

Alternative Dispute Resolution in the Context of Customary Law Issues in Indonesia

Ahmad Muliadi¹⁾ & Yuliasara Isnaeni²⁾

¹⁾Universitas Jayabaya, Jakarta, Indonesia, E-mail:
ahmad.muliadi@jayabaya.ac.id

²⁾Universitas Jayabaya, Jakarta, Indonesia, E-mail:
yuliasara.isnaeni@jayabaya.ac.id

Abstract. *The Baduy community is well known for its strong adherence to customary law, which governs all aspects of life, including dispute resolution. The process is typically carried out through deliberation that prioritizes peace (silih hampura) and is led by customary leaders such as the Pu'un and Jaro. This study aims to examine alternative mechanisms for resolving customary law disputes among the Baduy people in Lebak Regency, Banten Province, with a focus on the forms of alternative dispute resolution and the challenges faced in the modern era. The research employs normative juridical and empirical juridical methods, with the study conducted in Lebak Regencys. Data were obtained through literature studies and interviews with customary leaders and members of the Baduy community. The results indicate that dispute resolution within Baduy customary law is restorative in nature, emphasizing the restoration of social relations over punitive measures. However, various challenges affect the effectiveness of this dispute resolution system, including the limited jurisdiction of customary law that does not extend to external parties, lack of understanding of customary law among state officials, the erosion of adherence among the younger generation due to modernization, suboptimal legal protection from the state, and the limited capacity of customary institutions themselves. If customary efforts fail to resolve disputes, cases are then handed over to national law as an ultimum remedium. This study recommends strengthening the synergy between customary law and national law through practical formal recognition, enhancing the capacity of customary institutions, and fostering intergenerational education to ensure the sustainability of customary-based dispute resolution while maintaining legitimacy within the framework of national law.*

Keywords: *Alternative; Customary; Juridical; Law; Resolution.*

1. Introduction

Disputes are an inseparable part of the social dynamics of human life. In daily interactions—whether in personal, economic, or social spheres—each individual or group has different interests, views, and goals (Lestari, 2013). These differences often trigger friction that can lead to disagreements. Disputes may arise from simple matters, such as misunderstandings in communication, to more complex issues like breaches of agreements, business competition, or ownership conflicts. Disputes also frequently emerge as a result of changing times that bring about new needs and interests which may not align with long-standing values or customs within the community (Winarta, 2022).

In facing these various disputes, communities generally strive to find resolutions that can prevent prolonged conflicts. Deliberation is one method often chosen, as it is considered capable of accommodating the aspirations and interests of all disputing parties (Nugroho, 2008). By sitting together and discussing problems openly, it is hoped that solutions acceptable to all parties can be reached, thereby maintaining harmonious social relations. However, if family-based negotiations fail to find common ground, disputes may potentially escalate and cause fractures in relationships between individuals or groups, ultimately requiring further handling to prevent them from developing into larger conflicts (Nurhayati, 2019).

Customary law is one of the sources of law that has lived and developed within Indonesian society since before the colonial era (Wulansari & Gunarsa, 2016). Customary law not only regulates the ways of daily life but also embodies noble values that serve as guidelines in resolving various social problems, including in dispute resolution. In the context of multicultural Indonesia, the existence of customary law reflects the diversity of laws recognized by the constitution as part of national identity (Abubakar, 2013).

Article 18B paragraph (2) of the Constitution of the Republic of Indonesia of 1945 explicitly recognizes and respects the existence of customary law communities along with their traditional rights as long as they are still alive and in accordance with societal development and the principles of the Unitary State of the Republic of Indonesia (Salamat, 2016). This recognition provides a constitutional basis for the continuity of customary law practices, including dispute resolution mechanisms carried out through customary institutions or community deliberations. However, in practice, dispute resolution based on customary law often encounters friction with the national legal system, which is more formal and structured (Setyowati, 2023).

