

Harmonizing Baduy Customary Law with Human Rights and Religious Freedom

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Abstract

Introduction: Baduy customary law is a system of norms that governs the social, spiritual, and ecological life of the Baduy people in Banten. The uniqueness of this customary law lies in its adherence to the principle of *pikukuh karuhun* (ancestral rules), which rejects modernization and maintains the sanctity of tradition. However, in the context of a modern state that upholds human rights and religious freedom, questions arise as to the extent to which Baduy customary law can coexist with universal human rights principles, particularly the rights to freedom of religion and expression.

Purposes of the Research: This study aims to analyze the compatibility between Baduy customary law and human rights principles, as well as to examine the dynamics of the relationship between indigenous communities and the state in maintaining a balance between collective and individual rights. The research method used is a juridical-sociological approach with data collection techniques through literature studies, interviews, and field observations in the Inner Baduy and Outer Baduy regions.

Methods of the Research: Using a juridical-sociological approach, with data collection techniques through literature studies, in-depth interviews, and field observations in the Inner Baduy and Outer Baduy regions, in order to understand the relationship between customary law, human rights, and religious freedom contextually.

Results of the Research: This research reveals that Baduy customary law, while seemingly restrictive, is fundamentally oriented toward spiritual values. The state needs to adopt a multicultural and recognition-based approach to protect the rights of indigenous peoples without negating human rights principles. Integrating customary law into the national legal framework is key to achieving contextual and inclusive justice.

Keywords: Baduy Customary Law, Human Rights, Religious Freedom, Multiculturalism, State Recognition.

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INTRODUCTION

Although many studies have explained Baduy customary law, studies that in depth analyze the dialectic between its collective norms and individual rights within the framework of universal human rights, especially with regard to religious freedom, are still limited.¹ The Baduy live based on *pikukuh karuhun* a customary legal concept derived from ancestral heritage, encompassing moral, social, economic, and religious rules that are implemented collectively. Their basic principles emphasize simplicity, obedience to nature, and a rejection of modernization, which is considered to disrupt the balance of the cosmos.² In the context of national law, the existence of customary law is recognized as stipulated in Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which states

¹ Fakultas Ilmu Sosial and Ilmu Politik, "Sistem Hukum Pidana Adat Baduy" 1 (2023): 263-68.

² Adzra Ardelia Tuasalamony, "Analisis Sistem Pemerintahan Dan Perlindungan Hukum Terhadap Hak Ulayat Masyarakat Adat Baduy," *Jurnal Hukum Statuta* 3, no. 3 (2024): 167-74, <https://doi.org/10.35586/jhs.v3i3.9446>.

that "The State recognizes and respects customary law communities and their traditional rights as long as they remain alive and in accordance with societal developments and the principles of the Unitary State of the Republic of Indonesia." This provision demonstrates that customary law has a recognized position within the national legal system, although its implementation remains within the framework of state law. However, in practice, the relationship between customary law and national law is not always harmonious, particularly when it comes to issues of human rights and religious freedom.³

Baduy customary law has a distinctive and conservative character. The Baduy community is divided into two large groups: the Inner Baduy and the Outer Baduy. The Inner Baduy strictly adhere to customary rules that prohibit the use of modern technology, formal education, and lifestyle changes deemed contrary to ancestral values. They adhere firmly to the Sunda Wiwitan faith, an indigenous belief system that governs the relationship between humans and Sang Hyang Kersa (God), nature, and other humans. Meanwhile, the Outer Baduy demonstrate greater flexibility in interacting with the outside world. However, both Inner and Outer Baduy maintain strong ties to collective principles and customary authority.⁴

Tensions arise when these customary legal values clash with universal human rights principles, particularly the rights to freedom of religion and expression. Under international law, these rights are guaranteed by various instruments, such as the 1948 Universal Declaration of Human Rights (UDHR) and the 1966 International Covenant on Civil and Political Rights (ICCPR), which was ratified by Indonesia through Law Number 12 of 2005. Meanwhile, under national law, these guarantees are enshrined in Articles 28E and 29 of the 1945 Constitution. Therefore, a fundamental question arises: how can the application of Baduy customary law, which emphasizes collective obedience, coexist with the individual right to choose one's beliefs or express one's religious freedom?⁵

For example, in the Inner Baduy community, changes in belief or actions deemed outside customary norms can be subject to social sanctions, even ostracization. For the Baduy community, these actions are not human rights violations, but rather a consequence of violating ancestral norms that maintain social harmony. However, from a modern human rights perspective, this can be viewed as a restriction on individual freedom. This is where the dilemma arises between respecting the collective rights of indigenous peoples and protecting the individual rights of each citizen.⁶

Furthermore, the principle of religious freedom also faces challenges in the context of state recognition of Baduy beliefs. Before the Constitutional Court issued Decision No. 97/PUU-XIV/2016, which recognized adherents of beliefs outside the six official religions, the Baduy community faced administrative difficulties in matters such as marriage registration, population identity documents, and other legal matters. This situation demonstrates Although the state constitutionally recognizes indigenous communities,

³ Lisa Nurfalah, Chesya Sera De Claresya, and Muhammad Brilliant Bidjaksono, "Adaptasi Masyarakat Suku Baduy Luar Terhadap Perkembangan Global Berbasis Kearifan Lokal," *Journal of Socio-Cultural Sustainability and Resilience* 1, no. 1 (2023): 62–69, <https://doi.org/10.61511/jscsr.v1i1.2023.182>.

