



## INTEGRATION OF CUSTOMARY LAW AND CONFLICT RESOLUTION IN MULTICULTURAL SOCIETIES

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### **Abstract:**

*The purpose of this research is to analyze the challenges in integrating customary law into Indonesia's national legal system and to identify mechanisms for resolving customary law conflicts. The methodology used is a normative legal research with an empirical and legislative approach, where the data collected comes from literature review and legal studies. These data are qualitatively analyzed to understand the relationship between customary law and state law, as well as the challenges faced in their integration process. The findings show that one of the main challenges in integrating customary law into national law is the difficulty in harmonizing the local wisdom values embedded in customary law with the more formal and universal state legal system. The normative discrepancies between the two often lead to legal conflicts, especially in communities that have a legal system deeply intertwined with local culture and social structure. Additionally, the limited knowledge of customary law among indigenous peoples and law enforcement officers also hampers the effective implementation of state law. A successful integration process requires an inclusive approach involving the government, indigenous communities, and other stakeholders in creating dispute resolution mechanisms based on mediation and cross-cultural dialogue. The conclusion of this study is that the integration of customary law into the national legal system requires strategic measures that respect local wisdom values, strengthen the capacity of indigenous communities in understanding law, and support policies that encourage conflict resolution through dialogue and mediation. The recommendation proposed is the importance of formulating policies that provide space for customary law within the national legal framework, as well as the need for training law enforcement officers on customary law to ensure a harmonious and mutually supportive integration of both legal systems.*

**Keywords:** Customary Law; National Law; Multiculturalism

### **Abstrak:**

Tujuan penelitian ini adalah untuk menganalisis tantangan dalam integrasi hukum adat ke dalam sistem hukum nasional Indonesia dan mengidentifikasi mekanisme penyelesaian konflik hukum adat. Metode yang digunakan adalah penelitian yuridis normatif dengan pendekatan empiris dan perundang-undangan, di mana data yang dikumpulkan berasal dari studi literatur dan studi pustaka. Data tersebut dianalisis secara kualitatif untuk memahami hubungan antara hukum adat dan hukum negara, serta tantangan yang dihadapi dalam proses integrasi keduanya. Hasil penelitian menunjukkan bahwa salah satu tantangan utama yang dihadapi dalam integrasi hukum adat ke dalam hukum nasional adalah kesulitan dalam menyelaraskan nilai-nilai kearifan lokal yang terkandung dalam hukum adat dengan sistem hukum negara yang lebih formal dan universal. Ketidaksesuaian norma antara keduanya sering kali menimbulkan konflik hukum, terutama dalam konteks masyarakat yang memiliki sistem hukum adat yang sangat erat kaitannya dengan budaya dan struktur sosial setempat. Selain itu,

rendahnya pengetahuan hukum adat di kalangan masyarakat adat dan aparat penegak hukum turut menghambat penerapan hukum negara secara efektif. Proses integrasi yang berhasil memerlukan pendekatan inklusif yang melibatkan pemerintah, masyarakat adat, dan pemangku kepentingan lainnya dalam menciptakan mekanisme penyelesaian sengketa yang berbasis mediasi dan dialog antar budaya. Kesimpulan dari penelitian ini adalah bahwa integrasi hukum adat dalam sistem hukum nasional memerlukan langkah-langkah strategis yang melibatkan penghormatan terhadap nilai-nilai kearifan lokal, penguatan kapasitas masyarakat adat dalam pemahaman hukum, serta kebijakan yang mendukung penyelesaian konflik melalui dialog dan mediasi. Saran yang diajukan adalah pentingnya penyusunan kebijakan yang memberikan ruang bagi hukum adat dalam kerangka hukum nasional, serta perlunya pelatihan bagi aparat penegak hukum mengenai hukum adat untuk memastikan integrasi yang harmonis dan saling mendukung antara kedua sistem hukum tersebut.

