

Baduy Customary Law Pluralism in the Legal Framework of the Indonesian Constitution: Towards Fair Governance

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Abstract

Introduction: The pluralism of Baduy customary law is a constitutional reality within the Indonesian constitutional system, particularly regarding the recognition of indigenous communities. The existence of Baduy customary law influences local governance, which is based on local wisdom, customary adherence, and social sustainability. However, the harmonization of customary law and state law often faces normative and implementation challenges.

Purposes of the Research: This study aims to analyze the pluralism of Baduy customary law within the framework of Indonesian constitutional law and its implications for just governance. The research focuses on the form of constitutional recognition, the relationship between state authority and customary institutions, and the contribution of Baduy customary law in realizing the principles of justice, legal certainty, and respect for the rights of indigenous peoples contextually, normatively, and empirically within Indonesia's current modern and diverse regional government system.

Methods of the Research: The research method used is qualitative research with a normative juridical and sociolegal approach. Data were obtained through a library study of laws and regulations, court decisions, and scientific literature, supported by empirical data from previous studies. Data analysis was conducted descriptively and analytically to interpret the relationship between Baduy customary law and the principles of constitutional law and the Indonesian constitution, values of justice, pluralism, customary recognition, and the practice of sustainable, adaptive, contextual, democratic, and national local governance.

Results of the Research: The research findings indicate that Baduy customary law holds a strategic position within the national legal system through conditional constitutional recognition. The novelty of this research lies in the assertion that customary legal pluralism does not conflict with constitutional law, but rather enriches the concept of just governance. The integration of Baduy customary values supports the principles of substantive justice, community participation, and respect for collective customary rights. These findings emphasize the need for adaptive constitutional policies based on the values of the Indonesian constitution to ensure harmony between customary law and the state in a sustainable, inclusive, democratic, contextual, national, modern, responsive, just, dignified, balanced, participatory, and constitutionally oriented manner.

Keywords: Legal Pluralism; Baduy Customary Law; Constitutional Law; Constitutional Recognition.

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INTRODUCTION

From the perspective of Indonesian constitutional law, just governance is the implementation of state power based on the principles of the rule of law, equality before the law, respect for human rights, and recognition of social and cultural diversity as mandated in the 1945 Constitution of the Republic of Indonesia, specifically Article 18B paragraph (2) and Article 28I paragraph (3). In this context, customary legal pluralism is an important instrument for realizing substantive justice because it provides space for customary law

communities, including the Baduy community, to maintain their customary legal systems, values, and institutions as long as they are in line with constitutional principles. Recognition of customary law not only reflects the protection of cultural identity, but also strengthens community participation, the legitimacy of public policy, dispute resolution oriented towards restoring social relations, and sustainable resource management. Thus, just governance is not only measured by the uniformity of the application of national law, but also by the state's ability to accommodate legal pluralism constitutionally so as to create a balance between legal certainty, benefit, and justice for all citizens. The Baduy indigenous community was chosen as a case study because it has a customary legal system that is still implemented consistently and autonomously, thus becoming a relevant example to test the harmony between customary law and the principles of the Indonesian constitution in realizing just governance. Indonesia is a nation built on a foundation of diversity, encompassing ethnicity, culture, religion, and the value systems that exist within its society. This diversity is reflected not only in social and cultural aspects but also in the prevailing legal system. In addition to state law derived from statutory regulations, customary law also exists, growing and developing dynamically within the lives of indigenous communities¹. This condition confirms the pluralistic nature of the Indonesian legal system, where state law and customary law coexist and interact in regulating social, national, and state life. Legal pluralism is a reality inseparable from the history and character of the Indonesian nation. Before the formation of the modern state, the people of the archipelago recognized and practiced customary law as a guideline for regulating social relations, local governance, and conflict resolution. To this day, customary law continues to play a vital role, particularly for indigenous communities that maintain customary-based value systems, institutional structures, and governance. Therefore, recognition of legal pluralism is an integral part of developing a just national legal system rooted in the social realities of society².

The 1945 Constitution of the Republic of Indonesia explicitly recognizes the existence of customary law communities and their traditional rights as stipulated in Article 18B paragraph (2). This provision affirms that the state respects and recognizes customary law community units as long as they are still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia. This constitutional recognition serves as a legal basis for the existence of customary law in the national legal system, while also opening up space for harmonization between customary law and state law within the framework of constitutional law³. One customary law community that to this day still consistently implements its customary law is the Baduy indigenous community who live in the Lebak Regency area, Banten Province. The Baduy community is known to have a strong customary law system, regulating almost all aspects of life, from customary governance, natural resource management, social relations, to dispute resolution mechanisms. Baduy customary law not only functions as a social norm, but also as a value system that maintains the balance between humans, nature, and the spiritual powers they believe in⁴.

