

# Dispute Resolution Through Local Institutional Mechanisms in the Baduy Indigenous People and Their Relevance to National Legal Pluralism

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## ABSTRACT

This study aims to analyze the dispute resolution mechanism through local institutions in the Baduy indigenous people and its relevance to national legal pluralism in Indonesia. On the one hand, the Baduy customary mechanism based on the philosophy of pikukuh and the concept of mutual forgiveness has proven to be effective in resolving conflicts quickly, participatoryly, and oriented towards restoring social-spiritual harmony at no cost. However, on the other hand, its implementation faces structural and normative challenges when interacting with the formal justice system, such as the lack of documentation of decisions, the lack of standardized due process, and the potential for overlapping jurisdictions. This study uses a normative-empirical legal approach with a qualitative case study method, through the analysis of regulatory documents, literature reviews, and in-depth interviews with key sources. The results of the study show that the local institutions of Baduy are in substantive harmony with the principles of restorative justice and preventive legal protection, but their constitutional recognition is still partial at the field level. This study recommends a complementary harmonization model that includes: (1) declarative registration of customary decisions as a peace deed in the District Court, (2) the preparation of institutional collaboration protocols (MoU/Joint Decree), (3) joint training on the principles of restorative justice and human rights, and (4) continuous legal assistance. Thus, the coexistence of customary law and national law can be realized in a healthy manner without sacrificing cultural autonomy and guarantees of human rights protection.

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## 1. INTRODUCTION

Legal pluralism has become one of the most influential paradigms in contemporary legal scholarship, particularly in countries characterized by cultural diversity and the coexistence of multiple normative orders. Contrary to the classical positivist view, which regards the state as the sole producer of law, legal pluralism recognizes that law also emerges from social institutions, religious traditions, and indigenous communities that regulate collective life through their own norms and values (Griffiths, 1986; Tamanaha, 2001). These normative systems often function alongside formal state law and possess strong social legitimacy because they are embedded in local traditions, cultural identities, and collective experiences. Consequently, the study of legal pluralism extends beyond the coexistence of different legal systems to examine how these systems interact, negotiate authority, and influence access to justice within multicultural societies.

The growing international recognition of indigenous peoples' rights has further strengthened the relevance of legal pluralism in contemporary legal discourse. International legal instruments, including the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), emphasize the right of indigenous communities to preserve their institutions, traditions, legal systems, and cultural identities while participating within the broader framework of national governance. Such recognition reflects an evolving understanding that legal diversity should not be perceived as a challenge to national legal unity but rather as an important resource for promoting substantive justice, cultural preservation, and inclusive governance. Consequently, many countries have increasingly sought to integrate indigenous dispute resolution mechanisms into their national legal systems, particularly in civil disputes, family matters, and community-based conflict resolution.

Indonesia represents one of the world's most prominent examples of legal pluralism due to its extensive ethnic, cultural, and religious diversity. With more than a thousand ethnic groups and hundreds of indigenous communities spread across the archipelago, customary law (*hukum adat*) continues to play an important role in regulating social relations, resolving disputes, managing communal resources, and preserving local values. Long before the establishment of the modern Indonesian state, indigenous communities had developed sophisticated legal institutions capable of maintaining social order through consensus, customary sanctions, and collective responsibility. These living legal traditions remain an integral part of Indonesia's socio-legal landscape despite the expansion of statutory law and modern judicial institutions.

The constitutional position of indigenous law in Indonesia is explicitly recognized under Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which states that the State recognizes and respects customary law communities and their traditional rights insofar as they remain alive, develop in accordance with societal changes, and are consistent with the principles of the Unitary State of the Republic of Indonesia. This constitutional guarantee is reinforced by Article 28I paragraph (3), which acknowledges the cultural identity and traditional rights of indigenous peoples as part of fundamental human rights protected by the Constitution. Furthermore, several statutory regulations – including Law Number 6 of 2014 concerning Villages and sectoral legislation governing natural resources and environmental management – demonstrate the government's commitment to accommodating indigenous institutions within the national legal framework. These constitutional and statutory provisions illustrate that customary law is not merely a historical legacy but a legally recognized component of Indonesia's plural legal system.

