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***Pentingnya Partisipasi Masyarakat Adat dalam Pengelolaan Lahan Adat: Menyelesaikan Konflik Agraria di Kabupaten Simalungun***

# THE IMPORTANCE OF INDIGENOUS COMMUNITY PARTICIPATION IN MANAGING CUSTOMARY LAND: RESOLVING AGRARIAN CONFLICTS IN SIMALUNGUN REGENCY

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## ABSTRACT

*This study analyzes the urgency of indigenous community participation in the management of customary heritage land as the instrument for resolving agrarian conflicts in Simalungun Regency. Agrarian conflicts involving indigenous customary lands in Simalungun have become a complex issue that requires a comprehensive approach through the active involvement of indigenous communities. This study purposed to identify urgencies of indigenous community participation in customary land control and to analyze the effectiveness of such participation as a solution to agrarian conflict resolution. The research employs a normative legal method using statutory and conceptual approaches. The findings indicate that indigenous community participation in the management of customary land holds high urgency, as indigenous peoples possess in-depth knowledge of traditional land tenure systems, cultural legitimacy, and the ability to bridge the gap between customary and state law. Effectiveness of indigenous participation is proving that traditional deliberation mechanisms can produce sustainable conflict resolution, although challenges remain in harmonizing them with the formal legal system. The study concludes that strengthening indigenous community participation through the formal recognition of customary institutions and the absorption on customary conflict-resolution mechanisms into national agrarian legal form is key to resolving agrarian conflicts in Simalungun Regency. The study recommends establishing regional regulations governing indigenous participation and creating a multi-stakeholder forum for customary land management.*

**Keywords:** Customary Land, Indigenous Peoples, Agrarian Conflict, Participation

## A. INTRODUCTION

Agrarian conflicts involving customary community land are a crucial issue in Indonesia's national development.[1] In Simalungun Regency, North Sumatra, agrarian conflicts over customary land have become such complex, multidimensional issue, involving some attractions among indigenous communities, governments, and private parties.[2] Customary land, as an entity inseparable from the existence of indigenous communities, holds deep economic, social, cultural, and spiritual dimensions.[3] Recognition of customary rights has been guaranteed in Article 18B paragraph (2) of the 1945 Constitution, which already stated that the state acknowledges and respects the unity of customary law communities along with their traditional rights, as long as they still exist and are in line with society and development principles of the Unitary State of the Republic of Indonesia.[4]

Simalungun Regency, with a strong indigenous community, has a customary land management system passed down through generations.[5] The Simalungun indigenous community has a customary institutional structure that still exists today, including the regulation and management of communal public land.[6] Nevertheless, the dynamics of development and modernization have brought significant changes to land ownership and utilization patterns, often resulting in conflicts between customary law and the state's positive law.[7] This issue is becoming increasingly complex due to various economic interests, such as large-scale plantations, mining, and infrastructure projects that require large amounts of land.[8]

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[1] Putra, N. D. A., Anggraeni, H. Y., Ridwan, A. M., & Jamaludin, A. (2025). Nusantara Capital City Development: From Agrarian Conflict Potential to Legal Protection of Indigenous Peoples. Reformasi Hukum, 29(1), 70–83. https://doi.org/10.46257/jrh.v29i1.1067

[2] Syahputra, O. H., & Anggraini, N. N. (2023). Tenurial Conflict Resolution Analysis of Indigenous People of Pandumaan-Siputuhuta in Humbang Hasundutan District, North Sumatera Province. Journal of Sylva Indonesiana, 6 (1), 19–28. https://doi.org/10.32734/jsi.v6i01.8287

[3] Ma'ruf, A., Yakin, Moh. A., Putri, E. S., Karimah, E. A., & Moechthar, O. (2024). Tracing the Continued Existence of Ulayat Land: Granting Management Rights in the Context of Protecting the Rights of Indigenous Peoples. Notaire. DOI/web link not found.