**Kata Kunci:** *Hukum Adat; Hukum Nasional; Multikultural.*

## A. Introduction

A multicultural society is one that consists of various cultural, ethnic, religious, linguistic, and other identity groups living together in a single region or country. In a multicultural society, cultural diversity is considered a valuable asset, and there are efforts to respect, appreciate, and accommodate these differences. (Suharsono, 2017) Several definitions of multicultural society have been proposed by experts. According to Azyumardi Azra, a multicultural society is a worldview that provides cultural, religious, and pluralistic policies to society. Additionally, Tariq Modood defines multicultural society as a term that each country interprets differently, depending on the socio-political background. For example, in the United States, multiculturalism is used to recognize human rights and citizen equality, while in Africa, it refers to ethnic minorities and women (Miskan, 2018)

A multicultural society inherently has characteristics within its existence as a unified community, and these characteristics can be explained as follows: (Iqbal, 2023)

1. A multicultural society has a diverse cultural structure, with more than one culture coexisting.
2. A multicultural society is formed from various races, tribes, and cultures that still have a separation through primordial bonds such as regional origin.
3. Institutions in a multicultural society often face difficulties in organizing and carrying out tasks due to a lack of unity caused by segmentation.
4. A multicultural society finds it challenging to reach a consensus in decision-making due to existing differences.
5. The diversity of ethnicities, cultures, and customs in a multicultural society increases the potential for conflict, making integration difficult to achieve. (Nurhayati & Agustina, 2020)

Indonesia is a country rich in cultural diversity and possesses an expansive territory. The vastness of this territory presents challenges in fostering interaction and economic integration across society, leading to persistent disparities in social welfare. Therefore, Indonesia can be categorized as a multicultural nation. (Fusnika & Tyas, 2018)

According to the population census conducted by the Central Statistics Agency (BPS), Indonesia is home to approximately 1,340 ethnic groups. The Javanese are the largest ethnic group, with a population of around 85.2 million, representing approximately 40.2 percent of Indonesia's total population. This ethnic group is primarily spread across the central to eastern regions of Java Island. The second-largest

ethnic group is the Sundanese, originating from the western part of Java Island, with a population of 36.7 million, or about 15.5 percent. In third place are the Batak people, mainly residing in the northern-central region of Sumatra Island, with a population of about 8.5 million or 3.6 percent of the total population. The fourth-largest ethnic group comprises various ethnic groups from Sulawesi, including the Makassar, Bugis, Minahasa, and Gorontalo, totaling 208 ethnic groups in Sulawesi. Meanwhile, the Madurese rank fifth among the largest ethnic groups in Indonesia. (Fatkhul Muin & Mucharom, 2020)

The ethnic and cultural diversity in Indonesia offers significant benefits for the social, economic, and cultural life of the society. One of the main benefits is enriching the national identity with diverse values, traditions, and local wisdom that are part of the nation's heritage. Each ethnic group has its unique customs, arts, language, and social systems, which collectively contribute to Indonesia's cultural wealth.

From a social perspective, this diversity fosters a more tolerant and inclusive society. Interactions between cultures encourage mutual respect and strengthen national unity. In the economic sphere, cultural diversity also contributes to the tourism sector and creative industries. The uniqueness of each region, such as traditional dances, distinctive cuisines, and handicrafts, attracts both domestic and international tourists, ultimately boosting the local economy. (Nugraha, 2020)

Indonesia, with its ethnic and cultural diversity as mentioned above, possesses a rich and varied customary law that plays a significant role in the lives of many communities. Customary law reflects the traditions and local values that are highly regarded. Numerous scholars have attempted to define customary law, such as Van Vollenhoven, who stated that customary law is a legal system that exists within society and is derived from customs that have developed over generations. Customary law not only regulates social relations but also reflects the cultural values and beliefs upheld by a community. (DR. Hilman syahrial Haq. SH., 2020)

