

# A Forest Protection Model Based on Local Wisdom of the Kotabaru Dayak Indigenous Communities in Kalimantan Selatan Forest Conservation

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# A Forest Protection Model Based on Local Wisdom of the Kotabaru Dayak Indigenous Communities in Kalimantan Selatan Forest Conservation

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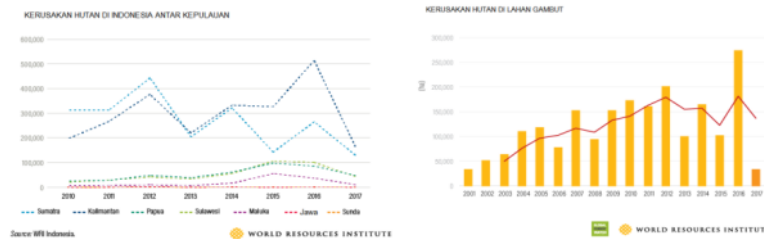
**Abstract:** Indonesia's forest management is still unable to fulfill the constitutional mandate, thus driving the rate of forest degradation and deforestation. This very high damage occurred in the concession area, therefore forest management in customary lands must be returned to indigenous peoples who do have constitutional rights. Furthermore, based on previous research conducted by the World Resource Institute, forest management under the control of indigenous peoples runs more effectively than forest management outside the scope of adat and can reduce the rate of forest deforestation. The purpose of this research is to answer 2 (two) main issues, namely; (1) Analyzing forest protection based on local laws of the Dayak Kotabaru indigenous people on environmental sustainability; (2) Finding a forest protection model based on the local law of the Dayak Kotabaru indigenous people in Kalimantan Selatan. The research method used in the first year is an empirical research method that examines the forest protection model based on local laws of the indigenous Dayak community in Kalimantan Selatan. In the second year, using the socio-legal research, discovered the concept of regional policies in forest management based on the values contained in the local legal system of the Dayak indigenous people in Kalimantan Selatan.

**Keywords:** Forest; Local Wisdom; Customary Law; Dayak Tribe; Kalimantan Selatan.

## 1. INTRODUCTION

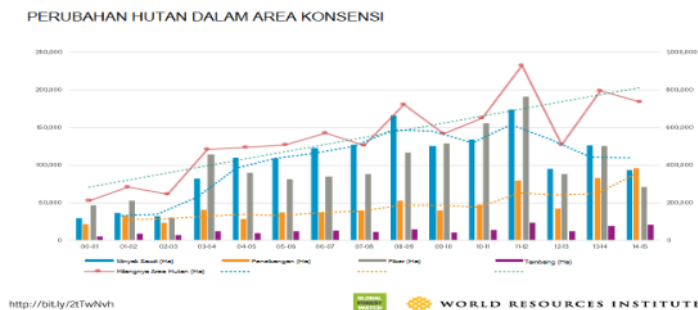
Local wisdom in the development of national laws relating to natural resource management has received place and recognition from the government. This recognition can be seen from the issuance of various laws and regulations.

Data 1. Deforestation in Indonesia



This data proves that Indonesia's forest management is still unable to realize the constitutional mandate, thus driving the rate of forest degradation and deforestation. This very high damage is caused by illegal logging, forest and land fires, mining activities, and conversion of forest areas, to unsustainable logging. Furthermore, based on the data that the authors obtained, shows that 55% of forest loss occurs within the concession area, where logging of trees is permitted up to a certain limit according to the permit, while 45% of forest loss occurs outside the legal concession area (Arief Wijaya, n.d.).

Data 2. Increase in Forest Damage in Concession Areas



That more than 4.5 million hectares of forest loss occurred within the concession area. It was further found that oil palm and wood fiber plantations, especially for the pulp and paper industry, are the two main contributors to forest loss in Indonesia. Nearly 1.6 million hectares and 1.5 million hectares of primary forest have been turned into oil palm

and wood fiber plantations. This proves that the rate of deforestation is the result of companies entering into forest utilization activities which then violate their permits. Therefore, forest management within customary lands must be returned to indigenous peoples who do have constitutional rights.