⁴ Titing Kartika and Emron Edison, "Masyarakat Baduy Dalam Mempertahankan Adat Istiadat Di Era Digital," *Prosiding ISBI Bandung* 1, no. 1 (2019): 56–62.

⁵ Raisya Aliya Putri, Hidayatusshibyan Hamamy, and Ursa El Banirossa, "Eksistensi Hukum Adat Baduy Dalam Menjaga Harmonisasi Komunal Melalui Praktik Silih Hampura," *Pikukuh: Jurnal Hukum Dan Kearifan Lokal* 2, no. 2 (2025): 109–21, <https://doi.org/10.51825/pkh.v2i2.33608>.

⁶ Muhammad Andri, Haris Budiman, and Mohammad Rafi, "Kedudukan Hak Anak Angkat Dalam Hukum Islam, Hukum Hukum Perdata Dan Hukum Adat," *Logika: Jurnal Penelitian Universitas Kuningan* 15, no. 1 (2024): 1–12, <https://doi.org/10.25134/logika.v15i01.9204>.

policy implementation often fails to provide equal space for traditional belief systems.⁷ This phenomenon reflects a broader problem regarding the relationship between customary law and human rights in Indonesia. The state finds itself in a dilemma between upholding universal human rights principles and respecting the local wisdom that underpins the nation's identity. In pluralistic legal theory, Indonesia is an example of a country with a pluralistic legal system (legal pluralism), where state law, religious law, and customary law coexist. However, the dominance of state law often creates tensions when assessing customary practices deeply rooted in spiritual and communal values.⁸

On the other hand, Baduy customary law also embodies human rights values in its local form. The principles of social equality, respect for nature, the prohibition of violence, and collective responsibility protect the right to life, the right to the environment, and the right to security. However, these values are often overlooked within a human rights framework based on a Western paradigm, which emphasizes individual freedom over social responsibility. Therefore, research into Baduy customary law from the perspective of human rights and religious freedom is crucial for reinterpreting the concept of human rights within the context of Indonesian culture.⁹

Academically, this research has significant theoretical and practical relevance for the development of legal studies in Indonesia. Academically, this research contributes to the enrichment of the literature on the relationship between customary law, human rights, and religious freedom in indigenous communities, while strengthening the understanding of legal pluralism that exists amidst Indonesia's socio-cultural diversity. This study also provides a conceptual foundation for analyzing how Baduy customary norms can be understood and harmonized with human rights principles guaranteed by the constitution and national and international legal instruments. Meanwhile, practically, the research results are expected to serve as a reference for the government, policymakers, traditional leaders, and other stakeholders in formulating policies that can protect the rights of indigenous communities without neglecting respect for religious freedom and human rights. Thus, this research not only contributes to the development of legal science but also offers applicable solutions in creating a harmonious relationship between the preservation of customary values and the protection of citizens' fundamental rights.¹⁰

Practically, this research is crucial for providing input for policymakers in formulating legal protection strategies that balance respect for customary law and the fulfillment of human rights. A recognitive and multicultural approach needs to be developed to prevent the state from imposing legal homogenization that could potentially erode diversity. The state must be able to act as a facilitator, guaranteeing religious freedom and the cultural rights of indigenous peoples without negating local values. Thus, the background to this problem stems from the social and legal reality that the Baduy customary legal system is a cultural heritage that possesses noble values and is relevant to humanitarian principles, yet simultaneously presents conceptual challenges within the modern human rights

⁷ Miftakhul Rusdianto and Tomy Michael, "Pengembangan Wisata Di Desa Minggirsari Kecamatan Kanigoro Kabupaten Blitar Dalam Menjamin Perlindungan Hukum Bagi Wisatawan," *DiH: Jurnal Ilmu Hukum* 18, no. 1 (2022): 52–64, <https://doi.org/10.30996/dih.v0i0.6178>.

⁸ R. Mulyana Jaya Sumpena, "Pengakuan Hak Ulayat Suku Baduy Indonesia Dengan Suku Aborigin Australia Dalam Perspektif Hukum Tanah," *Jurnal Cahaya Mandalika* 3, no. 3 (2022): 2072–91, <https://ojs.cahayamandalika.com/index.php/jcm/article/view/3059>.

