

Dynamics of Customary Law in Environmental Protection in South Sulawesi

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Abstract

This research investigates the dynamics of customary law in environmental protection within indigenous communities of South Sulawesi, Indonesia. The study aims to explore the role of customary law in governing community interactions with the environment, understand the challenges faced in its application, and assess its effectiveness in maintaining ecological balance and cultural heritage. Employing a qualitative research approach, data was collected through in-depth interviews, participant observation, and document analysis. The findings reveal that customary law plays a central role in regulating land use, resource management, and environmental conservation practices. These include rotational farming, restrictions on logging and fishing, and the establishment of sacred areas. Despite facing challenges such as conflicts with state law and the influence of modernization, customary law remains resilient, supported by strong community cohesion and leadership. Efforts to integrate customary law into formal legal systems and enhance community capacity are identified as crucial steps towards ensuring sustainable environmental management. This study underscores the importance of recognizing and supporting indigenous systems of environmental governance in fostering ecological sustainability and cultural preservation.

Keywords: Law, Environmental, Governance, Ecological Sustainability

1. Introduction

Customary law holds great significance within the fabric of local communities in Indonesia, particularly in South Sulawesi. Behavior and interactions between individuals in a community are regulated by more than just a set of rules (Perry & Vandenabeele, 2008; Wendel, 2001). They also serve as a reflection of the values, beliefs, and habits that have been passed down through generations. The significance of customary law in local communities stems from its role in preserving social and ecological equilibrium, overseeing the management of natural resources, and enabling conflict resolution through universally accepted mechanisms within the community (Mohamed-Katerere, 2001). Amidst the rapid pace of modernization and globalization, customary law remains a crucial factor in preserving cultural identity and local wisdom.

South Sulawesi is currently experiencing a multitude of significant challenges in regards to its

environmental situation. Climate change, deforestation, land degradation, and water pollution pose significant threats to environmental sustainability in this region (Wang, 2004; Lal, 2012). The South Sulawesi region is currently facing significant challenges as a result of unsustainable human activities, despite its abundant biodiversity and natural resources. Actions such as unlawful deforestation, the conversion of land for plantations and mining, and the utilization of dangerous chemicals in agriculture have resulted in considerable harm to the environment. Furthermore, the rise in population and rapid urbanization are progressively degrading environmental conditions, resulting in a decline in green open space and a surge in air and water pollution.

Given the circumstances, the significance of customary law in environmental preservation becomes highly pertinent. Customary law possesses a distinct mechanism for effectively managing natural resources in a sustainable manner and upholding ecological equilibrium (Meynen & Doornbos, 2013). Unlike the formal legal approach, customary law is implemented in a participatory manner and places greater emphasis on the well-being of the community and the preservation of nature's equilibrium. For instance, in numerous indigenous communities in South Sulawesi, there exist stringent regulations pertaining to the cutting down of trees, utilization of land, and management of water resources. These rules are founded upon the principles of sustainability and the pursuit of harmonious coexistence with the natural environment. These rules are frequently upheld through the implementation of strong social consequences, such as ostracism or excommunication for those who break them. This serves to promote a high degree of adherence within society.

Various aspects shed light on the relationship between customary law and environmental protection in South Sulawesi. Firstly, customary law frequently adopts a comprehensive approach to the management of natural resources. The author considers not only economic factors, but also social and ecological factors. For instance, within the customary law system observed in various regions of South Sulawesi, the notion of "ulayat land" exists. This term denotes land that is collectively owned and administered by the community. The management of customary land is rooted in the principles of unity and long-term viability, with each member of the community bearing the responsibility to safeguard and maintain the environment (Jasrotia, 2007).

Furthermore, customary law offers a conflict resolution mechanism that is highly contextual and adaptable to the specific circumstances of the local community. Within the realm of natural resource disputes, customary law often proves to be a more effective means of resolving conflicts when compared to formal law. This is because customary law is more closely aligned with the realities of people's everyday lives and possesses a deeper understanding of the prevailing social and cultural dynamics. For instance, when it comes to resolving land disputes, customary law typically employs a mediation and dialogue approach. This approach encourages all parties involved to actively engage in the resolution process and work towards mutually beneficial agreements.

