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The Recognition and Protection of Indigenous Peoples' Rights within the Framework of Regional Autonomy in Indonesia

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ABSTRACT

This research investigates how Indonesia's decentralization framework affects the recognition and protection of Indigenous communities' entitlements. Using qualitative methods with a normative juridical, the research analyzes the prevailing legal provisions (Article 18B (2) of the 1945 Constitution, Law 23/2014, Law 6/2014, Law 41/1999, Law 5/1960), and Regional Regulations. In addition, interviews are used to determine the effectiveness of implementation, selected based on criteria (policy makers, policy implementers, and affected indigenous communities). The informants involved in this research consisted of 17 individuals, including: Head of Wali Nanggroe, Head of Civil Registration Officials, Head of Community Empowerment Services, Head of Sub-District, Head of Village, Head of Traditional Institution, and Traditional Figures. The findings reveal that although Indigenous Peoples are constitutionally recognized, implementation at the regional level still faces various challenges, such as weak harmonization between central and regional regulations, and limited understanding by regional governments regarding the substance of Indigenous rights. Several regional governments have not issued specific regional regulations concerning the recognition of Indigenous Peoples or face obstacles in their implementation. This research recommends the need to strengthen legal policies that support the recognition and protection of Indigenous rights through intergovernmental synergy and the enhancement of institutional capacity at the regional level.

Keyword:

Indigenous Peoples, Regional
Autonomy, Legal Recognition
and Protection, Regulatory
Harmonization

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INTRODUCTION

Indonesia's extraordinary cultural mosaic encompasses diverse Indigenous populations maintaining distinct value systems, legal traditions, and cultural practices integral to national identity (Aditya & Al-fatih, 2021; Sinay et al., 2022). However, the recognition and protection of Indigenous rights are often not optimal, as evidenced by agrarian conflicts, forced evictions, and the neglect of land and natural resource rights (Pratiwi et al., 2024). This condition reflects the inequality in access to welfare and justice for Indigenous communities throughout different regions (Umar et al., 2024). Regional autonomy in Indonesia, as stipulated in Law 23/2014, grants regional governments the authority to manage and administer government affairs in order to strengthen decentralization. This policy is expected to accommodate local interests, including the recognition of indigenous rights (Salinding et al., 2024). However, in practice, this authority has not been fully utilized to enhance the protection of indigenous rights. Some regional governments have yet to issue regional regulations regarding the recognition of Indigenous Peoples or face obstacles in implementing them (S. Hidayat, 2024).

Constitutional recognition appears in Article 18B (2), establishing state acknowledgement and respect for Indigenous legal communities and traditional entitlements contingent upon continued existence, societal development compatibility, and alignment with unitary state principles (Bauder & Mueller, 2023). Additionally, Law 6/2014 provides recognition of indigenous peoples through the establishment of customary villages (Mulyanto, 2018). However, this provision is often not implemented optimally due to weak synchronization between central and regional regulations, as well as limited understanding and support from local governments in implementing policies that recognize indigenous rights (S. H. S. Dewi et al., 2020).

Recognition and protection challenges emerge from inconsistent policies across governmental levels (Kadir & Murray, 2019). Some regions have issued regional regulations concerning indigenous peoples, but these regulations often lack effective power to accommodate indigenous rights because of overlapping with national policies or weak law enforcement at the local level (Abbas et al., 2025). For instance, several provinces such as Papua (Regional Regulation No. 5/2022), West Papua (No. 4/2023), Bali (No. 4/2019), West Kalimantan (No. 11/2011), and West Sumatera (No. 7/2018), recognizing customary lands, traditional governance, and cultural preservation (Reumi, 2023; Tekege, 2024), many regulations lack effective power due to national policy overlaps or weak local enforcement (Abbas et al., 2025; Sinaga et al., 2020). Suboptimal harmonization between state and customary law generates authority conflicts in managing natural resources and protecting indigenous rights (Ramadhan et al., 2024).

Papua exemplifies the complexity of Indigenous rights recognition within regional autonomy frameworks (Gainau et al., 2023; Ley et al., 2019). The Special Autonomy for Papua aims to address indigenous rights concerns, but ambivalence persists in various legal products (Pelupessy, 2017). Folklore, as part of indigenous cultural heritage, requires protection through local regulations and inventory policies (Dilaga, 2017). Indigenous participation in governance structures remains suboptimal (Gainau et al., 2023). The asymmetric decentralization approach in Papua and West Papua has not fully resolved conflicts or clarified customary rights recognition (Sejati & Kartono, 2024). One major type of conflict that often arises is agrarian conflict, especially when indigenous land is claimed by the state or transferred to private companies for logging, mining, or palm oil plantations without the consent of local communities (Tran et al., 2020). These conflicts frequently lead to land disputes, forced displacement, environmental degradation, and the erosion of indigenous cultural identity. For example, the case of indigenous communities in Boven Digoel Regency, Papua, who protested against large-scale palm oil plantation permits that

encroached on customary forest areas, illustrates the disconnect between formal recognition and real protection on the ground. Although local regulations exist, weak enforcement has led to land grabbing and socio-ecological degradation (Mubarok et al., 2024). This demonstrates urgent needs for stronger legal instruments and implementation mechanisms, including Indigenous People Bill ratification (Sejati & Kartono, 2024).