As time progresses, globalization, modernization, and extensive development in various regions often impact the existence of customary law. Investment projects, changes in social structures, and population mobility give rise to various conflicts of interest that frequently involve customary communities (Kaban, 2016).

Disputes over communal land, rights to natural resources, and even internal conflicts related to customary inheritance have become increasingly complex issues, demanding effective, fair resolutions that accommodate local wisdom (Laturette, 2016).

Departing from these problems, alternative dispute resolution mechanisms within the context of customary law become highly relevant to study more deeply. Essentially, these mechanisms prioritize deliberation, mediation, and non-litigation resolutions that align with the local values upheld by customary communities. Research on these alternative dispute resolution processes is crucial to ensure that conflict resolution does not merely emphasize formal legal aspects but also considers social cohesion and the sustainability of the customary values living within the community.

Dispute resolution approaches through alternative dispute resolution pathways initially grew and developed within the scope of civil law. This closely relates to the characteristics of civil relationships, which are generally private in nature and emphasize the freedom of the parties to independently arrange their rights and obligations (Fitriani, 2017). In the context of civil law, disputes often arise from the execution of agreements, business transactions, inheritance matters, or family issues. Therefore, pathways such as negotiation, mediation, and arbitration become relevant choices because they provide flexibility for disputing parties to jointly seek solutions without overly strict intervention from formal judicial institutions (Ariani, 2012).

Along with the passage of time and the increasing complexity of legal relationships within society, the concept of alternative dispute resolution has expanded in its application. It is no longer limited to contractual disputes or traditional civil matters; these mechanisms have begun to be adopted in resolving disputes in other fields as well, since they are considered capable of providing processes that are faster, more efficient, confidential, and still maintain good relations between disputing parties (Simanjuntak, 2016). This flexibility is the main appeal of alternative dispute resolution, making it increasingly used in efforts to create peaceful solutions acceptable to all without going through litigation processes that are often lengthy, costly, and create further tension (Fitriani & Diana, 2019).

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jointly seek solutions without overly strict intervention from formal judicial institutions (Betaubun & Bhodo, 2013).

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Based on the background issues described above, this research will specifically discuss the mechanisms of dispute resolution through customary law that take place in Banten Province, with a primary focus on Lebak Regency. This regency is known to have customary communities that still strongly uphold traditional values and their customary legal institutions, making it a relevant area to study in the context of alternative dispute resolution outside formal judicial channels. This research will examine how customary deliberation processes are carried out, the roles of customary leaders and institutions in resolving disputes, and the extent to which customary law-based dispute resolution can create substantive justice and maintain social harmony within the community. Thus, this research is expected to provide a comprehensive overview of the dynamics of customary law-based dispute resolution in Lebak Regency while also identifying the challenges that arise in its practice.

2. Research Methods

To obtain the necessary data, this research employs normative juridical and empirical juridical methods, with the research location specifically conducted in Lebak Regency, Banten Province. In the initial stage, the study will focus on normative analysis by examining laws and regulations, legal doctrines, and relevant literature to gather secondary data. This review aims to obtain a theoretical foundation related to alternative dispute resolution in customary law (Efendi et al., 2016). Subsequently, the research continues with an empirical approach conducted in Lebak Regency to collect primary data through direct observation, document studies, and in-depth interviews with customary leaders, community leaders, community members involved in dispute resolution, and other related parties. This research is descriptive-analytic in nature, whereby the analysis is first carried out on secondary data from literature studies, then enriched with empirical data collected from the field in Lebak Regency. Thus, this study combines a normative review of the regulation of alternative dispute resolution and customary law within the national legal system with empirical facts

related to the practice of dispute resolution in the customary communities of Banten. Through this approach, it is expected that conclusions can be drawn that illustrate the relationship between the applicable legal norms and the implementation of customary dispute resolution in the field, thereby comprehensively answering the formulated research questions.

