

The Harmony of Space and Culture Environmental Policy: Accommodate The Rights of Indigenous Communities in Central Kalimantan Case

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Abstract

This research uses a normative-empirical legal method with regulatory, conceptual, and sociological approaches to analyze regulations, the concept of indigenous rights, and the impact of environmental policies in Central Kalimantan, through literature study and interviews, which are then analyzed qualitatively. The research results show that environmental policies in Central Kalimantan still face challenges in accommodating the rights of indigenous communities, primarily due to slow regulatory implementation and frequent conflicts with industrial interests and infrastructure projects. Although there are environmental protection efforts such as plantation permit moratoriums and peatland ecosystem protection, their implementation often does not actively involve indigenous communities, resulting in ongoing land conflicts due to concessions granted without adequate consultation. The imbalance of interests in land management is also seen in the dominance of conservation policies and natural resource exploitation over the recognition of indigenous rights, exacerbated by weak legal recognition of customary land rights and the slow implementation of the Constitutional Court Decision No. 35/PUU-X/2012.

I. Introduction

Sustainable development demands a balance between economic, environmental, and socio-cultural interests (Gede Agus Kurniawan et al., 2024). One crucial aspect of environmental policy is how regulations can accommodate the interests of indigenous communities who have a close connection to their living spaces.(Primajana & Premananda, 2024) In Indonesia, particularly in Central Kalimantan, the existence of indigenous communities like the Dayak people represents an entity continuously striving to uphold their rights over ancestral lands and natural resources. However, in recent decades, environmental policy developments have often clashed with the interests of indigenous communities, especially regarding spatial management and customary land rights.

Central Kalimantan is one of the Indonesian provinces rich in natural resources, including tropical rainforests, large rivers, and fertile land. This abundance attracts investment in the plantation, mining, and infrastructure sectors. However, the expansion of these sectors often comes at the expense of the rights of indigenous communities who have long resided in the area. Indigenous communities, who have traditionally relied on locally-based resource management systems, face threats of eviction, criminalization, and marginalization due to policies that do not fully support them.

The conflict between development interests and indigenous communities is not new. Various studies show that indigenous communities possess more sustainable environmental management systems compared to the resource exploitation models employed by modern industry. They implement shifting cultivation practices that do not damage ecosystems, preserve forests as a source of life, and possess wisdom in maintaining ecological balance.(Arief Fahmi Lubis, 2022) However, this system is often deemed inefficient from a modern economic perspective, leading to many policies gradually phasing out traditional indigenous practices.

One policy directly impacting indigenous communities is land allocation regulation. Law Number 5 of 1960 concerning Basic Agrarian Principles and Forestry Laws are frequently used to claim customary lands as state forests. This is further reinforced by various permits granted to companies to exploit lands that have long been managed by indigenous communities.(Togatorop et al., 2022)

Although the Constitutional Court, in Decision Number 35/PUU-X/2012, affirmed that customary forests are not part of state forests, the implementation of this decision still faces many obstacles on the ground.

Beyond legal aspects, environmental policy issues in Central Kalimantan are also related to ecological sustainability. The conversion of forests into oil palm plantations or mining areas causes significant deforestation. This deforestation results in increased carbon emissions, loss of biodiversity, and disruption of the hydrological cycle, leading to disasters such as floods and droughts. Indigenous communities who depend on the forest experience a decline in their quality of life due to the reduced availability of natural resources they can utilize.(Wasef & Ilyas, 2011)

On the other hand, globalization and modernization also pose unique challenges to the existence of indigenous cultures. As development policies are implemented without considering local cultural dimensions, many indigenous communities are losing their identities (Dewi et al., 2022). Younger generations in indigenous communities are often more attracted to working in the industrial sector than continuing their ancestors' traditions of environmental management.(Hati, 2021) Consequently, there have been significant social changes among indigenous communities, where traditional values are being eroded by economic systems that prioritize material gain.