¹ Putri Pertiwi et al., "Implementasi Hukum Adat Dalam Penyelesaian Sengketa Lingkungan: Studi Etnografis Di Kawasan Hutan Adat" 2, no. 4 (2024), <https://doi.org/10.51903/perkara.v2i4.2231>.

² Ntebo Lauretta Morudu, 'Cherishing Customary Law : The Disparity Between Legislative And Judicial Interpretation Of Customary Marriages In South Africa', 400-417.

³ Garciano Nirahua and Ronny Soplantila, "The Rights of Indigenous Law Communities in Forest Management in the West Seram Regency: A Perspective of National and Customary Law" 9, no. 1 (2025): 1-15.

⁴ Wandu Subroto "Pluralisme Hukum sebagai Model Pembangunan Hukum yang Berkeadilan." *Akselerasi: Jurnal Ilmiah Nasional* 4, no. 1 (2022): 8-15.

The uniqueness of the Baduy indigenous community lies in its ability to consistently maintain its customary legal system amidst the tide of modernization and state legal intervention. The Baduy, particularly the Inner Baduy, adhere to strict customary principles, such as a prohibition on the use of modern technology, restrictions on interaction with the outside world, and absolute obedience towards traditional leaders. This situation presents a unique dynamic in the relationship between Baduy customary law and state law, particularly in the context of governance and public services⁵.

Within the framework of constitutional law, the existence of Baduy customary law raises fundamental questions regarding the limits of state authority in regulating indigenous communities, the extent to which the state can intervene, and how the principles of justice and equality for citizens can be realized without ignoring the specificity of customary law. On the one hand, the state is obliged to guarantee the protection of human rights and equality before the law. On the other hand, the state must also respect local wisdom and customary autonomy as part of the nation's constitutional identity. Equitable governance is a central issue in the context of Baduy customary law pluralism. Equitable governance is not only defined as the formal and uniform application of the law, but also as the state's ability to accommodate the diversity of legal systems existing within the community. Substantive justice demands proportional and contextual treatment of indigenous communities, including in policymaking, public services, and the management of customary territories⁶.

However, in practice, the relationship between Baduy customary law and state law is not always harmonious. Various issues have emerged, such as overlapping authority between customary institutions and local governments, limited access for indigenous communities to state administrative services, and potential conflicts between customary law and statutory regulations. This situation highlights the challenges in realizing equitable governance within a pluralistic state based on the rule of law. Furthermore, centralistic and positivistic legal approaches are often insensitive to the social realities of indigenous communities. The uniform application of state law has the potential to disregard customary values that have been proven to maintain social order and harmony within the Baduy community. Therefore, a more inclusive and responsive approach to constitutional law is needed, so that customary law is not viewed as an obstacle but rather as a source of value in the development of national law⁷.

Studying the pluralism of Baduy customary law within the framework of constitutional law is crucial for providing a comprehensive understanding of the position of customary law within the Indonesian constitutional system. This research seeks not only to examine the normative aspects of customary law recognition but also to analyze its implications for the practice of equitable governance⁸. Thus, this research is expected to bridge the gap between constitutional norms and the empirical reality of managing indigenous communities. Furthermore, this research also has academic and practical significance. Academically, this research contributes to the development of constitutional law studies,

⁵ Alfian Budianto et al., "Restorative Justice : Positivization of Customary Law in Resolving Land Disputes Based on Local Wisdom of Papuan Citizens" *Journal of Law Policy & Globalization* 127 (2022): 1-10, <https://doi.org/10.7176/JLPG/127-01>.

⁶ Arsyad Aldyan et al., "Legal Pluralism In Environmental Management: Evidence From Bali, Indonesia." *Journal of Law, Environmental and Justice* 3, no. 2 (2025): 229-267.

⁷ Tahal Thami, "Customary Governance and State Legal System in Nepal." *Tri-Chandra Journal of Anthropology* 1, no. 1 (2024): 131-157.

⁸ Carola Lingaas, "Indigenous Customary Law and Norwegian Domestic Law : Scenes of a (Complementary or Mutually Exclusive) Marriage ?," 2022.

particularly regarding legal pluralism and the recognition of indigenous communities. Practically, the research findings are expected to serve as a reference for policymakers in formulating more just, adaptive, and constitutional policies for the Baduy indigenous community. Thus, equitable governance will not only be a normative concept but can be realized in a concrete way in national life that respects diversity and social justice⁹. This research is expected to provide not only academic and practical benefits in developing policies that favor indigenous legal communities, but also provide scientific contributions to enriching the study of constitutional law and customary law in Indonesia through the development of the concept of adaptive constitutional policy as a model of harmonization between state law and customary law. Furthermore, this research broadens the perspective on the implementation of legal pluralism within the constitutional framework by demonstrating that recognition of the Baduy customary legal system can serve as a normative and empirical basis for realizing just, inclusive governance while still ensuring legal certainty in the Indonesian constitutional state.