3. Results and Discussion

3.1 Alternative Dispute Resolution According to Customary Law

In everyday practice, indigenous communities in various regions of Indonesia have their own ways of resolving disputes that arise among members of their communities. These resolution mechanisms are generally informal, do not use the rigid procedures of state law, but instead rely on mutual agreement, shared values, and trust in local customary leaders or customary institutions (Siombo and Wiludjeng, 2020). This occurs because customary law is born from and grows out of the needs of the community itself, making it more easily accepted and implemented without coercion. The existence of customary dispute resolution pathways has become an important part of the social system of communities that prioritize harmony and the sustainability of good relations among residents (Warjiyati, 2020).

The forms of dispute resolution in customary communities can vary. Generally, they are manifested through customary deliberations, namely forums that bring together the disputing parties along with customary leaders and other residents to openly discuss problems with the aim of reaching a consensus (Siregar and Siregar, 2022). In addition, mediation by customary leaders is also often carried out. In this process, the customary leader acts as an intermediary who helps the parties find common ground and understand each other's positions. At a certain stage, if the dispute is considered to have disrupted the social order, the customary leader or customary institution may impose customary sanctions. These sanctions are not intended to punish in a repressive sense, but rather to restore social balance (restorative) so that relations among residents can return to being harmonious (Nangka, 2019).

Banten Province is one of the regions in Indonesia that still possesses rich traditions that are well preserved to this day. The existence of various indigenous community groups in Banten, such as the Baduy indigenous community in Lebak Regency, is concrete evidence of how traditional values and customary norms continue to live on and are practiced in the daily lives of the people. These traditions are not only reflected in customary ceremonies or cultural activities, but also in patterns of social interaction, including when facing problems or conflicts within the community. Thus, customs in Banten have become an inseparable part of the social system and the collective identity of its people.

The Baduy community possesses very strong local wisdom in maintaining harmony with nature, one of which can be seen from their tradition of not planting rice in rice fields, but only in *huma*, which refers to dry fields or gardens. For the Baduy indigenous community, plowing the land and cultivating rice fields is considered a violation of customary rules passed down by their ancestors. This prohibition is not merely ritualistic, but also reflects a profound philosophy about the importance of maintaining the balance of the ecosystem. A Baduy community leader, who in the interview is referred to as M, explained:

"We are forbidden to open rice fields or plow the land because that would damage the earth. If the earth is damaged, calamities will come. We are taught that it is enough to plant rice in dry fields so that nature remains balanced and sustainable."

This explanation shows how their customary norms intrinsically contain principles of environmental conservation that are very relevant to today's discourse on sustainable development.

One of the customs most highly upheld by the *Baduy* indigenous community is the principle of preserving nature, which they regard as an inheritance from their ancestors as well as a trust for future generations. For them, protecting forests, rivers, land, and entire ecosystems is not only a social obligation, but also a spiritual duty closely tied to their beliefs about the balance of the universe. In an interview, S, a resident of Outer *Baduy*, stated:

"We have always been taught not to carelessly cut down trees or damage the land, because this nature does not belong only to us, but also to our children and grandchildren. If we destroy it, it is not only us who will suffer, but everyone."

This statement affirms that environmental preservation for the *Baduy* community cannot be separated from the customs that live among them, and it also becomes the main guide in carrying out their daily lives.

The *Baduy* indigenous community is indeed known to be very obedient and faithful to the customary law that has been handed down from generation to generation. This obedience is reflected in the various prohibitions that regulate almost every aspect of their lives. In the Inner *Baduy* region, for example, there are strict rules prohibiting the use of footwear, vehicles, electronic devices, and even being photographed by outsiders. These prohibitions are not merely traditions without meaning, but are manifestations of a collective commitment to maintaining the purity of custom and keeping distance from modernization influences that are considered capable of disrupting the social and spiritual order of the *Baduy* community. All their activities are carried out simply and modestly, as a reflection of respect for the ancestral values that must be preserved in their entirety.