Furthermore, customary law encompasses the invaluable knowledge and practices that have withstood the test of time in safeguarding the environment. The local wisdom is evident in a multitude of practices and traditions that pertain to the management of natural resources (Diatia et al., 2020). As an illustration, the "Mappalili" tradition in South Sulawesi is a ceremonial practice conducted prior to the rice cultivation period. Its purpose is to seek blessings and promote the conservation of nature. This ceremony possesses not only a profound spiritual

significance, but also imparts a moral lesson regarding the utmost significance of upholding the equilibrium of nature and demonstrating reverence for its inherent cycles.

Nevertheless, despite the numerous benefits it offers, customary law encounters obstacles when it comes to environmental conservation. An important issue that arises is the conflict between customary law and state law. In numerous instances, state law fails to fully acknowledge or uphold the validity of customary law, leading to friction and discord. For instance, when the government grants mining or plantation permits without seeking input from indigenous communities, it frequently disregards their rights and causes harm to the environment they strive to safeguard. In addition to this, the process of modernization and globalization has the potential to impact traditional values and practices, leading to social and economic transformations. Younger individuals, who have greater exposure to foreign culture and technology, often display a decreased inclination towards upholding traditions and customary laws.

When confronted with these challenges, it is crucial to incorporate customary law into formal legal frameworks and environmental policies. Enhancing the acknowledgement and reverence for customary law necessitates the implementation of regulations that afford legal safeguarding for the entitlements of indigenous communities to land and natural resources (Anaya & Williams, 2001). In addition to that, it is imperative to make endeavors to enhance the capabilities of traditional communities in environmental management. This can be achieved through the implementation of education and empowerment initiatives that are rooted in local wisdom. It is crucial to foster collaboration among governments, indigenous communities, and civil society organizations in order to ensure that environmental policies are not solely driven by a technocratic approach. It is equally important to consider the perspectives and needs of indigenous communities.

The objective of this study is to examine the significance of customary law in the context of environmental conservation in South Sulawesi. Additionally, it seeks to gain insights into the complexities surrounding its application in the face of numerous obstacles. Therefore, it is anticipated that this research will make a substantial academic contribution to the field of customary law and environmental protection. Additionally, it aims to offer pertinent policy recommendations for enhancing environmental conservation initiatives at both the local and national levels.

2. Methods

This study utilized a qualitative research approach, selected for its capacity to comprehensively comprehend social and cultural phenomena from the viewpoints of the participants. The study was conducted in a descriptive-exploratory manner, with the objective of gaining a comprehensive and in-depth understanding of the dynamics of customary law in environmental protection among indigenous communities in South Sulawesi. The data collection methods utilized were in-depth interviews, participant observation, and document analysis. Semi-structured interview guides were used to conduct in-depth interviews with traditional leaders, community members, and related parties. The researcher actively immersed themselves in the daily lives of the indigenous communities to carefully observe the implementation of customary law and the way they interacted with their surroundings. The process of document analysis entails the collection and examination of various types of documents pertaining to customary law and environmental protection. These include customary regulations, historical records, community reports, and official documents. The data analysis employed a formal academic approach, utilizing thematic analysis. This involved the process of transcription and

familiarization, followed by coding, theme grouping, and interpretation. The main research instrument utilized was the researcher, who was aided by various tools including interview guides, field notes, audio recorders, and cameras. The objective of this research design was to thoroughly investigate the role and dynamics of customary law in environmental protection in South Sulawesi.

3. Results and Discussion

Description of the Indigenous Communities

The indigenous communities studied in South Sulawesi had a rich cultural heritage and a deep connection to their land and natural resources. These communities were characterized by a strong sense of identity and cohesion, maintained through shared traditions and practices. The social structure was typically hierarchical, with clear roles and responsibilities assigned to community members (Girvan & Newman, 2002). The customary law system, known as "Hukum Adat," played a central role in governing the community. It encompassed a wide range of regulations, from social behaviour to resource management, and was enforced by traditional leaders and community elders who were highly respected figures.

Based on the in-depth interviews conducted, it was found that the community members viewed their land as more than just a resource; it was a sacred space integral to their cultural identity and spiritual beliefs. One community elder stated,

"Our land is our life. It provides us with food, shelter, and is the place where our ancestors rest. We have a duty to protect it".