In the international context, various legal instruments have been developed to protect the rights of indigenous peoples to their environment. The UN Declaration on the Rights of Indigenous Peoples (UNDRIP) of 2007 states that indigenous peoples have the right to self-determination, including in the management of land and natural resources. Furthermore, ILO Convention No. 169 emphasizes the importance of the participation of indigenous peoples in any policies that impact their lives.(Syofyan, 2015) However, to date, Indonesia has not ratified ILO Convention 169, resulting in suboptimal legal protection for indigenous communities.

In recent years, various initiatives from civil society and academics have emerged to promote environmental policies that are more inclusive of indigenous communities. Locally-based approaches are being re-examined as a more sustainable alternative to the currently dominant model of resource exploitation.

Numerous studies demonstrate that indigenous communities play a crucial role in maintaining ecosystem balance.(Scheyvens et al., 2021) Therefore, policies that support community-based governance systems are necessary solutions.

By understanding the close relationship between space and culture, policymakers can design regulations that not only focus on economic growth but also ensure the preservation of ecological sustainability and the continued existence of indigenous cultures. This will create harmony between space and culture in environmental policy, benefiting all parties and ensuring ecosystem sustainability for future generations. Based on the background above, the author conducted research titled "The Harmony of Space and Culture Environmental Policy: Accommodating the Rights of Indigenous Communities in Central Kalimantan Case". The research questions are as follows:

1. How do current environmental policies in Central Kalimantan accommodate the rights of indigenous peoples in managing space and natural resources?
2. How is the interaction between environmental policies and indigenous peoples' rights in spatial management in Central Kalimantan?

Research on environmental policies that accommodate the rights of indigenous communities in Central Kalimantan has become an important focus in recent years. Various studies have highlighted the importance of integrating local culture into environmental management and the challenges faced by indigenous communities in upholding their rights.

One study highlights the agrarian conflict experienced by the Laman Kinipan indigenous community with the palm oil plantation company PT Sawit Mandiri Lestari (SML). This company allegedly took over their customary lands with government permission, causing widespread deforestation and environmental impacts such as unprecedented flooding. This research emphasizes that the government's failure to uphold the rights of indigenous communities can threaten national security, particularly in terms of environmental and human security. Therefore, fulfilling the rights of indigenous communities is considered essential for achieving comprehensive national security.(Manik et al., 2023)

Another study highlights the local wisdom of the Dayak Ngaju people in managing peatland ecosystems. This community has a land use zoning system that

includes residential areas, agricultural areas, and protected forests called Pukung Pahewan. However, government policies such as the Mega Rice project and the Food Estate program often do not involve the consent of indigenous communities, leading to social conflict and damage to their livelihoods. This study emphasizes the importance of integrating customary values into environmental management policies to protect the rights and traditional practices of indigenous communities.(Sumarni et al., 2023)

The Huma Betang culture also forms the basis of harmony within the Dayak community in Central Kalimantan. Research shows that the interaction between community leaders, religious figures, and customary leaders plays a vital role in maintaining social harmony. This demonstrates that a cultural approach can be a strong foundation for building inclusive and sustainable environmental policies.(Nofandi et al., 2022)

The response of the Dayak Ngaju indigenous community to plans for carbon forest concessions in their territory is also a concern. While global carbon trading is promoted as a means of economic justice for indigenous peoples, conservation labels are often used as a reason to restrict their access to forests. This study highlights the importance of capacity building for carbon forest companies, the government, and indigenous communities in mitigating climate change and ensuring fair participation and benefits for local communities.(Yusuf et al., 2024)

Furthermore, the urgency of local regulations recognizing and protecting customary law communities in forest designation in Central Kalimantan is highlighted. Although there is a declarative recognition of the rights of indigenous communities, law enforcement and implementation remain weak and inconsistent. The lengthy and complex process of designating customary forests highlights the need for stronger government commitment to respecting and fulfilling the rights of indigenous communities.(Heriamariaty et al., 2024)

Overall, these studies affirm that the integration of local wisdom and the recognition of indigenous rights are key elements in designing harmonious and sustainable environmental policies in Central Kalimantan. An approach that respects culture and traditional rights not only supports environmental conservation but also strengthens social harmony and national security.

