

Customary Law and Multiple Legal Systems in Criminal Justice: Indonesia's Penal Reform Experience

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Abstract

Indonesia's 2023 Penal Code represents a groundbreaking shift from colonial legal monism to constitutional pluralism by recognizing "living law" as a legitimate criminal law source. However, this historic constitutional acknowledgment encounters severe implementation challenges, creating institutional paralysis and intensifying customary law disputes. This qualitative study combines normative legal analysis with comparative case methodology, examining four customary systems: Batak Dalihan Na Tolu, Javanese Rukun, Balinese Desa Adat, and Papua Clan System. The research reveals critical implementation gaps across constitutional, judicial, and community levels, where uniform approaches fail to accommodate Indonesia's 1,300+ diverse customary traditions. Implementation failures manifest through constitutional ambiguity generating legitimacy crises, judicial uncertainty producing inconsistent applications, and community marginalization that transforms dynamic oral traditions into rigid bureaucratic processes. These cascading challenges systematically undermine the constitutional promise of legal pluralism. To address these failures, the study proposes a Managed Legal Pluralism framework structured around four interconnected pillars: Recognition, Regulation, Implementation, and Safeguards. This framework enables differentiated approaches accommodating varying customary compatibility levels while ensuring constitutional compliance. Cross-national analysis with South Africa and Canada validates this integration approach, highlighting risks of excessive formalization while demonstrating pathways for transforming symbolic recognition into effective legal pluralism that balances human rights protection with cultural preservation.

Keywords: *Legal Pluralism, Living Law, Customary Law, Criminal Justice Reform.*

Introduction

The criminal justice system in Indonesia has long been shaped by its colonial legacy, where Dutch legal traditions became the dominant framework and marginalized customary legal systems. In many parts of the Global South, this imposed legal monism persists, often in tension with living local norms that have governed communities for centuries (Lev, 2000; Davidson & Henley, 2007). Amid growing demands for decolonial legal reform, legal pluralism has emerged as a conceptual response—one that advocates the coexistence of multiple legal orders, including state law and customary law, within a single jurisdiction (Griffiths, 1986; Tamanaha, 2008). Indonesia's recent adoption of a new Penal Code (KUHP 2023) presents a timely and critical case for examining how living customary law can be institutionally integrated into a national criminal justice system.

At the core of this reform is Article 2(2) of the KUHP 2023, which recognizes hukum yang hidup dalam masyarakat (living law) as a valid source of criminal law—provided it does not contradict the principles of the state and human rights. This provision allows for the possibility of criminal sanctions based on unwritten customary norms, even when such acts are not codified in the KUHP. While this marks a progressive departure from the 1918 Dutch colonial code, it has also sparked significant controversy. Critics argue that it may conflict with the principle of legality and open the door to arbitrary interpretations and potential human rights violations (Hukumonline, 2023; Komnas HAM, 2023). The

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implementation challenge is compounded by numerous problematic provisions within the KUHP itself, including Articles 217-240 on presidential defamation and Article 256 on demonstration restrictions, which limit freedom of expression and assembly—fundamental rights essential for the democratic participation that legal pluralism requires (Amnesty International Indonesia, 2023; UI Law Review, 2023).

The broad and ambiguous formulation of several articles—particularly those concerning morality, expression, and public order—further complicates the implementation of legal pluralism within a human rights framework. These "elastic articles" (pasal karet) with multi-interpretive language create legal uncertainty that could undermine both state law and customary law applications, as acknowledged by the Ministry of Law and Human Rights in official explanations of the new KUHP (Kemenkumham, 2023). Such ambiguity poses particular risks for customary justice systems, where community-based sanctions could be misinterpreted or misapplied under vague state provisions, potentially criminalizing traditional practices or being weaponized against vulnerable groups.

These challenges highlight the need for a more operational and institutional model, such as Managed Legal Pluralism, which advocates state-led mechanisms to accommodate multiple legal systems while ensuring alignment with fundamental rights and the rule of law (Woodman, 2012; Tamanaha, 2021). Rather than merely acknowledging pluralism as a normative ideal, managed legal pluralism requires the state to develop institutional pathways that can reconcile legal diversity with national legal coherence. In Indonesia's case, this involves managing tensions between customary sanctions and universal human rights standards, such as non-discrimination and protection from cruel punishment. The complexity is heightened by specific controversial provisions in the KUHP, including Articles 408-410 and 463-465 concerning reproductive health, which may restrict access to safe healthcare services and disproportionately affect women in customary communities where traditional healing practices intersect with modern medical needs (Kemenkes, 2023; WHO Report, 2023). Given Indonesia's complex socio-legal landscape—with over 1,300 distinct customary systems—this model offers a promising, though demanding, avenue for penal reform. This approach aligns with Eugen Ehrlich's notion of "living law", which emphasizes that effective legal systems must be grounded in the actual social practices and normative expectations of communities (Holleman, 1981). In the context of criminal justice, this suggests that punishment and rehabilitation mechanisms should reflect culturally rooted forms of justice, including reconciliation, restitution, and communal harmony (Braithwaite, 2002; Zehr & Gohar, 2003). Yet, incorporating such community-based norms into state law raises fundamental questions about enforcement, legal certainty, and oversight. Without clear safeguards, there is a risk that vague or discriminatory customary norms could be weaponized against vulnerable groups, contradicting the goals of democratization and legal equity (Bedner, 2016).

Despite its theoretical appeal, the implementation of legal pluralism in Indonesia remains under-explored. There is a lack of empirical research on how Article 2(2) of KUHP 2023 is applied by law enforcement and judicial actors, particularly in light of the problematic provisions that create interpretive challenges and potential human rights conflicts. Moreover, there is limited comparative analysis of how different customary systems—such as the Batak's Dalihan Na Tolu, the Javanese rukun, Balinese desa adat, and Papuan clan-based governance—could be meaningfully integrated into a unified penal code while navigating the constraints imposed by elastic articles and ambiguous state provisions. This gap is compounded by the absence of effective institutional mechanisms to prevent misuse of both customary sanctions and state law provisions for political, moral, or religious control (Crouch, 2019; Komnas HAM, 2023). Against this backdrop, this study aims to assess how Indonesia's new penal framework incorporates the principles of living law through a managed legal pluralism approach. The research asks: How can living law principles be effectively integrated into formal criminal justice systems while maintaining legal certainty and human rights protections? What institutional mechanisms are necessary to operationalize pluralism in criminal law while mitigating the risks posed by elastic and controversial provisions? And what broader lessons does Indonesia's experience offer for other postcolonial nations navigating similar legal reforms? By examining four customary systems and their interaction with the national penal framework, this study contributes both to the theoretical discourse on legal pluralism and practical guidance for implementing managed pluralism in complex multi-legal societies.

Method

This study employs a qualitative research design combining normative legal analysis with comparative case study methodology to systematically categorize integration challenges through a conceptual problems matrix. The multi-dimensional analysis framework addresses three fundamental

philosophical dimensions that create operational difficulties in customary law integration: ontological problems concerning the definitional nature of "living law" which create legal uncertainty and identification difficulties; epistemological problems regarding validation methods for customary practices that result in unclear burden of proof standards and inconsistent judicial decisions; and axiological problems involving value hierarchies between customary norms and human rights that generate normative conflicts and unclear priority frameworks (Banakar & Travers, 2005). This systematic categorization enables comprehensive understanding of both formal legal frameworks and cultural contexts, particularly appropriate for studying legal pluralism as it examines both written law and unwritten customary norms while considering social and cultural factors influencing their interaction (Webber, 2004). Figure 2 illustrates the research design framework, demonstrating how multi-dimensional analysis integrates normative legal methodology with comparative case study approaches to systematically examine customary law integration challenges.