LITERATURE REVIEW

Various previous studies have emphasized that legal pluralism is an inherent characteristic of the Indonesian legal system, where customary law, religious law, and state law coexist in the same social space. The idea of legal pluralism is heavily influenced by the views of Van Vollenhoven and Soepomo, who emphasized the existence of customary law as living law in society. Recent research in the field of constitutional law indicates that constitutional recognition of customary law communities, as stipulated in Article 18B paragraph (2) of the 1945 Constitution, provides legal legitimacy for the validity of customary law within the national legal system. However, some literature also criticizes that this recognition is conditional and often creates legal uncertainty in regional governance practices¹⁰. A specific study of the Baduy indigenous community demonstrates that the Baduy customary legal system plays a central role in regulating customary governance, territorial management, and social relations within the community. Numerous socio-legal studies confirm that Baduy customary law contributes to creating social order and substantive justice based on local wisdom. However, previous research has tended to focus on anthropological and sociological aspects, while analysis from a constitutional law perspective remains limited. Therefore, this study is strategically positioned to fill this gap by linking Baduy customary legal pluralism with constitutional principles and equitable governance within the framework of Indonesia's rule of law¹¹.

METHODS OF THE RESEARCH

This study uses a socio-legal approach by integrating normative analysis of constitutional provisions, laws and regulations, and legal doctrine with empirical data obtained from various previous studies on the Baduy indigenous community. The empirical data is not used as an object of statistical testing, but rather as supporting evidence to explain how customary law values are implemented in daily life, including in decision-making

⁹ Razin Ardi Shidiq and M Sofyan Pulungan, "Alternative Dispute Resolution for Customary Land Through Customary Courts" 4, no. 1 (2025): 152-62.

¹⁰ Hidayati Murni et al., "Politik Hukum Agraria Untuk Hak Atas Tanah Ulayat Bagi Pemenuhan HAM Dan Kepentingan Publik" 5, no. 1 (2023): 513-18, <https://doi.org/10.37680/almanhaj.v5i1.2154>.

¹¹ Nasir Katong, Sintya Paula Junaedy, and Debby Ch Sendow, "Indigenous Peoples and Customary Law in Lolayan District, Bolaang Mongondow Regency in a Modern State" 1, no. 04 (2023): 226-34.

mechanisms, dispute resolution, environmental conservation, and customary institutional governance. Furthermore, empirical data is used to identify various challenges in implementing the recognition of indigenous legal communities at the policy level, such as potential conflicts between state law and customary law, regulatory limitations, and the dynamics of relations between the government and indigenous communities. Thus, the socio-legal approach in this study allows for a more contextual normative analysis because it is supported by empirical facts regarding the practice of Baduy customary law in the community's social life. This study uses a qualitative approach with a normative juridical research type combined with a socio-legal approach. The normative juridical approach is used to analyze legal regulations related to the recognition of indigenous legal communities from the perspective of constitutional law, specifically the provisions of the 1945 Constitution of the Republic of Indonesia, related laws and regulations, and relevant Constitutional Court decisions. Meanwhile, the socio-legal approach is utilized to understand the practice of the application of Baduy customary law in the context of governance and its relationship with state law. The research data sources consist of primary, secondary, and tertiary legal materials. Primary legal materials include laws and official state documents, while secondary legal materials include textbooks, scientific journals, and previous research results relevant to legal pluralism and the Baduy indigenous community. Data collection techniques are carried out through library research, then analyzed qualitatively using descriptive-analytical methods and systematic legal reasoning. This analysis aims to examine the compatibility between constitutional principles, customary legal pluralism, and equitable governance within the framework of the Indonesian rule of law¹².

RESULTS AND DISCUSSION

The concept of “just governance” that developed in the context of the Baduy indigenous community can be used as a model for the recognition and application of customary law in various indigenous communities in Indonesia because it places the constitution as the main foundation while providing space for the diversity of local legal systems that are still alive and recognized by the community. This model emphasizes that justice is not always realized through the uniformity of law, but rather through the recognition of local values that are in line with the principles of the rule of law, human rights, and national unity. Therefore, the approach applied to the Baduy community can be replicated in other indigenous communities by adapting to their respective social, cultural, and institutional characteristics, through strengthening regulations for the recognition of indigenous legal communities, involving customary institutions in the policy-making process, implementing dispute resolution mechanisms based on local wisdom, and protecting customary rights and cultural identity. With this approach, the concept of just governance is not only a solution for the Baduy community, but also a constitutional framework that can strengthen inclusive, participatory, and equitable governance for all indigenous legal communities in Indonesia. Baduy customary governance has advantages in the form of high community compliance with customary norms, dispute resolution through deliberation, strengthening social cohesion, and sustainability-oriented natural resource management, while the formal regional government system excels in legal certainty, administrative accountability, and a