The Kotabaru Dayak indigenous community is a native Kalimantan Dayak tribe found in the Kotabaru District consisting of several sub-tribes, namely the Meratus Dayak, Tumbang Dayak, and Pasir Dayak which are spread across several sub-districts. The Dayak indigenous people group has customary laws related to forest protection models based on local wisdom that have been passed down from generation to generation by their ancestors. So, the forest protection models are interesting for further study.

## 2. METHODS

This study uses empirical research methods, namely by collecting empirical data in the form of documentation of customary criminal law for the Dayak Kotabaru community taken from semi-structured interviews with *purposive samples*, *key actors* (informants), and *focus group discussions* (Travers, 2005).

1. The semi-structured interviews will focus on gathering detailed and in-depth information regarding the forest protection model based on the customary law of the Dayak Kotabaru community obtained from informants.
2. Key actors (informants) will be carefully selected based on their special knowledge and the information they provide must be reliable (reliability). The key actors in this research are the Customary Head and several communities and the Kotabaru Dayak Customary elders who have in-depth knowledge of the forest protection model based on the Kotabaru Dayak customary law which has been passed down from generation to generation.
3. *Focus Group Discussions* will be carried out using a participatory approach to examine community perspectives on the forest protection model based on the customary law of the Kotabaru Dayak community.

This research also uses socio-legal research using an interdisciplinary approach between aspects of normative research and a sociological approach by analyzing data collected from the results of the first year's research in depth and holistically (Fetterman, 1998). Paradigm socio-legal is to use a combination of normative juridical methods with legal sociological methods. So that the second year of this research using normative analysis techniques on the forest protection model based on the customary law of the Kotabaru Dayak community was obtained from empirical research in the first year. Furthermore, data analysis was carried out qualitatively using descriptive-analytical methods to obtain a systematic description and details of the forest protection model based on the customary law of the Kotabaru Dayak community. The research results that have been collected are then compiled in a written text, explained, and then analyzed to conclude.

### 3. RESULTS AND DISCUSSION

#### ***3.1. Forest Protection Based on Local Laws of Dayak Kotabaru Customary Communities Already Based on Environmental Sustainability***

Local laws or what can be called customary law in general are laws that apply and are maintained at the local level (certain areas), regardless of where the law originates (Steny, 2006). Local law includes both written and unwritten laws that apply in a particular area. Local law has similarities with positive law in general which has several categories, such as civil law and criminal law. The laws governing forest protection that will be discussed in this study are included in customary criminal law.

Local laws governing forest protection are included in customary criminal law because they involve the interests of indigenous peoples in general which have an impact on the lives of these indigenous peoples. But the difference is that customary criminal law is different in the process of imposing sanctions. In customary criminal law, those who violate customary law will be subject to compensation sanctions by the local customary leader using objects that are considered valuable and can restore the balance of nature which has been damaged due to irresponsible human error. The objects in question include Malawian plates, gongs, spears, and other objects.

Forest protection based on local laws is a form of preventing forest damage caused by illegal forest occupation, forest use that deviates from its function, irresponsible forest exploitation, and deforestation. Forests that are damaged are usually caused by very rapid population growth, increasingly narrow agricultural land areas, socio-economic conditions of communities around forests, shifting cultivation, lack of employment opportunities, and lack of public awareness of the importance of forest functions and so on (Salim, 2005).

Forest protection based on local laws has the concept of *living law* or living law based on the principle of togetherness. Forest protection is a joint duty and obligation of the customary law community under the leadership of the tribal chief or local customary head. Indigenous peoples have a stance that states that where the earth is stepped on, there the sky is upheld. The meaning of these words is that wherever we are as long as we are still on the ground, we still have to respect local laws and customs. This includes not being allowed to carry out forest destruction which causes natural extensions to become unstable and cause havoc for indigenous and tribal peoples.

According to Imamul Hadi, the local legal contribution of indigenous peoples in increasing national environmental resilience is where indigenous peoples always pay attention to, maintain and increase environmental resilience in utilizing the environment. These local laws are based on religious principles, togetherness and cooperation which have always been the basis for thinking and acting for indigenous peoples in managing and utilizing the environment related to a customary law norm that contains cross-generational justice, which has always been a guide and regulates relations between communities. tradition with the environment. The guidelines contain prohibitions, orders and obligations both verbally (unwritten) and in writing (Hadi, 2011).