Obedience to customary law is also evident from the firm sanctions imposed when violations occur. For example, when an Inner *Baduy* resident is found riding a motorized vehicle while traveling outside their area—such as to Jakarta, Bogor, or Bandung to fulfill invitations or maintain ties with guests who have previously visited *Baduy*—they may be subject to customary sanctions. The heaviest sanction is expulsion from the Inner *Baduy* community, thereby becoming part of the Outer *Baduy*, which has more relaxed customary rules and has interacted more with the modern world. Interestingly, when asked why they are not allowed to use vehicles, wear footwear, or be photographed, the answer that often arises is very brief yet deeply meaningful: “*teu meunang ku adat*,” which means “*not allowed by custom*.” This simple answer shows how strong the legitimacy of custom is in regulating the lives of the *Baduy* community, which is accepted and practiced with full awareness without needing to question its rationality.

In Lebak Regency, particularly in the Ciboleger District which is the residence of the *Baduy* Indigenous People, communal land rights (*hak ulayat*) hold a very important position in their social and economic structure. Communal land rights are the collective rights of indigenous law communities to control and utilize their customary territories from generation to generation, which cannot be sold or transferred to outside parties. For the *Baduy* people, communal land is not merely a material asset but an integral part of their identity and customary existence. Communal land is where they live, farm, perform customary rituals, and maintain the balance of the relationship between humans, nature, and the Creator.

The Government of Lebak Regency has demonstrated its commitment to preserving the existence of the *Baduy* indigenous law community along with its communal land rights through concrete regulations. One of these is the issuance of Regional Regulation Number 8 of 2015 concerning the Recognition, Protection, and Empowerment of the *Kasepuhan* Indigenous Law Community. Although this regional regulation generally regulates the *kasepuhan* indigenous community in the Lebak area, its spirit is in line with the recognition of the existence of the *Baduy* indigenous community. This regulation contains important principles such as respect for the existence of indigenous communities, empowering them to remain self-reliant, as well as protecting them from potential takeovers of their customary rights by external parties that could threaten the preservation of their traditions.

Specifically, the Government of Lebak Regency also issued Regional Regulation Number 32 of 2001 concerning the Protection of Communal Land Rights of the *Baduy* People. This regional regulation serves as a more specific legal instrument in guaranteeing the recognition and protection of the communal land rights of the *Baduy* people over their customary territory. With this regulation, the rights of the *Baduy* community over their customary land are not only recognized socially and customarily but also gain formal legitimacy from the state through the regional government. This is very important to prevent agrarian conflicts and attempts to

exploit the *Baduy* customary territory by interested commercial parties, who often disregard the sacred and ecological values maintained by the *Baduy* people for hundreds of years.

Disputes that occur within the *Baduy* community generally relate closely to violations of custom. In the *Baduy* community, custom is not merely a social rule, but has become a legal system that strongly binds all its members. Any behavior considered to violate the customary order will be followed up by customary institutions and local customary leaders. One of the most frequent forms of dispute is related to environmental damage, such as indiscriminate tree felling, opening land without customary permission, or fishing using methods that damage the ecosystem. For the *Baduy* people, such actions not only violate social norms but are also considered to disrupt the cosmic balance between humans and nature that has been preserved through generations.

Besides violations of custom related to the environment, there are also often disputes directly related to individual behavior against strict customary rules. For example, someone who violates customary prohibitions such as using motorized vehicles, wearing footwear in the *Baduy Dalam* (Inner *Baduy*) area, or bringing electronic devices into the village. Such violations often trigger handling by customary institutions, which can take the form of reprimands, the imposition of mild sanctions, up to the most severe, namely changing a person's status from Inner *Baduy* to Outer *Baduy*. This becomes a form of internal dispute resolution that prioritizes the restoration of social harmony, not merely punishment.

