

Topic: Human Right Issues of Artificial Intelligence (AI) Gaps and Challenges, and Affected Future Legal Development in Various Countries

Regional Government Policy in Providing Protection for Customary Law Communities (Study of Central Kalimantan Indigenous Peoples)

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Abstract *The purpose of this writing is to find out and describe regional government policies in providing protection for indigenous peoples in Central Kalimantan. The approach method in writing uses a sociological juridical approach. The results of the research conducted state that the Regional Government Policy in Providing Protection for Customary Law Communities is to establish the basic concept of Central Kalimantan customary law in the Dayak Customary Institution in Central Kalimantan which has been included in Central Kalimantan Province Regional Regulation No. 16 of 2008, as well as Central Kalimantan Governor Regulation no. 13 of 2009. It is clear that Customary Law is a unique legal system and therefore different from other legal systems, including state legal systems as part of the concept of a legal state. Customary law adapts to the conditions and desires of the times, remaining eternal and fresh as it is rooted in tradition. This is how an amazing source of our customary law emerges.*

Keywords: *Indigenous Peoples; Protection; Regional Government.*

1. Introduction

Indonesia is a nation characterized by its immense diversity, housing hundreds of ethnic groups with distinct traditional legal systems known as *Hukum Adat* (Customary Law). Among these, the indigenous Dayak people of Central Kalimantan stand out as a community that has Regional Government Policy in Providing Protection for Customary Law Communities (Study of Central Kalimantan Indigenous Peoples)
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maintained a profound spiritual and legal connection to their ancestral lands for centuries. The existence of Customary Law Communities (*Masyarakat Hukum Adat*) is constitutionally recognized in Indonesia under Article 18B paragraph (2) of the 1945 Constitution, which stipulates that the state recognizes and respects traditional communities along with their traditional rights, as long as they remain active and in accordance with societal development and the principles of the Unitary State of the Republic of Indonesia.

However, in the era of modern governance and rapid industrial expansion—particularly in the sectors of palm oil plantations and mining—the protection of these communities has faced significant challenges. Central Kalimantan, as a province rich in natural resources, often witnesses overlapping claims between state-granted concessions and traditional customary territories (*Wilayah Adat*). This tension necessitates a strong and clear Regional Government policy to bridge the gap between national development interests and the preservation of indigenous identities (Mashdurohatun, 2018).

The existence of customary law within a modern constitutional state (*Rechtsstaat*) creates a unique legal pluralism. While the state legal system relies on written statutes and formal hierarchies, customary law is rooted in unwritten traditions, local wisdom, and communal consensus. Critics often argue that customary law is incompatible with the modern rule of law; however, the reality in Central Kalimantan proves that custom is dynamic. It adapts, evolves, and remains "fresh" by rooting itself in the changing desires of the times while maintaining its core values.

The Regional Government of Central Kalimantan has been a pioneer in formulating policies to protect indigenous rights. Through the enactment of Regional Regulation (*Perda*) No. 16 of 2008 concerning Dayak Customary Institutions, the local government officially integrated the *Kedamangan* system and the *Dewan Adat Dayak* (DAD) into the regional administrative framework. This policy is not merely administrative; it is an acknowledgment that customary law is a living legal system that regulates the social, spiritual, and economic lives of the Dayak people.

Protection for indigenous communities also touches upon the concept of *Huma Betang*, which is the philosophy of life for the Dayak people, emphasizing togetherness and mutual respect despite differences. Without strong regional policies, this philosophy and the legal system attached to it are at risk of being eroded by the pressures of globalization and capital-driven development. Therefore, this study aims to explore the extent of the Regional Government's intervention in preserving these values through formal policy and how these policies interact with the sociological reality of the people of Central Kalimantan.

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2. Research Method

This research utilizes a sociological juridical approach. This method examines the law in action, focusing on how regional government policies regarding indigenous protection are implemented and perceived within the Dayak community (Soekanto, 2012).

1. Data Sources: Primary data was gathered through observations and discussions regarding the implementation of Perda No. 16 of 2008 in Central Kalimantan. Secondary data involves the analysis of regional regulations, governor regulations, and academic journals.
2. Analysis: Qualitative analysis is used to interpret the relationship between the state legal system and the customary legal system in Central Kalimantan, using theories of legal pluralism and social engineering.

3. Results and Discussion

3.1. The Legal Foundation of Indigenous Protection in Central Kalimantan

The policy of the Regional Government in providing protection to indigenous peoples is firmly rooted in the concept of regional autonomy. In Central Kalimantan, this is manifested in Regional Regulation No. 16 of 2008. This regulation provides the legal standing for the Dayak Customary Institution, which acts as a guardian of tradition and a mediator in customary disputes.