¹² Musrifah, and Hanni Naylatus Syarifah. "Legal Authority Crisis in Indigenous Forest Management: The Relationship between Dayak Customary Law and State Law in Kalimantan." *Hakim: Jurnal Ilmu Hukum dan Sosial* 3, no. 2 (2025): 1221-1234.

wider reach of public services, although it often faces bureaucratic obstacles and is less adaptive to the characteristics of indigenous communities. Several principles of Baduy governance, such as deliberation-based decision-making, environmental conservation, and community participation, have the potential to be adopted in formal governance. In addition, the concept of restorative justice in the Baduy community has similarities with *restorative justice* in Indonesian positive law because both prioritize the restoration of social relations, conflict resolution through dialogue, and the creation of harmony rather than a repressive approach. The difference is that Baduy restorative justice is rooted in customary values and the authority of customary leaders, while *restorative justice* in positive law is implemented within the framework of legislation and oversight by law enforcement officials. Both have the potential for synergy through the recognition of customary dispute resolution mechanisms as part of the national legal system. To realize adaptive constitutional policies, the central government can strengthen regulations regarding the recognition and protection of indigenous legal communities and integrate customary law into national development planning, while regional governments can draft regional regulations that accommodate Baduy customary institutions, involve customary leaders in the policy formulation process, develop customary-based dispute resolution mechanisms that are in line with national law, and ensure that development programs respect the territory, culture, and local values of the Baduy community.

The Position of Baduy Customary Law in the National Legal System The results of the study indicate that Baduy customary law has a strong position as part of the Indonesian national legal system, even though it is not formally codified in legislation. The existence of Baduy customary law is constitutionally recognized through Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which affirms the state's recognition and respect for the unity of customary law communities and their traditional rights. In this context, Baduy customary law can be understood as a living law that is alive and consistently adhered to by its people¹³. Constitutional recognition of Baduy customary law is conditional, as long as the customary law remains alive, in line with societal developments, and does not conflict with the principles of the Unitary State of the Republic of Indonesia. The study shows that the Baduy people meet these criteria, as they still maintain their customary institutional structures, social norms, and customary governance systems that effectively regulate community life. This confirms that Baduy customary law is not merely a cultural legacy, but rather a legal system that functions effectively in social life. In state practice, recognition of Baduy customary law is also reflected in regional government policies that provide space for customary autonomy in managing the territory and social life of the Baduy community. The state does not fully intervene in the Baduy customary governance system, particularly the Inner Baduy, as a form of respect for highly respected customary values. These findings demonstrate that legal pluralism in Indonesia is not merely a normative concept but has been implemented in governance practices¹⁴.

The Relationship between Baduy Customary Law and Constitutional Law The following discussion highlights the relationship between Baduy customary law and constitutional law. The research findings indicate that this relationship is dynamic and dialogical, although not free from potential tensions. Constitutional law, as the state's public law, regulates the relationship between power, government, and citizens, while Baduy

¹³ Musrifah, and Syarifah.

¹⁴ Warjiyati, Sri, et al. "The Legalization and Application of Using Indigenous People's Customary Law Model in the Legal System." *Lex Localis: Journal of Local Self-Government* 21, no. 4 (2023).

customary law regulates the lives of indigenous communities based on local wisdom¹⁵. Both legal systems share the same goal of creating order and justice, albeit through different approaches. From a constitutional law perspective, the Baduy indigenous people are viewed as collective legal subjects possessing constitutional rights. The state is obligated to protect these rights without diminishing their customary identity and autonomy. However, the research findings indicate that there are certain limits to the application of customary law, particularly when it intersects with national interests, human rights, and democratic principles. These boundaries serve as both a meeting point and a point of friction between customary law and state law¹⁶. The research findings indicate that the Baduy people are relatively capable of maintaining a balance between adherence to customary law and respect for state law. In matters of population administration, general elections, and relations with local governments, the Baduy people adapt to the provisions of state law without sacrificing fundamental customary principles. This demonstrates that legal pluralism can function harmoniously if the state adopts a persuasive and contextual approach¹⁷.