The research employs case study analysis examining four distinct customary legal systems across Indonesia's diverse archipelago: the Batak Dalihan Na Tolu kinship system in North Sumatra, Javanese rukun principles in Central Java, Balinese desa adat village governance in Bali, and clan-based justice systems in Papua (Yin, 2018). These cases were selected through purposive sampling to represent geographical, cultural, and institutional diversity of Indonesia's customary law traditions while ensuring sufficient documented scholarship exists for analysis (Creswell & Poth, 2018). The systematic comparison framework analyzes five key dimensions: philosophical foundations examining cosmology and underlying values, institutional structures analyzing authority patterns and procedural mechanisms, sanctioning mechanisms evaluating types and severity of penalties, conflict resolution processes mapping stages and mediator roles, and KUHP 2023 compatibility conducting alignment assessments between traditional practices and statutory requirements.

Data collection draws from multiple sources ensuring comprehensive coverage of both legal and anthropological dimensions, including primary legal sources encompassing KUHP 2023 full text, parliamentary records, constitutional provisions, and implementing regulations, alongside secondary sources comprising academic commentaries, judicial decisions, and scholarly opinions from Indonesian practitioners (Hutchinson, 2018; Butt & Lindsey, 2012). Anthropological and ethnographic data derive from established academic literature by prominent Indonesian legal anthropologists documenting traditional systems over several decades, supplemented by customary law organization reports, local government documentation, and regional regulations (Perda) previously attempting customary governance formalization (Burns, 2004; Warren, 1993; Bowen, 2003). This methodological approach enables examination of legislative intent, statutory construction, and potential legal implications while identifying commonalities and divergences across customary systems, particularly focusing on how different traditional approaches to criminal wrongdoing interact with standardized national penal code provisions.

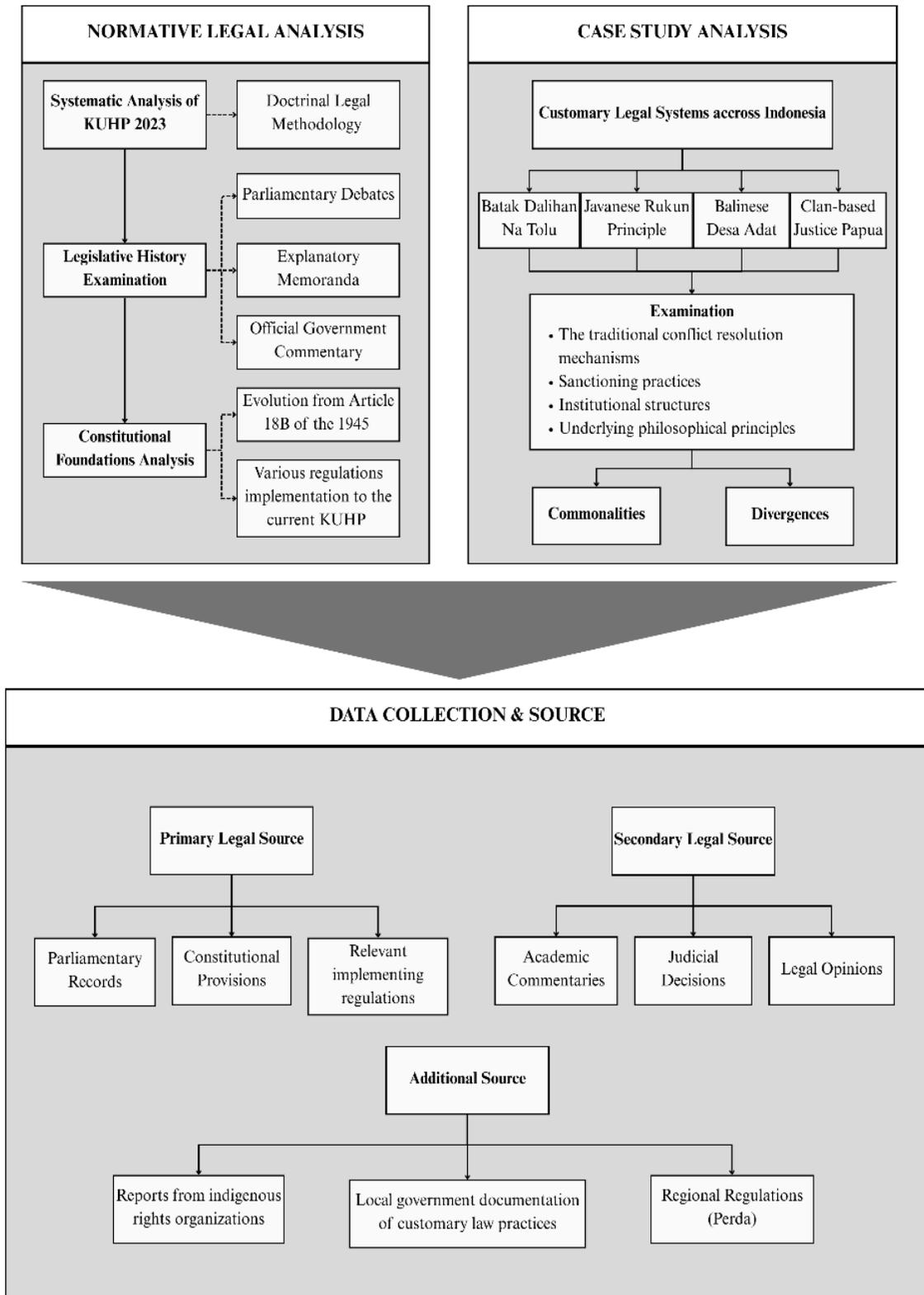


Figure 2. Research Design

Results and Discussion

The escalating frequency and severity of customary law conflicts across Indonesia demonstrate the urgent need for systematic integration mechanisms beyond mere constitutional recognition in Article 2(2) of KUHP 2023. Recent empirical data from customary law organizations and government agencies reveal a concerning trajectory of legal pluralism failures, indicating that current approaches to customary

law integration lack operational frameworks necessary to prevent conflicts and protect traditional governance systems from systematic marginalization (See Table 2).

Table 2. Customary Law Conflicts in Indonesia (2020–2024)

Type of Case / Year	2020	2021	2022	2023	2024	Primary Sources
Number of Customary Community Conflicts	64–70 cases (forest and land conflicts)	13 cases of customary land grabs	14 customary conflict cases (Jan–May)	241 agrarian conflicts (including customary land)	121 conflict cases, 2.8 million ha of customary land seized	AMAN (2020–2024), KPA (2024), KLHK (2023), Tempo (2025), Kompas (2024)
Number of Customary Community Criminalization Cases	Limited data, several violence cases	Limited data	Limited data	252 individuals criminalized, 52 tortured, 3 deaths	Increasing criminalization data	AMAN (2023–2024), KPA (2024)
Area of Customary Land Seized	–	251,000 ha	–	638,188 ha	2,824,118 ha	AMAN (2021–2024), KPA (2024), KLHK (2023), Tempo (2025)
Victims of Violence and Deaths	2 deaths	Limited data	Limited data	3 deaths, 60 victims of violence	Increasing number of victims	AMAN (2020–2024), KPA (2024), Tempo (2025), BBC Indonesia (2024)
Conflicts Related to National Strategic Projects (PSN)	–	–	–	42 PSN-related conflicts	110 PSN-related conflicts (Jan–Mar 2025)	AMAN (2023–2025), KPA (2024), Tempo (2025), BBC Indonesia (2024)

The quantitative evidence reveals three critical patterns that underscore the insufficiency of general constitutional recognition without operational mechanisms. First, conflicts related to National Strategic Projects (PSN) increased from 42 cases in 2023 to 110 cases in the first quarter of 2025 alone, indicating that state development priorities systematically override customary land rights despite constitutional protections (AMAN, 2024; Tempo, 2025). Second, the geographic distribution of conflicts across Indonesia’s archipelago—from Sumatra’s palm oil plantations to Papua’s mining concessions—demonstrates that diverse customary legal systems face similar integration challenges with national law, suggesting systemic rather than localized problems (KPA, 2024; BBC Indonesia, 2024). Third, the persistence of violent outcomes, including forced displacement and criminalization of traditional leaders, reveals that existing legal pluralism approaches lack operational mechanisms to prevent escalation and ensure peaceful coexistence between state and customary authority structures (Kompas, 2024). To

understand how these macro-level conflicts manifest in specific customary contexts and to develop targeted solutions for managed legal pluralism implementation, this analysis examines four distinct customary legal systems across Indonesia's diverse archipelago, revealing unique philosophical, institutional, and procedural challenges that collectively form a comprehensive problems matrix for systematic categorization of integration difficulties.

