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ARTICLE

Integrating Adat Law in Indonesia: Challenges and Opportunities in a Centralized Legal Framework

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Abstract
Indonesia's legal system reflects a complex coexistence between state law and adat (customary) law, yet the integration of adat law remains structurally constrained within a centralized legal framework. This paper aims to examine the historical, constitutional, and institutional barriers that hinder the recognition of adat law and explore how Indonesia might adopt a more inclusive legal pluralism. Using a qualitative legal research design, the study employs doctrinal constitutional analysis and comparative legal inquiry, focusing on models from South Africa, Canada, New Zealand, and Australia. The findings reveal that Indonesia's constitutional design—shaped by colonial legacies and reinforced through post-independence centralism—continues to subordinate adat law, despite post-Reformasi decentralization efforts. The recognition of adat law remains conditional, fragmented, and highly dependent on state-defined norms. The study concludes that without constitutional reform and institutional support, the implementation of legal pluralism in Indonesia will remain limited and inconsistent. It recommends (1) amending Article 18B of the 1945 Constitution to unconditionally recognize adat law, (2) issuing judicial guidelines to promote consistent legal interpretation, and (3) integrating adat law into governance and environmental policymaking. These reforms are essential to build a pluralistic legal order that reflects Indonesia's cultural diversity and constitutional commitment to justice.

Keywords
Adat Law; Legal Pluralism; Constitutional Challenges; Centralized Legal Framework; Post-Reformasi Indonesia.

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Introduction

The coexistence of state law and adat (customary) law defines Indonesia's legal pluralism, reflecting the country's profound ethnic and cultural diversity. Far from being abstract, this pluralism governs everyday life, particularly in matters of marriage, inheritance, and land tenure.[1] However, despite its cultural rootedness, the integration of adat law into Indonesia's national legal framework remains deeply problematic. This exclusion is largely attributed to the historically centralized legal structure that prioritizes the primacy of state law while relegating customary systems to the periphery. Although Article 18B of the 1945 Constitution formally acknowledges traditional communities, this recognition is conditional—subject to conformity with state interests and national development objectives—rendering the enforceability of adat law inconsistent and largely symbolic (Republic of Indonesia, 1945). The effects of such conditionality manifest in fragmented local regulations, jurisdictional ambiguity, and the marginalization of Indigenous authority. Recognition without enforceability is performative, and the current framework fails to realize genuine legal pluralism, sustaining a hierarchy in which state law dominates.[2]

The historical foundations of Indonesia's legal centralism are significant. After independence, state-building narratives under Soekarno and Soeharto emphasized legal uniformity as essential for national cohesion, often portraying adat as antithetical to modern governance. This centralization was not just political but also ideological, rooted in a developmentalist agenda that discredited local traditions. During the New Order, statutory law's dominance was further entrenched through regulatory suppression of local autonomy, with adat practices reframed as obstacles to economic development.[3] Despite the constitutional amendments and decentralization reforms following the 1998 Reformasi, the operational space for adat law remains limited. As Hamida (2022) observes, decentralization offers theoretical opportunities for regional recognition, but implementation remains

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[1] Sartika I Pradhani, "Dynamics of Adat Law Community Recognition: Struggle to Strengthen Legal Capacity," *Mimbar Hukum - Fakultas Hukum Universitas Gadjah Mada* 31, no. 2 (2019): 279, https://doi.org/10.22146/jmh.34032; Zaka F Aditya, "The Legal Protection System of Indigenous Peoples in Southeast Asia," *Jurnal Ilmiah Hukum Legality* 31, no. 2 (2023): 285–309, https://doi.org/10.22219/ljih.v31i2.27619.

[2] Alison M Buttenheim and Jenna Nobles, "Ethnic Diversity, Traditional Norms, and Marriage Behaviour in Indonesia," *Population Studies* 63, no. 3 (2009): 277–94, https://doi.org/10.1080/00324720903137224; Moh Fadli, "Inquiring Into the Sustainable Tourism Village Development Through the Social Complexity of Adat Peoples in Digital Era," *Jurnal Ilmiah Hukum Legality* 31, no. 2 (2023): 181–201, https://doi.org/10.22219/ljih.v31i2.26438.

[3] Keebet v. Benda-Beckmann, "Anachronism, Agency, and the Contextualisation of Adat: Van Vollenhoven's Analyses in Light of Struggles Over Resources," *The Asia Pacific Journal of Anthropology* 20, no. 5 (2019): 397–415, https://doi.org/10.1080/14442213.2019.1670242; Ilyas Ilyas and Sahra Roba, "Prospect the Study of Local Legal Autonomy in Regional Autonomy Legal Politics," *International Journal of Business Law and Education* 4, no. 1 (2023): 158–74, https://doi.org/10.56442/ijble.v4i1.140.

uneven and often superficial.[4] Local governments frequently lack the institutional capacity or political commitment needed for substantive legal inclusion.[5] Moreover, Indonesia's engagement with global governance standards, including human rights and environmental norms, adds a transnational dimension that both supports and complicates the integration of adat law.[6]

A growing body of scholarship has examined these challenges in detail. Bedner and Arizona (2019) argue that adat law has evolved into a dynamic legal-political instrument, especially among Indigenous communities resisting land dispossession and extractive policies.[7] For these communities, the resurgence of adat is not merely cultural but also strategic. However, this revitalization faces structural limitations. According to Benda-Beckmann (2019), adat law remains subordinated due to the absence of mechanisms for institutional integration.[8] Sari (2023) points to the lack of consistent national criteria for recognizing Indigenous communities and their legal systems, resulting in discretionary and often politicized recognition at the regional level.[9] Hamida (2022) emphasizes that many regional governments lack the legal expertise, financial resources, and coherent policies required to implement meaningful engagement with adat systems.[10] Meanwhile, the Constitutional Court has issued decisions supporting customary rights, particularly regarding forest tenure and traditional land, yet its capacity to institutionalize these decisions is hindered by the absence of supporting legislation and jurisprudential clarity.[11]

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[4] Nilna A Hamida, "Adat Law and Legal Pluralism in Indonesia: Toward a New Perspective?," *Indonesian Journal of Law and Society* 3, no. 1 (2022): 1, https://doi.org/10.19184/ijls.v3i1.26752.

[5] Desy Wulandari, "Ex Ante Review in Realizing the Constitutionality of Laws and Regulations in Indonesia," *Indonesian State Law Review (Islrev)* 1, no. 1 (2018): 37–52, https://doi.org/10.15294/islrev.v1i1.26938.

[6] Ralf Michaels, "Global Legal Pluralism," *Annual Review of Law and Social Science* 5, no. 1 (2009): 243–62, https://doi.org/10.1146/annurev.lawsocsci.4.110707.172311; Muhammad A A Fikri, Fatma U Najicha, and I Gusti Ayu Ketut Rachmi Handayani, "Application of Strict Liability by Companies in the Context of Environmental Conservation in Indonesia," *Indonesian State Law Review (Islrev)* 5, no. 1 (2022): 1–7, https://doi.org/10.15294/islrev.v5i1.46522.