Baduy Customary Governance: Research reveals that Baduy customary governance is based on a clear and effectively functioning customary institutional structure. Customary leadership rests with the puun (traditional leaders) and other customary officials, who possess cultural and spiritual legitimacy¹⁸. This leadership system is hierarchical but based on trust and moral obedience, not coercion. Customary decisions are made through deliberation and consideration of customary values that have been passed down through generations. In the context of just governance, the Baduy customary governance system emphasizes the principles of balance, simplicity, and harmony. Customary law governs not only relationships between individuals but also the relationship between humans and nature¹⁹. Natural resource management is carried out sustainably, prohibiting overexploitation. These findings indicate that Baduy customary law embodies values of ecological justice relevant to the challenges of modern development. Compared with the formal state system of governance, Baduy customary governance has advantages in terms of social legitimacy and community compliance. The level of law violations is relatively low because customary norms are adhered to internally and based on collective awareness. This is an important lesson for the state in building just governance oriented toward local values²⁰.

Justice from the Perspective of Baduy Customary Law. The discussion of justice in Baduy customary law shows that the concept of justice is not always interpreted in legal-formal terms, but rather substantive and contextual. Justice in Baduy society emphasizes restoring social balance rather than imposing repressive sanctions. Dispute resolution is carried out

¹⁵ Winardi. "Eksistensi Dan Kedudukan Hukum Adat Dalam Pergumulan Politik Hukum Nasional." *Widya Yuridika* 3, no. 1 (2020): 95-106.

¹⁶ Usman Marham, La Ode Husen, and Askari Razak, "The Constitutionality of Customary Courts in Dispute Resolution for Indigenous Communities in Tana Toraja Regency" 26, no. 1 (2023): 48-63.

¹⁷ Disantara, Fradhana Putra. "Konsep Pluralisme Hukum Khas Indonesia Sebagai Strategi Menghadapi Era Modernisasi Hukum." *Al-Adalah: Jurnal Hukum Dan Politik Islam* 6, no. 1 (2021): 1-36.

¹⁸ Talita Syamantha and Dedi Hermawan Syahputra, "The Subject of Customary Law and the Relevance of Customary Law in the Indonesian Legal System" 12, no. 4 (2025): 298-301.

¹⁹ Murambiwa, Anopa Tamuka. "Of Legal Pluralism and Secular Constitutional Centralism: Assessing the Development and Interpretation of Living Law through the Lens of the Constitution," *African Student Law Journal*, 1 (2025), <https://doi.org/10.14426/aslj.v1i1.3005>.

²⁰ Maghfiroh, Putri Azzahra. "Peraturan Hukum Adat Baduy dan Hierarki Menurut Undang Undang yang Berlaku". *Jurnal Panorama Hukum* 6, no. 1 (2021): 32-39. <https://doi.org/10.21067/jph.v6i1.5157>.

through customary mechanisms that prioritize deliberation, reconciliation, and the restoration of social relations. Research shows that a restorative justice approach has long been practiced in Baduy customary law, long before the concept was introduced into the modern legal system²¹. Violations of customary law are not merely viewed as individual wrongdoing, but as a disruption to the balance of the community. Therefore, customary sanctions are educational and aim to restore social harmony. This concept of justice aligns with the principle of substantive justice, which is the goal of modern constitutional law. The rule of law does not solely pursue legal certainty, but also justice and expediency²². Thus, the values of justice in Baduy customary law can be seen as an important contribution to the development of a more inclusive concept of constitutional justice oriented toward local values²³.

Legal Pluralism and Implementation Challenges: Although the constitution recognizes the existence of indigenous legal communities, its implementation still faces various challenges, such as the lack of uniform technical regulations, overlapping authority between agencies, limited coordination between the government and customary institutions, and the suboptimal involvement of indigenous communities in the policy formulation process. To overcome these problems, more concrete steps are needed, including the formation of a cross-sectoral team involving relevant ministries, local governments, academics, and representatives of indigenous communities to develop integrated policies; the development of specific regional regulations regarding the recognition, protection, and empowerment of indigenous legal communities according to regional characteristics; the development of technical guidelines by relevant ministries as a reference for local governments in implementing customary legal recognition consistently; strengthening public consultation mechanisms and free, prior, and informed consent (FPIC) in every policy that impacts customary territories; and increasing the capacity of government officials through education and training on legal pluralism and the rights of indigenous communities. In addition, a monitoring and evaluation system that involves customary institutions in a participatory manner is needed so that policy implementation can be effective, accountable, and remain in line with the principles of the Indonesian constitution. Although legal pluralism is constitutionally recognized, research findings indicate that its implementation still faces various challenges. One major challenge is the differing paradigms between positivistic state law and communal, unwritten customary law. This difference often creates a gap in understanding among government officials and law enforcement. Furthermore, limited technical regulations regarding the recognition and protection of indigenous communities cause the implementation of legal pluralism to be uneven across regions. In the context of the Baduy community, customary law protection is highly dependent on local government policies and officials' sensitivity to customary values. This situation has the potential to create legal uncertainty if not balanced with consistent and sustainable policies. Research findings demonstrate the need to strengthen regulations and policies that explicitly accommodate customary legal pluralism within the framework of constitutional law. The

²¹ Ismail Maswatu et al., "Legal Protection of Indigenous Land Rights : A Study of Customary Law Integration in National Legal" *RIGGS: Journal of Artificial Intelligence and Digital Business* 4, no. 3 (2025): 1789-1794.