Legal protection of forests based on local laws of indigenous peoples in increasing environmental sustainability has been carried out for generations. This is not without reason, they are indigenous peoples as people who are very close to forest areas, use forests as their main livelihood for gardening, livestock and hunting, and implement the main responsibility of maintaining forest sustainability so that it is not damaged by people who are not responsible. Keeping forests for indigenous peoples to remain available is a form of protection against the next generations.

Even though the livelihood of indigenous peoples in general is as farmers, breeders and hunters whose activities are inseparable from forest areas, indigenous peoples still pay attention to the preservation of the existing nature so that it is maintained and can still be felt by the next generation. The work of indigenous peoples who are generally farmers and gardeners, breeders and hunters do not affect forest sustainability, because they generally do this work only to survive and continue their lives, not for sale and purchase which requires them to clear forests to clear land.

### ***3.2. A Forest Protection Model Based on Local Law of the Kotabaru Dayak Indigenous People in Kalimantan Selatan***

Kotabaru District is one of the districts that has quite a lot of Dayak traditions compared to the districts in Kalimantan Selatan Province, one of which is the Bangkalaan Dayak Adat in Kelumpang Hulu District, Kotabaru District. The majority of the Dayak Bangkalaan people work as farmers. In farming, the Dayak Bangkalaan people rely on forest products that are converted into farming land to meet their daily needs. According to Tiang Han, the Head of Bangkalaan Dayak Customs, there are several kinds of work for the Bangkalaan Dayak Indigenous people, namely (Field interview with the Head of Bangkalaan Dayak Customs on date 23 July 2022) such as Palinuhan, Palalian, and Bahuma, and there are several communities who are members of the natural Swallow Cave conservation or commonly referred to by the people here as Temuluang Cave (Dayak, n.d.). The various jobs of the indigenous people are their form of protecting and preserving the forest based on local wisdom based on the work of the Bangkalaan Dayak indigenous people themselves.

The first one is like Palinuhan, Palinuhan is a form of forest protection that is specifically for large trees in the forest, where in the forest there are wanyi nests or we can call beehives. Inside the beehives, honey can be used as their medicine or can be sold for their daily needs. Because it provides extraordinary benefits, the Dayak Bangkalaan community cares for both the big tree and the trees around the big tree. In the process of forest conservation, especially Palinuhan, there is a protection model for trees nested by honey bees/wanyi nests that are about 100 meters in radius from the large trees nested by the honey bees. And if there are people who disturb or damage the sustainability of the trees in the nest of bees, they will be fined according to customary sanctions through the Bangkalaan Dayak customary institution, which is approximately 5 Tahil (5 white melawin plates) which in the process takes place at the house of the

traditional institution or at the perpetrator's place which undermines the preservation of the Palinuhan.

The second is Palalian, Palalian is a form of forest protection that is devoted to the protection of customary forest rivers. Where in the river can be used by indigenous peoples to find food sources such as fish, wash clothes, and bathe. However, in this case, it is more focused on protecting how to find fish according to local wisdom so that its beauty is still maintained by not using toxic explosives or anything else that can damage the sustainability of traditional rivers.

The legal protection model for Palalian is that several rivers are qualified as rivers for fishing and for washing clothes for Indigenous people where fish-variety places can collect river fish products in the downstream areas of the river which are classified from inside the river water different from the river where washing clothes or places for daily needs are classified from a river depth of 1 meter to 3 meters. And if there are indigenous people who violate it, then only customary moral punishment so that those who destroy forest sustainability are ashamed of what they have done so they don't do it again. The moral punishment itself is in the form of punishment that is obtained for the treatment of the perpetrator who damaged Palalian according to the belief of the Bangkalan Dayak Indigenous people themselves will be ashamed of their ancestors.

The third, namely Bahuma, Bahuma is a job that utilizes cleared forests as farming areas to support the daily needs of the Bangkalan Dayak indigenous people, without destroying the forest which is considered protected by the Bangkalan Dayak indigenous people themselves. Like not clearing land for behuma where there are Palinuhan or Palalian. In Bahuma, the Dayak Bangkalan people in clearing land use local wisdom techniques by burning, but there are several ways to burn the land yourself for the Bangkalan Indigenous people, namely by burning the land where the land barrier will be cleared first, leaving grass or trees in the middle of the land. then it can be burned without fear that it will spread to other forest areas. And some people clear land by slashing or you can call it cutting it manually with a sharp tool like a sharp saber/parang and then burning it little by little the dry tree branches from the felling.