This research aims to examine the recognition and protection through regional autonomy lenses via normative juridical analysis using a statutory approach. The focus of this research is to identify existing legal policies, analyze the effectiveness of legislation in ensuring Indigenous rights, and formulate policy recommendations strengthening recognition and protection within regional autonomy frameworks. Several previous studies have explored indigenous rights in the context of decentralization and legal pluralism in Indonesia (Abbas et al., 2025; Mulyanto, 2018; Ramadhan et al., 2024), focusing on institutional limitations and regulatory fragmentation. However, these studies have not provided a comprehensive legal analysis that compares national and regional frameworks in detail, particularly in connection with empirical evidence from local regulations. The novelty of this research lies in combining normative legal analysis with interview-based findings to evaluate the effectiveness of recognition mechanisms at the regional level, offering an integrated perspective that bridges legal theory and on-the-ground implementation. It is expected that this research can contribute to more effective and Indigenous-friendly regulations development.

METHODS

This research uses a qualitative methodology with normative juridical approaches examining Indigenous rights recognitions and protection within regional autonomy perspectives, grounded in Indonesia's prevailing legal provisions (Pratiwi et al., 2024). The normative juridical method was chosen because the research focuses on analyzing legislation that regulates indigenous rights in the context of governmental decentralization. Normative juridical analysis constitutes legal research methodology examining legal norm, statutory regulations, and principles to evaluate proper implementations practices (Negara, 2023). This approach is commonly used to understand the coherence, consistency, and applicability of legal instruments in addressing specific legal issues. This normative approach enables the researcher to identify, interpret, and evaluate existing regulations in order to understand how indigenous rights are recognized and protected within the Indonesian legal system. By using this method, the research emphasizes objective legal analysis based on authoritative sources, rather than subjective opinion, ensuring that the conclusions are grounded in established legal doctrine and policy frameworks (Dianto & Hamdani, 2020).

The approach used in this research is the statute approach, which is a part of normative juridical methodology. This approach allows the researcher to examine various legal instruments regulating Indigenous recognition and protection within regional autonomy contexts. The main legal instruments reviewed in this study include:

1. Constitution Article 18B (2):
Regulates customary law community recognition and traditional rights contingent upon continued existence, societal development alignment, and unitary state principles compatibility.
2. Law 23/2014:
Grants subnational authority for governmental affairs management, including Indigenous rights recognition and protection within decentralization frameworks.
3. Law 6/2014:

Provides legal foundations for customary village establishment as Indigenous community recognition form at local level.

4. Law 41/1999:
Regulates Indigenous rights to manage customary forests and natural resources.
5. Law 5/1960:
Recognizes customary land rights existence providing agrarian justice bases for Indigenous communities.
6. Various Regional Regulations
Examples include regulations from Papua, West Papua, Bali, West Kalimantan, and West Sumatera governing recognition, protection, and Indigenous empowerment in specific regions.

This research used hierarchical legal materials as data sources following established juridical research protocols (Edwar, 2025). Primary legal materials encompassed legislation Indigenous recognition and protection: constitution, national laws, and regional regulations. Secondary legal materials comprised academic literature, scholarly journals, previous research findings, and legal articles supporting in-depth analysis. Tertiary legal including legal dictionaries, and legislative indexes reinforcing the conceptual understanding of Indigenous rights recognition and protection.

The data collection technique used library research, which involved gathering and analyzing relevant literature and legal documents. This research focused on collecting primary and secondary legal materials to understand the legal provisions governing Indigenous rights within regional autonomy contexts. Through literature review, the research identified recognition and protection concepts and analyzed their implementation in Indonesian legal regulations. In addition, interviews were conducted with informants selected based on specific criteria, including policy makers, policy implementers, and affected indigenous communities. A total of 17 informants were involved, comprising Head of Wali Nanggroe, Head of Civil Registration Officials, Head of Community Empowerment Services, Head of Sub-District, Head of Village, Head of Traditional Institution, and Traditional Figures. The informants were selected using purposive sampling, based on their authority, relevance to the policy, and direct involvement in Indigenous issues. The interview data were then analyzed using qualitative content analysis to identify patterns, perspectives, and challenges related to Indigenous rights recognition effectiveness at the regional level.

In terms of data analysis, this research utilizes descriptive analytical analysis and legal interpretation. Descriptive analytical analysis aims to describe and analyze legal provisions that regulate Indigenous rights recognition and protection from regional autonomy perspectives. The research also employs legal interpretation methods, including grammatical, systematic, and historical to understand applicable regulations comprehensively. These techniques identify regulatory weaknesses and provide relevant legal solutions. In addition, interviews are used to determine the effectiveness of implementation. The research process begins with identifying and collecting legislation related to the recognition and protection of Indigenous rights within the framework of regional autonomy. Subsequently, the research analyzes the legal substance in both national and regional regulations to measure Indigenous rights recognition effectiveness. Based on this analysis, the research formulates policy recommendations to strengthen Indigenous rights recognition and protection within regional autonomy contexts.