²² Khamar Jahan Shaik et al., "Law , Culture , And Social Norms : Understanding Customary Practices in Conflict with Constitutional Rights" *Journal of Information Systems Engineering and Management* 10, no. 3 (2025): 1791-1802.

²³ Irgi Setiawan et al., "Juridical Study of Customary Law In The Indonesian National Legal System" *Asian Journal of Social and Humanities* 2 (2024): 1824-1831.

state needs to develop a legal pluralism governance approach that integrates customary law into the government system without eliminating its characteristics²⁴.

Implications for Just Governance The research findings confirm that Baduy customary law pluralism has positive implications for just governance. Recognition and respect for customary law encourages the creation of a government that is more inclusive, participatory, and responsive to the needs of indigenous communities. Just governance is no longer understood as the uniform application of law, but rather as the state's ability to accommodate diverse legal systems. The integration of Baduy customary law values into governance can strengthen the legitimacy of public policy and increase public trust in the state. When indigenous communities feel respected and involved, compliance with state law will also increase. This demonstrates that justice and government effectiveness can go hand in hand through a pluralistic approach. Thus, Baduy customary law pluralism is not a threat to the rule of law, but rather a strategic potential in building just governance based on constitutional principles. The state needs to view customary law as a partner in legal and government development, not as a system that must be standardized or abolished. Renewal of the Concept of Constitutional Law²⁵. The final discussion confirms that the existence of Baduy customary law encourages renewal in the concept of Indonesian constitutional law. Constitutional law can no longer be understood narrowly as law that only regulates the structure of state power, but must also be able to accommodate the diversity of legal systems existing in society. This concept aligns with the spirit of Indonesian constitutionalism, which upholds social justice and diversity. The research results show that a pluralistic approach to constitutional law can create a balance between legal certainty and substantive justice. By recognizing and respecting Baduy customary law, the state demonstrates its commitment to the principles of constitutional justice and inclusive democracy. Therefore, strengthening customary legal pluralism needs to be positioned as an integral part of legal and governance reform in Indonesia²⁶.

Constitutional Court Decision Number 35/PUU-X/2012 marked a significant milestone in strengthening constitutional recognition of indigenous communities in Indonesia. In this decision, the Court emphasized that customary forests are no longer part of state forests but rather fall within the territory of indigenous communities as long as their existence is recognized²⁷. This decision strengthens the interpretation of Article 18B paragraph (2) of the 1945 Constitution by placing indigenous legal communities as legal subjects who have constitutional rights over their territories and governance. In the context of the Baduy indigenous community, this decision provides strong legal legitimacy to the practice of managing customary territories and natural resources based on customary law as part of just and sustainable governance. In addition to Constitutional Court Decision 35/PUU-X/2012, the Constitutional Court also, through a number of other decisions, such as Constitutional Court Decision Number 31/PUU-V/2007 and Constitutional Court Decision Number 95/PUU-XII/2014, emphasized the importance of respecting the rights of indigenous communities within the framework of a state based on the rule of law and

²⁴ Rudy, Ryzal Perdana, and Rudi Wijaya, "The Recognition of Customary Rights By Indonesian Constitutional Court." *Academic Journal of Interdisciplinary Studies* 10, no. 3 (2021): 308-318.

²⁵ Mulyadi, Edi, and Eki Furqon. "Sistem Pemerintahan Masyarakat Hukum Adat Baduy Dalam Kerangka Sistem Otonomi Daerah." *Ajudikasi: Jurnal Ilmu Hukum* 5, no. 2 (2021): 165-178.

²⁶ Asnawi Mubarak et al., "The Relationship Of State Law And Customary Law : Reinforcement And Protection Of Customary Law In Constitutional Court Judgment" *Jurnal Jurisprudence*, 13, no. 2 (2023): 188-204.

²⁷ M Yudi Satria, Purwadi Wahyu Anggoro, and Joko Setiono, "National law and Minangkabau Customary Law Disparity in Ulayat Land Disputes in the Bidar Alam Area, West Sumatra" *Jurnal Greenation Sosial Dan Politik* 3, no. 3 (2025): 423-432.

constitutional democracy²⁸. These decisions emphasize that the recognition of indigenous legal communities is not merely symbolic, but must be accompanied by state policies that guarantee the protection, empowerment, and participation of indigenous communities in governance²⁹. Thus, the relationship between Baduy customary law and constitutional law has gained an increasingly strong constitutional basis, while also confirming that legal pluralism is an important instrument in realizing substantive justice and inclusive governance in accordance with Indonesian constitutional principles³⁰.