Nevertheless, constitutional recognition does not automatically eliminate the challenges arising from the interaction between customary law and formal state law. Indonesia's legal system continues to be characterized by overlapping jurisdictions, differing legal principles, and varying standards of legal legitimacy. While statutory law emphasizes legal certainty through codified regulations, formal procedures, and judicial authority, customary law derives its legitimacy from communal acceptance, inherited traditions, and the practical effectiveness of living norms. This coexistence frequently creates institutional tensions, particularly when disputes involve matters simultaneously governed by customary institutions and state legal authorities. Such conditions highlight that legal pluralism is not

merely a descriptive concept but also a practical challenge requiring continuous efforts to harmonize diverse legal orders while ensuring justice, legal certainty, and respect for indigenous rights.

Among the numerous indigenous communities in Indonesia, the Baduy people of Lebak Regency, Banten Province, constitute one of the most distinctive examples of a society that has consistently preserved its customary institutions despite increasing social and legal modernization. The Baduy community is widely recognized for its commitment to maintaining ancestral traditions (*pikukuh karuhun*), which regulate nearly every aspect of social life, including governance, environmental conservation, religious practices, and dispute resolution. The authority of customary leaders, particularly the *Puun* and other traditional functionaries, extends beyond ceremonial matters and serves as the principal mechanism for maintaining social order within the community. Consequently, customary institutions remain highly respected because they derive legitimacy from collective cultural values rather than coercive state authority.

The philosophical foundation of the Baduy legal system is deeply rooted in the principles of *Sunda Wiwitan*, emphasizing harmony between humans, nature, and the spiritual world. Rather than perceiving law solely as an instrument for imposing sanctions, the Baduy community understands law as a moral framework intended to preserve communal balance and social cohesion. Violations of customary norms are therefore regarded not merely as offences against individual victims but also as disturbances to the collective equilibrium of the community. This worldview significantly influences the manner in which disputes are addressed, prioritizing reconciliation, mutual understanding, and the restoration of social relationships instead of punitive measures. Such an approach demonstrates that indigenous legal systems often pursue broader social objectives than those reflected in formal legal procedures.

Dispute resolution within the Baduy community is conducted through local customary institutions based on deliberation and consensus (*musyawarah*). Community elders and customary leaders facilitate dialogue between disputing parties to identify the underlying causes of conflict and to encourage mutually acceptable solutions. One of the most distinctive elements of this process is the principle of *silih ngahampura*—or mutual forgiveness—which emphasizes restoring interpersonal relationships and rebuilding community trust rather than determining winners and losers. Compliance with customary decisions is largely voluntary because the authority of these institutions is grounded in cultural legitimacy, collective respect, and shared responsibility. Consequently, dispute resolution is not limited to settling legal disagreements but also serves to reinforce communal solidarity and preserve the moral order that underpins Baduy society.

From a socio-legal perspective, the Baduy dispute resolution mechanism reflects many of the core principles of restorative justice. Restorative justice emphasizes repairing harm, restoring relationships, promoting dialogue, and encouraging active participation by victims, offenders, and the wider community in resolving disputes. These principles differ fundamentally from conventional retributive justice, which primarily focuses on punishment and the application of statutory sanctions. In recent years, restorative justice has become an increasingly important policy orientation within Indonesia's legal system, as reflected in Supreme Court Regulation (PERMA) Number 1 of 2016 concerning Mediation, Supreme Court Regulation (PERMA) Number 4 of 2014 concerning Diversion in the Juvenile Criminal Justice System, as well as subsequent regulations issued by the Attorney General's Office and the Indonesian National Police concerning restorative justice. The convergence between these national legal developments and the long-standing practices of the Baduy community illustrates that indigenous dispute resolution mechanisms may offer valuable insights for developing a more participatory and socially responsive justice system.