In addition to this view, there is also the perspective of another scholar, Ter Haar, who argued that customary law is the law that applies in society based on decisions made by customary leaders who have legal authority. This law is dynamic, evolving with the times, and serves as a tool for dispute resolution through consensus to achieve social balance. (Yuliyani, 2023)

The existence of customary law itself, from the perspective of Indonesian national law, is enshrined in the 1945 Constitution, particularly in Article 18B, paragraph (2), which states that "The State recognizes and respects the unity of customary law communities along with their traditional rights as long as they remain alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia." (Dg Malanye et al., 2023)

Based on the provisions of Article 18B paragraph (2) above, the protection of customary law is also regulated in Article 6 of Law No. 39 of 1999 on Human Rights, which explicitly states, "In the enforcement of human rights, differences and needs within customary law communities must be considered and protected" (Law No. 39 of 1999 on Human Rights, Article 6).

Given the empirical aspect that Indonesia is a multicultural country with existing regulations addressing these matters, the recognition and integration of customary law are essential to preserving cultural identity and local wisdom. This challenge requires an inclusive and collaborative approach, involving the government, indigenous communities, and other stakeholders. Policies that support the recognition of customary

law, as well as conflict resolution mechanisms based on mediation and inter-cultural dialogue, are key steps.

Numerous articles have discussed multiculturalism and customary law, such as the one written by Yona Nofrianti et al., titled *Conflicts and Social Integration in Multicultural Societies in Indonesia*. The findings of this research indicated that structural injustice and economic inequality are the main factors contributing to social conflicts in Indonesia. Furthermore, ethnic and religious identity differences also significantly contribute to triggering conflicts. However, this research also found that multicultural education and inter-cultural dialogue have proven to be effective in promoting social integration and preventing conflict.(Nofrianri, 2016)

Another article written by Novi Suci Dinarti et al., titled *Enhancing National Integration through the Implementation of Bhinneka Tunggal Ika Values*, concluded that Bhinneka Tunggal Ika serves as the primary foundation for achieving unity and integrity amidst Indonesia's diversity. Linguistic, cultural, religious, ethnic, and racial diversity can become a potential source of conflict if not managed well. Therefore, an understanding of the values of Bhinneka Tunggal Ika, such as ethnic and racial diversity, inclusivism, multicultural cultural awareness, gender sensitivity, and tolerance, is key to maintaining national integration. Moreover, cultural values and nationalism must be upheld to strengthen the unity of the Unitary State of the Republic of Indonesia.(Dinarti et al., 2021)

The third article, written by I Nyoman Nurjaya, titled *Understanding the Position and Capacity of Customary Law in National Legal Development Politics*, argues that customary law is an integral part of Indonesia's legal identity and should serve as a reference in the development of national legal policies. The article emphasizes that the legal pluralism in Indonesian society is an inevitability that cannot be ignored in the process of national law formation. Furthermore, it highlights that Bhinneka Tunggal Ika is not just a national slogan but an empirical reflection of the social and cultural diversity that shapes the nation's character. Therefore, national legal development should consider customary law as a source of law to enrich the substance of national law, making it more aligned with the social and cultural realities of Indonesian society.(Nurjaya, 2011)

The research to be conducted by the researcher differs from the previous three studies because it will focus on the challenges in integrating customary law into national law, as well as the mechanisms for resolving customary law conflicts, whereas the previous abstracts primarily focus on social conflicts, the role of Bhinneka Tunggal Ika, and the position of customary law in national legal development. Based on the above, this article will attempt to provide an analysis of the challenges in integrating customary law into national law, as well as discuss the processes of resolving customary law conflicts that are commonly practiced today.

## **B. Research Method**

This research is a normative legal study with an empirical approach and a legislative approach,(Mariyam et al., 2020) The data used is secondary data as the primary data, which is sourced from literature studies and library research. The collected data is analyzed and explained qualitatively. This data is relevant, both directly and indirectly, to the theme raised, which relates to the challenges and resolution of conflicts in the integration of customary law and national law.