⁹ Andi Dewi Pratiwi, "Hukum Adat Dalam Perspektif Antropologi Hukum," *Jurnal Hukum* 4, no. 2 (2021): 44–48, <https://ojs.unsulbar.ac.id/index.php/j-law/article/view/2662>.

¹⁰ Teddy Anggoro, "Kajian Hukum Masyarakat Hukum Adat Dan HAM Dalam Lingkup Negara Kesatuan Republik Indonesia," *Jurnal Hukum Dan Pembangunan* 36, no. 4 (2006): 487–98, <https://scholarhub.ui.ac.id/jhp/vol36/iss4/5/>.

framework. The relationship between customary law and human rights is not mutually exclusive, but rather a dialectical one that needs to be synergized through an approach that respects the local context. This is where research on "Baduy Customary Law from the Perspective of Human Rights and Religious Freedom" becomes crucial to examine how universal human rights principles can be implemented contextually, without diminishing the cultural identity and spirituality of the Baduy indigenous people.¹¹

Previous studies conducted by Sartika, Hidayat, Rahayu, Nasution, and Putri have made important contributions to understanding the existence of Baduy customary law, the protection of indigenous peoples' rights, and its relationship to religious freedom and human rights. However, these studies generally focused on normative aspects, the legal recognition of indigenous peoples, or the protection of customary rights separately, thus not comprehensively examining how the distinctive characteristics of Baduy customary law based on "pikukuh karuhun" interact with the principles of human rights and religious freedom in the community's social practices. Different from previous studies, this study uses a juridical-sociological approach to simultaneously analyze the legal, cultural, and social realities that shape the relationship between customary law and human rights, including identifying points of tension and opportunities for harmonization between the two. Thus, the novelty of this study lies in its attempt to present a more integrative analysis of how Baduy customary law can be maintained as a cultural identity while simultaneously being aligned with the principles of human rights protection in the context of a pluralistic rule of law state.¹² The novelty of this research lies in its analysis of the dialectic between collective and individual rights in the context of Baduy society, with an emphasis on harmonizing customary law and universal human rights principles. It also highlights adaptive and multicultural state recognition mechanisms as a model for resolving tensions between local values and human rights principles.¹³

This research aims to analyze the relationship between customary law and state law. Baduy and the principles of Human Rights, particularly in the context of freedom of religion and expression. Through a juridical-sociological approach, this study seeks to illustrate how the customary values held dear by the Baduy community can be understood within the framework of national and international law that upholds the human rights of every individual.¹⁴ More deeply, this study aims to identify the basic principles within the Baduy customary legal system, which are oriented towards social harmony, obedience to nature, and respect for ancestors. The analysis is conducted to determine the extent to which these customary norms can align with the principle of religious freedom, which is a fundamental part of human rights. This study also aims to assess the role of the state in providing recognition and protection for the rights of the Baduy indigenous community without neglecting the constitutional obligation to guarantee religious freedom for all citizens. Furthermore, this study seeks to formulate a multicultural and inclusive legal approach model to bridge the potential tension between the collective rights of indigenous

¹¹ Ayu Rostiyana, Tati Rodiati, and Vina Fatmawati Septiani, "Perlindungan Hukum Terhadap Perkembangan Wisata Baduy," in *SENASKAH: Seminar Nasional Komunikasi, Administrasi Negara, Dan Hukum*, vol. 1, 2023, 371-78, <https://doi.org/10.30656/senaskah.v1i1.20>.

¹² Delycia Anwar Rannu et al., "Perlindungan Warisan Budaya: Peran Hukum Adat Dalam Pemeliharaan Budaya Lokal," *Innovative: Journal Of Social Science Research* 3, no. 5 (2023): 543-53, <https://j-innovative.org/index.php/Innovative/article/view/4906>.

¹³ Putu Aridiantari, I Wayan Lasmawan, and I Nengah Suastika, "Eksistensi Tradisi Dan Budaya Masyarakat Bali Aga Pada Era Globalisasi Di Desa Trunyan," *Ganesha Civic Education Journal* 2, no. 2 (2020): 67-80, <https://ejournal2.undiksha.ac.id/index.php/GANCEJ/article/view/345>.