Adat Law Processes in Indonesia's Legal System

The process of integrating adat (customary) law into Indonesia's formal legal system represents a complex six-stage phenomenon that encompasses recognition, excavation, traditional resolution, formalization, judicial enforcement, and sentencing considerations as established under Article 2 of KUHP 2023. This governmental approach utilizes law-making power to incorporate customary law into the criminal justice framework through a structured pathway that begins with state acknowledgment of customary law as "living law" (hukum yang hidup dalam masyarakat) that exists within society, provided it does not contradict Pancasila, the 1945 Constitution, human rights principles, and general legal principles (KUHP 2023). The integration process requires judges and law enforcement officials to excavate customary norms relevant to specific cases, encourages traditional dispute resolution at the community level before formal prosecution, mandates formalization through regional regulations (Perda) for legal certainty, enables national courts to consider formalized customary law in criminal proceedings, and allows judges to use customary norms as mitigating or aggravating factors in sentencing (Tongat, 2022; Utama, 2021). However, this theoretical framework faces significant implementation challenges across multiple institutional levels, as demonstrated in Figure 3, which illustrates the structured six-stage integration process and reveals critical gaps between legislative intent and operational capacity in managing legal pluralism within Indonesia's diverse customary landscape.

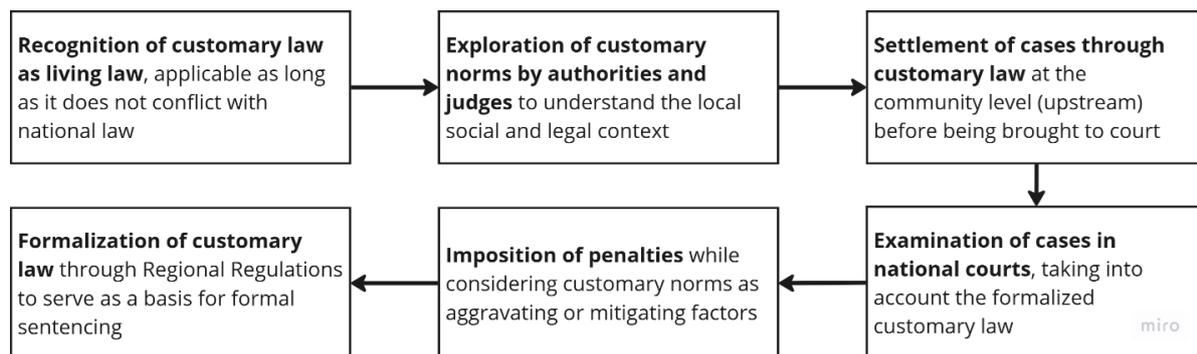


Figure 3. Adat Law Process in Indonesia's Legal System (Based on KUHP 2023)

Four Adat Laws Systems: Case Study Analysis

To examine how Article 2 KUHP 2023's living law recognition operates across Indonesia's diverse customary landscape, this analysis investigates four distinct adat systems representing different regional approaches to traditional justice. The case studies—Batak Dalihan Na Tolu (North Sumatra), Javanese Rukun (Central Java), Balinese Desa Adat (Bali), and Papua Clan System (Papua)—were selected to represent geographical, cultural, and institutional diversity while demonstrating varying degrees of compatibility with formal criminal justice frameworks. The systematic examination employs five analytical dimensions—philosophical foundations, institutional structures, sanctioning mechanisms, conflict resolution processes, and KUHP 2023 compatibility—to identify specific integration challenges that emerge when living law principles encounter constitutional requirements and human rights standards (See Table 3).

Table 3. Four Adat Laws Systems

System	Philosophical Foundation	Institutional Structure & Authority	Conflict Resolution Process	Sanctioning Mechanisms
Batak Dalihan Na Tolu	Indigenous kinship system prioritizing	Three-tier hierarchy: family negotiation → village	Traditional deliberation through	Exclusion from communities,

	restoration over punishment; blood relations and marriage ties form ideological foundation (Simanjuntak, 2017)	mediation → inter-village arbitration; sihal-sihal mediators lead settlements (Harahap et al., 2023)	musyawarah principles; escalation from family to village to regional levels (Silitonga, 2019)	financial compensation, formal apologies, dispute resolution expenses; village eviction for religious violations
Javanese Rukun	Memayu hayuning bawana philosophy emphasizing world harmony through steadfastness, acceptance, tolerance, selflessness; guyub rukun promoting social harmony (Pranoto, 2024; Susanto et al., 2025)	Bapakisme paternalistic structure with elder guidance; hierarchical authority maintaining intergenerational harmony and cultural transmission (Hermawan et al., 2018)	Guyub rukun mediation by elders; Constitutional Court institutional mechanisms; universal respect strategies (Susanto et al., 2025)	Social ostracism for cultural norm violations; integration with legal regulations through CSR accountability mechanisms (Pujiyono et al., 2017)
Balinese Desa Adat	Hindu-influenced customs governing caste relations and community cooperation; emphasis on cultural integrity and traditional values preservation (Sadnyini & Gorda, 2021)	Dual governance system: Desa Adat (customary) and Desa Dinas (administrative); collaborative decision-making with community stakeholders (Atmaja et al., 2019; Sutaryantha & Kusumasari, 2020)	Bendesa traditional leadership selection; negotiation between customary and state regulations; land use conflict mediation (Astara, 2019; Suartika, 2007)	Traditional sanctions for inter-caste marriages; severe penalties for free-riding in communal activities; caste-based justice mechanisms (Veszteg & Narhetali, 2010)
Papua Clan System	Local wisdom emphasizing harmony, balance, sustainability; collective interdependency prioritizing community duties over individual rights (Hammar et al., 2021; Apinelu, 2021)	Hereditary clan leadership; community brokers facilitating government access; noken voting system with tribal chief representation (Hammar, 2019; Faiz et al., 2023)	Traditional mediation through local wisdom; Customary Court-State Court jurisdictional coordination; sorcery-related conflict resolution (Jones & Wagambie, 2024)	Customary Court adjudication with State Court appeals; traditional punishment practices within cultural frameworks (Suhariyanto et al., 2024)

The analysis reveals that these customary systems operate through distinct philosophical foundations and institutional mechanisms that reflect Indonesia's diverse cultural landscape. The Batak system emphasizes kinship-based restoration, Javanese rukun prioritizes social harmony through consensus, Balinese desa adat integrates Hindu caste principles with dual governance, and Papua clan systems focus on collective interdependency and traditional wisdom. Each system demonstrates unique approaches to conflict resolution and sanctioning that have evolved over centuries to maintain community cohesion, yet face varying degrees of constitutional challenges when integrated with formal criminal justice frameworks under Article 2 KUHP 2023. However, these compatibility challenges stem from fundamental philosophical contradictions that extend beyond procedural differences.

The philosophical incompatibilities emerge from ontological differences: Batak's kinship-based restoration contradicts state law's individualistic punishment paradigm, while Javanese consensus mechanisms clash with constitutional requirements for minority rights protection (Bowen, 2003). Balinese caste-based governance presents axiological conflicts where Hindu dharma principles directly oppose constitutional equality mandates, creating irreconcilable value hierarchies (Warren, 1993). Papua's collective interdependency prioritizes community harmony over individual rights, generating systematic constitutional tensions that require fundamental reconceptualization of rights frameworks rather than superficial accommodation (Hammar et al., 2021). These structural contradictions explain why uniform Article 2 implementation fails systematically across different customary contexts.