II. Research Method

This research employs a normative-empirical legal research method. The normative approach is used to examine laws and legal documents related to environmental policies and the rights of indigenous communities in Central Kalimantan. Meanwhile, the empirical approach is conducted by gathering facts in the field regarding the implementation of these policies in the lives of indigenous communities. (Ali, 2010) This combination of methods aims to achieve a holistic understanding of the harmony between space and culture in environmental policy in Central Kalimantan.

This research utilizes several approaches, namely the statutory approach, the conceptual approach, and the sociological approach. (Marzuki, 2017) The statutory approach is used to identify and analyze regulations governing environmental management and the protection of indigenous rights. The conceptual approach is used to understand the concept of indigenous rights within the context of environmental and spatial law. The sociological approach, meanwhile, examines how indigenous communities in Central Kalimantan face the impacts of environmental policies and their strategies for upholding their rights.

The sources of legal materials used in this research consist of primary, secondary, and tertiary legal materials. (Supranto, 2003) Primary legal materials include legislation such as Law Number 32 of 2009 concerning Environmental Protection and Management, Law Number 5 of 1960 concerning Basic Agrarian Principles, and Constitutional Court decisions related to the recognition of customary forests. Secondary legal materials consist of scientific journals, books, and previous research discussing environmental policies and indigenous rights. Tertiary legal materials include legal dictionaries and encyclopedias that support the conceptual analysis in this research.

Data collection techniques in this research are conducted through literature review and interviews. The literature review aims to gather normative data from legislation, court decisions, and relevant academic literature. In addition, interviews were conducted with relevant parties such as indigenous community leaders, academics, and government officials to obtain empirical perspectives on the implementation of environmental policies related to indigenous communities. These interviews were in-depth to obtain comprehensive data on the problems faced by indigenous communities in upholding their rights. (Sugiyono, 2019)

The data obtained in this study were analyzed using qualitative analysis methods.(J. Moleong, 2017) In the normative analysis, the data is analyzed using the method of legal interpretation, that is, by interpreting relevant legislation and comparing it with existing legal theories. Meanwhile, in the empirical analysis, the data obtained from interviews and observations is analyzed using a descriptive-analytic method, which describes the social phenomena occurring in the field and relates them to existing policies. With this analysis technique, the research can provide a comprehensive overview of the extent to which environmental policies in Central Kalimantan can accommodate the rights of indigenous communities, as well as the obstacles and solutions that can be implemented to achieve harmony between space and culture.

III. Results And Discussion

A. Accommodation of Indigenous Peoples' Rights in Environmental Policy in Central Kalimantan

Central Kalimantan is one of the Indonesian provinces rich in natural resources and high biodiversity. This region is also home to various indigenous communities, especially the Dayak tribe, who have long lived side-by-side with nature. Since ancient times, indigenous communities in Central Kalimantan have had a local wisdom-based environmental management system that maintains ecosystem balance.(Rocky & Riyanto, 2024) In recent decades, various development policies exploiting natural resources have threatened environmental sustainability and indigenous communities' rights to their land and livelihoods.

The increasing pressure from extractive industries—palm oil plantations, mining, and large-scale infrastructure projects—has made it increasingly difficult for indigenous communities in Central Kalimantan to maintain their land and natural resource rights. Land conflicts between indigenous communities, the government, and private companies frequently arise from overlapping regulations and insufficient recognition of customary land rights.(Karliansyah, 2023) In this context, environmental policies in Central Kalimantan are a crucial element in determining the extent to which indigenous rights are accommodated in land and natural resource management.

To understand how well these policies address indigenous rights, a comprehensive study encompassing legal, social, and economic aspects is

necessary. Ideally, policies should not only focus on environmental sustainability but also ensure that the rights of indigenous communities as rightful owners of their customary territories are legally recognized and protected.(Farina et al., 2024) Therefore, this research aims to analyze the existing environmental policies in Central Kalimantan and examine their implementation in the context of protecting indigenous rights.