CONCLUSION

The pluralism of Baduy customary law has a position that is in harmony with the framework of the Indonesian constitution as long as its recognition and implementation remain within the principles of the Unitary State of the Republic of Indonesia, respect for human rights, and the provisions of laws and regulations. Baduy customary law not only functions as a mechanism for regulating social life and environmental conservation, but also reflects the values of justice, deliberation, and restorative peace settlement in line with the spirit of the constitution. Therefore, harmonization between customary law and state law can be realized through adaptive constitutional policies, namely policies that recognize the diversity of legal systems, strengthen the protection of customary law communities, and integrate customary institutions in proportionate governance. Therefore, the pluralism of Baduy customary law is not an obstacle to the national legal system, but rather a constitutional asset that supports the realization of fair, inclusive, sustainable governance, and based on the principle of substantive justice.

REFERENCES

- Africa, South. "Of Legal Pluralism and Secular Constitutional Centralism : Assessing the Development and Interpretation of Living Law through the Lens of the Constitution," n.d., 1-20. <https://doi.org/10.14426/aslj.v1i1.3005>.
- Aldyan, Arsyad, Rizal Akbar Aldyan, Kartika Asmanda Putri, and Abdelrahman Alasttal. "Legal Pluralism In Environmental Management: Evidence From Bali, Indonesia." *Journal of Law, Environmental and Justice* 3, no. 2 (2025): 229-267.
- Budianto, Alfian, Dominikus Rato, Bayu Dwi Anggono, and Fendi Setyawan. "Restorative Justice : Positivization of Customary Law in Resolving Land Disputes Based on Local Wisdom of Papuan Citizens" *Journal of Law Policy & Globalization* 127 (2022): 1-10, <https://doi.org/10.7176/JLPG/127-01>.
- Disantara, Fradhana Putra. "Konsep Pluralisme Hukum Khas Indonesia Sebagai Strategi Menghadapi Era Modernisasi Hukum." *Al-Adalah: Jurnal Hukum Dan Politik Islam* 6, no. 1 (2021): 1-36.
- Dwi Lestari, Sabrina, and Abel Yap, Abel Yap Shun Kit "The Relationship of Customary Law to Society in a Bipolar Indonesia" *Indonesian Journal of Administrative Law and Local*

²⁸ Dwi Lestari, Sabrina, and Abel Yap, Abel Yap Shun Kit "The Relationship of Customary Law to Society in a Bipolar Indonesia" *Indonesian Journal of Administrative Law and Local Government* 1, no. 4 (2024): 1-11.

²⁹ Jaenong, Dhita Puthi, Liliana Nur Ahimi, and Zubaedillah. "Customary Law and Natural Resource Governance: Strengthening Indigenous Rights in Environmental Management." *Hakim: Jurnal Ilmu Hukum Dan Sosial* 3, no. 2 (2025): 1164-1178.

³⁰ Sodikin, and Abdul Kahar Maranjaya. "Preserving tradition: the adat law system of the baduy community and its constitutional relevance." *Kanun Jurnal Ilmu Hukum* 27, no. 1 (2025): 45-66. <https://doi.org/10.24815/kanun.v27i1.32056>.

Government 1, no. 4 (2024): 1–11.

Jaenong, Dhita Puthi, Liliana Nur Ahimi, and Zubaedillah. "Customary Law and Natural Resource Governance: Strengthening Indigenous Rights In Environmental Management." *Hakim: Jurnal Ilmu Hukum Dan Sosial* 3, no. 2 (2025): 1164-1178.

Jakarta, Universitas Muhammadiyah. "Preserving Tradition: The Adat Law System Of The Baduy Community And Its Constitutional Relevance Sodikin 1 , Abdul Kahar Maranjaya 2 1, 2" 27, no. 1 (2025): 45–66.

Katong, Nasir, Sintya Paula Junaedy, and Debby Ch Sendow. "Indigenous Peoples and Customary Law in Lolayan District , Bolaang Mongondow Regency in a Modern State" 1, no. 04 (2023): 226–34.

Lingaas, Carola. "Indigenous Customary Law and Norwegian Domestic Law : Scenes of a (Complementary or Mutually Exclusive) Marriage ?," 2022.

Maghfiroh, Putri Azzahra. "Peraturan Hukum Adat Baduy dan Hierarki Menurut Undang Undang yang Berlaku". *Jurnal Panorama Hukum* 6, no.1 (2021): 32–39. <https://doi.org/10.21067/jph.v6i1.5157>.

Marham, Usman, La Ode Husen, and Askari Razak. "The Constitutionality of Customary Courts in Dispute Resolution for Indigenous Communities in Tana Toraja Regency" 26, no. 1 (2023): 48–63.