Despite these normative similarities, the relationship between Baduy customary institutions and the formal legal system remains complex. Customary decisions that are accepted as final and binding within the indigenous community do not necessarily possess formal legal recognition outside the customary sphere. State judicial institutions generally operate according to codified legislation, procedural requirements, evidentiary standards, and jurisdictional rules that differ substantially from those governing customary dispute resolution. Consequently, disputes resolved through customary

institutions may subsequently be brought before state authorities, particularly where legal certainty concerning land ownership, administrative recognition, inheritance, or criminal responsibility is required. Such situations frequently create overlapping legal processes and uncertainty regarding the legal status of customary decisions.

These institutional dynamics illustrate the continuing tension between *living law* and positive law in Indonesia's plural legal system. As proposed by socio-legal scholars, the effectiveness of a legal system cannot be measured solely by the existence of statutory regulations but must also consider the normative orders that genuinely govern people's daily lives. In the context of the Baduy community, customary institutions continue to function effectively because they are supported by shared cultural values, collective compliance, and strong social legitimacy. Nevertheless, the absence of clear mechanisms for coordinating customary institutions with state legal institutions limits the broader recognition of indigenous dispute resolution outcomes. This unresolved relationship raises important questions regarding the institutional position of customary law within Indonesia's constitutional framework and the extent to which indigenous legal mechanisms can contribute to strengthening legal pluralism and improving access to justice.

Existing scholarship has demonstrated that legal pluralism provides an essential framework for understanding the interaction between state law and non-state legal systems. Griffiths (1986) introduced the concept of legal pluralism by arguing that multiple legal orders may simultaneously operate within the same social field, challenging the assumption that law is exclusively produced by the state. This theoretical perspective was subsequently refined by Tamanaha (2001), who emphasized that legal systems should be understood as dynamic social phenomena whose legitimacy depends not only on formal state recognition but also on societal acceptance and practical effectiveness. These foundational theories have significantly influenced socio-legal studies examining the coexistence of statutory law, customary law, and religious law in multicultural societies. Nevertheless, these classical works remain largely theoretical and provide limited discussion regarding the institutional mechanisms through which customary dispute resolution can be integrated into contemporary national justice systems.

Within the Indonesian context, numerous scholars have explored the operation of legal pluralism and the constitutional recognition of indigenous communities. Ratno Lukito (2013), for example, argues that Indonesia's legal development has historically been characterized by continuous interaction among customary law, Islamic law, and state law, creating a distinctive plural legal structure. Subsequent studies have similarly highlighted that constitutional recognition of indigenous peoples has not always been accompanied by effective institutional arrangements capable of ensuring equal legal protection. Although these studies provide important insights into Indonesia's plural legal order, they generally focus on legal doctrine and constitutional recognition rather than examining how customary institutions practically resolve disputes and interact with formal judicial institutions.

Research specifically concerning the Baduy indigenous community has predominantly been conducted from anthropological, sociological, and cultural perspectives. Existing studies have documented the Baduy people's traditional governance, environmental ethics, religious beliefs, and adherence to *pikukuh karuhun* as the primary normative framework regulating community life. These studies demonstrate that customary institutions remain highly respected because they are deeply embedded within local cultural values and collective identity. Other scholars have examined the role of customary leaders in preserving social harmony and maintaining compliance with customary norms. While these contributions are valuable in explaining the cultural foundations of Baduy customary law, they devote relatively limited attention to the institutional dimensions of dispute resolution and its relationship with Indonesia's formal legal system.

Recent studies have increasingly connected indigenous dispute resolution with the concept of restorative justice. Several scholars argue that many Indonesian customary legal systems emphasize reconciliation, consensus, compensation, and the restoration of social relationships rather than punishment, thereby reflecting principles consistent with restorative justice. Similar observations have been reported in studies of customary communities across Indonesia, where indigenous institutions

function as accessible, community-based mechanisms for resolving conflicts while preserving social cohesion. These findings suggest that indigenous dispute resolution may complement formal judicial institutions, particularly in addressing disputes that require restorative rather than retributive approaches. However, most of these studies examine restorative justice as a criminal justice policy without comprehensively analysing how indigenous dispute resolution mechanisms can be institutionally accommodated within the broader framework of national legal pluralism.