Legally, the recognition of indigenous rights is enshrined in various Indonesian laws. One of the foundational regulations is Law Number 5 of 1960 concerning Basic Agrarian Principles (UUPA), which acknowledges the existence of customary rights of indigenous communities. Furthermore, Law Number 32 of 2009 concerning Environmental Protection and Management also affirms that communities have the right to participate in environmental protection, including indigenous communities who have lived in harmony with nature for generations.(Bayo et al., 2023)

However, more significant recognition of indigenous rights only emerged after Constitutional Court Decision Number 35/PUU-X/2012, which declared that customary forests are not part of state forests. This decision marked a significant milestone in efforts to protect indigenous rights to land and natural resources.(Fajar et al., 2024) Despite the legal recognition of indigenous communities' rights to their territories, implementation on the ground faces numerous obstacles. A major challenge is the slow process of government recognition of customary forests, along with conflicts of interest with plantation and mining industries.

Internationally, the recognition of indigenous rights is also enshrined in various legal instruments. The UN Declaration on the Rights of Indigenous Peoples (UNDRIP) states that indigenous peoples have the right to self-determination in their social and economic development, including the management of natural resources within their territories. Additionally, ILO Convention 169 emphasizes that states must respect indigenous peoples' rights to their land and natural resources. While Indonesia has not ratified ILO Convention 169, its principles can serve as a reference in formulating more inclusive environmental policies.(Syofyan, 2015)

Despite various regulations recognizing indigenous rights, the implementation of environmental policies in Central Kalimantan still faces many

challenges. A major challenge is the imbalance in land allocation, where the government more frequently grants permits to large companies rather than granting management rights to indigenous communities.(Pambudi, 2023) This is evident in the vast areas that have been converted into palm oil plantations and mining lands.

In Central Kalimantan, the expansion of palm oil plantations is one of the biggest threats to indigenous rights. Many indigenous communities have lost access to the forests and lands that have traditionally been their source of livelihood. Companies often obtain permits from the government without going through the Free, Prior, and Informed Consent (FPIC) mechanism, which should be the standard in obtaining consent from indigenous communities before development projects are implemented.(R. Gunawan et al., 1998)

Furthermore, land conflicts between indigenous communities and companies often end with the criminalization of community members who defend their rights. Several cases demonstrate that indigenous communities trying to protect their territory are criminalized with accusations of damage or encroachment.(Prasetya et al., 2024) This situation demonstrates that there is still an imbalance in the application of laws that should protect the rights of indigenous communities.

On the other hand, conservation efforts by the government and environmental organizations often clash with the interests of indigenous communities. Some forest areas traditionally managed by indigenous communities have been converted into conservation areas without their involvement in the planning process.(Putra & Azhar, 2024) As a result, indigenous communities experience restricted access to the resources they have traditionally used for daily needs.

Yet, various studies show that indigenous communities have more sustainable forest management systems than conventional conservation approaches. Recognizing customary forests as part of community-based conservation systems could be a solution to harmonize environmental protection and indigenous rights.(Rahmat, 2023)

To accommodate indigenous peoples' rights in environmental policies in Central Kalimantan, concrete steps are needed that can be implemented by the government and other stakeholders. Some policy recommendations that can be

implemented include:

1. Acceleration of recognition of customary forests
Local governments need to accelerate the process of recognizing customary forests through more transparent and inclusive mechanisms.
2. Implementation of the FPIC principle in every development project
Any company wishing to operate in indigenous peoples' territories must obtain consent from local communities through a fair and transparent process.
Harmonization between conservation policies and indigenous peoples' rights
Conservation programs must involve indigenous peoples and recognize their rights to manage forests sustainably.
3. Empowerment of indigenous communities in natural resource management
The government must support community-based empowerment programs that strengthen the independence of indigenous communities in managing their natural resources.
4. Increasing access to legal justice
Indigenous communities facing land conflicts must receive fair legal protection so that they do not become victims of criminalization.

Environmental policies in Central Kalimantan still face various challenges in accommodating the rights of indigenous communities. Although there are various regulations that recognize their rights, implementation on the ground still faces obstacles, particularly in terms of land allocation and conflicts with extractive industries. Therefore, more inclusive and participatory policies are needed to achieve harmony between space and culture. With concrete steps that involve indigenous communities in decision-making, it is hoped that environmental policies in Central Kalimantan can be more just and sustainable.