It is also not uncommon for disputes that arise in the *Baduy* community to be caused by their relationship with outsiders. One concrete example is the claim of ownership of customary land by outside parties or companies trying to take control of the *Baduy* customary forest area. This conflict usually requires more attention because apart from involving communal land rights which are sacred to the *Baduy* people, it also involves state law. In some cases, the *Baduy* community must bring these issues to the regional government or law enforcement agencies so that their communal rights are recognized and protected. Such disputes become their own challenge because the *Baduy* people themselves basically are reluctant to be deeply involved in formal legal mechanisms, thus requiring assistance so that their rights are not neglected.

In general, various forms of disputes that occur in Indonesia, including in Lebak Regency, are usually directed to be resolved through formal legal channels according to the applicable judicial mechanisms. However, this does not fully apply to the *Baduy* indigenous community. The *Baduy* indigenous people who inhabit the Leuwidamar District and its surroundings prefer to resolve any problems that arise among them through peaceful means based on the values of custom that have been passed down from generation to generation. They view dispute resolution not merely as a matter of who is right and who is wrong, but more on

how social relations can continue to be harmonious and life balance can be maintained.

The alternative dispute resolution applied by the *Baduy* community is known as “*silih hampura*.” This concept emphasizes the importance of deliberation, peace, and mutual forgiveness between disputing parties. This method becomes the main choice to resolve cases of a civil nature as well as minor criminal matters. Through customary deliberation, the disputing parties sit together before customary leaders to explain the actual circumstances, seek a fair solution, and finally forgive each other in order to restore social relations. For the *Baduy* people, living in harmony with one another is far more important than achieving one-sided victory that might be obtained through the formal state judicial path.

In one interview, S, a customary leader of the Outer *Baduy*, stated, “*For us, if there is a misunderstanding or someone does something wrong, usually we gather first, assisted by the elders. Later they will be brought together, given the opportunity to explain. If it is already clear and accepted, usually they will forgive each other, so there is no regret left in the heart. That way it won’t drag on, no need to go to the police station or court.*” This statement illustrates how strong the values of kinship and custom are in resolving disputes, which for them is far more important than seeking justice formally through the state judicial process.

Traditional leaders in the *Baduy* community, such as the Jaro and *Pu’un*, hold a very important role in maintaining social order and serve as the primary mediators when disputes arise among the residents. The Jaro generally acts as the administrative leader who manages various community affairs, including relations with outsiders. Meanwhile, the *Pu’un* is the spiritual leader as well as the chief guardian of customary laws, ensuring that all traditional rules are strictly observed. In the practice of dispute resolution, these two traditional figures lead deliberations, provide counsel, mediate between the disputing parties, and ultimately decide on a peaceful resolution deemed fair to all involved. Decisions rendered by the Jaro and *Pu’un* are almost always accepted with full awareness by the community, as they are considered the will of custom that must not be violated.

In an interview, K, a Jaro in one of the Outer *Baduy* villages, explained:

“Lamun aya nu pasalia paham, urang nu jadi Jaro biasana ngumpulkeun heula, ngajak ngobrol boh anu ngarasa salah boh anu ngarasa dirugikeun. Bisi aya anu teu puguh, urang naros heula ka Pu’un sangkan dipaparin petunjuk. Lamun geus aya kaputusan, biasana kabeh narima, sabab eta geus jadi amanah adat.”

(“If there is a disagreement, we who serve as Jaro usually gather everyone first, inviting both the one who feels at fault and the one who feels wronged to talk. If

something is still unclear, we ask the *Pu'un* for guidance. Once a decision has been made, usually everyone accepts it, because it is already a mandate of custom.”)

This quote illustrates just how strong the role of traditional leadership is in upholding peaceful dispute resolution and ensuring that customary values remain the main guideline in the lives of the *Baduy* people.

If, however, these deliberations fail to reach a consensus — for example, because the issue is too complex, the disputing parties are too insistent on their respective positions, or there has been a serious violation of custom — the matter does not simply end there. In *Baduy* tradition, such disputes are brought to a broader customary judicial system, involving more traditional leaders from other villages. At this stage, not only the *Jaro Tangtu* and *Pu'un* are involved, but also senior customary figures from other *Baduy* regions who possess authority and deep understanding of traditional laws.