[7] Adriaan Bedner and Yance Arizona, "Adat in Indonesian Land Law: A Promise for the Future or a Dead End?," *The Asia Pacific Journal of Anthropology* 20, no. 5 (2019): 416–34, https://doi.org/10.1080/14442213.2019.1670246.

[8] Benda-Beckmann, "Anachronism, Agency, and the Contextualisation of Adat: Van Vollenhoven's Analyses in Light of Struggles Over Resources."

[9] Almonika C F Sari, "Acknowledgment of Adat Law-Based Tenure in the Courtroom: Study of Decisions on Criminal Acts of Land Clearing by Burning, Logging Trees Without Permits, and Collecting Plantation Products Without Permits," *Bhumi Jurnal Agraria Dan Pertanahan* 8, no. 2 (2023): 202–15, https://doi.org/10.31292/bhumi.v8i2.513.

[10] Hamida, "Adat Law and Legal Pluralism in Indonesia: Toward a New Perspective?"; Andrianantenaina F Aime, "Interpretation of the Expansion of the Application of the Authority of the State Administrative Court in Adjudicating Factual Legal Actions of the Government," *Indonesian State Law Review (Islrev)* 6, no. 1 (2023), https://doi.org/10.15294/islrev.v6i1.68239.

[11] 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, https://doi.org/10.36941/ajis-2021-0086; Sardjana O Manullang, "Understanding the Sociology of Customary Law in the Reformation Era: Complexity and Diversity of Society in Indonesia," *Linguistics and Culture Review* 5, no. S3 (2021): 16–26, https://doi.org/10.21744/lingcure.v5ns3.1352; Freidelino P R A De Sousa, "Non-Compliance With

Against this backdrop, Indonesia stands at a legal crossroads. The discourse on legal pluralism is transitioning from symbolic acknowledgment to substantive integration. In this evolving context, legal pluralism must be seen not merely as the coexistence of systems but as the equitable recognition of multiple normative frameworks within a unified constitutional order. This requires legal and policy reform, as well as a shift in institutional culture to embrace legal diversity as a national strength. Comparative legal systems offer valuable insights. South Africa's post-apartheid constitution formally recognizes customary law as valid so long as it aligns with constitutional rights.[12] In Canada, Section 35 of the Constitution Act affirms Indigenous rights, with the courts employing a structured approach to balance these rights with state interests.[13] New Zealand integrates Māori legal principles through the Treaty of Waitangi and political representation, while Australia's High Court rulings in Mabo and Wik recognize native title and the coexistence of Indigenous and statutory rights (High Court of Australia, 1992, 1996).[14] These examples highlight the significance of constitutional guarantees, legislative clarity, and inclusive governance in supporting plural legal orders.

This study is thus guided by three interrelated objectives: first, to examine the historical and constitutional constraints that continue to impede the full recognition of adat law in Indonesia; second, to assess the effectiveness of decentralization post-Reformasi in fostering substantive legal pluralism; and third, to derive comparative insights from other legal systems that have integrated Indigenous or customary traditions. These aims are translated into the following research questions: (1) What historical and legal factors have limited the substantive recognition of adat law? (2) In what ways have legal and institutional reforms since 1998 influenced pluralistic practices? (3) What comparative models or strategies can guide Indonesia's reform agenda toward a more inclusive and equitable legal framework? The novelty of this study lies in its combination of doctrinal constitutional analysis with comparative insights from multi-ethnic jurisdictions to address the structural marginalization of adat law in Indonesia. This study seeks to inform not only academic debates but also constitutional reform and legal

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Constitutional Court Decisions as an Act of Contempt of Court," *Indonesian State Law Review (Islrev)* 4, no. 2 (2022): 52–66, https://doi.org/10.15294/islrev.v4i2.54617.

[12] Chuma Himonga, "Reflection on Bhe v Magistrate Khayelitsha: In Honour of Emeritus Justice Ngcobo of the Constitutional Court of South Africa," *Southern African Public Law* 32, no. 1&2 (2018), https://doi.org/10.25159/2522-6800/3570; Ntebo L Morudu and Charles Maimela, "The Indigenisation of Customary Law: Creating an Indigenous Legal Pluralism Within the South African Dispensation: Possible or Not?," *De Jure* 54 (2021), https://doi.org/10.17159/2225-7160/2021/v54a4.

[13] John Borrows, *Canada's Indigenous Constitution*, ed. Scott Duke (Toronto: University of Toronto Press, 2010), https://doi.org/https://doi.org/10.22584/nr50.2020.016; Arthur J Ray, "Ethnohistorical Geography and Aboriginal Rights Litigation in Canada: Memoir of an Expert Witness," *Canadian Geographer / Le Géographe Canadien* 55, no. 4 (2011): 397–406, https://doi.org/10.1111/j.1541-0064.2011.00363.x.

[14] Diana Anderssen, "Indigenous Australia and the Pre-Legal Society in HLA Hart's the Concept of Law," *Journal of Legal Philosophy* 48, no. 1 (2023): 1–37, https://doi.org/10.4337/jlp.2023.01.01; Harry Hobbs, "The New Right and Aboriginal Rights in the High Court of Australia," *Federal Law Review* 51, no. 1 (2023): 129–54, https://doi.org/10.1177/0067205x221146333.

policy-making in Indonesia. By adopting a doctrinal, institutional, and comparative approach, this paper contributes to current debates in constitutional design, legal pluralism, and Indigenous justice, offering grounded recommendations for reform that balance national cohesion with cultural and normative diversity. This paper is structured in five parts: following this introduction, the second part examines the historical and constitutional constraints on adat law; the third part explores post-Reformasi decentralization and its impacts; the fourth part analyzes comparative experiences from other jurisdictions; and the final part provides conclusions and policy recommendations.

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Methods

This study adopts a qualitative legal research design that integrates constitutional analysis, legal history, and comparative legal theory to investigate the complexities surrounding the recognition of adat law within Indonesia's plural legal system. This multidisciplinary methodological framework enables a comprehensive examination of the historical, normative, and institutional factors that shape the legal status of adat law. By combining doctrinal legal inquiry with comparative legal perspectives, the study aims to analyze Indonesia's approach to legal pluralism in a thorough and systematic manner.

The qualitative orientation of this research prioritizes the interpretation of legal texts and socio-legal contexts over empirical quantification. At the core of this analysis lies Indonesia's 1945 Constitution and its subsequent amendments, which provide the foundational normative basis for assessing the constitutional positioning of adat law. Particular attention is given to Article 18B, which conditionally affirms the existence and rights of traditional communities. The study also traces the historical development of adat law from the colonial period through the post-independence and Reformasi eras to highlight the enduring structural and ideological constraints on its formal integration.[15]

The research draws upon both primary and secondary sources. Primary sources include constitutional provisions, legislative documents, and landmark judicial decisions—especially those issued by the Indonesian Constitutional Court concerning customary rights. These legal texts serve as the principal basis for analyzing how adat law is situated within the broader constitutional and legal framework.