RESULT AND DISCUSSIONS

The analysis reveals constitutional and legal basis acknowledging Indigenous existence and traditional rights, particularly Article 18B (2) of the 1945 Constitution and Law 23/2014 on Regional Government the implementation remains inconsistent across regions. Several

local governments have issued local regulations supporting recognition and customary territories. However, in many cases, such local regulations are either absent or weakly enforced, leading to marginalization and limited access to natural resources, legal protection, and cultural preservation. This section also highlights the challenges posed by overlapping land use policies, lack of clear criteria for legal recognition, and limited institutional capacity at regional level. These findings underscore the need for more comprehensive, consistent, and participatory approaches in aligning regional autonomy with the protection of Indigenous rights throughout Indonesia.

Table 1. List of Legislation Reviewed

No.	Name of Regulation	Number/Year	Key Points	Relevance to Indigenous Peoples' Rights Recognition
1	1945 Constitution	1945	Acknowledges Indigenous communities and traditional rights aligned with societal development and unitary state principles	Constitutional basis for Indigenous rights recognition
2	Law No. 23 of 2014 on Regional Government	23/2014	Grants regional governments the authority to manage and regulate governmental affairs, including the recognition of indigenous peoples	Provides regional autonomy for the recognition of indigenous peoples' rights.
3	Law No. 6 of 2014 on Villages	6/14	Recognizes and empowers indigenous villages, including their traditional rights in village formation and governance	Recognizes indigenous villages as regional government units.
4	Law No. 41 of 1999 on Forestry	41/1999	Regulates forest management and protection, including Indigenous rights managing customary land and forests	Pertains to indigenous rights over land and natural resources.
5	Law No. 5 of 1960 on Agrarian Basic Principles	5/1960	Establishes land rights, including recognition of indigenous land and customary rights, provided they comply with applicable legal provisions	Legal basis for the recognition of indigenous land rights.

Source: Author's compilation based on the reviewed regulations, 2025

Table 1 above illustrates legal instruments collectively forming the legal foundation for Indigenous rights recognition and protection. The 1945 Constitution serves as the highest legal basis, acknowledging the existence and traditional rights of indigenous communities, provided they align with national unity and societal development. This constitutional provision, particularly in Article 18B, provides a critical starting point for formal recognition of Indigenous cultural and territorial rights. Law 23/2014 expands this recognition by

granting regional governments the authority to formally acknowledge and manage indigenous communities through regional autonomy mechanisms. As evidence of local authorities' empowerment, several regional governments have enacted their own regulations recognizing customary territories and institutions for example, Melawi Regency (West Kalimantan) with Regional Regulation No. 11 of 2011, Bengkayang Regency with Regional Regulation No. 3 of 2023, and West Papua with Regional Regulation No. 4 of 2023. These regional policies demonstrate how decentralization allows local governments to identify, register, and integrate indigenous groups into local governance systems, including through the establishment of customary villages and local cultural institutions. This decentralization of power has been a significant step toward empowering regional authorities to address indigenous rights in a manner that reflects regional cultural and social contexts.

Complementing this, Law 6/2014 on Villages further strengthens indigenous communities by recognizing indigenous villages as legal entities within the regional government structure, giving them greater autonomy to govern their affairs. This law establishes a legal framework that enables indigenous villages to receive direct access to governance, infrastructure development, and state resources, thereby facilitating community-based empowerment. Additionally, Law 41/1999 and Law 5/1960 provide specific legal grounds for indigenous peoples' rights over their customary forests and lands, though these rights are subject to regulatory compliance. However, the practical application of these laws often encounters resistance from both state agencies and private sector interests. For example, in Papua and Kalimantan, indigenous communities have reported that their efforts to claim customary forests have been obstructed by overlapping concessions granted to logging and plantation companies. According to data from (AMAN, 2022), more than 500 cases of land conflict involving indigenous communities remain unresolved due to the refusal of local authorities to recognize customary claims that lack formal certification. This form of resistance manifests in bureaucratic delays, denial of recognition, and in some cases, intimidation or criminalization of indigenous leaders. These ongoing barriers lead to persistent land disputes and challenges in resource access.

Collectively, these regulations demonstrate progressive legal framework recognizing Indigenous peoples not only as cultural entities but also as legal subjects within the state system. However, the implementation of these laws remains a critical issue. Despite the formal recognition, many indigenous groups continue to face bureaucratic obstacles in obtaining legal status, especially due to absence of uniform criteria for Indigenous community recognition across regions and complex administrative procedures required to secure customary land rights. The lack of uniform criteria results in legal uncertainty and inconsistent treatment among indigenous groups in different regions. For example, while one region may require formal historical documentation or genealogical records, others may rely on community declarations or local customary councils. This inconsistency creates confusion and unfair barriers for communities attempting to gain recognition, and it often leads to prolonged delays or rejections. Therefore, a standardized national framework is essential to ensure fairness, legal certainty, and equitable access to recognition for all indigenous communities. This bureaucratic inertia is compounded by institutional capacity lack at both central and regional levels to effectively process applications and grant recognition to Indigenous communities.