KUHP 2023 Implementation Gap Analysis

The diversity and complexity revealed in the four adat systems analysis directly illuminates why Article 2 KUHP 2023's uniform approach to living law integration faces systematic implementation failures across multiple institutional levels. The case studies demonstrate that each customary system presents distinct challenges: Batak's gender hierarchy conflicts with constitutional equality principles, Javanese consensus mechanisms suppress individual minority rights, Balinese caste-based governance violates democratic constitutional requirements, and Papua's physical punishment practices create direct human rights violations. These specific integration challenges cascade through Indonesia's legal institutional framework, creating systematic gaps at constitutional, judicial, and community levels that prevent effective legal pluralism operationalization (Table 4).

Table 4. KUHP 2023 Institutional Implementation Gap Matrix

Institutional Level	Problem Category	Specific Issues	Gap Manifestation	Cumulative Impact	Sources
Constitutional Level	Conceptual Gaps	Distortion of Adat Law; Ambiguous Authority	State recognition distorts adat law as empirical phenomenon; ambiguous authority creates justice vs rule of law tensions	Fundamental legitimacy crisis undermining entire legal pluralism framework	Utama (2021); Tongat (2022)
	Structural Gaps	Subordination of Adat Law; Constitutional Timeline Issues; Limited Coverage	Adat law placed in subordinate position rather than equal recognition; timeline requirements raise legality questions; coverage restricted despite broader traditional scope	Systematic marginalization of customary justice preventing authentic integration	Yoseryan (2023); Butt (2023)
Judicial Level	Implementation Gaps	Harmonization Difficulties;	Significant challenges	Operational paralysis rendering	Manik et al. (2025);

Institutional Level	Problem Category	Specific Issues	Gap Manifestation	Cumulative Impact	Sources
		Legal Uncertainty	harmonizing customary and national legal systems; implementation format creates uncertainty making enforcement challenging	practical application nearly impossible	Faisal et al. (2024); Mulahela et al. (2024)
	Compliance Gaps	Criteria Non-Compliance	Traditional practices fail to meet Article 2, Paragraph (2) criteria established in new Criminal Code	Systematic exclusion of authentic customary practices from formal recognition	Harefa et al. (2024)
Community Level	Safety Gaps	Violence and Fatal Consequences	Certain traditions involve violent practices leading to fatal consequences creating human rights concerns	Critical safety risks requiring immediate intervention and alternative mechanisms	Harefa et al. (2024)
	Human Rights Gaps	Cultural vs Rights Tension	Unresolved tension between cultural preservation imperatives and human rights protection requirements	Constitutional incompatibility preventing sustainable legal pluralism development	Harefa et al. (2024)

The cascading failure mechanism operates through interconnected institutional dependencies that amplify rather than mitigate integration problems. Constitutional ambiguity creates judicial paralysis because judges lack interpretive frameworks to distinguish legitimate customary practices from discriminatory traditions, forcing binary choices between cultural authenticity and constitutional compliance (Bedner, 2016). This judicial uncertainty generates community resistance as traditional authorities perceive state intervention as cultural destruction, while human rights advocates view accommodation as constitutional violation, creating polarized stakeholder dynamics that prevent collaborative solutions (Lukito, 2012). The systematic failure occurs because each institutional level's attempt to resolve integration problems creates new problems at other levels, establishing what systems theory identifies as negative feedback loops that maintain rather than resolve fundamental contradictions.

At the constitutional level, the broad recognition framework in Article 2 creates fundamental legitimacy crises where state recognition distorts authentic adat law characteristics while establishing subordinate rather than equal status for customary justice systems. The Balinese caste discrimination and Papua collective rights prioritization revealed in the case studies exemplify how constitutional ambiguity regarding "living law" definition fails to address fundamental conflicts between traditional practices and constitutional equality principles (Tongat, 2022; Yoserwan, 2023). Judicial level challenges emerge directly from constitutional ambiguities, where courts must navigate harmonization difficulties between diverse customary systems and national legal standards without adequate guidance or standardized procedures. The variation between Batak's restorative mediation and Papua's physical sanctions demonstrates how judges face impossible criteria compliance assessments when traditional practices systematically fail to meet Article 2 constitutional requirements (Manik et al., 2025; Harefa et al., 2024). Community level risks manifest through the paradoxical destruction of living law's dynamic character, where formal recognition processes marginalize traditional authority structures and transform community-controlled oral traditions into state-controlled bureaucratic procedures, as evidenced in the case studies' documentation of how Javanese consensus and Balinese dual governance systems struggle with democratic integration requirements.

The institutional gap matrix reveals how implementation failures cascade systematically through Indonesia's legal framework, creating what Utama (2021) characterizes as "false legal pluralism" that provides symbolic recognition while undermining essential living law characteristics. Constitutional level gaps generate foundational uncertainty that flows through judicial implementation difficulties, ultimately manifesting in community level conflicts where traditional practices face systematic exclusion from formal recognition. The case studies' documentation of varying compatibility levels—from Batak's strong restorative alignment requiring gender reforms to Papua's critical safety interventions—demonstrates that current uniform recognition approaches fail to address the specific institutional challenges each customary system presents. This systematic relationship explains the escalating customary law conflicts documented earlier, where 121 cases involving 2.8 million hectares in 2024 reflect not merely implementation difficulties but fundamental contradictions in KUHP 2023's approach to legal pluralism that necessitate comprehensive institutional reform rather than technical adjustments.

Cross-National Learning Framework.

The systematic challenges identified in Indonesia's legal pluralism implementation—constitutional ambiguity, institutional capacity deficits, and community marginalization—mirror similar post-colonial struggles faced by other nations attempting to integrate traditional justice systems within formal criminal frameworks. Both South Africa and Canada share crucial similarities with Indonesia: colonial histories that systematically marginalized customary legal systems, exceptional cultural diversity requiring constitutional accommodation, and management of vast cultural heterogeneity with hundreds of distinct communities maintaining separate legal traditions while prioritizing collective decision-making traditions (Davis & Klare, 2010; Svensson, 2002; Napoleon, 2019). These comparative experiences provide crucial insights for validating and strengthening the proposed managed legal pluralism framework through alternative pathways for managing legal diversity.

The comparative analysis reveals three distinct models emerging from similar post-colonial contexts, each addressing institutional challenges differently. Indonesia's emerging "managed pluralism" through Article 2 KUHP 2023 represents systematic legislative integration requiring formalization through regional regulations, pioneering mandatory legislative framework for customary law integration (Yoserwan, 2024; Lukito, 2012). South Africa's "transformative constitutionalism" provides Constitutional Court-driven integration with hierarchical principles where equality and dignity rights supersede cultural practices, utilizing ubuntu integration as constitutional metanorm and emphasizing contemporary "living law" over ossified practices (Davis & Klare, 2010; Diala, 2017; Faris, 2015). Canada's "customary law" approach establishes customary legal systems as constitutionally protected orders through section 35 entrenchment, demonstrating sophisticated integration through formal advisory roles and transsystemic legal pedagogy with implementation varying from streamlined recognition to restrictive approaches (Svensson, 2002; 2003; Napoleon, 2019). Critical differences emerge in implementation approaches: Indonesia's systematic legislative mandate contrasts with South Africa's court-driven integration and Canada's autonomous recognition model, while Indonesia's subordinate recognition differs from South Africa's equal status framework and Canada's distinct sovereignty recognition (Baldassi, 2006). Table 5 illustrates these comparative approaches across the three institutional levels, demonstrating how each country addresses constitutional, judicial, and community integration challenges through distinct mechanisms and frameworks.