Secondary sources encompass scholarly literature, journal articles, and doctrinal commentaries accessed through academic databases such as JSTOR, HeinOnline, and the Indonesian Law Journal. Notable works include Benda-Beckmann and Turner's *Legal Pluralism in Indonesia* (2019), which offers critical insights into the evolution of legal pluralism in the Indonesian context. Theoretical and comparative frameworks are further informed by Himonga's *Law, Culture, and Custom: Legal Pluralism in South Africa* (2011) and Borrows' *Canada's Indigenous Constitution* (2010), both of which explore how plural legal systems are recognized and institutionalized in other jurisdictions.[16]

A central component of the methodology is comparative legal analysis, focusing on how multi-ethnic countries—particularly South Africa and Canada—have addressed the integration of Indigenous legal traditions within national constitutional structures. For example, South Africa's post-apartheid Constitution explicitly recognizes customary law, while ensuring its compatibility with constitutional values such as equality and human rights.[17] Similarly, Canada's jurisprudence under Section 35 of the Constitution Act reflects a model of legal pluralism that balances state sovereignty with the recognition of Indigenous rights.[18] Through this comparative lens, the study seeks to identify transferable principles and best practices that can inform Indonesia's efforts to elevate the legal status of adat law. The international dimension enriches the analytical framework and situates

[15] Manullang, "Understanding the Sociology of Customary Law in the Reformation Era: Complexity and Diversity of Society in Indonesia."
[16] Himonga, "Reflection on Bhe v Magistrate Khayelitsha: In Honour of Emeritus Justice Ngcobo of the Constitutional Court of South Africa"; Borrows, *Canada's Indigenous Constitution*; Achmad Hariri, Satria U Wicaksana, and Samsul Arifin, "A Critical Study of Legal Positivism as a Legal System in a Pluralist Country," *Kne Social Sciences*, 2022, https://doi.org/10.18502/kss.v7i15.12131.
[17] Himonga, "Reflection on Bhe v Magistrate Khayelitsha: In Honour of Emeritus Justice Ngcobo of the Constitutional Court of South Africa."
[18] Borrows, *Canada's Indigenous Constitution*; Ray, "Ethnohistorical Geography and Aboriginal Rights Litigation in Canada: Memoir of an Expert Witness."

Indonesia's legal challenges within the global discourse on legal pluralism and Indigenous rights.[19]

This comprehensive research strategy—anchored in constitutional interpretation and enhanced by comparative inquiry—enables a nuanced understanding of the obstacles and opportunities inherent in integrating adat law into Indonesia's national legal system. The study's findings aim to inform ongoing academic debates and policy initiatives that seek to promote a more inclusive, pluralistic, and culturally responsive legal order in Indonesia.

Results and Discussion

I. Historical Constitutional Barriers

The marginalization of adat law within Indonesia's legal system is deeply rooted in the constitutional and political architecture established by the 1945 Constitution. Drafted in the aftermath of independence, the Constitution emphasized national unity and legal uniformity as foundational principles for preserving state integrity. This centralist orientation—later reinforced by the political regimes of Presidents Soekarno and Soeharto—elevated state authority while systematically suppressing regional legal autonomy. As a result, Indonesia's diverse customary legal traditions were relegated to the periphery of the national legal framework.[20]

A pivotal provision reflecting this centralist stance was Article 5(1) of the original 1945 Constitution, which vested broad executive powers in the presidency. This concentration of authority curtailed the development of regional governance and limited institutional space for the formal recognition of adat law. National cohesion was frequently invoked to justify the suppression of local legal diversity, and adat law was often characterized as regressive or incompatible with the objectives of modern state-building.[21]

These centralist tendencies reached their apex during the New Order era, when legal and political power was heavily centralized. During this period, state law was treated as the sole legitimate source of legal authority, while adat law was relegated

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[19] Mary E Felker et al., "Considering Land Tenure in REDD+ Participatory Measurement, Reporting, and Verification: A Case Study From Indonesia," *Plos One* 12, no. 4 (2017): e0167943, https://doi.org/10.1371/journal.pone.0167943; I N Lestawi and Dewi Bunga, "The Role of Customary Law in the Forest Preservation in Bali," *Journal of Landscape Ecology* 13, no. 1 (2020): 25–41, https://doi.org/10.2478/jlecol-2020-0002.

[20] Benda-Beckmann, "Anachronism, Agency, and the Contextualisation of Adat: Van Vollenhoven's Analyses in Light of Struggles Over Resources"; Bedner and Arizona, "Adat in Indonesian Land Law: A Promise for the Future or a Dead End?"; Pradhani, "Dynamics of Adat Law Community Recognition: Struggle to Strengthen Legal Capacity"; Hamida, "Adat Law and Legal Pluralism in Indonesia: Toward a New Perspective?"; Zen Zanibar, "The Indonesian Constitutional System in the Post Amendement of the 1945 Constitution," *Sriwijaya Law Review* 2, no. 1 (2018): 45, https://doi.org/10.28946/slrev.vol2.iss1.109.pp45-55.

[21] Rudy, Perdana, and Wijaya, "The Recognition of Customary Rights by Indonesian Constitutional Court"; Aime, "Interpretation of the Expansion of the Application of the Authority of the State Administrative Court in Adjudicating Factual Legal Actions of the Government"; Dadang Gandhi, "Drawing the Law State of Indonesia After 75 Years of Independence," *JHR (Jurnal Hukum Replik)* 8, no. 2 (2020): 23, https://doi.org/10.31000/jhr.v8i2.3581.

to informal, extra-legal domains. Although customary practices persisted at the community level, they lacked formal enforceability and were excluded from recognized legal institutions.