Furthermore, overlapping land claims, particularly in forest and mining areas, often result in conflicts between indigenous communities and corporate or state interests. These conflicts are exacerbated by weak enforcement of land rights laws, which often leave indigenous peoples vulnerable to land appropriation, environmental degradation, and displacement. Indigenous land rights are further undermined by the practice of granting concessions to large corporations, such as palm oil plantations or mining companies, without

consulting or compensating the affected communities. As a result, many indigenous communities find themselves caught in a cycle of legal and economic marginalization, which hinders their ability to exercise their rights and maintain their traditional livelihoods.

These legal instruments, while comprehensive on paper, require stronger enforcement, clearer operational guidelines, and more inclusive governance to ensure that indigenous peoples can effectively exercise their rights. In particular, the development of standardized criteria and administrative processes for the recognition of indigenous communities and their land rights is essential to reduce inconsistencies across regions. The role of regional governments is pivotal in this regard, as they act as the primary interface between indigenous communities and state institutions. Regional governments must be equipped with the legal expertise, financial resources, and political will to engage meaningfully with indigenous communities and ensure the implementation of national laws at the grassroots level.

Thus, ongoing legal reform and policy harmonization are necessary to transform the normative foundation into practical protections that uphold justice, equity, and cultural integrity for indigenous peoples across Indonesia. This includes the need for a more inclusive and participatory approach to legal and policy development, where Indigenous peoples themselves actively participate in drafting laws and regulations affecting their lives. Moreover, strengthening legal literacy within indigenous communities, particularly regarding their rights under national and regional laws, will empower them to better defend their interests and assert their rights. Ultimately, Indonesia's legal framework success for Indigenous rights depends on its ability creating environments where Indigenous communities can thrive autonomously contributing to broader national unity, sustainable development, and social justice goals.

Table 2. Comparison of Indigenous Peoples' Rights Recognition Between Central Government and Regional Government

No.	Regulation	Central	Regional	Differences/Issues
1	Recognition of Indigenous Peoples	Acknowledged in the 1945 Constitution and Regional Government Law	Some regions acknowledge through regional regulations	Inconsistency in the application of recognition between central and regional governments.
2	Indigenous Land Rights	Based on Agrarian and Forestry Laws	Some regions still lack regional regulations recognizing indigenous land rights	Many regions lack regulations on indigenous land rights.
3	Natural Resource Management	Managed by the state, with delegated authority	Some regions grant management rights to indigenous peoples	Regional-level natural resources management rights application differences.

Source: Author's analysis based on legal texts and regional regulations, 2025

Table 2. highlights significant disparities between central and subnational governments in Indigenous rights recognition and implementations, exposing fragmented legal and administrative mechanism natures governing Indigenous affairs. At national level, Indigenous community existence and right are formally acknowledged in foundational legal instruments, including the 1945 Constitution particularly Article 18B (2) and in sectoral laws such as the Agrarian Law (Law 5/1960), Forestry Law (Law 41/1999), Village Law (Law

6/2014), and the Regional Government Law (Law 23/2014). These legal instruments establish a normative basis for indigenous recognition, but their translation into concrete protection and empowerment measures remains inconsistent, especially at regional level.

At the subnational level, legal landscapes are marked by a high degree of variability. Some provincial and district governments have proactively issued regional regulations or executive decrees recognizing indigenous communities and their land, territory, and natural resources rights. These regional initiatives, often supported by civil society organizations and Indigenous advocacy networks, reflect progressive efforts to adapt legal norms to regional contexts. For instance, data from AMAN (2022) show that only 18 provinces and 73 regencies/cities have enacted regional regulations concerning indigenous peoples. Papua, West Papua, and West Kalimantan are among the most active regions in issuing formal recognition through regional regulations or governor decrees (AMAN, 2022). However, in many other regions, such recognition remains absent due to political inertia, lack of administrative will, or limited understanding of indigenous legal traditions. This inconsistency results in significant legal uncertainty, particularly concerning land tenure. In areas where no formal regional instruments exist to affirm customary rights, indigenous communities face heightened vulnerability to land acquisition by external actors, including private corporations, plantation interests, or state development projects such as infrastructure expansion.

Furthermore, in natural resource governance spheres, the central government continues retaining overarching control, particularly over strategic sectors such as forestry, mining, and agribusiness. While the decentralization framework permits delegation of certain authorities to regional governments, including those related to land and environmental management, the degree and clarity of such delegation vary widely. In several cases, forward-thinking regional governments have taken steps to grant indigenous peoples rights to manage ancestral forests and resources through regional regulations or administrative permits. Despite these promising developments, such rights are often conferred without strong legal permanence or mechanisms to ensure long-term protection. As a result, indigenous communities' management authority may be revoked or challenged when political leadership changes or when economic interests exert pressure on regional governments.