Furthermore, contemporary scholarship concerning the Baduy community has begun to explore specific customary principles, including *silih ngahampura* (mutual forgiveness), as an indigenous model of conflict resolution. These studies demonstrate that reconciliation within the Baduy community is not merely a social practice but also constitutes a normative legal mechanism aimed at restoring harmony and preventing recurring conflicts. Nevertheless, the existing literature generally discusses *silih ngahampura* from cultural or philosophical perspectives, while relatively little attention has been given to evaluating its legal significance within Indonesia's constitutional framework or its compatibility with formal legal institutions. Consequently, the institutional implications of Baduy customary dispute resolution remain insufficiently examined within the broader discourse on legal pluralism.

The foregoing review reveals three principal research gaps. First, previous studies have predominantly analysed the Baduy legal system from anthropological, cultural, or sociological perspectives, whereas comprehensive legal analyses of customary dispute resolution remain limited. Second, although legal pluralism has been widely discussed in Indonesian legal scholarship, few studies have specifically examined how Baduy customary institutions interact with state legal institutions in resolving disputes. Third, limited research has integrated legal pluralism and legal protection theories to assess the institutional relevance of indigenous dispute resolution within Indonesia's contemporary legal system. As a result, the practical contribution of Baduy customary institutions to strengthening access to justice and constitutional recognition of indigenous peoples has not yet been fully understood.

This study addresses these gaps by adopting a normative-empirical legal approach that combines constitutional analysis, statutory interpretation, and empirical observations of dispute resolution practices within the Baduy indigenous community. Unlike previous studies that primarily emphasize cultural values or anthropological descriptions, this research analyses customary dispute resolution as a functioning legal institution operating within Indonesia's plural legal order. Furthermore, by integrating legal pluralism with legal protection theory, this article provides a broader analytical framework for evaluating the institutional position of indigenous dispute resolution mechanisms within the national justice system. In doing so, the study contributes not only to the academic development of socio-legal scholarship but also to ongoing policy discussions concerning the recognition, harmonization, and protection of indigenous legal institutions in Indonesia.

Accordingly, this article aims to examine the dispute resolution mechanisms implemented through the local institutions of the Baduy indigenous community and to analyse their relevance to Indonesia's national legal system within the framework of legal pluralism. Specifically, the study investigates how customary institutions resolve disputes based on indigenous legal values, explores the interaction between customary dispute resolution and formal legal institutions, and evaluates the extent to which the Baduy model may contribute to strengthening legal certainty, restorative justice, and the constitutional protection of indigenous peoples in Indonesia.

## 2. METHODS

This article uses a normative-empirical legal research approach, which is a combination of analysis of applicable legal provisions (normative) and observation of their application in practice in society (empirical). The nature of the research is descriptive-analytical, aiming to provide a systematic overview of the mechanism of the Baduy local institution and its implications for national legal pluralism.

Data collection is carried out through two main techniques. First, library research to collect primary legal materials (1945 Constitution of the Republic of Indonesia, Village Law, related PERMA), secondary legal materials (books, scientific journals), and tertiary legal materials. Second, field research through in-depth interviews with key resource persons, namely practitioners and figures who understand the dynamics of Baduy customary law, Mr. Asep Yadi Setiawan, S.STP., M.Si., as well as direct observation of the Baduy Luar community. Data analysis is carried out qualitatively-judicial, where data is analyzed through a legislative approach, a conceptual approach, and a case approach, then arranged logically to answer the problem formulation.

### 3. FINDINGS AND DISCUSSION

#### *Dispute Resolution Mechanism Through Local Institutions in the Baduy Indigenous People*

The dispute resolution mechanism among the Baduy indigenous people does not operate hierarchically or coercively, but flows in tiers (tiered resolution). The process began at the family level facilitated by kolot (elders), continued to structural mediation by Jaro Dangka, and culminated in a plenary deliberation of the customary council involving Puun and Baris Kolot for matters that threatened the cosmic balance.

Jurisco-sociologically, this tiered structure reflects the principle of subsidiarity in conflict governance which is in line with the dimension of preventive legal protection according to Philipus M. Hadjon (1987). This mechanism prevents social disturbances from turning into rights violations that require the coercive intervention of the state. In the perspective of Howard Zehr's (2002) Theory of Restorative Justice, the concept of forgiveness is an empirical manifestation of restorative justice that does not focus on punishment, but rather on the restoration of relationships, moral responsibility, and social reintegration.