This deep connection to the land was evident in the way community members adhered to the customary laws that governed land use and resource management. The social structure within these communities was clearly defined. Traditional leaders, often referred to as "Panglima" or "Puang," held significant authority and were responsible for maintaining the social order and implementing customary laws. These leaders were chosen based on their wisdom, experience, and ability to mediate conflicts. As one traditional leader explained,

"Being a Panglima is not just about power; it is about service to the community and ensuring harmony with nature"

This hierarchical structure ensured that decisions regarding land and resource use were made collectively, with a focus on long-term sustainability. Participant observation revealed that the communities practiced rotational farming, known locally as "Pola Tanam Bergilir." This practice allowed the land to recover its fertility and minimized environmental degradation. Observations during community gatherings and rituals also highlighted the importance of ceremonies such as "Mappalili," which marked the beginning of the planting season. These ceremonies were not only agricultural in nature but also carried significant spiritual meaning, invoking blessings for a bountiful harvest and the preservation of natural resources.

Document analysis further supported the findings from interviews and observations. Historical records and community reports detailed how customary laws evolved to address environmental challenges. For instance, specific regulations prohibited the cutting of certain tree species deemed sacred or critical for maintaining the ecosystem. These regulations were documented in community charters and were passed down through generations orally and in written form.

The indigenous communities of South Sulawesi demonstrated a robust system of customary law

that integrated social, cultural, and environmental dimensions. The enforcement of these laws by respected traditional leaders and the community's collective adherence to them underscored the effectiveness of "Hukum Adat" in maintaining ecological balance and social harmony. The findings highlighted the vital role of customary law in protecting the environment, deeply rooted in the cultural and spiritual values of the community.

Role of Customary Law in Environmental Protection

Customary law in the indigenous communities of South Sulawesi encompassed a range of practices explicitly aimed at environmental protection. Based on the data collected through in-depth interviews, participant observation, and document analysis, it was evident that these practices were deeply rooted in the cultural and spiritual values of the community. In-depth interviews revealed that rotational farming, known locally as "Pola Tanam Bergilir," was a cornerstone of the community's agricultural practices. This method involved alternating the crops grown on a particular piece of land to preserve soil fertility and reduce the risk of pest infestations. A community member explained,

"We rotate our crops every season to give the land a chance to rest and recover. This way, we don't exhaust the soil, and it remains productive for future generations"

This practice reflected a profound understanding of sustainable farming and the need to balance agricultural production with environmental conservation. Participant observation highlighted the strict restrictions on logging and fishing, designed to prevent overexploitation of natural resources. Logging was only permitted in designated areas and for specific purposes, such as building homes or community structures.

"We have certain trees that we only cut down with the permission of the elders. These trees are considered sacred and vital for maintaining the forest's health,"

Similarly, fishing practices were regulated to ensure that fish populations remained sustainable. During the observation, it was noted that there were designated periods when fishing was prohibited to allow fish stocks to replenish, a practice known as "Masa Tenang." Document analysis provided further insight into the community's environmental regulations. Written and oral records detailed specific customary laws related to water use, forest conservation, and wildlife protection. For example, there were rules prohibiting the pollution of water sources, with strict penalties for violators.

"Our rivers and springs are the lifeblood of our community. Polluting them is like poisoning ourselves"

The community also maintained sacred groves, areas of the forest that were off-limits for any form of exploitation. These groves were considered spiritual sanctuaries and critical for biodiversity conservation. Rituals and ceremonies played a significant role in reinforcing these environmental regulations. The "Mappalili" ceremony, observed during the participant observation, marked the beginning of the planting season and included rituals to seek blessings for a good harvest and to ensure the protection of natural resources. These ceremonies served to remind the community of their responsibilities toward nature and to reaffirm their commitment to environmental stewardship. Violations of customary regulations were met with social sanctions, ensuring high levels of compliance. These sanctions ranged from social ostracism to fines and communal work as forms of restitution. A community member recounted,

"Anyone who breaks the rules has to face the consequences, not just from the leaders but from the whole community. This keeps everyone accountable"

This collective enforcement mechanism was effective in maintaining adherence to customary laws and fostering a strong sense of communal responsibility. The role of customary law in environmental protection in these South Sulawesi communities was multifaceted and deeply embedded in their cultural fabric. The integration of sustainable practices, strict resource management regulations, and the reinforcement of these norms through rituals and social sanctions highlighted the comprehensive and effective nature of customary law. These findings underscored the critical role that indigenous knowledge and practices play in environmental conservation, offering valuable lessons for broader environmental management strategies.