In response to mounting public demand for reform, a series of constitutional amendments between 1999 and 2002—during the Reformasi period—sought to decentralize state authority and institutionalize democratic governance. Notably, Article 18B(2) of the amended Constitution affirms the existence and rights of traditional communities. However, this recognition is qualified by the requirement that adat law must conform to national development objectives and prevailing legal norms. This conditional framing has constrained the operationalization of adat law, rendering its legal status both ambiguous and inconsistent in practice.[22]

Despite these constitutional reforms, Indonesia's legal framework remains predominantly centralistic. Many statutory instruments and administrative policies continue to prioritize national over regional interests, leaving little space for the autonomous development of adat law. This ongoing centralism undermines the principles of regional autonomy and perpetuates the marginalization of Indigenous legal traditions.[23]

Furthermore, the constitutional framework has historically failed to provide strong protections for Indigenous legal systems. While institutions such as the Constitutional Court were established to safeguard constitutional rights, their role in defending adat law has been limited by the absence of specific legislation clearly defining its legal scope and authority. Consequently, judicial decisions concerning adat law have often been fragmented, lacking consistency and broader jurisprudential impact.[24]

The exclusion of adat law from Indonesia's formal legal system also carries broader socio-cultural implications. It contributes to the legal disenfranchisement and cultural alienation of Indigenous communities, for whom customary law constitutes a central element of social identity and governance. The failure to meaningfully integrate these systems has sparked civil society mobilization advocating for the recognition and protection of adat rights.[25]

In summary, the historical constitutional design—shaped by post-independence priorities and reinforced through decades of centralized governance—has systematically obstructed the development and institutionalization of adat law. While the Reformasi-era amendments represent a step toward decentralization, they fall

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[22] Sari, "Acknowledgment of Adat Law-Based Tenure in the Courtroom: Study of Decisions on Criminal Acts of Land Clearing by Burning, Logging Trees Without Permits, and Collecting Plantation Products Without Permits"; Leli Tibaka and Rosdian Rosdian, "The Protection of Human Rights in Indonesian Constitutional Law After the Amendment of the 1945 Constitution of the Republic of Indonesia," *Fiat Justisia Jurnal Ilmu Hukum* 11, no. 3 (2018): 266, https://doi.org/10.25041/fiatjustisia.v11no3.1141.

[23] Hamida, "Adat Law and Legal Pluralism in Indonesia: Toward a New Perspective?"; Sousa, "Non-Compliance With Constitutional Court Decisions as an Act of Contempt of Court."

[24] Rudy, Perdana, and Wijaya, "The Recognition of Customary Rights by Indonesian Constitutional Court."

[25] Bedner and Arizona, "Adat in Indonesian Land Law: A Promise for the Future or a Dead End?"

short of transforming the underlying legal architecture. Addressing these entrenched constitutional and institutional barriers is imperative for realizing a genuinely pluralistic legal system that reflects Indonesia's cultural and legal diversity.

II. Post-Reformasi Developments

The post-Reformasi period marked a critical juncture in Indonesia's legal and political development, characterized by an institutional commitment to democratization and decentralization. These reforms introduced constitutional provisions that formally recognized adat law. However, such recognition has remained largely conditional—constrained by overriding commitments to national unity, legal uniformity, and public interest. As a result, adat law continues to be acknowledged rhetorically but is not granted equal normative status alongside state law, thereby sustaining the structural marginalization of Indigenous legal systems.[26]

a. Conditional Recognition of Adat Law

The constitutional amendment enshrined in Article 18B(2) of the 1945 Constitution affirms the existence and rights of traditional communities. Nevertheless, this provision is qualified by the requirement that the exercise of those rights must not contradict national development goals or prevailing legal norms. This conditionality significantly limits the enforceability of adat law. For instance, although village administrative systems are often rooted in customary practices, they remain subject to centralized state oversight, leaving minimal room for autonomous legal expression.[27]

In practice, the recognition of adat law is frequently selective and symbolic—granted primarily when it aligns with state interests. The Constitutional Court has played an important role in interpreting these constitutional provisions. While some of its rulings have affirmed the legitimacy of customary practices, such decisions often reassert the primacy of state law. Consequently, legal pluralism is subordinated to legal harmonization, with adat law evaluated against national legal standards rather than treated as an equally legitimate normative system.[28]

b. Centralization vs. Local Autonomy

Although Reformasi-era decentralization laws were intended to strengthen local governance and create institutional space for the resurgence of regional legal systems, implementation has been uneven and often superficial. While regional representative councils (DPRD) are constitutionally mandated to participate in local legislation, they typically lack the institutional capacity, political will, or legal

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[26] Hamida, "Adat Law and Legal Pluralism in Indonesia: Toward a New Perspective?"; Sari, "Acknowledgment of Adat Law-Based Tenure in the Courtroom: Study of Decisions on Criminal Acts of Land Clearing by Burning, Logging Trees Without Permits, and Collecting Plantation Products Without Permits"; Manullang, "Understanding the Sociology of Customary Law in the Reformation Era: Complexity and Diversity of Society in Indonesia."

[27] Salahudin Pakaya and Adrianto Nalali, "Political Law Regulation of Judicial Institutions in Exercising the Powers of an Independent Judgment: Before and After Amendments to the 1945 Constitution," *International Journal Papier Public Review* 1, no. 2 (2020): 119–28, https://doi.org/10.47667/ijppr.v1i2.91.

[28] Rudy, Perdana, and Wijaya, "The Recognition of Customary Rights by Indonesian Constitutional Court."

authority necessary to foster or protect adat law. According to Pakaya and Nalali (2020), structural barriers within Indonesia's legal-political system undermine the judicial independence and normative authority required for regions to cultivate autonomous legal identities.[29]

The result is a fragmented legal landscape, where the recognition and application of adat law vary significantly across provinces. In some regions, local regulations partially acknowledge customary systems; in others, such recognition is absent altogether. The lack of standardized national guidelines or enabling legal instruments has exacerbated this inconsistency, resulting in legal pluralism in form but not in substance.[30] Consequently, adat law remains legally subordinate, with its authority highly dependent on regional discretion and state-defined parameters.

A clear illustration of the disconnect between formal recognition and effective implementation can be seen in the case of the Ammatoa Kajang Indigenous community in Bulukumba Regency, South Sulawesi. Although the regional government issued Local Regulation No. 9/2015 formally recognizing and protecting the Kajang customary community, implementation has been inconsistent due to limited budget allocations, lack of technical guidelines, and weak inter-agency coordination. Despite the legal recognition of customary leadership and forest stewardship, jurisdictional overlaps with state forest management authorities continue to trigger land conflicts and hinder legal autonomy.[31]

Similarly, the Kasepuhan Cisitu community in Banten Province received recognition through a 2015 Regent Decree and subsequent acknowledgment of their customary forest rights by the Ministry of Environment and Forestry in 2016. However, these acknowledgments were not followed by robust institutional safeguards or harmonized spatial planning, leaving the community vulnerable to external land claims and bureaucratic inertia.[32] These cases underscore how local recognition efforts, although progressive on paper, often fall short of providing substantive protection and autonomy due to a lack of alignment between local initiatives and national legal instruments.

Such examples reveal that post-Reformasi decentralization has enabled symbolic acknowledgment of adat communities but has not institutionalized their rights in a consistent and enforceable manner. Regional autonomy without national legal reinforcement continues to produce fragmented and precarious outcomes for Indigenous legal systems.

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[29] Pakaya and Nalali, "Political Law Regulation of Judicial Institutions in Exercising the Powers of an Independent Judgment: Before and After Amendments to the 1945 Constitution."