Maswatu, Ismail, Tomi Apra Santosa, Abdul Ghoni, Mira Nila, Kusuma Dewi, Taqiyuddin Kadir, Andi Hartawati, and Universitas Jayabaya. "Legal Protection of Indigenous Land Rights: A Study of Customary Law Integration in National Legal" *RIGGS: Journal of Artificial Intelligence and Digital Business* 4, no. 3 (2025): 1789–1794.

Mulyadi, Edi, and Eki Furqon. "Sistem Pemerintahan Masyarakat Hukum Adat Baduy Dalam Kerangka Sistem Otonomi Daerah." *Ajudikasi: Jurnal Ilmu Hukum* 5, no. 2 (2021): 165-178.

Musrifah, and Hanni Naylatus Syarifah. "Legal Authority Crisis in Indigenous Forest Management: The Relationship between Dayak Customary Law and State Law in Kalimantan." *Hakim: Jurnal Ilmu Hukum dan Sosial* 3, no. 2 (2025): 1221-1234.

Morudu, Ntebo Lauretta. "Cherishing Customary Law : The Disparity Between Legislative And Judicial Interpretation Of Customary Marriages In South Africa," n.d., 400–417.

Mubarok, Asnawi, Absori, Harun, and Sheela Jayabalan. "The Relationship Of State Law And Customary Law : Reinforcement And Protection of Customary Law In Constitutional Court Judgment" *Jurnal Jurisprudence* 13, no. 2 (2023): 188–204.

Murni, Hidayati, Febby Mutiara Nelson, Universitas Indonesia, and Universitas Indonesia. "Politik Hukum Agraria Untuk Hak Atas Tanah Ulayat Bagi Pemenuhan HAM Dan Kepentingan Publik" 5, no. 1 (2023): 513–18. <https://doi.org/10.37680/almanhaj.v5i1.2154>.

Nirahua, Garciano, and Ronny Soplantila. "The Rights of Indigenous Law Communities in Forest Management in the West Seram Regency: A Perspective of National and Customary Law" 9, no. 1 (2025): 1–15.

Rudy, Ryzal Perdana, and Rudi Wijaya. "The Recognition of Customary Rights By

Indonesian Constitutional Court." *Academic Journal of Interdisciplinary Studies* 10, no. 3 (2021): 308-318.

Pertiwi, Putri, Faridatus Sakdiyah, Feryll Anugrah Rian, and Article Info. "Implementasi Hukum Adat Dalam Penyelesaian Sengketa Lingkungan: Studi Etnografis Di Kawasan Hutan Adat" 2, no. 4 (2024). <https://doi.org/10.51903/perkara.v2i4.2231>.

Satria, M Yudi, Purwadi Wahyu Anggoro, and Joko Setiono. "National law and Minangkabau Customary Law Disparity in Ulayat Land Disputes in the Bidar Alam Area, West Sumatra" *Jurnal Greenation Sosial Dan Politik* 3, no. 3 (2025): 423-432.

Setiawan, Irgi, Ariq Muzaffar Wahyu, Alip Rahman, and Anom Sutrisno. "Juridical Study of Customary Law In The Indonesian National Legal System" *Asian Journal of Social and Humanities* 2 (2024): 1824-1831.

Shaik, Khamar Jahan, Harpreet Kaur, G Vaishnav Kumar, Sayantani Ghosh, and Rupesh Kumar. "Law , Culture , And Social Norms : Understanding Customary Practices in Conflict with Constitutional Rights" *Journal of Information Systems Engineering and Management* 10, no. 3 (2025): 1791-1802.

Shidiq, Razin Ardi, and M Sofyan Pulungan. "Alternative Dispute Resolution for Customary Land Through Customary Courts" 4, no. 1 (2025): 152-62.

Subroto, Wandu, "Pluralisme Hukum sebagai Model Pembangunan Hukum yang Berkeadilan." *Akselerasi: Jurnal Ilmiah Nasional* 4, no. 1 (2022): 8-15.

Syamantha, Talita, and Dedi Hermawan Syahputra. "The Subject of Customary Law and the Relevance of Customary Law in the Indonesian Legal System" 12, no. 4 (2025): 298-301.

Thami, Tahal. "Customary Governance and State Legal System in Nepal." *Tri-Chandra Journal of Anthropology* 1, no. 1 (2024): 131-157.

Warjiyati, Sri, et al. "The Legalization and Application of Osing Indigenous People's Customary Law Model in the Legal System." *Lex Localis: Journal of Local Self-Government* 21, no. 4 (2023).

Winardi. "Eksistensi Dan Kedudukan Hukum Adat Dalam Pergumulan Politik Hukum Nasional." *Widya Yuridika* 3, no. 1 (2020): 95-106.

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