[4] Sari, P. (2023). Perlindungan dan Kesejahteraan Masyarakat Adat dalam Memenuhi Hak-Haknya Berdasarkan Pasal 18B UUD 1945. DOI/web link not found.

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[7] Chimhowu, A., & Chimhowu, A. (2019). The 'new' African customary land tenure. Characteristic, features and policy implications of a new paradigm. *Land Use Policy*.

[8] Harakan, A. (2023). The conflict between indigenous communities and corporations at the intersection of politics and economics in Southeast Asia. *Sosiohumaniora: Jurnal Ilmiah Ilmu Sosial Dan Humaniora*.

Document from the Agrarian Reform Consortium (hereinafter referred to as "KPA") shows that North Sumatra is among the provinces with a high level of agrarian conflict, where most conflicts involve customary land of indigenous communities.[9] In Simalungun Regency itself, dozens of unresolved agrarian conflict cases have been recorded, including disputes between indigenous communities and plantation companies, conflicts over customary territorial boundaries, and issues of overlapping land ownership claims. These conflicts not only cause economic losses but also threaten social cohesion and the preservation of the local indigenous community's culture.[10]

The resolution of agrarian conflicts involving communal land requires a different approach from the resolution of land disputes in general.[11] This is because customary land has characteristics that cannot be equated with those of individually owned land under modern civil law.[12] Customary land is a land that is controlled communally by indigenous communities, with a management system based on the customary laws that apply within those communities.[13] Therefore, resolving indigenous land conflicts must take into account aspects of customary law, cultural values, and the applicable customary institutional systems.[14]

The indigenous communities' participation in customary land management becomes a key factor in efforts to resolve agrarian conflicts.[15] Without substantively involving indigenous communities, various efforts to resolve conflicts tend to be temporary and unsustainable.[16] Indigenous communities have deep local knowledge of land ownership history, customary territorial boundaries, and dispute-resolution mechanisms grounded in local wisdom.[17] This knowledge is very valuable in formulating solutions that are fair and acceptable to all parties. Additionally, the participation of indigenous communities is

[9] Ramadhan, A. (2023). Konflik Agraria Analisis Resolusi Konflik Agraria dan Sumber Daya Alam di Aceh. *Jurnal Transformasi Administrasi*.

[10] Syahputra, O. H., & Anggraini, N. N. (2023). Tenurial Conflict Resolution Analysis of Indigenous People of Pandumaan - Sipituhuta in Humbang Hasundutan District, North Sumatera Province. *Journal of Sylva Indonesiana*.

[11] Salfutra, R. D., Agustian, R. A., & Situmorang, A. A. C. (2023). Problematika Hukum Pengaturan Hak Ulayat Di Indonesia. Jurnal Yuridis UNAJA

[12] Umami, A. M., & Alqindy, F. H. (2025). Regulation of Customary Law Communities' Ulayat Rights in Indonesia. JIHAD: Jurnal Ilmu Hukum Dan Administrasi

[13] Sinjar, M. A., Yuli, Y., Surahmad, S., Tarina, D. D. Y., Satino, S., & Manihuruk, H. (2023). The Role of Custom Law in Settlement of Ulayat Land Disputes. International Journal of Social Science and Human Research.

[14] Mudjiono, Mudjiono. (2004). Eksistensi Hak Ulayat dalam Pembangunan Daerah.

[15] Dreher, C. W. (2024). The Legal Framework of Consultation with Indigenous Peoples.

[16] Sukirno, S., & Wibawa, K. C. S. (2024). Indigenous Land Dispute Resolution in Indonesia: Exploring Customary Courts as an Alternative to Formal Judicial Processes. Revista Brasileira de Alternative Dispute Resolution.