The last one is the protection of Indigenous forests in Goa, for example, Goa Temuluang which is in the Bangkalan Dayak Indigenous area. In maintaining the preservation of Goa Temuluang where there are Goa products, namely natural swallow nests which can be sold for the needs of indigenous peoples and can be used as costs for Bangkalan Dayak traditional events. Where in its preservation only a few people cared for it because it was trusted by the Bangkalan Dayak customary institution and the Head of Bangkalan Village.



Figure 1.1. Temuluang Cave Entrance

From several models of preserving the Bangkalan Dayak customary forest, it cannot be separated from the work factor of the local wisdom of the indigenous people themselves, where indigenous peoples obtain products from the forest and can also maintain the preservation of the Bangkalan Dayak customary forest itself using the work of their respective indigenous peoples.

According to Ferdinand Forest is a type of natural resource that is very important for the life of rural communities, especially the people of Bangkalan Dayak villages (Field interview with the Head of Bangkalan Dayak Customs on date 21 July 2022). For rural communities, forests have at least two important functions, namely forest resources, both timber and non-timber, provide benefits in their lives and forest areas are very good for agricultural land, both food agriculture and plantations.

Indigenous peoples' activities in utilizing the forest, especially for those who live around the forest, have been going on for a long time so the forest has its meaning for people who are dependent on forest resources. This interpretation of the forest then gave birth to various ways among rural communities in managing forests. forest management and conservative



Figure 1.2. At the Bangkalan Dayak Village Office



forest exploitative management timber and non-timber as well as utilization of land resources for the development of agricultural production activities. Methods of forest utilization of this kind are quite common among rural communities which change the function of the forest ecosystem due to the diminishing forest ecosystem components. It can be concluded that these ways of utilizing forests are based on a perspective where forests are only seen from their economic function and the utilization of forest resources is only aimed at achieving material values.

Conservative forest management includes two categories, namely protection and protection and utilization. Forest management that is protective in nature is a protective measure to maintain forest sustainability which is manifested in the form of "prohibited forest" and some use the term "Customary Forest". The forest management mechanism applied is only in the form of protection activities without any form of direct utilization. This kind of management is carried out by rural communities based on the importance of protecting forests that function as a support for production activities such as natural forest areas around the headwaters of rivers and on hillsides/mountains where the surroundings are stretches of community rice fields.

Forest management that is protected and utilized is an act of managing areas where forest areas are protected, but the resources contained therein, both in the form of wood and non-timber, can be used directly and limitedly if they do not change the function of the forest. The use of forest products for commercial purposes is only permitted if they are to meet the needs of the village or common needs (for example, Goa Walet Alami/Goa Temuluang).

Therefore, a forest protection model by accommodating local forestry legal values can increase the active participation of indigenous peoples and will facilitate the government in building mass communication networks, both vertically and horizontally. Further implications will facilitate the government in social and political control in the region. Therefore, in forest protection, the government should pay attention to the plurality of local legal values that live in a society based on local wisdom, so that the implementation of forest protection is achieved.

From the explanation above, it is necessary to have a forest protection regulation based on the local wisdom of indigenous peoples to prevent and limit damage to forests and forest products caused by human actions and to defend the rights of the state, communities, and individuals over forests. The pattern of forest protection in local law is based on local legal rules in the form of taboos and prohibitions and is carried out through preventive actions in the form of rule formation, counseling, and supervision and repressive in the form of imposing customary sanctions.

#### 4. CONCLUSIONS

Forest protection based on the local law of the Dayak Kotabaru customary community based on environmental sustainability has existed for a long time from generation to generation with the concept of living law based on the principle of

cooperation and togetherness. What is meant by cooperation and togetherness here is that every customary law community has the duty and obligation to maintain forest sustainability to protect the forest so that it does not disturb the ecosystem within it to ensure cross-gender justice. The model for preserving the Dayak Bangkalaan customary forest cannot be separated from the work factor of the local wisdom of the indigenous people themselves in preserving customary forests, where indigenous peoples get the products from the forest and can also maintain the sustainability of the Bangkalaan Dayak customary forests themselves using the work of their respective indigenous peoples.