These vertical and horizontal disparities underscore the broader problem of legal fragmentation in Indonesia's indigenous rights regime. The lack of harmonization between central and regional laws not only in terms of substance but also enforcement creates overlapping jurisdictions, conflicting mandates, and legal ambiguities that hinder conflict resolution over land claims, resource access, and cultural recognition. Moreover, indigenous communities are frequently excluded from meaningful participation in drafting and implementing laws directly affecting their livelihoods and territories, resulting in policies that fail to reflect regional realities or respect customary governance systems.

Therefore, there is an urgent need for a more coherent and integrated legal framework that bridges top-down and bottom-up approaches. Such a framework should be based on strong intergovernmental coordination, legal harmonization, and institutional accountability, while also embedding free, prior, and informed consent (FPIC) principles and participatory legal development. Indigenous peoples must be treated not merely as beneficiaries of legal protection but as active partners in the governance of their lands, cultures, and socio-political identities. Strengthening their involvement in the legislative process from regional regulation design to national policy formulation will not only enhance legal legitimacy but also contribute to social justice, environmental sustainability, and democratic inclusion in Indonesia's plural legal system.

Table 3. Examples of Regional Regulations Recognizing Indigenous Peoples' Rights in Various Regions

No	Region	Regional Regulation	Number/Year	Key Points	Implementation Effectiveness
1	Papua	Regional Regulation on Indigenous Peoples' Recognition	5/2022	Regulates customary land rights and management by indigenous communities, and cultural development.	Limited to several regencies such as Jayapura and Keerom; lacks institutional support in remote highland areas.
2	West Papua	Regional Regulation on Indigenous Land Rights	4/2023	Regulates the rights of indigenous peoples to customary land and its management by indigenous communities.	Still in early stages of implementation; mainly focused in Manokwari and Sorong; constrained by overlapping land claims.
3	Bali	Regional Regulation on Indigenous Villages	4/2019	Regulates recognition and empowerment of customary villages and traditional rights.	Considered effective in Gianyar, Badung, and Karangasem; integration with adat governance is well institutionalized.
4	West Kalimantan	Regional Regulation on Indigenous Peoples' Recognition	11/2011	Regulates recognition and protection of Indigenous rights in forestry and land rights.	Fairly effective in Kapuas Hulu and Sintang; however, delays remain in formalizing land claims and mapping.
5	West Sumatera	Regional Regulation on Nagari (Village Governance)	7/2018	Regulates the implementation of village governance recognition and protection of indigenous peoples' rights.	Not yet effective; administrative resistance in Padang Pariaman and lack of socialization hamper execution.
6	Aceh	Regional Regulation on Development of Traditional Life and Customs	9/2008	Regulates monitoring, developing, preserving, and protecting traditional life, including institutions and community culture.	Effective; practiced across Aceh Besar, Pidie, and Aceh Tengah with strong community engagement.
		Regional Regulation on Traditional Institution	10/2008	Regulates the implementation of traditional institutional governance and enforcement of customary law.	Effective; institutional structures like Mukim are formally integrated into local governance.

Source: Author's compilation regional regulation and field assessments, 2025

Table 3. illustrates the efforts of several Indonesian regions Bali, West Kalimantan, and West Papua in enacting regional regulations to recognize and protect Indigenous rights. Bali stands out with a relatively effective implementation of its Regional Regulation No. 4/2019 on indigenous villages. This effectiveness is particularly evident in districts such as Gianyar, Karangasem, and Badung, where traditional governance structures (*traditional village*) have been formally recognized and integrated into the local government system. The regulation has allowed these villages to secure land rights and preserve cultural identity through clear legal mechanisms, demonstrating a strong synergy between customary authority and regional governance.

In contrast, West Kalimantan's is assessed as only fairly effective. Its implementation has made progress in regions such as Kapuas Hulu and Sintang, where initial steps toward recognition and mapping of customary territories have taken place. However, effectiveness remains hindered by administrative constraints, including slow verification of indigenous group status, lack of standardized mapping procedures, and coordination challenges among government institutions. These issues result in a partial and uneven application of the law across the province.

West Papua enacted Regional Regulation No. 4 of 2023 to secure indigenous land rights, reflecting a strong political will rooted in the region's identity and history. However, its implementation is still limited geographically, mostly focused in more accessible districts like Manokwari and Sorong, while many remote highland and coastal areas have yet to benefit. This limited reach is due to logistical barriers, infrastructure limitations, and unresolved overlapping land claims, which make it difficult for the government to uniformly enforce the regulation across the province. These examples demonstrate that the effectiveness stated in the table's final column is not a general judgment, but is based on field-specific evidence, including geographical coverage, institutional capacity, political will, and administrative readiness. Therefore, the varying degrees of success ranging from fully effective in some districts to ineffective or stalled in others should be interpreted as context-dependent outcomes that highlight the challenges of decentralized legal implementation.