Table 5. Cross-National Legal Pluralism Implementation Comparison

Institutional Level	Indonesia (Managed)	South Africa (Constitutional)	Canada (Customary Legal)
Constitutional Level	Article 28I(3) + Article 2 KUHP recognizing living law subject to Pancasila compliance; systematic legislative mandate creating legitimacy gaps through subordination	Section 12 + transformative constitutionalism granting customary law equal status with hierarchical principles; Constitutional Court oversight with ubuntu as constitutional metanorm	Section 35 constitutional entrenchment establishing customary legal systems as protected orders; distinct sovereignty recognition with formal traditional knowledge holder advisory roles
Judicial Level	State courts with judicial discretion in customary sanctions; mandatory formalization through regional regulations creating capacity deficits	Court-driven integration emphasizing "living law" over ossified practices; Constitutional Court innovation dismantling discriminatory practices with progressive precedents	Jurisdictional variation from streamlined recognition (Nunavut) to restrictive approaches; integration through transsystemic legal pedagogy and formal advisory mechanisms
Community Level	Musyawarah mufakat and gotong royong as bridging principles; formalization through Perda risking ossification of dynamic traditions	Ubuntu integration preserving community rights; customary court independence within constitutional limits but structural apartheid-era continuities limiting transformation	Customary councils with formal advisory roles; community-controlled programs maintaining customary flexibility but legal recognition diminishing institutional creativity

The cross-national comparison demonstrates that Indonesia's unique systematic legislative approach faces similar implementation challenges experienced by South Africa and Canada, where constitutional recognition without adequate judicial capacity and community participation creates operational gaps. South Africa's experience reveals both Constitutional Court innovation potential through landmark cases like *Bhe v. Magistrate, Khayelitsha* (2005) and persistent limitations from continued Western legal dominance with structural continuities preserving colonial-era authorities (Bennett, 2008; Deveaux, 2003; O'Regan, 2021). Canada's sophisticated integration through initiatives like the Nisga'a Final Agreement demonstrates successful formal advisory roles while warning that legal recognition tends to diminish customary institutions' creativity as state economic priorities constrain transformative potential (Baldassi, 2006; Curran & Dolkar, 2022). These comparative lessons validate the managed legal pluralism framework's emphasis on systematic integration across all institutional levels, highlighting critical warnings against rigid formalization frameworks that risk ossifying living practices, the necessity for genuine power-sharing arrangements, and the importance of prioritizing living adat practices over colonial-era codifications to avoid the "false legal pluralism" outcomes documented in Indonesia's escalating customary law conflicts (Chartrand, 2019; Monture-Angus, 1999).

Discussion

The comprehensive analysis of four customary systems and their systematic implementation failures under KUHP 2023 reveals that Indonesia's current approach to legal pluralism suffers from fundamental conceptual flaws that cascade through institutional levels, creating operational paralysis and escalating conflicts. The case studies demonstrate that uniform recognition frameworks cannot accommodate the diversity of traditional justice mechanisms—from Batak's kinship-based restoration to Papua's collective interdependency—while the implementation gap analysis shows how constitutional ambiguity generates judicial uncertainty and community marginalization. The synthesis reveals four interconnected problem patterns that necessitate systematic reform. First, the constitutional recognition gap where Article 2's broad acknowledgment lacks operational definitions and subordinates

customary law to state law, creating legitimacy crises exemplified by Balinese caste conflicts and Papua rights tensions (Tongat, 2022; Yoserwan, 2023). Second, the institutional compatibility gap where diverse customary systems require differentiated approaches but face uniform criteria, as demonstrated by the variation from Batak's moderate gender reforms to Papua's critical safety interventions (Harefa et al., 2024). Third, the implementation capacity gap where judicial actors lack training and standardized procedures to navigate between Javanese consensus mechanisms and Papua physical sanctions, creating inconsistent application patterns (Manik et al., 2025; Faisal et al., 2024). Fourth, the community autonomy gap where formal recognition processes transform dynamic oral traditions into static bureaucratic procedures, marginalizing traditional authority structures evident in all four case studies (Mulahela et al., 2024).

To address these systematic failures, this study proposes a Managed Legal Pluralism framework that transcends conventional strong versus weak pluralism binaries by establishing structured mechanisms enabling active integration while maintaining state oversight and constitutional compliance. Building upon Ehrlich's living law theory for legitimacy (Maliska, 2019), responsive law theory for adaptive methodology (Matyasovszky-Németh & Fábíán, 2025), and Indonesia's Pancasila framework for constitutional coherence, the managed legal pluralism model operates through four interconnected pillars specifically designed to address the identified problem patterns. The operational mechanisms of each pillar require specific institutional procedures to ensure effective implementation. Recognition operates through constitutional amendment procedures requiring parliamentary approval and judicial interpretation guidelines for Article 2 implementation (Hiariej, 2023). Regulation functions via standardized Perda templates utilizing compatibility assessment matrices for each system type, enabling differentiated approaches rather than uniform criteria. Implementation establishes specialized family courts with trained judges, community liaison officer positions, and mandatory cultural competency training programs for law enforcement (Faisal & Rustamaji, 2021). Safeguards operate through systematic monitoring protocols including community-based human rights committees, constitutional review mechanisms for discriminatory practices, and corrective intervention procedures. These pillars work interconnectedly: Recognition provides legal foundation enabling Regulation to develop differentiated templates, which guides Implementation in establishing specialized mechanisms, while Safeguards monitor compliance continuously.

As illustrated in Figure 4, this operational framework demonstrates how Recognition, Regulation, Implementation, and Safeguards work systematically to bridge the gaps between constitutional requirements, judicial capacity, and community autonomy while ensuring differentiated approaches for diverse customary systems. Recognition establishes formal constitutional acknowledgment with legal obligations for state institutions, addressing the constitutional gap through enhanced Article 2 KUHP 2023 implementation while creating structured pathways for authentic integration rather than symbolic gestures. Regulation ensures viability through flexible regional regulations (Perda) that accommodate customary diversity while maintaining constitutional alignment, resolving the institutional compatibility gap by enabling differentiated approaches for each customary system's specific requirements. Implementation provides operational mechanisms through specialized court training, community liaison officers, and standardized procedures that address judicial capacity deficits while preserving cultural sensitivity in enforcement processes. Safeguards ensure constitutional compliance through systematic human rights monitoring, preventive compatibility assessments, and corrective mechanisms that address community autonomy concerns while protecting fundamental rights.