The effectiveness of this mechanism can be measured through high functional indicators. Based on observations and interviews, the average dispute resolution time in Baduy Luar ranges from 1-3 days with a cost of zero rupiah, the voluntary compliance rate reaches above 90%, and conflict recidivism is very low. This happens because customary sanctions do not aim to create permanent stigma, but rather function as a moral corrective accompanied by a cleansing ritual (ngaruat) to restore the social acceptance of the perpetrator (Braithwaite, 1989). The legitimacy of customary judgments does not come from state delegations, but from collective consensus, constructive social pressure, and spiritual belief in the balance of nature.

#### *The Relevance and Challenges of Integration in the Context of National Legal Pluralism*

Constitutionally, the relevance of the Baduy customary law system to national law has been guaranteed through Article 18B paragraph (2) of the 1945 Constitution and operationalized through Law Number 6 of 2014 concerning Villages. Both systems are equally aimed at resolving conflicts and restoring relationships. However, from the perspective of Legal Protection Theory, strong normative recognition does not necessarily guarantee effective implementation at the field level.

The key speaker emphasized that the position of Baduy customary law is currently in the phase of "strong normative recognition, but partial implementation". There are three main structural and normative challenges:

1. First, the lack of documentation and procedural accountability. Customary Baduy rulings are generally oral and validated through collective testimony, while the formal judicial system requires written evidence.
2. Second, due process standards and the protection of vulnerable groups. Decision-making that is communal in some contexts has the potential to ignore individual rights or marginalize the voices of vulnerable groups.
3. Third, jurisdictional overlap. Customary land disputes that intersect with BPN certification, or minor criminal cases that have been resolved through pardons but are still formally processed by the police, often cause friction of authority that risks causing substantive double jeopardy.

Facing these challenges, settlement efforts cannot be pursued through subordination or substitution approaches. The right approach is complementary harmonization that recognizes customary normative autonomy while providing procedural validation instruments. The recommended harmonization model includes four technical instruments:

1. Declaratory registration of customary decisions that qualify as a peace deed at the District Court. This registration is declarative, not constitutive, so that it does not change the nature of the finality of customary decisions, but provides evidentiary power and juridical certainty.
2. Preparation of an institutional collaboration protocol (MoU/Joint Decree) between the District Court, the Prosecutor's Office, the Police, and the Baduy Customary Council which contains limitations on the types of cases that can be resolved customarily and the referral mechanism.
3. Joint training with law enforcement officials and customary functionaries on the principles of restorative justice, human rights standards, and procedural accountability to bridge epistemological gaps.
4. Ongoing legal assistance for indigenous peoples through legal aid agencies so that they understand their rights in the national system and have access to limited review channels if needed.

This model is in line with the view of Brian Z. Tamanaha (2001) that healthy legal pluralism does not allow jurisdictional chaos, but rather creates a framework for dialogue between legal systems that respect each other's autonomy as long as it does not violate the basic principles of justice and human rights.

Overall, the findings of this study demonstrate that the dispute resolution mechanism practiced by the Baduy indigenous community represents a functioning legal institution that continues to operate effectively within Indonesia's plural legal landscape. Unlike formal judicial procedures that primarily emphasize legal certainty through codified regulations and adjudication, the Baduy customary system prioritizes the restoration of social harmony, collective responsibility, and reconciliation among disputing parties. The tiered settlement process—from family mediation facilitated by *kolot*, to mediation by *Jaro Dangka*, and ultimately to deliberation before the *Puun* and *Baris Kolot* for disputes affecting communal balance—illustrates the existence of a sophisticated institutional structure capable of resolving conflicts efficiently while preserving social cohesion. The high level of voluntary compliance, the relatively short duration of dispute resolution, and the minimal recurrence of conflicts further indicate that the effectiveness of customary institutions is derived not from coercive authority but from cultural legitimacy, shared moral values, and strong communal trust.