West Kalimantan has also demonstrated commitment through its regional regulations on Indigenous recognition and protection, particularly in securing rights related to forest management and land tenure. Nonetheless, the region continues to face administrative and institutional challenges, such as verification of indigenous group status, mapping of customary territories, and bureaucratic delays that hinder full implementation. Moreover, coordination between different levels of government remains a key issue in translating legal recognition into practical benefits. This challenge is consistent with what (Purnama, 2022) observed in border areas like Kalimantan, where weak institutional infrastructure and complex geopolitical dynamics often hinder effective policy execution. In contrast, West Papua has introduced a far-reaching regulation focusing on indigenous land rights, reflecting the region's strong historical and political emphasis on indigenous identity and autonomy. However, the implementation has been geographically limited and sporadic, with various socio-political complexities such as infrastructure limitations, overlapping land claims, and governance gaps hampering its broader effectiveness.

These regional disparities underscore not only the differing levels of political will and institutional capacity among regional governments, but also the absence of a cohesive national strategy to guide and support regional initiatives. While some regions have made commendable progress, others lag behind, resulting in uneven protection and recognition of Indigenous rights. This situation highlights the urgent need for a more standardized, well supported, and participatory approach to regional regulation, ensuring that every indigenous community across Indonesia can equally enjoy legal recognition, protection, and empowerment.

Table 4. Findings of Legal/Regulation Analysis

No	Regulation	Legal Interpretation	Key Findings	Implications for Indigenous Peoples' Rights
1	1945 Constitution (Article 18B)	Acknowledges indigenous communities and traditional rights within the unitary state framework. The recognition is limited to the compatibility with national unity.	This constitutional provision creates the legal basis for recognizing indigenous communities' existence and rights.	Indigenous peoples' rights are recognized, but with limitations on the extent of autonomy.
2	Law 23/2014 on Regional Government	Grants authority to regional governments to regulate and manage indigenous peoples' rights, but requires alignment with national policies and regulations.	There is a legal foundation for regional governments to actively participate in recognizing and protecting indigenous rights.	Regional autonomy allows tailored recognition of indigenous rights but may be inconsistent across regions.
3	Law 6/2014 on Villages	Provides framework for customary villages recognition and traditional governance systems, particularly in rural areas.	Indigenous villages are given formal recognition as units of regional government, which grants them certain legal rights.	Enables the empowerment of indigenous communities through legal acknowledgment at the village level.
4	Law 41/1999 on Forestry	Regulates forests management and grants Indigenous peoples rights to manage and use customary forests, though with restrictions and government oversight.	Indigenous rights to land and natural resources are recognized but subject to state control over forest management.	The law acknowledges indigenous control over forests but conflicts may arise regarding forest management policies.
5	Law 5/1960 on Agrarian Basic Principles	Provides the legal foundation for land tenure, including indigenous land rights, but requires formal recognition and documentation to be enforceable.	Indigenous land rights are legally recognized, but enforcement is hindered by lack of documentation and conflicting policies.	Legal recognition exists, but many indigenous peoples lack formal land title, making land disputes more frequent.

Source: Author's analysis based on legal interpretations of the regulations, 2025

Table 4. presents a comprehensive legal analysis of key Indonesian regulations concerning Indigenous rights, highlighting both normative framework and practical implications. The 1945 Constitution, particularly Article 18B (2), establishes a fundamental legal foundation by explicitly recognizing and respecting Indigenous community existence

and traditional rights, provided these communities remain in existence and align with unitary state principles. However, this constitutional guarantee is not absolute, autonomy granted to Indigenous communities is conditional and must not conflict with national interests or disrupt state integrity. This caveat has often been used as a legal justification to limit the scope of indigenous autonomy in policy implementation.

1. Constitutional and Legal Recognition of Indigenous Rights

Recognition and protection of Indigenous peoples' rights in Indonesia have gained constitutional and normative legitimacy through various national legal instruments. However, there remains a significant gap between the national legal framework and its implementation at regional level. Although the 1945 Constitution, particularly Article 18B (2), explicitly recognizes Indigenous legal communities existence and traditional rights, implementation at regional government level is often inconsistent. This inconsistency is largely due to the incomplete internalization of national legal norms into regional regulations, particularly those concerning Indigenous communities protection and empowerment.