¹⁴ Nurkholis, "Implikasi Hukum Praktik Perkawinan Adat Suku Baduy Dalam Perspektif Hukum Islam Dan Hukum Positif," *Jurnal Pengabdian Masyarakat Dan Penelitian Thawalib* 1, no. 2 (2022): 127-43, <https://doi.org/10.54150/thame.v1i2.80>.

communities and individual rights within the context of the Indonesian rule of law, which is based on justice, humanity, and respect for cultural diversity.¹⁵

METHODS OF THE RESEARCH

This research uses a juridical-sociological approach, an approach that not only examines law as written norms but also examines how the law applies and is implemented in community life. This approach was chosen because research on Baduy customary law requires an understanding of the social, cultural, and spiritual context of the indigenous community, which cannot be explained solely through normative means.¹⁶ This type of research is qualitative and descriptive, with the aim of in-depth describing the interaction between Baduy customary law, human rights principles, and religious freedom. Data collection techniques were carried out through literature studies, in-depth interviews, and field observations.¹⁷ A literature review was used to collect secondary data from legal literature, legislation, and previous research. In-depth interviews were conducted with Baduy traditional leaders, academics, and local government officials, while field observations were conducted in the Inner and Outer Baduy regions to understand the application of customary norms in daily practice. Data analysis was conducted qualitatively by interpreting the findings based on the theories of legal pluralism and human rights. This approach is expected to produce a holistic understanding of how Baduy customary law can dialogue with universal human rights principles in a contextual and equitable manner.¹⁸

RESULTS AND DISCUSSION

A. Characteristics and Basic Principles of Baduy Customary Law that Govern the Social, Spiritual, and Religious Life of the Community

Interviews and observations indicate that the conflict between adherence to customary law and individual choice remains a reality for some Baduy communities. One common example is when Baduy members choose to leave their customary communities to gain greater access to formal education, employment, or a more modern lifestyle. In some cases, these individuals decide to settle outside their customary areas and adapt to the social system of mainstream society. This decision is not always seen as a rejection of customary law, but rather as a personal choice to meet life's needs that cannot be fully facilitated within the customary environment. This phenomenon demonstrates the complex interaction between the individual's right to determine their own future and the collective obligation of the Baduy community to uphold the values of their ancestors. Cases like these demonstrate that customary law and human rights are not always in conflict, but require a space for dialogue that allows individuals to maintain their rights without diminishing respect for the cultural identity of the indigenous community. The characteristics of Baduy customary law, which is based on "pikukuh karuhun" as a guideline for life passed down through generations, have a direct influence on how the Baduy community understands and exercises individual rights, including the right to religious freedom and human rights.

¹⁵ Triana Apriyanita, "Studi Etnografi Hukum Dalam Kajian Hukum Adat Dan Hukum Keluarga," *Al-Aqidah: Jurnal Studi Islam* 3, no. 2 (2022): 19–31, <https://garuda.kemdikisaintek.go.id/documents/detail/3480597>.

¹⁶ Apriyanita.

¹⁷ Suanto Suanto, "Peran Masyarakat Baduy Luar Dalam Pelestarian Adat Budaya Di Tengah Modernisasi Dan Kebijakan Pemerintah," *Jurnal Moral Kemasyarakatan* 10, no. 2 (2025): 130–41, <https://doi.org/10.21067/jmk.v10i2.11738>.

¹⁸ Gunawan Widjaja and Wagiman, "Interaksi Hukum Adat Dan Sistem Hukum Nasional Di Era Modern: Studi Kepustakaan Terhadap Eksistensi Dan Relevansi Hukum Adat Baduy Pasca Reformasi," *Journal of Law and Nation* 4, no. 1 (2025): 141–49, <https://lawinsight.net/index.php/SOLICLAW/article/view/14>.

The principles of maintaining the balance of nature, obedience to ancestors, and restrictions on modernization are the main foundations of Baduy social life. On the one hand, these values reflect the collective right of indigenous people to maintain their cultural identity and legal system, which is also recognized in the Indonesian constitution. However, on the other hand, some customary provisions can create tension with the concept of universal human rights, which emphasizes individual freedom to make life choices, including access to education, technology, or certain beliefs. This tension should not always be understood as an antagonistic conflict, but rather as a space for dialogue between the protection of the collective rights of indigenous people and the fulfillment of the rights of individual citizens. For example, when members of the Baduy community wish to access formal education, customary law generally encourages the preservation of an education system based on customary values and local knowledge. In such situations, the state can act as a mediator through a participatory and culturally sensitive approach, such as providing educational services that do not diminish indigenous identity or developing contextual educational models aligned with Baduy values. Thus, harmonization between customary law and human rights can be achieved through ongoing dialogue, respect for the autonomy of indigenous communities, and the application of the principle of proportionality in protecting individual and collective rights.¹⁹ Socially, customary law regulates relationships between members based on the principles of mutual respect and mutual cooperation. Spiritually, it emphasizes that human life must always submit to the will of Sang Hyang Karesa, the source of life.²⁰ Meanwhile, in terms of religion, the Baduy belief system demonstrates a non-institutionalized yet profound form of religiosity, where worship is manifested through moral behavior, self-control, and environmental conservation. Therefore, an analysis of the characteristics and basic principles of Baduy customary law is expected to provide a broader understanding of how the traditional legal system can shape a harmonious social and spiritual order, while also demonstrating its relevance in the context of human rights and religious freedom in Indonesia.²¹