This process is usually marked by the holding of a larger customary meeting, where all related parties are present, including witnesses, families, and respected traditional figures. The traditional leaders together will thoroughly examine the issue, hear testimonies, and consider all aspects of custom that may have been violated. The decision made at this higher level of customary court is final in the context of custom, and is morally and socially binding on the *Baduy* community. Thus, the dispute resolution mechanism among the *Baduy* people does not rely solely on the figures of *Jaro Tangtu* and *Pu'un*, but is also supported by a collective traditional social structure that ensures conflicts are resolved as fairly as possible according to customary perspectives. This final stage also serves as proof that the *Baduy* have a structured and tiered dispute resolution system, which not only focuses on achieving justice for the disputing parties, but also on restoring social harmony and preserving the customary values that have been passed down for generations.

The *Baduy* community holds firmly to the principle of *ultimum remedium*, namely treating the state legal route as the last resort in resolving problems. This principle aligns with their view that greatly prioritizes resolution through customary means to maintain harmony, brotherhood, and the preservation of social values that have long existed in their community. However, if all stages of dispute resolution through deliberation, mediation by the *Jaro* and *Pu'un*, or the broader customary judicial forum still fail to reach an agreement — especially if the violation has exceeded limits or involves outsiders who do not submit to customary law — then the matter can be handed over to state law enforcement authorities to be processed according to positive law. Thus, for the *Baduy* people, national law is not the primary means of resolving issues, but is truly regarded as the last path when all customary mechanisms are no longer able to contain the problem, in order to still uphold a comprehensive sense of justice.

3.2 Challenges in Alternative Dispute Resolution of Customary Law Issues

1) Limited Jurisdiction of Customary Law

In legal concepts, jurisdiction refers to the scope of authority of a legal system to regulate, adjudicate, and enforce rules over individuals or events. Customary law essentially arises, grows, and develops from the norms that live within the customary community itself. This system is particularistic (local) in nature because it only applies within certain communities and binds the members of that community. Therefore, juridically, customary law does not have universal or cross-community power. This is often referred to as the limited jurisdiction of customary law. In other words, customary law can only enforce its rules and sanctions on people who socially and culturally recognize themselves as part of the customary law community.

In the context of the *Baduy* indigenous people in Lebak Regency, Banten Province, this limitation of jurisdiction is clearly visible. *Baduy* customary law binds all *Baduy* residents, both Inner *Baduy* and Outer *Baduy*, in various aspects of their lives. Any violations, such as cutting down trees without permission, acting disrespectfully toward customary leaders, or breaching certain ritual rules, will be resolved through customary mechanisms led by the Jaro and *Pu'un*. However, when a dispute involves parties outside the *Baduy* community, such as plantation companies entering customary land (*ulayat*) areas or tourists violating customary agreements, the jurisdiction of customary law becomes limited. *Baduy* customary law cannot directly compel external parties to comply with customary decisions if they do not submit to customary authority. In such cases, the *Baduy* people often require formal legal protection from local governments or national law enforcement agencies.

This jurisdictional limitation becomes even more apparent when serious criminal offenses under national law occur. For example, in criminal cases such as murder, aggravated assault, or narcotics violations, *Baduy* customary law does not have mechanisms to legally process these crimes as regulated under the Indonesian Criminal Code (KUHP). *Baduy* customary law indeed upholds the principles of *silih hampura* (mutual forgiveness) and resolution oriented toward restoring relationships (restorative). However, for certain types of crimes under the exclusive authority of the state, resolution must be transferred to the police and general courts. In practice, this often creates a dilemma between maintaining customary autonomy and the obligation to comply with the supremacy of national law.