2. Role of Regional Governments and Implementation Variability

Building upon the constitutional mandate, Law 23/2014 extends legal recognition by granting authority to regional governments to regulate and manage matters concerning Indigenous peoples within their jurisdictions. This decentralization of power is intended to allow regional administrations to respond more effectively to the cultural and legal specificities of Indigenous communities. Nevertheless, the law also mandates harmonization with national policies, which frequently constrains regional flexibility. As a result, implementation differs widely across provinces and districts, depending on regional political will, administrative capacity, and the extent to which regional governments prioritize Indigenous issues. In practice, regional governments play a strategic role in formally recognizing Indigenous communities. Law 23/2014 grants regional authorities the power to regulate and manage matters related to Indigenous peoples. However, implementation is highly dependent on the political will and institutional capacity of each region. Provinces such as Bali and Aceh have enacted comprehensive regional regulations, while others lag behind, offering only administrative recognition without substantive legal impact. As noted by (Atmojo & Nurwulan, 2020), regional governance effectiveness is closely tied to digital readiness, administrative innovation, and the ability of institutions to adapt to decentralization demands. Without improving local institutional capacity and coherence with central policies, decentralization risks becoming symbolic rather than transformative, an issue also reflected in the uneven recognition of Indigenous rights.

3. Customary Villages and Bureaucratic Challenges

Law 6/2014 further strengthens Indigenous communities' position by providing a formal legal framework for customary villages recognition as distinct legal entities. These villages are allowed to retain their traditional governance systems, customary norms, and community-based decision-making processes. This approach not only facilitates the legal empowerment of Indigenous communities but also promotes the preservation of Indigenous knowledge, cultural identity, and social cohesion. Nonetheless, in many areas, the process of formal recognition remains bureaucratic and under-resourced, leaving many Indigenous villages in a state of legal limbo. Law 6/2014 provides a structured framework for recognizing customary villages as legal entities with their own traditional governance systems, thereby reinforcing community-based empowerment.

4. Natural Resources and Legal Obstacles

In terms of natural resources, Law 41/1999 acknowledges the existence of customary forests and the rights of Indigenous peoples to manage these forests. However, such recognition is tempered by the assertion that forest areas remain under state control. This state-centric model often results in conflicting claims and prolonged disputes, particularly when government-backed development or commercial interests such as logging, plantation, or mining concessions overlap with customary territories. These conflicts are further intensified by the absence of mechanisms that adequately balance state authority with Indigenous stewardship. Similarly, Law No. 5 of 1960 on Basic Agrarian Principles provides for the recognition of customary land rights but requires formal documentation, such as land certificates, for legal enforcement. This requirement poses a significant barrier for Indigenous communities that have long relied on oral traditions and communal tenure systems without formal mapping or registration. The lack of official land titles renders Indigenous lands vulnerable to encroachment, expropriation, and land grabbing, especially in areas targeted for infrastructure projects or natural resource extraction.

5. Implementation Gaps and Legal Fragmentation

Collectively, these regulations reflect Indonesia's legal commitment to acknowledging and protecting Indigenous rights. However, implementation inconsistency, coupled with legal ambiguities and institutional weaknesses, reveals a persistent gap between legal recognition and practical realization. Without comprehensive policy integration, capacity building, and inclusive governance, Indigenous rights will continue to be undermined, leaving many communities marginalized and excluded from the benefits of legal protection and national development. This aligns with findings by (H. Y. Hidayat et al., 2020), who emphasize that institutional fragmentation and coordination challenges often hinder effective policy implementation in complex governance settings, such as disaster management. Similar institutional limitations are also evident in Indigenous rights protection, where weak inter-agency collaboration and lack of policy coherence exacerbate the implementation gap.

6. Legal Conflicts and Regional Autonomy Dynamics

Regional governments' role is crucial in recognizing Indigenous rights within the regional autonomy framework. Some regions have issued regional regulations supporting Indigenous rights recognition and protection, such as acknowledgment of communal land rights, cultural preservation, and right to independently manage natural resources. However, the implementation of these regulations is often hindered by budget limitations, weak institutional capacity, and political uncertainty at the regional level. Conversely, regions with strong political commitment to Indigenous rights have shown positive outcomes, such as in Bali and Aceh, where Indigenous communities have effectively secured land and cultural protection. This demonstrates that the success of Indigenous rights recognition heavily depends on regional government support and political will.

7. Central-Regional Legal Mismatch and Jurisdictional Disputes

Overlapping policy and legal inconsistency remain among the most significant barriers to recognizing and protecting Indigenous rights. Conflicts between central and regional government policies often lead to legal uncertainty, particularly in managing natural resources and customary land. For example, differing interpretations between Law 41/1999 and Law 5/1960 have resulted in agrarian conflicts that disadvantage Indigenous peoples. Jurisdictional disputes between central and regional governments over natural resource management further exacerbate legal ambiguity regarding the status of customary lands. As

a result, many Indigenous communities lose their rights over ancestral lands and become marginalized in regional development.

8. Regional Autonomy: Opportunities and Risks

From the perspective of regional autonomy, the effectiveness of Indigenous rights recognition varies across regions. In some areas, autonomy provides greater space for acknowledging and protecting Indigenous rights through regional regulations. However, in other areas, autonomy has reinforced discrimination against Indigenous peoples due to regional policies that do not favor their interests. The research also finds that prior to the era of regional autonomy, recognition of customary rights was very limited and lacked attention from the central government. Since the implementation of autonomy, recognition of Indigenous rights has become more dynamic, although many challenges remain. As noted by (Thamrin, 2020), community organization and the role of local institutions, such as village councils, are crucial in facilitating participatory governance and inclusive development. This highlights that regional autonomy can only be effective in protecting marginalized groups including Indigenous peoples if it is supported by strong institutional frameworks and genuine community engagement.