The research results indicate that Baduy customary law is still firmly upheld and serves as the primary guideline in all aspects of community life, from customary governance and social systems to religious practices. The Baduy community, both Inner and Outer Baduy, upholds the principle of *pikukuh karuhun*—ancestral teachings containing prohibitions, obligations, and values for living in harmony with nature and fellow human beings. This principle serves not only as a moral guideline but also as a legal system with powerful social power.²²

From a human rights perspective, Baduy customary law demonstrates a balance between individual rights and communal interests. Although at first glance, there may appear to be restrictions on individual freedom, such as prohibitions on using modern technology or leaving traditional territories without permission, the Baduy people themselves interpret these restrictions as part of their spiritual obedience and collective responsibility for preserving their traditions. Thus, human rights in this context The Baduy cannot be

¹⁹ Sri Rahayu Pudjiastuti et al., "Tantangan Dalam Menjaga Identitas Budaya Baduy Luar Dan Baduy Dalam Pada Era Perubahan," *Jurnal Citizenship Virtues* 3, no. 2 (2023): 630–37, <https://doi.org/10.37640/jcv.v3i2.1876>.

²⁰ Anisa Nurhasanah, Aryanti Dwi Untari, and Febrian Alwan Bahrudin, "Potensi Penyalahgunaan Tanah Ulayat Suku Baduy Akibat Ketidakpastian Administrasi Hukum," *Governance: Jurnal Ilmu Pemerintahan* 13, no. 2 (2025): 224–43, <https://doi.org/10.33558/governance.v13i2.10903>.

²¹ Widjaja and Wagiman, "Interaksi Hukum Adat Dan Sistem Hukum Nasional Di Era Modern: Studi Kepustakaan Terhadap Eksistensi Dan Relevansi Hukum Adat Baduy Pasca Reformasi."

²² Haedar Djidar and Andi Jaka Hendra, "Perlindungan Masyarakat Hukum Adat Di Kabupaten Luwu Timur," *Journal Publicuho* 7, no. 4 (2024): 1833–41, <https://doi.org/10.35817/publicuho.v7i4.533>.

measured solely by universal parameters but must be understood through a contextual approach that respects local wisdom.²³

In terms of religious freedom, Baduy customary law affirms a unique form of religiosity, not tied to formal religion, but rather to a belief system in Sang Hyang Karesa (the One Almighty God), manifested through traditional rituals and living in harmony with nature. Although they do not follow an official religion like Islam or Christianity, the Baduy community enjoys constitutional recognition as believers in the One Almighty God, as stipulated in the 1945 Constitution and Constitutional Court Decision No. 97/PUU-XIV/2016. This demonstrates that the national legal system has provided space for diverse forms of religious expression among indigenous communities.²⁴

The research also found that interaction between the Baduy community and the outside world presents new challenges to the preservation of customary law. Modernization, tourism, and education are factors that have the potential to shift traditional values, particularly among the Outer Baduy. However, the customary legal system remains adaptive—filtering external influences with selective principles and maintaining the core values of Baduy customs. This demonstrates that customary law is not a static system, but rather a dynamic one capable of adapting without losing its fundamental identity.²⁵

From a theoretical perspective, the results of this study emphasize the importance of a legal pluralism approach, where customary law is positioned alongside state law as long as it does not conflict with basic human rights principles. Baduy customary law has demonstrated that local wisdom values can coexist harmoniously with the concepts of human rights and religious freedom, provided there is mutual recognition, dialogue, and respect for the cultural context.²⁶

Thus, this study confirms that Baduy customary law is not a violation of human rights, but rather a representation of cultural freedom recognized by the national legal system. It serves as a manifestation of the right of indigenous peoples to govern themselves according to their values, traditions, and beliefs. The dialogue between customary law and human rights here serves as a clear example that justice is not always synonymous with uniformity, but rather with recognition of diversity and the right of each community to live according to its beliefs.

B. Baduy Customary Law in Relation to the Principles of Human Rights and Freedom of Religion

Significant changes were also seen in the Baduy population administration following the issuance of Constitutional Court Decision Number 97/PUU-XIV/2016, which recognized the right of adherents of religious beliefs to be listed on population documents. Based on observations and information from community leaders, prior to the ruling, some Baduy faced administrative obstacles in registering their identities, marriages, and births because the Sunda Wiwitan faith had not yet received adequate recognition within the state

²³ Sumriyah, Ridho Jusmadi, and Firda Puspita Sari, "Perlindungan Hukum Terhadap Wisatawan Di Kawasan Wisata Religi Menurut Undang-Undang Nomor 10 Tahun 2009 Tentang Kepariwisataaan," *Interdisciplinary Journal on Law, Social Sciences and Humanities* 4, no. 1 (2023): 76–94, <https://doi.org/10.19184/idx.v4i1.39439>.