These findings also reinforce the theoretical propositions of legal pluralism advanced by Griffiths (1986) and Tamanaha (2001), who argue that multiple legal systems may coexist and function simultaneously within a single jurisdiction. In the Baduy context, customary law operates as a living legal system whose legitimacy is generated through collective acceptance rather than state delegation. The findings confirm that indigenous legal institutions remain capable of governing social relations, resolving disputes, and maintaining public order independently while complementing the objectives of the national legal system. Furthermore, the principles of *silih ngahampura* and restorative reconciliation practiced by the Baduy community closely correspond to Howard Zehr's restorative justice framework, emphasizing dialogue, accountability, victim recovery, offender reintegration, and the restoration of social relationships instead of punitive sanctions. This demonstrates that restorative justice has long existed within indigenous legal traditions and should not be regarded solely as a contemporary innovation within formal criminal justice policy.

Nevertheless, the study also identifies significant challenges that continue to hinder the effective integration of customary institutions into Indonesia's national legal system. Although constitutional provisions recognize the existence of indigenous communities and their traditional rights, practical implementation remains fragmented. The absence of written documentation for customary decisions, differences in evidentiary standards between customary and formal courts, concerns regarding procedural fairness and the protection of vulnerable groups, and overlapping jurisdiction between customary institutions and state authorities all contribute to legal uncertainty. Consequently, customary settlements that are regarded as final within the indigenous community may not receive

equivalent recognition from formal legal institutions, particularly in disputes involving land administration, public administration, or criminal matters. These institutional discrepancies illustrate that constitutional recognition alone is insufficient without procedural mechanisms capable of facilitating coordination between customary and state legal institutions.

The findings therefore suggest that the future development of Indonesia's legal pluralism should not be directed toward subordinating customary law to state law or replacing indigenous institutions with formal judicial mechanisms. Instead, a complementary model of legal harmonization should be adopted, recognizing the autonomy of customary institutions while establishing institutional bridges that enhance legal certainty and procedural accountability. Declaratory registration of customary settlements, institutional cooperation between customary councils and law enforcement agencies, joint capacity-building programmes concerning restorative justice and human rights standards, and continuous legal assistance for indigenous communities represent practical mechanisms capable of strengthening mutual recognition between the two legal systems. Such measures would preserve the cultural integrity of indigenous dispute resolution while ensuring compatibility with constitutional principles and the protection of fundamental rights.

Ultimately, this study demonstrates that the Baduy indigenous dispute resolution mechanism should be understood not merely as a manifestation of local wisdom but as a legitimate and functional legal institution that contributes to the realization of substantive justice in Indonesia. By integrating legal pluralism theory with legal protection perspectives through a normative-empirical analysis, this research highlights that indigenous customary institutions possess significant potential to complement the national justice system in promoting accessible, restorative, and culturally responsive dispute resolution. Accordingly, strengthening collaboration between customary institutions and formal legal authorities represents an important step toward realizing a more inclusive legal system that respects constitutional recognition, accommodates legal diversity, and enhances access to justice for indigenous peoples. The Baduy experience further illustrates that sustainable conflict resolution can be achieved through legal approaches that prioritize reconciliation, social cohesion, and community participation, thereby offering valuable lessons for the broader development of Indonesia's plural legal system.

#### 4. CONCLUSION

This study concludes that the dispute resolution mechanism through local institutions in the Baduy indigenous people operates in a staged, participatory, and oriented manner towards the restoration of social-spiritual harmony, which is theoretically in line with the principle of restorative justice. The relevance of the Baduy customary law system with national law lies in its substantive alignment with the spirit of case diversification and preventive legal protection. However, its implementation faces challenges in the form of a lack of documentation, unstandardized due process standards, and overlapping jurisdictions.

Based on these findings, the study recommends two concrete steps: For the Government & Law Enforcement Officials: To immediately issue a Joint Decree/Perbup that regulates the declaratory registration of customary decisions as a peace deed, compiles guidelines for the limits of customary-state authority, and integrates the principles of *restorative justice* in the training of judges, prosecutors, and investigators.

For the Baduy Customary Council & Community: To develop simple but standardized deliberation documentation, establish an internal legal assistance team, and establish regular consultation forums with state agencies to prevent jurisdictional overlap and protect vulnerable groups.

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