Dynamics and Challenges

The application of customary law in the indigenous communities of South Sulawesi faced several changes and challenges over time. Based on the data collected through in-depth interviews, participant observation, and document analysis, it was evident that while customary law adapted to new environmental and social conditions, this adaptation process was not always smooth and often fraught with conflict and tension.

One significant change observed was the adaptation of traditional practices to accommodate new environmental challenges. For instance, the community had to modify their rotational farming practices due to changes in weather patterns and soil fertility. A community leader explained:

"We have noticed changes in the rainy and dry seasons. To cope with this, we have adjusted our planting schedules and crop rotation patterns".

This adaptation was crucial for maintaining agricultural productivity and environmental sustainability. However, such changes sometimes led to internal disagreements within the community about the best ways to modify traditional practices without compromising their cultural values. Conflicts often arose between customary law and state law, particularly in areas related to land use and resource extraction (Nuhidayah et al., 2020). Government policies and legal frameworks sometimes clashed with indigenous practices, creating tensions and disputes. For instance, the issuance of permits for mining and plantations by the government without proper consultation with the indigenous communities was a major source of conflict.

"The government issued a permit for a mining company to operate on our land without consulting us. This not only disrespects our customary laws but also threatens our environment and way of life," lamented a traditional leader"

Such conflicts highlighted the need for better integration of customary law into formal legal systems to ensure that the rights and practices of indigenous communities were respected. The influence of modernization and globalization posed additional challenges to the application of customary law. Younger generations, more exposed to external cultures and technologies, showed a declining interest in maintaining traditional practices and customary law. This shift threatened the continuity and effectiveness of indigenous environmental management systems. During participant observation, it was noted that many young people preferred modern lifestyles and were less involved in traditional ceremonies and practices.

"Our young people are more interested in technology and modern jobs. They see our traditional ways as outdated,"

This generational gap posed a significant challenge to the transmission of traditional knowledge and practices.

Document analysis revealed that despite these challenges, the resilience of customary law and the community's commitment to preserving their cultural heritage and natural environment remained strong. Historical records showed how the community had successfully navigated past challenges by adapting their practices while maintaining core values. Efforts to integrate customary law into formal legal systems and enhance the capacity of indigenous communities to manage their resources sustainably were seen as crucial steps towards resolving these conflicts and ensuring environmental protection. For instance, there were documented instances of community leaders engaging in dialogues with government officials to advocate for the recognition of customary laws in official policies.

The research findings underscored the importance of supporting indigenous communities in their efforts to preserve and adapt their customary laws. Providing platforms for intergenerational knowledge transfer, promoting cultural education among the youth, and ensuring that government policies respect and incorporate indigenous practices were identified as essential measures. As one community member aptly put it,

"Our laws have guided us for generations. With respect and support, they can continue to protect our land and culture in the face of modern challenges".

In conclusion, while the application of customary law in environmental protection faced significant dynamics and challenges, the strength and resilience of these indigenous systems provided a robust foundation for sustainable resource management. Addressing the conflicts between customary and state laws, bridging the generational gap, and supporting the adaptation of traditional practices to new conditions were crucial for ensuring the continued effectiveness of customary law in preserving the environment and cultural heritage of South Sulawesi's indigenous communities.

4. Conclusion

The research findings shed light on the critical role of customary law in environmental protection within the indigenous communities of South Sulawesi, Indonesia. Through a qualitative exploration of the dynamics, challenges, and effectiveness of customary law, several key conclusions emerge. Customary law serves as a comprehensive framework for regulating community interactions with the environment. Practices such as rotational farming, restrictions on resource extraction, and the observance of rituals and ceremonies reflect the deep connection between cultural traditions and ecological stewardship. The application of customary law faces challenges, including conflicts with state law and the influence of modernization and globalization. These challenges threaten the continuity and effectiveness of indigenous environmental management systems, highlighting the need for greater recognition and support of customary law within formal legal frameworks. Despite these challenges, the resilience of customary law and the commitment of indigenous communities to preserving their cultural heritage and natural environment remain strong. Efforts to integrate customary law into formal legal systems and enhance community capacity are identified as crucial steps towards ensuring sustainable environmental management.

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