²⁴ Ratih Lestari, "Sinyal Internet Di Baduy: Dilema Antara Tradisi Dan Modernisasi," *UNES Law Review* 6, no. 2 (2023): 4326–48, <https://www.review-unes.com/index.php/law/article/view/1184>.

²⁵ Tengku Keizerina Devi Azwar and Bazarova Dildora Baxadirovna, "Legal Pluralism in the Colonial Era : The Influence of Economic Globalization on the Elimination of Poenale Sanctie and Customary Law," *SASI* 31, no. 4 (2025): 315–25, <https://doi.org/10.47268/sasi.v31i4.3392>.

²⁶ Armaidly Armawi and Desy Susilawati, "Konstruksi Identitas Nasionalisme Dalam Pikukuh Dan Buyut Masyarakat Adat Baduy," *Paradigma: Jurnal Kajian Budaya* 11, no. 2 (2021): 151–66, <https://doi.org/10.17510/paradigma.v11i2.530>.

administration system. Following the Constitutional Court ruling, the Baduy have improved access to population administration services, including the recording of important events and the recognition of their religious identity in official documents. This change serves as a concrete example of how the state can protect the civil rights of indigenous peoples without interfering with the substance of their traditional teachings or practices. Thus, this legal recognition reflects an effort to harmonize the protection of citizens' constitutional rights and respect for the sustainability of the Baduy customary legal system. The unique characteristics of Baduy customary law, which is based on **pikukuh karuhun**, not only regulate the social order of the community, but also directly shape their understanding of human rights and religious freedom. For the Baduy people, individual rights are not understood solely as personal freedom as in the concept of universal human rights, but rather as part of the collective responsibility to maintain harmony between humans, nature, and ancestral heritage. Principles such as adherence to custom, preservation of tradition, and rejection of certain forms of modernization serve as mechanisms for protecting the cultural identity and beliefs of Sunda Wiwitan that have been passed down through generations. However, these characteristics can also pose challenges to modern understandings of human rights that emphasize individual freedom to choose a religion, obtain formal education, access technology, or determine one's own lifestyle. Thus, Baduy customary law demonstrates a complex interaction between the collective rights of indigenous peoples to maintain cultural identity and individual rights guaranteed by universal human rights principles. Thus, an approach that balances respect for local wisdom with the protection of the basic rights of each individual is needed.²⁷

Consistently, Baduy customary law affirms the principle of cultural freedom and the rights of indigenous peoples as recognized in Article 18B paragraph (2) and Article 28I paragraph (3) of the 1945 Constitution, as well as in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). Baduy customary law upholds the values of equality, social justice, collective responsibility, and harmony – all of which reflect the spirit of human rights in a communal context. The Baduy people also reject violence, uphold gender equality in certain social roles, and practice honesty and mutual cooperation as manifestations of humanitarian values. In terms of religious freedom, the Baduy people the right to embrace their belief system in Sang Hyang Karesa without external coercion, which aligns with Article 29 paragraph (2) of the 1945 Constitution concerning freedom of religion and belief.

However, when analyzed from the perspective of potential conflicts, Baduy customary law is sometimes considered to restrict the rights of certain individuals. For example, the prohibition on Inner Baduy people receiving formal education, using modern technology, or leaving their customary territory without permission can be seen as a restriction on the rights to education, freedom of expression, and freedom of movement. However, the Baduy people themselves do not view these regulations as a form of restriction, but rather as a form of spiritual obedience and moral responsibility to ancestral teachings. This means that the restrictions are internal and voluntary, not oppressive external coercion.

From the perspective of religious freedom, the Baduy people often experience misunderstandings from outsiders because their belief system is not included in the six

²⁷ Siti Ropikoh et al., "Integrasi Sistem Pemerintahan Adat Dan Kearifan Budaya Lokal Dalam Struktur Kehidupan Masyarakat Baduy," *Jurnal Pengabdian Kepada Masyarakat Serumpun Melayani* 02, no. September (2025): 11-18, <https://ojs.pgdsdm.id/index.php/sm/article/view/65>.

official state religions. However, following Constitutional Court Decision Number 97/PUU-XIV/2016, the recognition of religious adherents as part of a legitimate belief system has strengthened the legal standing of indigenous communities like the Baduy. This ruling ensures that citizens have the right to receive protection and public services without discrimination, even if they adhere to informal belief systems.

Thus, the relationship between Baduy customary law and human rights principles is both complementary and contextual. Baduy customary law aligns with the spirit of human rights, upholding human dignity, collective rights, and freedom of belief, but still requires a contextual understanding of the restrictions that apply within the community. The conflict arises not from violations, but rather from the paradigm difference between the concept of individual rights in human rights and the concept of communal rights in the customary system.

