, no. 2 (2015): 67-76. <http://dx.doi.org/10.15578/marina.v1i2.2073>
- McWilliam, Andrew. "Historical Reflections on Customary Land Rights in Indonesia." *The Asia Pacific Journal of Anthropology* 7, no. 1 (2006): 45-64. <https://doi.org/10.1080/14442210600551859>
- Muazzin, Muazzin. "Hak Masyarakat Adat (Indigenous Peoples) atas Sumberdaya Alam: Perspektif Hukum Internasional." *PADJADJARAN Jurnal Ilmu Hukum (Journal of Law)* 1, no. 2 (2014): 322-345. <https://doi.org/10.22304/pjih.v1n2.a7>
- Mulyadi, Lilik. *Eksistensi, Dinamika, dan Pelindungan Hukum Terhadap Hak Atas Tanah Ulayat Masyarakat Adat di Indonesia*. (Bandung: Penerbit Alumni, 2022).
- Natalis, Aga, et al. "Exploring Intersectionality: The Legal Challenges Faced by Indigenous Women in Palm Oil Land Conflicts." *Diponegoro Law Review* 10, no. 2 (2025): 173-197. <https://doi.org/10.14710/dilrev.10.2.2025.173-198>
- Njau, Anau, et al. "Local Wisdom Practices of Dayak Indigenous People in the Management of Tana' Ulen in the Kayan Mentarang National Park of Malinau Regency, North Kalimantan Province, Indonesia." *Russian Journal of Agricultural and Socio-Economic Sciences* 91, no. 7 (2019): 156-167. <https://doi.org/10.18551/rjoas.2019-07.16>
- Nugroho, Wahyu. "Konsistensi Negara Atas Doktrin Welfare State dalam Pengelolaan Sumber Daya Hutan oleh Masyarakat Adat." *Jurnal Hukum Lingkungan Indonesia* 1, no. 2 (2014): 22-49. <https://doi.org/10.38011/jhli.v1i2.14>
- Pangestika, Finna Maessy, and Mella Ismelina Farma Rahayu. "Unregistered Customary Land Ownership: Implications and Challenges in Practice." *The Indonesian Journal of International Clinical Legal Education* 6, no. 4 (2024): 531-550. <https://doi.org/10.15294/iccle.v6i4.15511>
- Parrotta, John A., and Mauro Agnoletti. "Traditional Forest-related Knowledge and Climate Change." In *Traditional Forest-related Knowledge: Sustaining Communities, Ecosystems and Biocultural Diversity*. (Dordrecht: Springer Netherlands, 2011), pp. 491-533. https://doi.org/10.1007/978-94-007-2144-9_13
- Pebrian, Aldi, and Aullia Vivi Yulianingrum. "Peran Pemerintah dalam Pengelolaan Sumber Daya Alam berdasarkan Kearifan Lokal." *Jurnal*