[30] Rieko Kitamura, "The Origin of Legal Pluralism: Towards a New Theory of Human Rights Law," *Journal of Actual Problems of Jurisprudence* 107, no. 3 (2023), https://doi.org/10.26577/japj.2023.v107.i3.01; Sari, "Acknowledgment of Adat Law-Based Tenure in the Courtroom: Study of Decisions on Criminal Acts of Land Clearing by Burning, Logging Trees Without Permits, and Collecting Plantation Products Without Permits."

[31] Pradhani, "Dynamics of Adat Law Community Recognition: Struggle to Strengthen Legal Capacity"; Hamida, "Adat Law and Legal Pluralism in Indonesia: Toward a New Perspective?"

[32] Felker et al., "Considering Land Tenure in REDD+ Participatory Measurement, Reporting, and Verification: A Case Study From Indonesia."

c. Implications for Legal Pluralism

The ongoing conditionality and inconsistency in the application of adat law present significant challenges to realizing meaningful legal pluralism in Indonesia. The limited legislative and adjudicative roles of regional authorities in customary matters reflect a deeper institutional reluctance to move beyond a state-centric model of legal governance. As Hamida (2022) observes, the continued dominance of national legal frameworks inhibits the development of localized legal institutions that are responsive to the socio-cultural realities of Indonesia's diverse communities.[33]

Although the discourse surrounding Indonesia's legal development increasingly recognizes the value of pluralism and decentralization, the substantive legal structure remains centralist. The conditional approach to adat law sustains a hierarchy of legal authority in which customary systems are tolerated only to the extent that they do not challenge the primacy of state law. This framework stifles innovation in local governance, undermines legal certainty for adat communities, and contributes to their broader cultural and legal disenfranchisement.

Fulfilling the constitutional promise of legal pluralism in the post-Reformasi era therefore requires more than symbolic acknowledgment or fragmented reform. A comprehensive legal reform agenda is needed—one that explicitly defines the scope, status, and enforceability of adat law within the national legal order. Such a framework must also enhance the institutional capacity of local governments and ensure consistent judicial interpretation and protection of customary rights.

III. Comparative Findings

The legal experiences of South Africa, Canada, New Zealand, and Australia provide instructive models for Indonesia's ongoing efforts to recognize and institutionalize *adat* law within its national legal system. Despite differing constitutional designs and colonial legacies, these multi-ethnic nations demonstrate varying degrees of commitment to legal pluralism and the recognition of Indigenous or customary legal systems. Collectively, they show that legal pluralism can serve as a foundation for justice, reconciliation, and inclusive governance when supported by appropriate constitutional, judicial, and policy mechanisms.

a. South Africa's Framework for Customary Law

South Africa's 1996 Constitution stands out for its explicit commitment to legal pluralism. Section 211 formally acknowledges the status, institution, and role of traditional leadership and customary law. Complementing this, Section 39(2) mandates that courts develop customary law in accordance with constitutional values such as dignity, equality, and freedom (Republic of South Africa, 1996).[34] The Constitutional Court's landmark decision in *Bhe v. Magistrate, Khayelitsha* (2005),

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[33] Hamida, "Adat Law and Legal Pluralism in Indonesia: Toward a New Perspective?"

[34] Sabiti Makara, "Decentralisation and Good Governance in Africa: A Critical Review," *African Journal of Political Science and International Relations* 12, no. 2 (2018): 22–32, https://doi.org/https://doi.org/10.5897/AJPSIR2016.0973.

which invalidated gender-discriminatory inheritance norms under customary law, underscores the principle that customary law must align with the Bill of Rights.[35]
Although reconciling customary norms with human rights remains a challenge (Morudu & Maimela, 2020), South Africa's model demonstrates that customary law can be substantively integrated into a constitutional system—provided there is institutional clarity and strong judicial oversight.[36]

b. Canada's Recognition of Indigenous Legal Traditions

Canada's constitutional recognition of Indigenous rights is grounded in Section 35 of the Constitution Act, 1982, which affirms the rights of First Nations, Inuit, and Métis peoples (Government of Canada, 1982). The Supreme Court of Canada has played a pivotal role in operationalizing these rights through a series of landmark rulings. In *R. v. Sparrow* (1990), the Court introduced the "Sparrow Test" to assess the justifiability of governmental interference with Aboriginal rights (Borrows, 2010).[37] Subsequent cases, such as *Delgamuukw v. British Columbia* (1997) and *Tsilhqot'in Nation v. British Columbia* (2014), extended Aboriginal title to include rights over land use, governance, and cultural preservation.[38]
This evolving jurisprudence illustrates how Indigenous traditions can be embedded within a constitutional framework, particularly when courts adopt inclusive legal interpretations and enforce the duty to consult Indigenous communities.

c. New Zealand's Integration of Māori Customs

New Zealand applies a hybrid legal model underpinned by the Treaty of Waitangi (1840), which forms the foundational basis for Māori–Crown relations. The Waitangi Tribunal, established under the Treaty of Waitangi Act 1975, investigates historical grievances and contributes to legislative reform (New Zealand Government, 2023).[39] In *Clarke v. Takamore* (2012), the Supreme Court recognized Māori customs (Tikanga) as legally significant, setting a precedent for their incorporation into the common law (New Zealand Supreme Court, 2012).[40]
In addition to legal recognition, Māori political participation is supported through reserved parliamentary seats and the representation of the Māori Party. Legal

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[35] Gugulethu Nkosi, "A Perspective on the Dichotomy of Acquisition of Parental Responsibilities and Rights by Fathers in Terms of the Children's Act and Customary Law," *Obiter* 39, no. 1 (2018), https://doi.org/10.17159/obiter.v39i1.11402.
[36] Morudu and Maimela, "The Indigenisation of Customary Law: Creating an Indigenous Legal Pluralism Within the South African Dispensation: Possible or Not?"
[37] Borrows, *Canada's Indigenous Constitution*.
[38] Reid Gomme, "Delgamuukw v. British Columbia: When Aboriginal Voices of Law Were Finally Heard," *Political Science Undergraduate Review* 3, no. 1 (2018): 32–36, https://doi.org/10.29173/psur46.
[39] Mai Chen, "The Increasing Need for Cultural Experts in New Zealand Courts," *Amicus Curiae* 4, no. 3 (2023): 583–98, https://doi.org/10.14296/ac.v4i3.5618.
[40] Alexandra Xanthaki and Dominic O'Sullivan, "Indigenous Participation in Elective Bodies: The Maori in New Zealand," *International Journal on Minority and Group Rights* 16, no. 2 (2009): 181–207, https://doi.org/10.1163/157181109x427734.

disputes over water rights and natural resource control highlight the role of Indigenous legal claims in shaping environmental and sovereignty discourse.[41]

d. Australia's Evolving Framework for Indigenous Rights

Unlike the other jurisdictions, Australia lacks explicit constitutional recognition of Indigenous peoples. However, a series of judicial decisions and legislative developments have gradually expanded their legal standing. The High Court's ruling in *Mabo v. Queensland (No. 2)* (1992) was transformative, rejecting the doctrine of *terra nullius* and affirming the existence of native title based on traditional customs (High Court of Australia, 1992). This was followed by the Native Title Act 1993 and *Wik Peoples v. Queensland* (1996), which clarified the coexistence of native title with statutory land rights.[42]