### **C. Discussion**

#### **1. The Main Challenges Faced by Customary Law in the Integration Process with State Law in the Context of a Multicultural Society**

Before discussing the main challenges faced by customary law in the integration process with national law within the context of a multicultural society, it is essential to first address the concept of integration. Integration itself is a term with multiple meanings depending on the field of life and knowledge. Therefore, it is necessary to have a clear understanding of what integration means. According to the *Kamus Besar Bahasa Indonesia* (KBBI), integration is generally defined as the process of blending into a whole or unified entity. (Haloho et al., 2024)

Thus, the integration of customary law with state law refers to the process of unifying and harmonizing the legal systems in place within indigenous communities with the national legal system, so that both can function harmoniously and support each other without disregarding the local wisdom values embedded in customary law. This integration aims to create a more inclusive, just, and responsive legal system that respects cultural diversity while maintaining the unity and integrity of the country within the framework of the Unitary State of the Republic of Indonesia (NKRI).

The main challenges faced by customary law in the integration process with state law in the context of a multicultural society involve several complex aspects. One of the challenges is how to integrate customary law with the formal and more universal national legal system to prevent legal conflicts and ensure justice for all parties. This process requires careful adjustments to ensure that the values embedded in customary law are preserved. Furthermore, many indigenous communities possess limited legal knowledge, which can hinder the implementation of national law at the local level. Therefore, it is crucial to develop a broader understanding of customary law, both among indigenous communities and law enforcement officers, to ensure effective communication between customary law and state law. (Syafri Hariansah, 2022)

Customary law is closely linked to the local culture and social structure, which shape the norms and rules within indigenous communities. Therefore, in the integration of customary law with state law, it is essential to preserve this connection to ensure that customary law does not lose its essence. By relating customary law to the culture of the community, dispute resolution can be more effective, as indigenous people are more likely to accept rules based on their traditions. Furthermore, customary law must be able to respond to the evolving demands of social justice by addressing inequalities that may arise, such as discrimination against certain groups. This necessitates linking customary law with principles of social justice to ensure that its implementation is inclusive and fair.

Another significant challenge is the recognition and respect of the state for indigenous communities and their customary law. The state needs to recognize customary law as an integral part of the cultural and social identity of indigenous peoples, so that customary law retains its legitimate legal authority. In addition, empowering indigenous communities is crucial to strengthen their capacity to manage and implement their customary legal systems. This empowerment should not only involve legal education but also enhance the social, economic, and political capacities of indigenous communities so that they can adapt to change without losing their cultural values.

The development of knowledge and culture surrounding customary law also plays a key role in this integration process. By expanding the understanding of customary law



among indigenous communities and law enforcement officials, dispute resolution is expected to be more effective. Moreover, the broader development of indigenous communities, through improvements in social, economic, and educational infrastructure, will support the successful integration of customary law with state law. Overall, the challenges in integrating customary law with state law require a holistic and integrated approach, given the cultural diversity and values within Indonesian society. (Atsar, 2017)

## **2. How Multicultural Societies Resolve Conflicts Between Customary Law and State Law**

The resolution of conflicts between customary law and state law in Indonesia's multicultural society is of paramount importance to ensure harmony and justice. As Indonesia is a country with diverse ethnicities, cultures, religions, and legal systems, conflicts often arise between state law and customary law that applies in various regions. Therefore, multicultural societies need to address these conflicts through an approach that integrates both legal systems, respects local wisdom, and adheres to the principles of state law.

One way to achieve this is through social mediation, where customary leaders act as mediators in resolving conflicts. Customary leaders hold significant influence and authority within indigenous communities, making them effective in alleviating tensions between customary law and state law. For this role to succeed, the government needs to provide protection and support for customary leaders through empowerment forums or indigenous community platforms, enabling them to carry out their function more effectively.