2) Lack of Understanding and Differences in Interpretation

One of the significant challenges in alternative dispute resolution through customary law is the issue of lack of understanding and differing interpretations

between customary legal norms and positive law (national law). Customary legal norms are generally passed down orally and through daily practices within the community, making them flexible, contextual, and deeply rooted in local cultural values. This contrasts with national law, which is codified, written, and emphasizes certainty of norms. As a result, when disputes are attempted to be resolved through customary channels, problems often arise in assessing the validity of evidence or the resolution procedures according to positive law. This is because the standards for evidence and examination processes in national criminal or civil procedural law do not always align with customary law practices.

In the context of the *Baduy* community in Lebak Regency, this issue is evident in how customary rules often delivered only orally by the *Pu'un*, Jaro *Tangtu*, or other customary elders are interpreted. For example, *Baduy* customs strictly prohibit actions such as damaging forests, indiscriminately cutting trees, or violating certain rituals believed to disrupt the balance of nature. However, not all of these prohibitions have direct equivalents in national legislation. There are also frequent differences in interpretation by law enforcement officials when these customary violations are brought into the realm of state law, because the Indonesian Criminal Code (KUHP) does not specifically regulate spiritual or cosmological customary offenses. Moreover, state officers such as the police or prosecutors do not always understand the philosophical values behind *Baduy* customary rules, so customary resolutions are sometimes seen as not meeting the formal procedural standards of the judiciary.

This lack of understanding does not only occur among state officials but also among outsiders involved in disputes with *Baduy* residents. It is not uncommon for them to view mechanisms such as *silih hampura* (asking for forgiveness and restoring relationships) as inadequate resolutions because they do not impose firm sanctions like state court decisions. This creates a perception that customary resolutions do not guarantee formal legal certainty as intended in the Indonesian Criminal Procedure Code (KUHAP) or Criminal Code (KUHP). In fact, for the *Baduy* people, resolutions that restore harmony are far more important than repressive punishments. Therefore, it is necessary to implement legal literacy programs, integrated training, and regulations that recognize and integrate customary dispute resolution mechanisms so that the gap in interpretation, which disadvantages both indigenous communities and the principles of national legal justice, does not continue.

3) Influence of Modernization and Social Change

Another challenge in implementing alternative dispute resolution based on customary law is the influence of modernization and social change, which continue to shift the traditional order of indigenous communities. Modernization introduces various new values and mindsets that often conflict with the principles of collectivism and ecological balance upheld in customary law. In the *Baduy*

indigenous community, for instance, the younger generation is increasingly exposed to the outside world through formal education, social media, and economic interactions. The entry of communication technologies, television, and the flow of tourists into the Outer *Baduy* area gradually introduces individualistic values that have the potential to shift the orientation from communal life toward more self-centered interests.

In relation to dispute resolution, this shift is highly significant. In the past, the *Baduy* community solidly obeyed the commands of the *Pu'un* and *Jaro Tangtu* in every case settlement, whether it was land disputes, ritual violations, or other internal conflicts. However, nowadays, some of the younger generation begin to question the relevance or even negotiate the customary sanctions imposed, because they feel they have the freedom to choose the path of state law, which is perceived to be more objective and provides formal protection. This attitude ultimately weakens the authority of customary institutions in enforcing deliberative decisions or implementing *silih hampura* (asking for forgiveness and restoring relationships), which has long been the foundation of social relational restoration in *Baduy*.

Moreover, changes in economic needs also encourage indigenous communities — including the *Baduy* — to start opening up to intensive trade activities, accepting outside investments, and establishing broader cooperation. These interactions increase the potential for disputes that cannot be resolved merely by customary norms, especially if they involve external parties who are not subject to *Baduy* customary rules. Coupled with the suboptimal revitalization of customary institutions in responding to social dynamics, the existence of customary-based dispute resolution mechanisms becomes increasingly vulnerable. Therefore, efforts are needed to strengthen the capacity of customary institutions so that they remain adaptive without losing the essence of their local wisdom values, along with synergy with the state legal apparatus to protect the rights of indigenous peoples in facing the challenges of globalization.