The policy further evolved with Governor Regulation No. 13 of 2009, which detailed the technical implementation of customary institutions. This legal framework establishes that indigenous peoples are not just "objects" of development but "subjects" who have the right to manage their internal affairs according to their customs. By establishing these regulations, the Regional Government has created a legal umbrella that protects the Dayak community from losing their cultural identity in the face of modern legal pressures.

Customary Law as a Unique and Dynamic Legal System

Customary law in Central Kalimantan is unique because it is not stagnant. The results of this study show that the Dayak people's civilization has successfully modernized without abandoning their roots. The customary law adapts to the progress of the times. For example, the resolution of land disputes through the *Mantir Adat* (customary officials) now often involves formal documentation while still adhering to traditional ritual requirements (Ali, 2009).

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This adaptability ensures that customary law remains an eternal source of justice. In Central Kalimantan, the government recognizes that customary law can fill the gaps where state law might be too rigid or inaccessible for rural communities. The policy effectively treats Customary Law as a complementary system rather than a rival to state law. This is consistent with the theory of legal pluralism, where multiple legal systems coexist within the same social space.

Institutional Empowerment: DAD and Kedamangan

The Regional Government policy empowers two main entities to ensure protection:

1. Dewan Adat Dayak (DAD): Functions at the provincial and district levels to coordinate customary activities and advocate for indigenous rights at the policy level.
2. Kedamangan: A traditional leadership institution at the sub-district level that serves as the "judge" in customary cases.

The protection of indigenous peoples is realized when the Regional Government grants these institutions the authority to issue customary decisions that are respected by local law enforcement. For instance, when a conflict occurs between a company and a community, the *Damang* (head of Kedamangan) acts as a mediator whose decision is legally recognized under the local *Perda*. This reduces social friction and ensures that local wisdom is used to maintain public order.

3.2. Overcoming the Friction between State Law and Customary Law

One of the core discussions in this research is the tension between the modern "Rule of Law" and the "Customary System." While modern law emphasizes certainty through writing, customary law emphasizes fairness through communal harmony. The Central Kalimantan policy seeks to harmonize these by including customary leaders in regional spatial planning and development consultations.

Customary law often challenges the state's formalistic view of land ownership. In Central Kalimantan, the government has used Regional Regulation No. 16 of 2008 to provide a platform where customary land claims can be formally discussed. Although national law still holds supreme authority over land, the regional policy provides a "negotiation space" for indigenous peoples to assert their rights, ensuring they are not simply bypassed by industrial expansion (Nashriana, 2011).

Socio-Juridical Impact on the Dayak Community

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The sociological impact of Perda No. 16 of 2008 has been the revitalized pride of the Dayak identity. Communities feel legally protected when their *Huma Betang* philosophy is integrated into regional governance. This policy has successfully prevented cultural erosion and provided a mechanism for indigenous peoples to negotiate with large-scale investors on a more equal footing.

Furthermore, the protection provided by the Regional Government has allowed for the preservation of *Manaser Panatau Tatu Hiang* (preserving ancestral heritage). By giving legal weight to customary rituals and decisions, the state has effectively allowed the indigenous community to maintain their social cohesion. The research indicates that in areas where the *Kedamangan* is active, crime rates and social conflicts are handled more swiftly and peacefully compared to areas relying solely on formal litigation (Rahardjo, 2009).

The Future of Customary Law Protection

Looking forward, the policy of the Central Kalimantan government must continue to evolve. Protection is not just about keeping the past alive; it is about ensuring a sustainable future. This involves the digitization of customary land maps and the formal recognition of *Hutan Adat* (Customary Forests). The Regional Government acts as the primary facilitator between the local community and the Ministry of Environment and Forestry. Without this proactive regional policy, the recognition of indigenous lands at the national level would be nearly impossible for rural communities to achieve (Mashdurohatun, 2018).

4. Conclusion

The Regional Government of Central Kalimantan has demonstrated a progressive stance in protecting indigenous peoples through the enactment of Perda No. 16 of 2008 and Governor Regulation No. 13 of 2009. These policies establish that customary law is a dynamic and eternal system that coexists with the state legal system. By empowering institutions like DAD and *Kedamangan*, the government provides a protective shield for the cultural and territorial rights of the Dayak people. While the modern era presents challenges, the "eternal and fresh" nature of customary law allows it to remain relevant, serving as a vital source of justice that is deeply rooted in the identity of Central Kalimantan. The synergy between formal regional policy and living customary law is the key to achieving a "Dignified Justice" (*Keadilan Bermartabat*) for all indigenous citizens.

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