Additionally, the use of customary law in conflict resolution is crucial. In indigenous communities that uphold local wisdom, customary law is not just a temporary solution but can also serve as a primary approach in resolving conflicts. Conflict resolution through customary law must involve all elements of society, not merely as a ceremonial practice, and it is important to uncover the underlying issues that drive the conflict. In this way, the community will feel valued, and the resolution reached will be more widely accepted. (Rado et al., 2016)

Multicultural education is also an extremely effective tool in reducing conflicts between customary law and state law. This education not only focuses on knowledge about cultural differences but also teaches appreciation for diversity. Starting from schools to universities, multicultural education can introduce the importance of tolerance, cross-cultural understanding, and methods of dialogue to achieve peaceful resolutions. In this way, the younger generation can learn to understand the beliefs and values present in broader society. (Zulkifli et al., 2020)

Collaboration between the government and the community also plays a critical role in resolving conflicts between customary law and state law. The government must delve into the underlying issues that are the root causes of the conflict, rather than focusing solely on ceremonial or symbolic aspects. In this regard, dialogue between the government and indigenous communities is essential to ensure that policies are more responsive to the needs of indigenous people. This approach will ensure that the solutions reached not only accommodate state law but also respect and protect the local wisdom of indigenous communities.

Finally, the empowerment of indigenous communities is a vital step in optimizing the role of customary law in conflict resolution. The government needs to foster and

involve indigenous communities in empowerment forums that allow them to play an active role in the dispute resolution process. This empowerment is also crucial to preserving the relevance of customary law in this modern era. The government, social institutions, and civil society organizations need to collaborate in creating a conducive environment for this empowerment.(Rizky Karo Karo et al., 2022)

The resolution of conflicts between customary law and state law requires a collaborative approach that values diversity and emphasizes a deep understanding of the root causes of the conflict. By involving all elements of society, strengthening the capacity of customary law, and prioritizing dialogue as the primary means, such conflicts can be resolved in a harmonious and just manner.

#### **D. Conclusion**

The resolution of conflicts between customary law and state law in Indonesia's multicultural society is a complex yet crucial challenge for maintaining social harmony and justice. The integration of customary law and state law requires a careful approach to ensure that both legal systems can function simultaneously without sacrificing the cultural values embedded in customary law. The primary challenges include the recognition and respect of customary law by the state, limited legal knowledge among indigenous communities, and inequalities in the application of law that threaten the principle of social justice. Conflict resolution between these two legal systems can be achieved through various approaches that respect diversity and local culture, such as social mediation involving customary leaders, using customary law as a primary solution, multicultural education, and collaboration between the government and communities. Empowering indigenous communities also plays a key role in ensuring that customary law remains relevant and effective in conflict resolution. A collaborative approach involving all elements of society, strengthening the capacity of customary law, and emphasizing dialogue will ensure the achievement of fair and harmonious solutions.

#### **E. Recommendations**

The government needs to strengthen the empowerment of indigenous communities through forums that enable indigenous groups, particularly customary leaders, to actively participate in conflict resolution. This empowerment should involve legal, social, economic, and political aspects so that indigenous communities can adapt to changes without losing their cultural values. Multicultural education should also be introduced from an early age, from schools to higher education, to teach tolerance, appreciation for cultural diversity, and skills in peacefully resolving conflicts. This will shape a generation that is more sensitive to differences and capable of integrating existing legal systems effectively. Open dialogue between the government and indigenous communities is crucial for understanding the root causes of issues and ensuring that policies are more responsive to the needs of indigenous peoples. The state's recognition of customary law must be further emphasized, making it an integral part of the national legal system with clear protection. Furthermore, collaboration between the government, social institutions, and civil society organizations will strengthen the integration of customary law in conflict resolution, while creating an environment that supports the sustainability and relevance of customary law in the modern era.

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