Based on the results of the research that has been submitted, in terms of forest protection based on the local law of the Dayak Kotabaru customary community in environmental sustainability-based forest management, it is quite good in terms of implementation of local law, because the existing traditions are still inherent in the indigenous people. However, there may be changes in behavior by indigenous peoples due to outside influences. So that it is necessary to protect and provide legal certainty to applicable customary rules so that they are not affected and lost due to the times and technology. There is a need for a forest protection regulation based on the local wisdom of indigenous peoples to prevent and limit damage to forests and forest products caused by human actions and to defend the rights of the state, communities, and individuals over forests. The pattern of forest protection in local law is based on local legal rules in the form of taboos and prohibitions and is carried out through preventive actions in the form of rule formation, counseling, and supervision and repressive in the form of imposing customary sanctions.

## REFERENCES

### Books

- Fetterman, D. M. (1998). *Ethnography Step by Step*. Sage Publishing.
- Muhammad, Jayadi Edi. (2020). *Pengelolaan Hutan Adat Berbasis Kearifan Lokal*. Mataram: Sanabil
- Salim, H. S. (2005). *Dasar-Dasar Hukum Kehutanan*. Sinar Grafika.
- Travers, R. B. and M. (2005). *Socio-Legal Research Methods (Structured Interviewing)* (2nd Editio). OUP.

### Journals

- Abby dan Barkatullah, (2015), "Analisis Yuridis Terhadap Hak Adat Atas Tanah Di Masyarakat Adat Kalimantan Selatan Ditinjau Dari Undang-Undang Nomor 5 Tahun 1960 Tentang Pokok-Pokok Agraria" DPD RI Collaborative Research with the Law Faculty of Lambung Mangkurat University, Banjarmasin.

- Bambang Wiyono, (2018), "Kedudukan Hutan Adat Pasca Putusan Mahkamah Konstitusi Nomor 35/PUU-IX/2012 dan Hubungannya Dengan Pengelolaan Hutan di Indonesia" *Journal Aktualita*, Vol.1 No.1 June
- Bernard Steny, Pluralisme Hukum: Antara PERDA Pengakuan Masyarakat Adat dan Otonomi Hukum Lokal", *Jurnal Pembaharuan Desa dan Agraria*, Vol III No. III, 2006, IPB
- Dian Cahyaningrum, (2015), "Implikasi Putusan Mahkamah Konstitusi Mengenai Status Hutan Adat Sebagai Hutan Hak", *Journal Kajian* Vol. 20 No. 1 Maret
- Hadi, I. (2011). *Penegakan Hukum Lingkungan Berdasarkan Kearifan Masyarakat Adat Dalam Upaya Pelestarian Fungsi Lingkungan Hidup*. Universitas Padjajaran.
- Imamul Hadi, (2011) "Penegakan Hukum Lingkungan Berdasarkan Kearifan Masyarakat Adat Dalam Upaya Pelestarian Fungsi Lingkungan Hidup", *Disertasi*, Universitas Padjajaran
- J. Sahalessy, (2011) "Peran Latupati Sebagai Lembaga Hukum Adat Dalam Penyelesaian Konflik Antar Negeri Di Kecamatan Leihitu Propinsi Maluku", *Journal Sasi*, Vol. 17 No. 3 July-September.
- Oman Sukmana, (2016, "Konsep dan Desain Negara Kesejahteraan (*Welfare State*)", *Jurnal Sosial Politik*, Vol.2 No.1 July-Desember.
- Rosmidah, (2010) "Pengakuan Hukum Terhadap Hak Ulayat Masyarakat Hukum Adat Dan Hambatan Implementasinya", *Inovatif, Jurnal Ilmu Hukum* Vol. 2 No. 2.
- Steny, B. (2006). Pluralisme Hukum: Antara PERDA Pengakuan Masyarakat Adat dan Otonomi Hukum Lokal. *Jurnal Pembaharuan Desa Dan Agraria*, III(III).

### **Website**

Arief Wijaya dkk. "Satu Dekade Deforestasi di Indonesia, di Dalam dan di Luar Area Konsesi" in acces melalui <https://wri-indonesia.org> pada 27 Mei 2018.

### **Interview**

Dayak, H. of B. (n.d.). *Field interview with the Head of Bangkalaan Dayak Customs*.

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