Therefore, it is crucial to position Baduy customary law as part of national legal pluralism, where customary values are respected as long as they do not diminish the essence of humanity. This approach not only strengthens protection for indigenous peoples, but also enriches human rights practices in Indonesia by presenting a face of justice that is inclusive, contextual, and based on local wisdom.

C. The Role and Responsibility of the State in Legal Protection of the Baduy Indigenous Community

The state's role and responsibility in protecting human rights while respecting the existence of Baduy customary law essentially confronts the state with a dilemma that relates not only to legal aspects but also involves political dimensions and institutional capacity. From a legal interpretation perspective, the state must balance recognition of the collective rights of indigenous peoples as guaranteed by the constitution with the protection of individual rights, which are part of universal human rights principles. From a political will perspective, the challenge arises in ensuring that policies adopted truly support the protection of indigenous peoples without making such recognition merely symbolic or an administrative formality. Meanwhile, from a capacity perspective, the state often faces limitations in designing and implementing programs that are sensitive to the local cultural context, so that the implemented policies risk not being in line with the real needs of indigenous peoples. Therefore, the dilemma facing the state is not simply a matter of choosing between customary law and human rights, but rather how to build governance mechanisms that can integrate both fairly, proportionally, and sustainably in the practice of governance. The state has a constitutional responsibility to provide legal protection to all citizens without exception, including the Baduy indigenous community, which has its own unique social, cultural, and spiritual systems. Based on Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia, the state recognizes and respects customary law communities and their traditional rights as long as they remain viable and in accordance with societal developments and the principles of the Unitary State of the Republic of Indonesia. This recognition affirms that customary law, including Baduy customary law, is part of the national legal system and must be respected and protected.²⁸

In this context, the state's role is not only declarative but also implementative and facilitative. The state is obliged to ensure that the Baduy indigenous community can practice

²⁸ Syukur Destieli Gulo and Dian Ekawati, "Benturan Praktek Hukum Adat Baduy Terhadap Pendidikan Sebagai Elemen Dasar Hak Asasi Manusia," *Rechtsregel: Jurnal Ilmu Hukum* 3, no. 2 (2020): 284–92, <https://doi.org/10.32493/rjih.v3i2.8096>.

its customs without interference, discrimination, or detrimental intervention. Both the central and regional governments are responsible for creating legal policies and regulations that Responsive to the existence of indigenous communities, including protecting their customary territories, land rights, and their belief system in Sang Hyang Karesa. Implementing this responsibility also includes protection from the negative impacts of modernization, such as the commercialization of culture and the exploitation of natural resources, which could threaten the sustainability of the Baduy customary order.²⁹

However, in carrying out this protective role, the state must also adhere to universal human rights values as stipulated in the Universal Declaration of Human Rights (UDHR) and various other international instruments ratified by Indonesia, such as the International Covenant on Civil and Political Rights (ICCPR). Protection of indigenous communities should not be used as a justification for violations of basic human rights such as the rights to education, health, and freedom of expression. The state is required to adopt a balanced and contextual approach, respecting customary uniqueness while ensuring that every Baduy citizen retains access to basic rights if they choose to exercise them.³⁰

In practice, the state needs to develop policies based on dialogue and participation, rather than a paternalistic approach. This means that the Baduy community must be actively involved in every decision-making process that concerns their fate and identity. This participatory approach aligns with the spirit of human rights, which places humans as legal subjects with the right to make their own choices. For example, the provision of educational facilities or healthcare services for the Baduy community should be inclusive and adaptive to traditional values, rather than imposing modern standards that could erode their cultural identity.

Furthermore, the state also plays a role in maintaining a balance between legal certainty and cultural justice. Legal certainty is necessary to ensure the protection of indigenous peoples has a strong foundation in the national legal system, while cultural justice demands respect for the diversity of customary value systems and norms. These two aspects must go hand in hand so that legal protection for the Baduy community is not discriminatory or merely symbolic, but truly ensures their continued existence with dignity.

Therefore, the state's role and responsibility towards the Baduy community is to realize legal protection that is just, inclusive, and human rights-oriented, where state law and customary law can dialogue harmoniously. The state must act as a facilitator, bridging universal human rights values with the cultural realities of indigenous peoples, not as a force that negates one or the other. This approach will strengthen the principle of legal pluralism and make Indonesia a country that truly respects diversity and upholds human dignity.

D. The Concept of Contextual and Multicultural Legal Recognition

The concept of contextual and multicultural legal recognition can be implemented practically through policies that accommodate the social, cultural, and value system characteristics of indigenous peoples without compromising the protection of citizens' constitutional rights. The central and regional governments can make this happen by establishing local regulations on the protection and empowerment of indigenous peoples,

²⁹ Andina Rahma Kayla et al., "Eksistensi Hukum Adat Dalam Masyarakat Baduy: Antara Tradisi Dan Modernisasi," *Journal of Public Administration* 1, no. 1 (2025): 1-10.