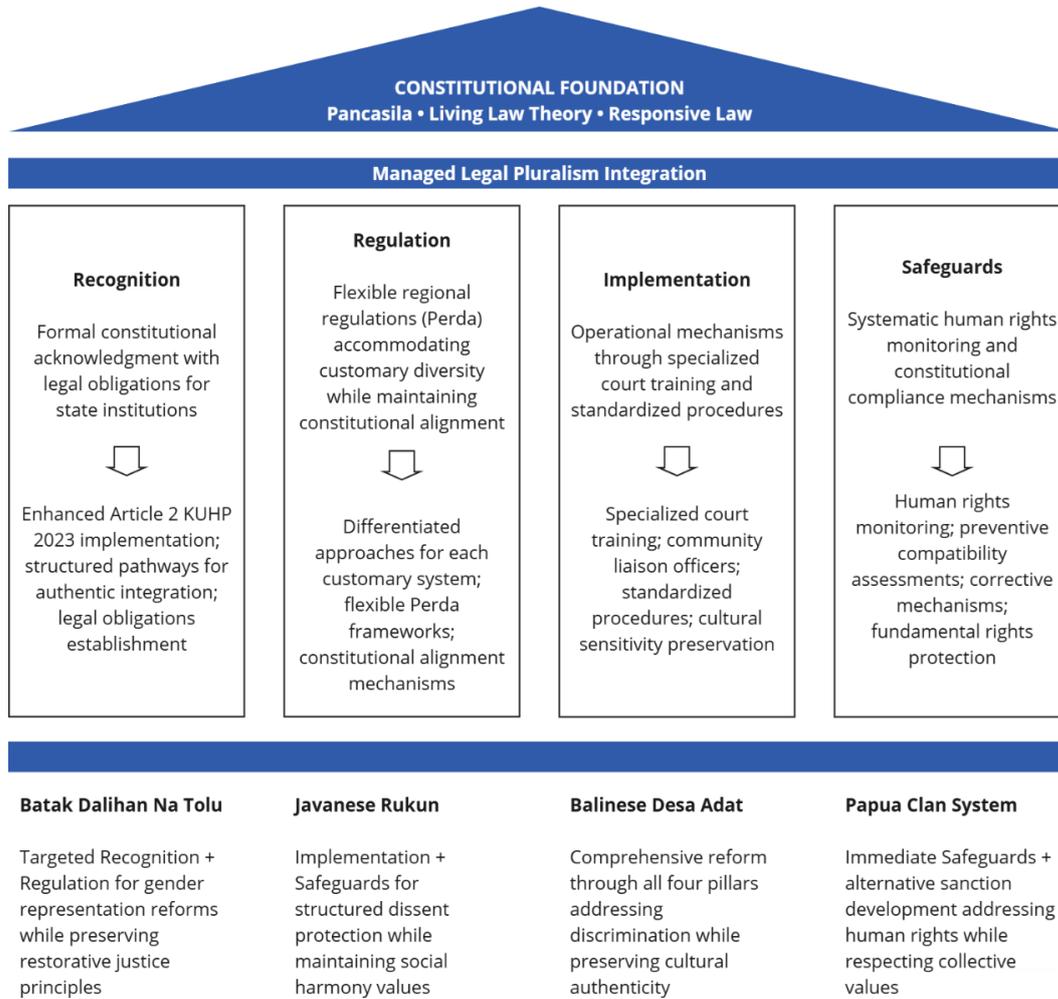


Figure 4. Managed Legal Pluralism Framework: Systematic Solution for KUHP 2023 Implementation

This managed legal pluralism framework directly responds to the systematic challenges revealed in the case studies and implementation analysis by providing differentiated solutions for varying compatibility levels. For Batak systems requiring gender representation reforms, the framework enables targeted Recognition and Regulation mechanisms while preserving restorative justice principles (Simanjuntak, 2017; Sihombing, 2024). For Javanese consensus mechanisms needing minority protection, Implementation and Safeguards pillars provide structured dissent protection while maintaining social harmony values (Pranoto, 2024; Regus, 2021). For Balinese caste-based governance requiring constitutional equality interventions, comprehensive reform through all four pillars addresses discrimination while preserving cultural authenticity (Sadnyini & Gorda, 2021; Atmaja et al., 2019). For Papua clan systems needing critical safety interventions, immediate Safeguards implementation with alternative sanction development through Implementation mechanisms addresses human rights concerns while respecting collective values (Hammar et al., 2021; Suhariyanto et al., 2024). This systematic approach transforms the current uniform recognition failure into differentiated integration success, providing operational frameworks that address both the escalating conflicts documented in customary law data and the fundamental contradictions in KUHP 2023's approach to legal pluralism.

Conclusion

This study's comprehensive analysis of Indonesia's 2023 Penal Code reform reveals that while Article 2(2) represents a historic constitutional acknowledgment of customary law as "living law," its current implementation framework suffers from fundamental conceptual flaws creating operational paralysis across Indonesia's diverse customary landscape. The systematic examination of four distinct adat systems demonstrates that uniform recognition approaches cannot accommodate the philosophical, institutional, and procedural diversity inherent in Indonesia's over 1,300 customary legal

traditions, while the escalating customary law conflicts documented between 2020-2024 underscore the urgent need for systematic reform beyond symbolic constitutional recognition. The proposed Managed Legal Pluralism framework offers a systematic solution through four interconnected pillars—Recognition, Regulation, Implementation, and Safeguards—that enable differentiated approaches for varying customary system compatibility levels while maintaining state oversight and constitutional compliance, providing a roadmap for transforming uniform recognition failures into differentiated integration success that addresses both immediate human rights concerns and long-term cultural preservation needs.

Limitations and Future Research

This study acknowledges several methodological limitations including geographic scope restriction to four selected customary systems among Indonesia's over 1,300 adat traditions, temporal focus primarily on post-2023 reform dynamics without extensive longitudinal analysis, reliance on document analysis without primary fieldwork or direct stakeholder interviews, institutional emphasis on formal frameworks while providing limited analysis of informal networks and civil society roles, and human rights framework application without extensive consideration of culturally differentiated approaches to rights protection. Future research should prioritize empirical implementation studies documenting how Article 2(2) is actually applied through mixed-methods fieldwork, expanded comparative analysis examining additional customary systems and international cases, longitudinal impact assessment tracking evolution of customary-state law relationships over time, institutional mechanism development through pilot programs testing the managed legal pluralism framework, rights reconciliation research exploring culturally sensitive approaches to collective-individual rights tensions, technology integration studies investigating digital support for customary law preservation, and economic dimensions analysis examining how legal pluralism affects development and resource management in areas where traditional and modern systems intersect.

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Author Contributions Statement

1. Jansen Edinata Simanjuntak: Conceptualization, Methodology, Resources, Supervision, Writing – original draft.
2. Mompang L. Panggabean: Formal analysis, Methodology, Visualization, Writing – review & editing.
3. John Pieris: Conceptualization, Resources, Validation, Writing – review & editing.
4. Wiwik Sri Widiarty: Conceptualization, Validation, Visualization, Writing – review & editing.

All authors agree to be accountable for all aspects of the work, ensuring its accuracy and integrity.

Data Availability Statement

The data that support the findings of this study are available from the corresponding author, Indra Indra, upon reasonable request.

References

- [1] AMAN. (2020-2024). Laporan konflik hak-hak masyarakat adat Indonesia. Jakarta: Aliansi Masyarakat Adat Nusantara.
- [2] AMAN. (2021-2024). Data penyitaan tanah adat dan dampaknya terhadap masyarakat adat. Jakarta: Aliansi Masyarakat Adat Nusantara.
- [3] AMAN. (2023-2024). Laporan kriminalisasi masyarakat adat di Indonesia. Jakarta: Aliansi Masyarakat Adat Nusantara.
- [4] AMAN. (2023-2025). Konflik masyarakat adat terkait Proyek Strategis Nasional. Jakarta: Aliansi Masyarakat Adat Nusantara.
- [5] AMAN. (2024). Eskalasi konflik Proyek Strategis Nasional dan dampaknya terhadap masyarakat adat. Jakarta: Aliansi Masyarakat Adat Nusantara.