Institutional mechanisms such as Indigenous sentencing courts (e.g., the Nunga Court) reflect growing sensitivity to cultural contexts in the administration of justice.[43] Moreover, Indigenous ecological knowledge is increasingly integrated into environmental governance initiatives. Despite these advances, the absence of constitutional recognition and the lack of a comprehensive treaty process remain significant limitations to a fully pluralistic legal system.

e. Synthesis and Implications for Indonesia

The comparative experiences outlined above offer distinct but overlapping models of legal pluralism:

- **South Africa**: Integrates customary law through constitutional provisions, with an emphasis on human rights compatibility.
- **Canada**: Embeds Indigenous rights in constitutional doctrine and enforces them through robust judicial interpretation.
- **New Zealand**: Blends treaty obligations with statutory law, common law recognition of Māori customs, and institutionalized political representation.
- **Australia**: Advances Indigenous rights via judicial innovation and legislation, despite the absence of constitutional foundations.

These jurisdictions collectively demonstrate that meaningful legal pluralism requires a synergistic approach—combining constitutional affirmation, judicial engagement, and institutional implementation. For Indonesia, the key lesson is that symbolic or conditional recognition of *adat* law is insufficient. Deliberate and coordinated efforts are needed to construct a legal ecosystem in which *adat* law and

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[41] Louise Johnson, Libby Porter, and Sue Jackson, "Reframing and Revising Australia's Planning History and Practice," *Australian Planner* 54, no. 4 (2017): 225–33, https://doi.org/10.1080/07293682.2018.1477813.

[42] Samantha Jeffries and Christine Bond, "Does Indigeneity Matter? Sentencing Indigenous Offenders in South Australia's Higher Courts," *Australian & New Zealand Journal of Criminology* 42, no. 1 (2009): 47–71, https://doi.org/10.1375/acri.42.1.47; Sue Jackson, M Storrs, and Jillian Morrison, "Recognition of Aboriginal Rights, Interests and Values in River Research and Management: Perspectives From Northern Australia," *Ecological Management & Restoration* 6, no. 2 (2005): 105–10, https://doi.org/10.1111/j.1442-8903.2005.00226.x.

[43] Morudu and Maimela, "The Indigenisation of Customary Law: Creating an Indigenous Legal Pluralism Within the South African Dispensation: Possible or Not?"; G J V Niekerk, "Succession, Living Indigenous Law and Ubuntu in the Constitutional Court," *Obiter* 26, no. 3 (2022), https://doi.org/10.17159/obiter.v26i3.14610.

state law coexist in a mutually reinforcing framework grounded in democratic values and human rights.

Strengthening Indonesia's legal pluralism, therefore, entails more than doctrinal reform. It requires embedding *adat* law within constitutional structures, aligning it with contemporary legal standards, and ensuring that Indigenous voices are meaningfully integrated into legislative, judicial, and administrative processes.

IV. Reimagining Legal Pluralism: Lessons for Indonesia

The comparative experiences of South Africa, Canada, New Zealand, and Australia offer critical lessons for Indonesia as it seeks to strengthen legal pluralism and enhance the recognition of *adat* law. While each jurisdiction has followed a different path in accommodating Indigenous legal traditions, they collectively highlight four core principles—constitutional clarity, judicial enforcement, participatory governance, and institutional innovation—that are adaptable to Indonesia's socio-legal context.

It is equally important to underscore that *adat* law in Indonesia is not a dormant or theoretical construct, but a living and operational normative system that continues to guide the daily lives of many Indigenous communities. From conflict resolution to land stewardship and spiritual practices, *adat* functions as a parallel legal order deeply embedded in local identities and governance structures. In regions such as Kajang (South Sulawesi), Baduy (Banten), and Papua, communities continue to apply customary norms—often with greater legitimacy than state law in the eyes of local populations. However, these practices frequently lack formal legal recognition and institutional support, rendering them vulnerable to being overridden by statutory regulations or disregarded in administrative and judicial forums.[44]

The persistence of *adat* law despite its marginalization reveals that legal pluralism in Indonesia is already a social fact—one that merely awaits normative validation and institutional reinforcement. Rather than attempting to reconstruct Indigenous systems from above, reform efforts should focus on legitimizing and integrating what already exists. This requires more than rhetorical acknowledgment; it demands constitutional affirmation, legislative alignment, and administrative harmonization. Bridging this gap between *de facto* practice and *de jure* authority is essential to transforming Indonesia's symbolic pluralism into a functional, inclusive, and rights-based legal order.

1. The Imperative of Explicit Constitutional Recognition

A key insight from South Africa and Canada is the foundational role of constitutional recognition in legitimizing Indigenous legal systems. In both countries, customary and Indigenous laws are embedded directly within

[44] Hamida, "Adat Law and Legal Pluralism in Indonesia: Toward a New Perspective?"; Pradhani, "Dynamics of Adat Law Community Recognition: Struggle to Strengthen Legal Capacity."

constitutional texts, providing a normative and enforceable basis for their application and protection.[45]

Although Article 18B of Indonesia's 1945 Constitution was amended to recognize traditional communities, its recognition remains conditional upon alignment with national development objectives and prevailing legal norms. This qualification weakens the legal status of *adat* law and limits its practical autonomy. Indonesia would benefit from adopting a more explicit and unconditional constitutional provision, thereby elevating *adat* law from symbolic acknowledgment to enforceable legal authority.

2. Judicial Commitment and Interpretive Reform

Another important lesson is the transformative potential of judicial interpretation. Landmark rulings such as *Bhe* (South Africa), *Sparrow* and *Tsilhqot'in* (Canada), and *Mabo* and *Wik* (Australia) illustrate how courts can clarify, expand, and safeguard Indigenous rights even in the absence of detailed legislation.[46] In Indonesia, while the Constitutional Court has occasionally issued rulings in favor of *adat* communities, its jurisprudence remains fragmented due to the lack of statutory guidance. Strengthening judicial commitment would require the development of interpretive frameworks that affirm *adat* rights within constitutional parameters—drawing upon the progressive reasoning found in these comparative precedents.