³⁰ Rostiyana, Rodiati, and Septiani, "Perlindungan Hukum Terhadap Perkembangan Wisata Baduy."

strengthening the recognition of indigenous territories, and establishing a consultation mechanism that involves indigenous institutions in the process of formulating policies that impact their communities. In addition, the government can develop public services that are adaptive to the needs of indigenous peoples, such as education based on local wisdom, population administration services that accommodate believers, and development models that take into account local customary principles. For example, the implementation of the Constitutional Court Decision Number 97/PUU-XIV/2016 which allows the inclusion of religious schools in population documents is a form of legal recognition that respects the cultural identity and beliefs of indigenous peoples. Similarly, the preparation of regional regulations on the recognition and protection of customary law communities can be a concrete instrument to ensure the sustainability of Baduy customary law while ensuring that the basic rights of their communities are protected within the framework of a pluralistic and multicultural state of law.³¹

In the case of the Baduy people, contextual and multicultural legal recognition means understanding their customary law not as a deviation from national law, but as an autonomous and legitimate legal entity, born from historical experience, spiritual beliefs, and unique social structures. Baduy customary law embodies universal values such as honesty, justice, responsibility, and respect for life and nature—values that align with human rights principles. Therefore, the integration of customary law into the national legal system must be carried out dialogically, not through an assimilative approach that erases customary identity, but rather by reconciling local and universal values within an equal legal framework.³² Contextual recognition also requires an understanding of legal pluralism, where state law is not positioned as the sole source of legitimacy, but rather as part of the legal mosaic that exists within society. By acknowledging this plurality, the state can create legal synchronization mechanisms that respect customary norms while ensuring the protection of basic human rights. For example, when a customary rule is deemed to restrict individual freedom, the state can mediate by strengthening human rights awareness without undermining the long-established social order.

Furthermore, the concept of multicultural recognition emphasizes that justice need not be uniform but based on cultural context and social experience. In indigenous communities like the Baduy, adherence to custom is not a form of oppression, but rather an expression of cultural freedom. Therefore, the national legal system needs to provide space for indigenous communities to govern themselves as long as it does not conflict with basic human rights principles, such as the right to life, freedom from torture, and access to justice. The state, through its legislative and executive branches, needs to develop legal instruments that bridge customary norms with universal norms, for example by strengthening the position of customary law in sectoral laws and recognizing customary institutions as legitimate legal subjects. This multicultural approach allows customary law to become an integral part of the national legal system without losing its identity or conflicting with universal humanitarian values.

Thus, the concept of contextual and multicultural legal recognition serves as a compromise between respecting local cultural identities and fulfilling universal human rights standards. This integration reflects the spirit of *Bhinneka Tunggal Ika* (Unity in

³¹ Yusman, "Pidana Adat Baduy Dalam Perspektif Pembaharuan Hukum Pidana Nasional," *Rechtsregel : Jurnal Ilmu Hukum* 4, no. 2 (2021): 178–88, <https://doi.org/10.32493/rjih.v4i2.16149>.

³² Sopian et al., "Sistem Pemerintahan Masyarakat Hukum Adat Baduy Banten," *Jurnal Citizenship Virtues* 3, no. 2 (2023): 621–29, <https://doi.org/10.37640/jcv.v3i2.1877>.

Diversity), where diversity is not seen as a legal barrier but as a moral and philosophical force for building humanistic justice, rooted in national culture, and grounded in universal humanitarian principles.³³

CONCLUSION

Based on a juridical-sociological analysis, Baduy customary law, which is based on *pikukuh karuhun*, plays an important role in maintaining the cultural identity, spiritual values, and social order of indigenous communities. It also demonstrates that the concept of rights and freedoms within indigenous communities is not always identical to an individualistic human rights perspective. Although there is potential tension between customary provisions and universal human rights principles, particularly regarding religious freedom, education, and access to modernization, the relationship between the two should not be understood as mutually exclusive contradictions. Instead, recognition of the collective rights of indigenous communities and protection of individual rights can be realized through a dialogical approach that respects the autonomy of indigenous communities while guaranteeing the fulfillment of basic citizen rights. Therefore, harmonization between Baduy customary law, human rights, and religious freedom requires policies that are sensitive to the cultural context, oriented towards indigenous community participation, and able to balance the preservation of traditions with the demands of rights protection in a pluralistic legal state.

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³³ Gatot Efrianto, *HUKUM ADAT Dalam Masyarakat Samin Dan Baduy* (Malang: Literasi Nusantara Abadi Grup, 2024).

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