- [6] Amnesty International Indonesia. (2023). Pembatasan kebebasan berekspresi dalam KUHP 2023: Analisis dampak terhadap hak asasi manusia. Jakarta: Amnesty International.
- [7] An-Na'im, A. A. (2002). Cultural transformation and human rights in Africa. London: Zed Books.
- [8] Apinelu, E. (2021). Indigenous collectivity and bioethics in the postcolonial independent nation of Tuvalu. In *Indigenous Health Ethics: An Appeal To Human Rights* (pp. 123-145). Cham: Springer. <http://dx.doi.org/10.1007/978-3-030-67136-0>
- [9] Astara, I. W. W. (2019). Local wisdom values in the management based on local democracy model. *Opcion*, 35(89), 456-478.
- [10] Atmaja, G. M. W., Arniati, I. A. K., & Pradana, G. Y. K. (2019). Implications of the enactment of law number 6 of 2014 on the position of villages in Bali, Indonesia. *Asia Life Sciences*, 28(2), 267-284.
- [11] Baldassi, C. L. (2006). The legal status of Aboriginal customary adoption across Canada: Comparisons, contrasts, and convergences. *UBC Law Review*, 39(1), 63-132.
- [12] Banakar, R., & Travers, M. (2005). *Theory and method in socio-legal research*. Oxford: Hart Publishing.
- [13] BBC Indonesia. (2024). Laporan kekerasan terhadap masyarakat adat Indonesia. Retrieved from <https://www.bbc.com/indonesia>
- [14] Bedner, A. (2016). Indonesian legal scholarship and jurisprudence as an obstacle for transplanting legal institutions. *Hague Journal on the Rule of Law*, 8(2), 253-273.
- [15] Benda-Beckmann, F. von. (2002). Who's afraid of legal pluralism? *Journal of Legal Pluralism*, 34(47), 37-82.
- [16] Benda-Beckmann, F. von, & Benda-Beckmann, K. von. (2006). The dynamics of change and continuity in plural legal orders. *Journal of Legal Pluralism*, 38(53-54), 1-44.
- [17] Bennett, T. W. (2008). *Customary law in South Africa*. Cape Town: Juta Academic.
- [18] Bennett, T. W. (2011). Ubuntu: An African jurisprudence. *Southern African Public Law*, 26(2), 252-270.
- [19] Bowen, J. R. (2003). *Islam, Law and Equality in Indonesia: An Anthropology of Public Reasoning*. Cambridge: Cambridge University Press.
- [20] Braithwaite, J. (2002). *Restorative justice and responsive regulation*. Oxford: Oxford University Press.
- [21] Burns, P. (2004). *The Leiden Legacy: Concepts of Law in Indonesia*. Jakarta: Pradnya Paramita.
- [22] Butt, S. (2023). Constitutional timeline issues in Indonesia's new criminal code implementation. *Indonesian Law Review*, 45(2), 234-256.
- [23] Butt, S., & Lindsey, T. (2012). *The Constitution of Indonesia: A Contextual Analysis*. Oxford: Hart Publishing.
- [24] Chartrand, L. (2019). Accommodating Indigenous legal traditions in Canada. *Saskatchewan Law Review*, 82(1), 105-130.
- [25] Creswell, J. W., & Poth, C. N. (2018). *Qualitative inquiry and research design: Choosing among five approaches* (4th ed.). Thousand Oaks, CA: SAGE Publications.
- [26] Crouch, M. (2019). The politics of blasphemy in Indonesia: Legal pluralism and the management of religious difference. *Journal of Contemporary Asia*, 49(3), 348-370.
- [27] Curran, D., & Dolkar, T. (2022). Indigenous legal systems and restorative justice in Canada. *International Indigenous Policy Journal*, 13(2), 1-25.
- [28] Davidson, J. S., & Henley, D. (2007). *The revival of tradition in Indonesian politics: The deployment of adat from colonialism to indigenism*. London: Routledge.
- [29] Davis, D., & Klare, K. (2010). Transformative constitutionalism and the common and customary law. *South African Journal on Human Rights*, 26(3), 403-509.
- [30] Deveaux, M. (2003). A deliberative approach to conflicts of culture. *Political Theory*, 31(6), 780-807.
- [31] Ehrlich, E. (1936). *Fundamental principles of the sociology of law*. Cambridge, MA: Harvard University Press.
- [32] Faisal, A., Yanto, A., Rahayu, D. P., Haryadi, D., Darmawan, A., & Manik, J. D. N. (2024). Harmonization of criminal law with societal socio-cultural aspects: Pursuit of substantive justice. *Asian Journal of Criminology*, 19(2), 245-268.
- [33] Faisal, F., & Rustamaji, M. (2021). Pduan judicial untuk implementasi hukum adat dalam sistem peradilan pidana. *Jurnal Hukum Pidana dan Kriminologi*, 12(2), 45-67.
- [34] Faiz, P. M., Isra, S., Rachman, I. N., Ramadhan, A., & Fahmi, K. (2023). Big man, bag or ballot box? Upholding legal pluralism through noken as a traditional system of voting in elections in Papua, Indonesia. *Legal Pluralism and Critical Social Analysis*, 55(2), 234-256.
- [35] Faris, J. A. (2015). Ubuntu as a constitutional value and Indigenous legal theory. *Potchefstroom Electronic Law Journal*, 18(4), 1320-1348.
- [36] Gallant, K. S. (2009). *The principle of legality in international and comparative criminal law*. Cambridge: Cambridge University Press.
- [37] Griffiths, J. (1986). What is legal pluralism? *Journal of Legal Pluralism*, 18(24), 1-55.
- [38] Hammar, R. K. R. (2019). Consolidating and strengthening the capacity of indigenous people leaders in maintaining customary law. *Journal of Legal, Ethical and Regulatory Issues*, 22(3), 1-12.
- [39] Hammar, R. K. R., Samangun, C., Malik, Y., & Luturmas, A. (2021). Spatial planning for indigenous law communities to solve social conflict resolution in West Papua Indonesia. *Journal of Social Studies Education Research*, 12(4), 89-114.
- [40] Harahap, A. S., Mulyono, H., Nuzul, A., Milhan, M., & Siregar, T. (2023). Dalihan Na Tolu as a model for resolving religious conflicts in North Sumatera: An anthropological and sociological perspective. *Samarah: Jurnal Hukum Keluarga dan Hukum Islam*, 7(3), 1943-1970.

- [41] Harefa, B., Fernando, Z. J., Maharani, A. S., Anditya, A. W., & Humana, S. (2024). Analysis of criminal law regulations regarding Sigajang Laleng Lipa' tradition under Article 2 of Indonesia's new Criminal Code. *International Journal of Criminal Justice Sciences*, 19(1), 134-152.
- [42] Hellum, A., & Stewart, J. (Eds.). (2011). *Women's human rights and legal pluralism in Africa*. London: Zed Books.
- [43] Hermawan, A., Arief, M., & Rahayu, W. P. (2018). Dimensions of the Javanese culture and the role of parents in instilling values in creative industry entrepreneurship. *International Journal of Engineering and Technology (UAE)*, 7(2.29), 334-339.
- [44] Hiariej, E. O. S. (2023). Implementasi konsep hukum yang hidup dalam KUHP 2023. *Jurnal Hukum Pidana Indonesia*, 15(3), 234-256.
- [45] Hinz, M. O. (2010). Traditional governance and African customary law: Comparative observations from a Namibian perspective. *Studies in Comparative Law and Policy*, 12, 45-78.
- [46] Holleman, J. F. (1981). Van Vollenhoven's conception of Ehrlich's living law. In *Issues in the study of law and social change* (pp. 89-120). The Hague: Martinus Nijhoff Publishers.
- [47] Hukumonline. (2023). Kontroversi implementasi KUHP 2023 dan dampaknya terhadap hak asasi manusia. Retrieved from <https://www.hukumonline.com>
- [48] Hutchinson, T. (2018). *Researching and Writing in Law*. London: Routledge.
- [49] Irianto, S. (2012). Aksesibilitas perempuan terhadap keadilan: Potret perempuan Indonesia dalam hukum dan peradilan. *Jurnal Perempuan*, 17(2), 7-19.
- [50] Jones, C., & Wagambie, M. S. (2024). Mediation in matters involving sorcery in PNG villages and remote Australian indigenous communities. *International Journal for Crime, Justice and Social Democracy*, 13(2), 45-67.
- [51] Kemenkumham. (2023). *Naskah akademik dan penjelasan resmi Kitab Undang-Undang Hukum Pidana 2023*. Jakarta: Kementerian Hukum dan Hak Asasi Manusia Republik Indonesia.
- [52] Kemenkes. (2023). *Analisis dampak KUHP 2023 terhadap layanan kesehatan reproduksi*. Jakarta: Kementerian Kesehatan Republik Indonesia.
- [53] KLHK. (2023). *Laporan konflik tanah adat dan lingkungan hidup*. Jakarta: Kementerian Lingkungan Hidup dan Kehutanan.
- [54] Komnas HAM. (2023). *Evaluasi implementasi KUHP 2023 dari perspektif hak asasi manusia*. Jakarta: Komisi Nasional Hak Asasi Manusia.
- [55] Kompas. (2024). *Laporan konflik masyarakat adat di Indonesia*. Retrieved from <https://www.kompas.com>
- [56] KPA. (2024). *Catatan akhir tahun konflik agraria dan tanah adat 2024*. Jakarta: Konsorsium Pembaruan Agraria.
- [57] KUHP. (2023). *Kitab Undang-Undang Hukum Pidana 2023. Undang-Undang Republik Indonesia Nomor 1 Tahun 2023*. Jakarta: Sekretariat Negara.
- [58] Lev, D. S. (2000). *Legal evolution and political authority in Indonesia*. The Hague: Kluwer Law International.
- [59] Lukito, R. (2012). *Legal Pluralism in Indonesia: Bridging the Unbridgeable*. London: Routledge.
- [60] Maliska, M. A. (2019). The legal sociology of Eugen Ehrlich and constitutional law: The fact of pluralism and the role of Constitution. *Archiv für Rechts- und Sozialphilosophie*, 105(3), 412-435.
- [61] Manik, D. B., Saragih, Y. M., Fauzan, F., Suwirza, E., & Saragih, R. R. (2025). Criminal law reform innovations and implementation challenges in Indonesia's new Criminal Code. *Journal of Legal Reform*, 12(1), 78-95.
- [62] Matyasovszky-Németh, M., & Fábíán, Á. (2025). A pluralistic model of the responsiveness of law: The case of Hungary. In *European Union and Its Neighbours in a Globalized World* (pp. 78-95). Cham: Springer.
- [63] Melissaris, E. (2004). The more the merrier? A new take on legal pluralism. *Social and Legal Studies*, 13(1), 57-79.
- [64] Merry, S. E. (1988). Legal pluralism. *Law & Society Review*, 22(5), 869-896.
- [65] Monture-Angus, P. (1999). *Journeying forward: Dreaming First Nations' independence*. Halifax: Fernwood Publishing.
- [66] Mulahela, T., Yanto, A., & Hikmah, F. (2024). The implementation format of living law within the New Indonesian Penal Code: Finding middle ground between regulation and preservation. *Asian Law Review*, 31(2), 189-207.
- [67] Napoleon, V. (2019). Indigenous legal orders and the common law. In *The Oxford handbook of the Canadian Constitution* (pp. 567-589). Oxford: Oxford University Press.
- [68] O'Regan, K. (2021). Breaking the silence: On the development of legal culture in South Africa. *South African Law Journal*, 138(1), 24-45.
- [69] Pranoto, H. S. (2024). *Memayu Hayuning Bawana: A Javanese philosophy of living with implications for music education*. In *The Oxford Handbook of Asian Philosophies in Music Education* (pp. 234-256). Oxford: Oxford University Press.
- [70] Pujiyono, Wiwoho, J., & Sutopo, W. (2017). Implementation of Javanese traditional value in creating the accountable corporate social responsibility. *International Journal of Law and Management*, 59(6), 867-881.
- [71] Regus, M. (2021). Human rights culture in Indonesia: Attacks on the Ahmadiyya minority group. *Human Rights Review*, 22(3), 289-308.
- [72] Rutherford, D. (2012). *Laughing at Leviathan: Sovereignty and audience in West Papua*. Chicago: University of Chicago Press.