9. Policy Recommendations for Strengthening Indigenous Rights in Regional Autonomy

Based on these findings, several policy recommendations are proposed to strengthen Indigenous rights recognition and protection within the framework of regional autonomy:

a. Pursue Legal Harmonization

Legal harmonization must be pursued to prevent overlapping regulations between central and regional governments that often create legal uncertainty. This requires:

- 1) Developing standardized recognition criteria and procedures applicable across all regions while allowing flexibility for regional variations;
- 2) Creating clear jurisdictional delineation between national, provincial, and city/district government regarding Indigenous rights matters; and
- 3) Implementing systematic legal review processes to identify and resolve conflicts between national law and regional regulations.

b. Strengthen Regional Legal Frameworks and Institutional Capacity

Both central and regional governments should enhance the formulation and implementation of regional regulations that concretely and operationally recognize Indigenous rights through:

- 1) Providing technical assistance and capacity building for regional government in drafting Indigenous rights regulations;
- 2) Allocating dedicated budgets for Indigenous rights recognition and protection programs at regional levels; and
- 3) Creating performance indicators and monitoring mechanisms to assess regional government effectiveness in implementing Indigenous rights policies.

c. Promote Participatory Policy-Making

Participatory approaches in policy-making should be enhanced so that Indigenous peoples voice are heard and considered in every decision-making stage:

- 1) Institutionalizing FPIC principles in all policies affecting Indigenous territories and resources;
- 2) Establishing formal Indigenous representation in regional legislative bodies and planning processes;
- 3) Supporting Indigenous organizations' capacity to engage effectively in policy advocacy and implementing monitoring; and

- 4) Creating accessible grievance mechanisms for Indigenous communities to challenge rights violations.
- d. Empower Traditional Institutions and Civil Society

Traditional institutions and civil society organizations role in recognizing and defending Indigenous rights should be optimized to ensure these rights are genuinely respected and effectively protected:

 - 1) Providing legal recognition and support for customary governance institutions;
 - 2) Facilitating partnerships between government agencies, civil society organizations, and Indigenous communities;
 - 3) Supporting Indigenous legal aid and advocacy capacity development; and
 - 4) Creating platforms for knowledge exchange between regions regarding effective Indigenous rights implementation practices.

Overall, this research indicates that Indigenous Peoples' rights recognition and protection from a regional autonomy perspective have yet to be fully optimized. Regulatory, institutional, and political challenges must be addressed to ensure that Indigenous rights are recognized and protected fairly and sustainably. As highlighted by (F. M. Dewi & Suharto, 2020), the success of local policy implementation including in programs such as village-owned enterprises is highly dependent on regional government capacity, local leadership, and inter-institutional coordination. These same dynamics apply to the recognition of Indigenous rights, where the effectiveness of policy outcomes is often shaped by political will and the quality of local governance. With strong commitment from both central and regional governments, as well as support from the broader society, the meaningful recognition and protection of Indigenous rights can be realized within Indonesia's legal system.

This research acknowledges several limitations. First, while we conducted interviews with 17 key informants, the perspectives may not capture the full diversity of Indigenous experiences across Indonesia's vast archipelago. Second, our focus on legal frameworks and regional regulations, while revealing structural challenges, provides limited insight into informal governance practices and everyday forms of Indigenous resistance and resilience. Future research should employ ethnographic methods to understand how Indigenous communities navigate legal pluralism in practice, examine the political economy of Indigenous rights implementation to understand resistance from vested interests, conduct longitudinal studies tracking how regional regulations evolve over time and their long-term impacts, and investigate innovative practices in specific regions that have achieved more effective Indigenous rights recognition.

CONCLUSION

This research concludes that Indigenous Peoples' rights recognition and protection in Indonesia have been normatively guaranteed through various legal frameworks, most notably Article 18B (2) of the 1945 Constitution, and further elaborated in laws such as the Regional Government Law and the Village Law. However, despite this legal recognition, the practical implementation remains inconsistent and often ineffective due to regulatory overlaps, institutional limitations, and political challenges. The decentralization era has created opportunities for regional governments to develop regional regulations that support Indigenous rights, yet the effectiveness of such regulations varies across regions. Regions with strong political will and institutional support have shown significant progress, while others still struggle with policy gaps and enforcement issues. To ensure fair and sustainable recognition of Indigenous Peoples' rights, there is an urgent need for regulatory harmonization, stronger regional governance capacity, and inclusive, participatory policy-making processes. A collaborative commitment between the central government, regional

government authorities, and Indigenous communities is essential for achieving legal justice and social equity for Indigenous Peoples in Indonesia.

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