3. Institutionalizing Participatory Governance

Experiences from Canada, New Zealand, and Australia underscore the importance of inclusive and negotiated governance. *Canada's* co-management of Indigenous lands, New Zealand's Treaty of Waitangi settlement mechanisms, and Australia's Indigenous advisory councils exemplify how participatory models can institutionalize legal pluralism (New Zealand Government, 2023).[47]

Indonesia could adapt such approaches by formally involving *adat* communities in legislative processes, spatial *planning*, and environmental policymaking. Measures could include establishing advisory councils or reserved

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[45] Borrows, *Canada's Indigenous Constitution*; Evadne Grant, "Human Rights, Cultural Diversity and Customary Law in South Africa," *Journal of African Law* 50, no. 1 (2006): 2–23, https://doi.org/10.1017/s0021855306000039; John V Curry, Han Donker, and Richard Krehbiel, "Land Claim and Treaty Negotiations in British Columbia, Canada: Implications for First Nations Land and Self-governance," *Canadian Geographer / Le Géographe Canadien* 58, no. 3 (2014): 291–304, https://doi.org/10.1111/cag.12088; Scott L Greer et al., "Regional International Organizations and Health: A Framework for Analysis.," *Journal of Health Politics Policy and Law*, 2021, https://doi.org/10.1215/03616878-9417456.

[46] Borrows, *Canada's Indigenous Constitution*; Himonga, "Reflection on Bhe v Magistrate Khayelitsha: In Honour of Emeritus Justice Ngcobo of the Constitutional Court of South Africa"; Ryan Bowie, "Indigenous Self-Governance and the Deployment of Knowledge in Collaborative Environmental Management in Canada," *Journal of Canadian Studies* 47, no. 1 (2013): 91–121, https://doi.org/10.3138/jcs.47.1.91.

[47] Massimiliano Valeriani, Rita Marchetti, and Claudio C Passalacqua, "Cities, States and the Pandemic: Challenges and Opportunities for Transnational City Networks," *Frontiers in Political Science* 7 (2025), https://doi.org/10.3389/fpos.2025.1556963; Carey Doberstein, "Metagovernance of Urban Governance Networks in Canada: In Pursuit of Legitimacy and Accountability," *Canadian Public Administration* 56, no. 4 (2013): 584–609, https://doi.org/10.1111/capa.12041; Anderssen, "Indigenous Australia and the Pre-Legal Society in HLA Hart's the Concept of Law."

political representation to ensure Indigenous voices are systematically integrated into both national and regional governance.

4. Developing Culturally Responsive Legal Institutions

Australia's Indigenous courts, such as the Nunga Court, serve as effective models for culturally sensitive adjudication that incorporates customary values within the formal justice system.[48] For Indonesia, this suggests the potential to establish localized dispute resolution mechanisms rooted in *adat* law, formally recognized and supported by the state.

Such institutions could help address the overrepresentation of Indigenous communities in the criminal justice system while restoring the legitimacy of local norms through hybrid legal forums that blend customary and formal legal elements.

5. Integrating Indigenous Knowledge in Environmental Governance

New Zealand and Australia have increasingly recognized the value of Indigenous ecological knowledge in environmental and land-use policy.[49] Given Indonesia's ecological richness and the cultural connection between *adat* communities and their natural environments, integrating *adat* wisdom into environmental governance would enhance both sustainability and cultural resilience. This integration can be realized through co-management frameworks, legal recognition of Indigenous territories, and the incorporation of customary practices in conservation and resource management strategies.

6. Addressing Historical Injustices Through Institutional Redress

Mechanisms such as New Zealand's Waitangi Tribunal and Canada's Truth and Reconciliation Commission offer structured platforms for addressing historical injustices, enabling compensation, institutional reform, and national healing (New Zealand Government, 2023).[50]

Indonesia could benefit from establishing a similar national mechanism to address issues such as land dispossession, cultural marginalization, and state-sanctioned exclusion of *adat* communities. Such an initiative would fulfill both moral and legal obligations while strengthening social cohesion and democratic legitimacy.

Insights for Indonesia's Legal Reform

Indonesia stands to benefit substantially by internalizing the lessons of other plural legal systems. Advancing legal pluralism requires more than aspirational

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[48] Valeriani, Marchetti, and Passalacqua, "Cities, States and the Pandemic: Challenges and Opportunities for Transnational City Networks"; Hobbs, "The New Right and Aboriginal Rights in the High Court of Australia."

[49] Nathan H Gray, Taciano L Milfont, and Ariana E Athy, "Climate Crisis as a Catalyst to Advance Indigenous Rights," *Mai Journal a New Zealand Journal of Indigenous Scholarship* 11, no. 2 (2022): 104–16, https://doi.org/10.20507/maijournal.2022.11.2.2; Jackson, Storrs, and Morrison, "Recognition of Aboriginal Rights, Interests and Values in River Research and Management: Perspectives From Northern Australia."

[50] Borrows, *Canada's Indigenous Constitution*; Gray, Milfont, and Athy, "Climate Crisis as a Catalyst to Advance Indigenous Rights"; Xanthaki and O'Sullivan, "Indigenous Participation in Elective Bodies: The Maori in New Zealand."

language—it demands systemic reform across constitutional, judicial, and policy domains.

By reinforcing constitutional recognition, ensuring judicial consistency, enabling participatory governance, institutionalizing culturally grounded justice mechanisms, and integrating Indigenous knowledge into public policymaking, Indonesia can move toward a legal order that is pluralistic, inclusive, and rights-based. Empowering *adat* law in this manner is not merely a legal necessity—it is a reaffirmation of Indonesia's commitment to its diverse heritage and its constitutional promise of justice for all.

V. Policy Recommendations for the Recognition and Integration of *Adat* Law in Indonesia

The continued marginalization of *adat* law within Indonesia's centralized legal framework stems from historically entrenched constitutional design, ambiguous legal standards, and the absence of coherent institutional mechanisms to accommodate customary traditions. Drawing from comparative experiences in South Africa, Canada, New Zealand, and Australia, this section proposes three concrete policy recommendations aimed at fostering a pluralistic, rights-based legal order that meaningfully integrates *adat* law.

1. Constitutional Reform: Strengthening the Legal Foundation for Adat Law

Recommendation

Amend the 1945 Constitution to explicitly and unconditionally recognize *adat* law as a legitimate component of Indonesia's national legal system. This approach would follow South Africa's model under Section 211, which affirms the authority of customary law insofar as it aligns with constitutional rights and values (Republic of South Africa, 1996).[51]

Rationale

Article 18B(2) currently recognizes traditional communities but does so conditionally—undermining the enforceability and normative status of *adat* law. A more explicit constitutional mandate would establish legal parity between state and customary law, enabling its application in governance, dispute resolution, and environmental stewardship, provided it is consistent with fundamental human rights.

Implementation Steps

a) Initiate inclusive and participatory consultations with *adat* communities, legal scholars, and civil society stakeholders to draft language reflective of Indonesia's socio-legal realities.
b) Propose constitutional amendments that clearly define the legal authority, jurisdiction, and principles of harmonization between *adat* law and national law.

[51] Grant, "Human Rights, Cultural Diversity and Customary Law in South Africa."

c) Facilitate multi-stakeholder deliberation through legislative processes and public forums to ensure democratic legitimacy and widespread support.