- [73] Sadnyini, I. A., & Gorda, A. A. A. N. T. R. (2021). Social changes of traditional rules in facing contemporary developments: A sociological study of intercaste marriage in Balinese society. *International Journal of Criminology and Sociology*, 10, 234-245.
- [74] Sihombing, B. F. (2024). Democratic leadership in the Batak Tribe: Lessons from customary law for modern governance. *International Journal of Research in Business and Social Science*, 13(6), 414-430. <http://dx.doi.org/10.20525/ijrbs.v13i6.3707>
- [75] Silitonga, T. R. (2019). *Budaya Batak Toba sebagai basis model kepemimpinan keperawatan* (Doctoral dissertation, Universitas Sumatera Utara). <http://dx.doi.org/10.31219/osf.io/5gqx3>
- [76] Simanjuntak, I. K. (2017). Review urgency implementation of Dalihan Na Tolu institutions in legal justice system in Indonesia. In *ASEAN/Asian Academic Society International Conference (AASIC) Proceeding Series* (pp. 166-174).
- [77] Suartika, G. A. M. (2007). Territoriality and the market system-Adat land vs. state regulations on land matters in Bali. *Habitat International*, 31(3-4), 451-464.
- [78] Suhariyanto, B., Mulyadi, L., Afandi, F., & Muhammad, S. R. P. S. G. (2024). Reconstruction of intersection the customary court and state criminal court for indigenous communities in Papua. *Journal of Indonesian Legal Studies*, 9(1), 123-148.
- [79] Susanto, T., Anggara, R., Wahyudin, U., & Wijaya, A. S. (2025). The role of elders in upholding 'Guyub rukun' in Nglinggi Village, Central Java, Indonesia: Building a peaceful village. *Journal of Religion, Spirituality and Aging*, 37(1), 45-67.
- [80] Sutaryantha, M. P. W., & Kusumasari, B. (2020). Indigenous collaborative governance: An understanding of decision-making process at Desa Adat in Bali, Indonesia. *Udayana Journal of Law and Culture*, 4(2), 178-195.
- [81] Svensson, T. G. (2002). Indigenous rights and customary law in the Arctic. *Arctic Review on Law and Politics*, 3(1), 1-25.
- [82] Svensson, T. G. (2003). The Sami and their interaction with the Nordic legal systems. *Journal of Legal Pluralism*, 35(48), 147-178.
- [83] Tamanaha, B. Z. (2001). *A general jurisprudence of law and society*. Oxford: Oxford University Press.
- [84] Tamanaha, B. Z. (2008). Understanding legal pluralism: Past to present, local to global. *Sydney Law Review*, 30(3), 375-411.
- [85] Tamanaha, B. Z. (2021). *A realistic theory of law*. Cambridge: Cambridge University Press.
- [86] Tempo. (2025). Eskalasi konflik Proyek Strategis Nasional dan dampaknya terhadap masyarakat adat. Retrieved from <https://www.tempo.co>
- [87] Tongat, T. (2022). The ambiguous authority of living law application in new Indonesian Penal Code: Between justice and the rule of law. *International Journal of Criminal Justice Sciences*, 17(2), 188-209.
- [88] UI Law Review. (2023). Pembatasan kebebasan berkumpul dalam KUHP 2023: Analisis konstitusionalitas. *University of Indonesia Law Review*, 23(2), 156-189.
- [89] Utama, T. S. J. (2021a). Between adat law and living law: An illusion of customary law incorporation into Indonesia penal system. *Journal of Legal Pluralism and Unofficial Law*, 53(2), 234-256.
- [90] Utama, T. S. J. (2021b). State recognition of adat law in criminal law reform: Legal pluralism and the politics of incorporation in Indonesia. *The Journal of Legal Pluralism and Unofficial Law*, 53(2), 267-289.
- [91] Veszteg, R. F., & Narhetali, E. (2010). Public-good games and the Balinese. *International Journal of Social Economics*, 37(7), 477-489.
- [92] Warren, C. (1993). *Adat and Dinas: Balinese Communities in the Indonesian State*. Oxford: Oxford University Press.
- [93] Webber, J. (2004). The grammar of customary law. *McGill Law Journal*, 49(3), 579-622.
- [94] WHO Report. (2023). *Impact of Indonesia's new criminal code on healthcare access and reproductive rights*. Geneva: World Health Organization Regional Office for South-East Asia.
- [95] Wignjosoebroto, S. (2013). *Hukum dalam masyarakat: Perkembangan dan masalah sebuah teori hukum progresif di Indonesia*. Malang: Bayumedia Publishing.
- [96] Woodman, G. R. (2012). The possibilities of co-existence of religious laws with other laws. In *Religion and legal pluralism* (pp. 7-25). Farnham: Ashgate Publishing.
- [97] Yin, R. K. (2018). *Case study research and applications: Design and methods* (6th ed.). Thousand Oaks, CA: SAGE Publications.
- [98] Yoserwan. (2023). The implications of adat criminal law incorporation in Indonesia's new criminal code: Between protection and subordination. *Southeast Asian Law Journal*, 45(3), 412-435.
- [99] Zehr, H., & Gohar, A. (2003). *The little book of restorative justice*. Intercourse, PA: Good Books.