B. Interaction between Environmental Policy and Indigenous Peoples' Rights in Spatial Management in Central Kalimantan

Central Kalimantan is one of the regions in Indonesia with abundant natural resources, especially in the form of vast tropical forests and peatlands. This province is home to various indigenous groups, particularly the Dayak people, who have lived and depended on the forest for centuries.(Izzati et al., 2023) However, with increasing pressure from economic development, exploitation of natural resources, and government-implemented environmental policies,

significant changes have occurred in spatial management patterns in Central Kalimantan.

In recent decades, various environmental policies have been introduced by the government to protect forest ecosystems and prevent environmental degradation. One key policy is the designation of protected forests, conservation forests, and a moratorium on permits for land clearing in primary forests and peatlands. On the other hand, indigenous communities have long had local wisdom-based environmental management systems, which often conflict with government regulations.(H. Gunawan et al., 2024)

The interaction between environmental policies and indigenous rights in spatial management in Central Kalimantan often leads to conflict and inequality. This is due to various factors, including overlapping regulations, weak recognition of customary rights, and pressure from industrial sectors such as palm oil plantations, mining, and infrastructure projects.(Sugiswati, 2012) This discussion examines how environmental policies and indigenous rights interact in spatial management in Central Kalimantan, including the challenges faced and solutions that can be implemented to create a more just and sustainable management system.

The Indonesian government has implemented various environmental policies to regulate the management of natural resources in Central Kalimantan. One of the main influential policies is Law Number 41 of 1999 concerning Forestry, which regulates the division of forest areas into several categories, including protected forests, production forests, and conservation forests. In addition, in 2011, the government also implemented a moratorium on permits for new land clearing in primary forests and peatlands as an effort to reduce deforestation and land degradation.(Tandir et al., 2024)

In addition to national-level policies, the Central Kalimantan regional government also has its own regulations for managing its regional spatial planning. The Regional Regulation on Spatial Planning serves as a legal instrument for managing regional zoning based on ecological, social, and economic functions. One important aspect of this spatial planning is the designation of areas intended for environmental conservation and areas that can be used for economic purposes, such as plantations and mining.(Baren Sipayung, 2022)

However, in its implementation, environmental policies often face various challenges. One of the main problems is the weak enforcement of environmental

laws. Although regulations prohibit arbitrary forest conversion, in reality, many forest areas are still being converted for industrial purposes. Land clearing for palm oil plantations and mining is still rampant, even in areas that should be protected. In addition, the lack of transparency in licensing practices and indications of corruption in granting land management permits also worsen environmental conditions in Central Kalimantan.(Wijayanti et al., 2024)

On the other hand, government-implemented environmental policies often do not optimally consider the rights of indigenous communities. Many forest areas that have long been managed by indigenous communities for generations are claimed as state forests or conservation areas without consultation with the local communities.(R. Gunawan et al., 1998) As a result, indigenous communities lose access to the areas that are their livelihoods, leading to prolonged social conflict.

Indigenous communities in Central Kalimantan, especially the Dayak people, have a close relationship with the forests and their surrounding environment. For indigenous communities, the forest is not just an economic resource, but also part of their cultural identity and belief system. Traditions of natural resource management based on local wisdom have been practiced for centuries, such as shifting cultivation, the utilization of non-timber forest products, and community-based forest management systems.(Firnaherera & Lazuardi, 2022)

Legally, the customary rights of indigenous communities to land and forests have been recognized in various national and international regulations. Law Number 5 of 1960 concerning the Basic Principles of Agrarian Affairs and Law Number 6 of 2014 concerning Villages recognize customary rights in the management of natural resources. Furthermore, Constitutional Court Decision Number 35/PUU-X/2012 affirms that customary forests are not part of state forests, thus opening opportunities for indigenous communities to obtain legal recognition of their territories.(Togatorop et al., 2022)

However, despite the existence of various legal instruments supporting customary rights, implementation on the ground is far from ideal. The process of recognizing customary territories often faces various obstacles, including complicated bureaucracy and a lack of political support from local governments. To date, many customary communities are still struggling to obtain legal rights to their land, while on the other hand, companies continue to obtain permits to manage land previously inhabited by indigenous communities.(Noya, 2023)

Furthermore, in some cases, indigenous communities trying to defend their territory face criminalization. Those who reject the expansion of plantations or mines are often accused of illegal land encroachment. This situation shows an imbalance in law enforcement that favors industrial interests over the rights of indigenous communities.