4) Suboptimal Legal Protection by the State

Although recognition of the existence of indigenous law communities has been regulated in various laws, both at the national level through Article 18B of the 1945 Constitution and in regional regulations such as the Lebak Regency Regional Regulation Number 8 of 2015 on the Recognition, Protection, and Empowerment of Kasepuhan Indigenous Law Communities, the implementation of this protection is often still suboptimal. In the context of the *Baduy* community, even though there is also Regional Regulation Number 32 of 2001 concerning the Protection of *Baduy* Indigenous Land Rights, in reality, this protection often remains merely administrative and symbolic. For example, when conflicts over *ulayat* (customary) land occur, government officials have not always been responsive in ensuring that the rights of indigenous peoples are concretely protected.

This situation makes the *Baduy* customary-based dispute resolution mechanisms vulnerable when dealing with external parties or companies that have greater capital power and legal access. Weak structural support and the lack of legal assistance from the state result in customary deliberation decisions receiving insufficient recognition or enforcement, leaving the potential for prolonged disputes. In academic discourse, this highlights the importance of synchronizing the protection of customary law with the national legal system so that it does not stop merely at the normative level but also becomes operational in the field.

5) Limited Capacity of Customary Institutions

Another equally important challenge is the limited capacity of the customary institutions themselves. In the *Baduy* community, the customary institution led by the *Pu'un* and assisted by the Jaro *Tangtu* holds a central function in deciding dispute cases. However, they generally rely on oral traditions without systematically documented customary law, making them prone to varied interpretations when faced with complex cases. This lack of documentation also complicates advocacy processes if disputes must escalate to the level of formal courts.

Furthermore, leadership regeneration in customary institutions faces its own challenges. The absence of a clear cadre system or special education on customary governance or positive (state) law makes the regeneration process often based only on lineage or traditional knowledge without being equipped with insights into modern law. As a result, when faced with disputes involving modern contracts or licensing, customary institutions tend to be passive and struggle to conduct broader legal diplomacy or advocacy. This is an important concern so that in the future, customary institutions can be strengthened not only structurally but also in terms of the capacity of their human resources to understand developments in national and international law that may impact their customary territories

4. Conclusion

The *Baduy* community has a strong customary legal system, with conflict resolution institutions that are restorative in nature and focus on restoring social relationships. This system is carried out from generation to generation by traditional leaders such as the *Pu'un* and Jaro, who possess high authority. They employ mechanisms such as deliberation, mediation, and the principle of *silih hampura* (mutual forgiveness) to resolve disputes, which are far removed from repressive punitive concepts. Nonetheless, this system also recognizes certain limits: if a dispute cannot be resolved through customary means, it may ultimately be brought into the national legal system as an *ultimum remedium* effort. Even so, there are significant challenges faced in implementing alternative dispute resolution based on customary law. These challenges include the limited jurisdiction of customary law, which only applies within the indigenous community

itself, the suboptimal understanding and recognition by law enforcement officers of customary mechanisms, and the influence of modernization that has begun to erode the younger generation's adherence to customary norms. Moreover, although normatively the protection of customary law has been regulated through various regional regulations, its implementation on the ground is not yet fully effective. Traditional institutions also face internal obstacles, such as minimal written documentation, issues in leadership regeneration, and limited capacity to navigate the modern legal system. Therefore, systematic steps are needed to strengthen the position of customary law, whether through harmonizing national law with customary law, enhancing legal literacy for traditional leaders, or providing more concrete legal assistance by the state. In this way, dispute resolution mechanisms based on customary law, which have proven effective in maintaining social harmony, can continue to be preserved while also gaining stronger legitimacy within the national legal framework. Ultimately, the protection of indigenous communities such as the *Baduy* is not merely about preserving tradition, but also constitutes part of upholding human rights and the rich social and cultural diversity of Indonesia.

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