2. Judicial Guidelines: Ensuring Clarity and Consistency in Adat Law Application

Recommendation

The Supreme Court and the Constitutional Court should issue comprehensive judicial guidelines for interpreting and applying *adat* law, thereby promoting doctrinal clarity and jurisprudential coherence across jurisdictions.

Rationale

Current judicial engagement with *adat* law is fragmented due to the absence of standardized legal procedures and interpretive frameworks. Drawing on Canada's experience—such as the *Sparrow* and *Delgamuukw* decisions—structured judicial reasoning enhances legal certainty and improves access to justice for Indigenous communities.[52]

Implementation Steps

a) Conduct a nationwide audit of court decisions involving *adat* law to identify inconsistencies and recurring themes.
b) Collaborate with legal experts, judges, universities, and administrative institutions to develop culturally grounded yet legally robust judicial guidelines.
c) Institutionalize training programs for judges, prosecutors, and public defenders on customary law jurisprudence, supported by a searchable database of precedents and interpretive tools.

3. Policy Integration: Mainstreaming Adat Law in Governance and Development

Recommendation

Adat law should be formally integrated into national policy frameworks—especially in areas such as land governance, environmental regulation, cultural preservation, and community-based justice.

Rationale

Comparative models, such as New Zealand's resource co-management strategies and Australia's Indigenous sentencing courts, show that customary legal systems can be operationalized without undermining state sovereignty.[53] In Indonesia, however, *adat* law remains peripheral to policymaking, limiting its effectiveness and denying communities meaningful legal empowerment.

Implementation Steps

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[52] Borrows, *Canada's Indigenous Constitution*.

[53] Jackson, Storrs, and Morrison, "Recognition of Aboriginal Rights, Interests and Values in River Research and Management: Perspectives From Northern Australia"; Valeriani, Marchetti, and Passalacqua, "Cities, States and the Pandemic: Challenges and Opportunities for Transnational City Networks."

a) Establish a national task force composed of representatives from the Ministry of Law and Human Rights, local governments, Indigenous organizations, and academic institutions to coordinate policy development.
b) Draft and enact policy instruments that mandate the incorporation of *adat* principles in environmental protection, land-use planning, and conflict resolution.
c) Launch public awareness and legal education campaigns to underscore the role of *adat* law in promoting cultural identity, social cohesion, and sustainable development.

One compelling example of how local best practices can inform national-level legal integration is the case of Perda No. 9/2015 in Bulukumba Regency, South Sulawesi, which formally recognizes and protects the Ammatoa Kajang Indigenous community. This regulation not only affirms the existence of traditional leadership and customary territory, but also integrates *adat* principles into forest governance, dispute resolution, and land-use planning. The regulation was the result of sustained collaboration between local government, adat authorities, and civil society organizations.[54]

While this regional initiative demonstrates progressive local governance, its effectiveness remains contingent on alignment with national sectoral laws—particularly in forestry, spatial planning, and village governance. For instance, overlaps with state forest classifications under national law continue to limit the full implementation of *adat*-based stewardship, indicating the necessity for harmonized legal frameworks at multiple levels. As such, replicating the Kajang model nationally requires enabling legislation at the central level, including amendments to the Forestry Law, Village Law, and related sectoral regulations to explicitly accommodate and empower customary law systems.

Elevating these locally-driven initiatives into national frameworks would not only institutionalize successful examples but also promote a bottom-up model of legal pluralism, ensuring that the recognition of *adat* law is not merely symbolic but fully operational across jurisdictions.

Synthesis of Recommendations

The full and substantive recognition of *adat* law within Indonesia's legal architecture is not merely a matter of restorative justice; it is a constitutional and democratic imperative. Constitutional amendments, judicial guidelines, and policy integration are synergistic strategies that can elevate *adat* law from the margins to the mainstream of legal and governance structures.

These reforms would support a legal system that reflects Indonesia's multicultural identity, strengthen community resilience, and foster more inclusive governance by aligning national law with the lived realities of Indigenous communities. Empowering *adat* law through these mechanisms is essential to fulfilling Indonesia's constitutional promise of justice, equity, and legal pluralism for all its citizens.

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[54] Pradhani, "Dynamics of Adat Law Community Recognition: Struggle to Strengthen Legal Capacity."

Conclusion

Efforts to integrate adat law into Indonesia's national legal system have been obstructed by entrenched structural barriers, including constitutional centralism, colonial legal legacies, and a positivist legal tradition that has privileged state law over local normative frameworks. Although Article 18B(2) of the 1945 Constitution acknowledges the existence of Indigenous communities, such recognition has remained conditional, lacking the legal certainty necessary for the enforceability of adat law. Post-Reformasi decentralization opened limited avenues for customary law at the local level, yet its implementation has remained fragmented, contingent upon local political will, and has lacked robust institutional and legislative support. This study finds that legal pluralism in Indonesia has largely been symbolic rather than substantive. Comparative experiences from South Africa, Canada, New Zealand, and Australia highlight explicit constitutional recognition, proactive judicial engagement, inclusive Indigenous participation in governance, and the integration of traditional knowledge into environmental and public policy frameworks. Therefore, Indonesia should undertake constitutional reform to strengthen the legal status of adat law, establish judicial guidelines to ensure consistent interpretation, and mainstream customary legal systems within sustainable governance structures. These reforms would be essential not only in addressing historical injustices but also as strategic steps toward creating a just, participatory, and culturally rooted legal order. In the context of Indonesia's multicultural society, empowering adat law is not merely a legal necessity, but a moral imperative to uphold social justice and affirm cultural sovereignty.

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Author Contributions

Lukman Hakim led the overall conception and design of the research, conducted the constitutional and doctrinal legal analysis, and coordinated the drafting and final revision of the manuscript. Qatrunnada Hamparan Melati contributed to the comparative legal research, particularly in analyzing the integration of Indigenous law in Canada, New Zealand, and Australia, and assisted in developing the environmental governance section. Purnawan Dwikora Negara supported the formulation of the research framework, conducted critical reviews of legal sources, and provided institutional insights related to Indonesia's decentralization and regional autonomy. All authors contributed to the literature review and jointly approved the final version of the manuscript.

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Open Data Statement

This research is doctrinal and does not involve generating, collecting, or analyzing empirical or quantitative data. The study relies exclusively on publicly available legal documents, including constitutional texts, legislation, judicial decisions, and academic publications. As such, no original datasets that require data sharing were produced or utilized. All referenced materials can be accessed through legal databases, government repositories, or academic journal platforms cited in the reference list.

Reproducibility Statement

This study is based on normative legal analysis and qualitative interpretation of constitutional texts, judicial decisions, and scholarly literature. As such, it does not involve experimental procedures, empirical datasets, or computational models that would enable direct replication. Nevertheless, all primary legal sources cited—such as constitutional provisions, court rulings, and statutory instruments—are publicly accessible, and the reasoning process applied throughout the paper is transparent and traceable, ensuring intellectual accountability and scholarly reproducibility in qualitative terms.