One of the main impacts of the imbalanced interaction between environmental policies and indigenous rights is the increase in land conflicts in Central Kalimantan. One striking case is the seizure of customary land due to the expansion of palm oil plantations. Many indigenous communities have lost access to their land after the area was granted to plantation companies through concession permits.(Sempo, 2024) In addition, infrastructure projects such as road and dam construction also have negative impacts on indigenous communities. Although these projects are often claimed to be efforts to improve the welfare of the community, in reality, many communities have to lose their farmland and customary forests due to these projects.(Vanclay, 2017)

Conflicts between indigenous communities, the government, and companies often last for a long time without a clear resolution. One factor that exacerbates this situation is the lack of effective mediation mechanisms to resolve land disputes.(Anastasia et al., 2024) To create a more equitable and sustainable spatial management system, reforms in environmental policies and strengthening the recognition of customary rights are needed. Some steps that can be taken include:

1. Recognition and Protection of Customary Forests

Pemerintah perlu mempercepat proses pengakuan hutan adat serta memberikan kepastian hukum kepada masyarakat adat dalam mengelola wilayah mereka. Proses ini harus dilakukan secara transparan dan melibatkan partisipasi aktif komunitas adat.

2. Community Participation in Environmental Policy

Environmental policy formulation must involve indigenous communities directly so that the regulations implemented do not ignore their rights.

3. Stricter Law Enforcement

The government needs to strengthen supervision of environmental violations and impose strict sanctions on companies that seize customary land.

With these steps, it is hoped that space management in Central Kalimantan

can be fairer and more sustainable for all parties involved.

IV. Conclusion

Based on the discussions presented above, the conclusions that can be drawn from this research are as follows:

Currently, environmental policies in Central Kalimantan still face challenges in accommodating the rights of indigenous communities in spatial management and natural resource governance. Although various regulations, such as Constitutional Court Decision No. 35/PUU-X/2012, have recognized customary forests as part of indigenous rights, their implementation remains slow and often clashes with the interests of the plantation, mining, and infrastructure industries. The government has attempted to implement sustainability principles through policies such as the moratorium on plantation permits and the protection of peatland ecosystems; however, these efforts often fail to actively involve indigenous communities.

Moreover, land conflicts continue to be a major issue, as many indigenous communities lose access to their territories due to concessions granted to companies without adequate consultation. The success of environmental policies in accommodating the rights of indigenous communities heavily relies on the harmonization between state regulations and local wisdom-based management systems, the application of the Free, Prior, and Informed Consent (FPIC) principle, and the empowerment of indigenous communities in spatial planning and environmental management.

The interaction between environmental policies and the rights of indigenous communities in spatial management in Central Kalimantan is often characterized by an imbalance of interests, where conservation policies and resource-based economic development dominate over the recognition of indigenous rights. On one hand, environmental policies such as the moratorium on forest clearing and peatland ecosystem protection aim to reduce deforestation and environmental degradation. However, their implementation often neglects the rights of indigenous peoples who have long managed these areas based on their local wisdom. On the other hand, the expansion of palm oil and mining industries, which often receive official permits from the government, threatens the sustainability of indigenous livelihoods, triggers land conflicts, and increases

inequality in access to natural resources.

The weak legal recognition of customary rights, along with the slow implementation of Constitutional Court Decision No. 35/PUU-X/2012, further complicates the situation, leaving indigenous communities marginalized. Therefore, there is a need for more inclusive environmental policies that are participatory and involve indigenous communities in planning and spatial management, so that a sustainable balance between environmental protection and indigenous rights can be achieved.

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