- Analisis Hukum* 6, no. 2 (2023): 264-276. <https://doi.org/10.38043/jah.v6i2.5014>
- Perry, Robin. "Balancing rights or building rights? Reconciling the right to use customary systems of law with competing human rights in pursuit of indigenous sovereignty." *Harvard Human Rights Journal* 24, no. 1 (2011): 71-114.
- Pradhani, Sartika Intaning. "Traditional Rights of Indigenous People in Indonesia: Legal Recognition and Court Interpretation." *Jambe Law Journal* 1, no. 2 (2018): 177-205. <https://doi.org/10.22437/jlj.1.2.177-205>
- Priyadarshini, Priya, and Purushothaman Chirakkuzhyil Abhilash. "Promoting Tribal Communities and Indigenous Knowledge as Potential Solutions for the Sustainable Development of India." *Environmental Development* 32 (2019): 100459. <https://doi.org/10.1016/j.envdev.2019.100459>
- Putri, Nurfani Indah, et al. "Peranan Kearifan Lokal Sistem Sasi dalam Pengelolaan Sumber Daya Laut Indonesia." *Jurnal Ekologi, Masyarakat dan Sains* 2, no. 1 (2020): 12-19
- Ramos-Castillo, Ameyali, Edwin J. Castellanos, and Kirsty Galloway McLean. "Indigenous Peoples, Local Communities and Climate Change Mitigation." *Climatic Change* 140, no. 1 (2017): 1-4. <https://doi.org/10.1007/s10584-016-1873-0>
- Republic of Indonesia. *Undang-Undang Dasar Negara Republik Indonesia Tahun 1945*.
- Republic of Indonesia. *Undang-undang Nomor 32 Tahun 2009 tentang Perlindungan dan Pengelolaan Lingkungan Hidup*. Available at <https://peraturan.bpk.go.id/details/38771/uu-no-32-tahun-2009>
- Republic of Indonesia. *Undang-undang Nomor 41 Tahun 1999 tentang Kehutanan*. Available at <https://peraturan.bpk.go.id/Details/45373/uu-no41tahun1999>
- Republic of Indonesia. *Undang-undang Nomor 5 Tahun 1960 tentang Peraturan Dasar Pokok-Pokok Agraria*. Available at <https://peraturan.bpk.go.id/Details/51310/uu-no-5-tahun-1960>
- Riggs, Rebecca Anne, et al. "Forest Tenure and Conflict in Indonesia: Contested Rights in Rempuk Village, Lombok." *Land Use Policy* 57 (2016): 241-249. <https://doi.org/10.1016/j.landusepol.2016.06.002>
- Rosidy, Adelina Muthi'ah, et al. "Perlindungan Hukum Terhadap Hak-Hak Masyarakat Adat dalam Pengelolaan Sumber Daya Alam di Indonesia: Studi Kasus Masyarakat Adat Dayak di Kalimantan." *Quantum Juris: Jurnal Hukum Modern* 6, no. 4 (2024).
- Santini, Nadia S., and Yosune Miquelajauregui. "The Restoration of Degraded Lands by Local Communities and Indigenous Peoples." *Frontiers in Conservation Science* 3 (2022): 873659. <http://dx.doi.org/10.3389/fcsc.2022.873659>
- Spiegel, Samuel J. "Governance Institutions, Resource Rights Regimes, and the Informal Mining Sector: Regulatory Complexities in Indonesia." *World development* 40, no. 1 (2012): 189-205. <https://doi.org/10.1016/j.worlddev.2011.05.015>
- Suarez, Sofia Monsalve. "The Human Rights Framework in Contemporary Agrarian Struggles." *The Journal of Peasant Studies* 40, no. 1 (2013): 239-290. <https://doi.org/10.1080/03066150.2011.652950>

- Tamano, Muhammad Alrasyid. "Indonesian Palm Oil Industry: Environment Risk, Indigenous Peoples, and National Interest." *Law and Humanities Quarterly Reviews* 2, no. 4 (2023): 153-163. <https://doi.org/10.31014/aior.1996.02.04.93>
- Taqiyaah, Adzraa, and Arif Hidayat. "Laws Concerning Mineral and Coal Mining on Community Welfare from an Environmental Ethics Perspective." *Indonesian Journal of Environmental Law and Sustainable Development* 2, no. 2 (2023): 211-240. <https://doi.org/10.15294/ijel.v2i2.70333>
- Tobroni, Faiq. "Menguatkan Hak Masyarakat Adat atas Hutan Adat (Studi Putusan MK Nomor 35/PUU-X/2012)." *Jurnal Konstitusi* 10, no. 3 (2013): 461-482.
- United Nations. *United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)* 2007. Available online at https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf.
- Upreti, Yadav, et al. "Contribution of Traditional Knowledge to Ecological Restoration: Practices and Applications." *Ecoscience* 19, no. 3 (2012): 225-237. <https://doi.org/10.2980/19-3-3530>
- Waeno, Mahamadaree, and Bima Setya Nugraha. "Decentralisation in Regional Governance Law: The Paradox and Non-Functionality of Indigenous Rights and Environmental Protection in Indonesia." *Journal of Law, Environmental and Justice* 3, no. 3 (2025): 739-774. <https://doi.org/10.62264/jlej.v3i3.211>
- Westra, Laura. *Environmental Justice and the Rights of Indigenous Peoples: International and Domestic Legal Perspectives*. (London: Routledge, 2012).
- Widiatedja, I. Gusti Ngurah Parikesit. "Fragmented Approach to spatial management in Indonesia: When it will be ended?." *Kertha Patrika* 43, no. 2 (2021): 145-166. <https://doi.org/10.24843/KP.2021.v43.i02.p03>
- Zhang, Yin, et al. "Governance and Conservation Effectiveness in Protected Areas and Indigenous and Locally Managed Areas." *Annual Review of Environment and Resources* 48, no. 1 (2023): 559-588. <https://doi.org/10.1146/annurev-environ-112321-081348>

Indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms.

Article 1, United Nations Declaration on the Rights of Indigenous Peoples, 2007