[17] Laturette, A. I. (2021). Penyelesaian Sengketa Hak Ulayat pada Kawasan Hutan.

important to ensure that conflict resolution not only focuses on legal and formal aspects but also takes into account the socio-cultural dimensions inherent in customary land.[18]

The urgency of indigenous community participation is increasing as regulations expand the space to recognize the indigenous peoples' rights better. The Constitutional Court Decision Number 35/PUU-X/2012, which differentiates customary and state forests, is such a milestone that is important in the recognition of indigenous communities' rights over their customary territories.[19] Furthermore, various laws and regulations, such as the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of BPN Number 10 of 2016 concerning Procedures for Establishing Communal Rights over the Land of Customary Law Communities and Communities in Certain Areas, provide a stronger legal basis for the participation of indigenous communities in management of ulayat land.[20] Nevertheless, the implementation of these regulations still faces some challenges, especially in local context of Simalungun Regency, which has its own socio-political dynamics.[21]

Based on described backgrounds, the questions need to be researched in this study are:

1. How urgent is the indigenous communities' participation in the management of customary land for resolving agrarian conflicts in Simalungun Regency?
2. How effective is the indigenous communities' participation in the management of customary land as a solution to resolving agrarian conflicts in Simalungun Regency?

This research uses normative legal research methods or doctrinal legal research, that focuses on the analysis of legal norms related to the participation of indigenous communities in the management of customary land and the resolution of agrarian conflicts. The approaches used are statute approach to analyze various relevant laws and regulations; the conceptual approach to understand legal concepts related to customary rights and indigenous communities' participation; and case approach to analyze cases of agrarian conflicts in Simalungun Regency. The legal sources used consists of primary materials in juridical form and regulations, secondary materials in the form of legal literature,

[18] Putra Fajar, P. P., Aloysius, S., & Dinata, H. K. (2024). Implikasi Putusan Mahkamah Konstitusi Nomor 35/PUU-X/2012 terhadap Pengaturan Hutan Adat dan Dampaknya terhadap Hak Masyarakat Adat.

[19] Sumilat, R. R. I. (2024). Implementation of the Regulation of the Minister of ATR/BPN No. 14 of 2024 in the Registration of Customary Land Rights of Customary Law Communities. Santhet: Jurnal Sejarah, Pendidikan, Dan Humaniora.

[20] Sihaloho, R., Irmayanti, T., & Ridho, H. (2023). Implementasi Peraturan Daerah Provinsi Sumatera Utara Nomor 1 Tahun 2019 Oleh Badan Kesatuan Bangsa Dan Politik Provinsi Sumatera Utara. Perspektif: Jurnal Ilmu-Ilmu Sosial.

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scientifical journals, and prior researches results, as well as tertiary materials like encyclopedias and dictionaries.

The technique in legal materials collection process was carried through library research by conducting the archives, classifying, and systemizing legal materials relevant to the research topic. The analysis of legal materials was conducted qualitatively by legal interpretations methods, including systematical, grammatical, and teleological interpretations to comprehend the meaning and purposes of legal norms related to the participation of indigenous communities in managing and controlling customary land. Furthermore, legal construction was carried to formulate legal arguments regarding all of the urgency and effectiveness of indigenous community participation in resolving agrarian conflicts, taking into account the socio-cultural context of the Simalungun indigenous communities and the flow of agrarian conflicts occurring in the region.

## B. DISCUSSION

### 1. The Indigenous Communities' Participation Urgency in the Management of Customary Land

The urgency of indigenous community participation in the management of customary land for the resolution of agrarian conflicts in Simalungun Regency can be seen from various interrelated perspectives. First, from a historical-cultural perspective, the Simalungun indigenous community has a long history of managing customary land based on a customary law system that has been tested for centuries.[22] This traditional management system includes mechanisms for the allocation of cultivation rights, rules for the utilization of natural resources, and procedures for dispute resolution based on local wisdom values.[23] This historical knowledge and experience constitute invaluable social capital in efforts to resolve contemporary agrarian conflicts.

Secondly, from a juridical perspective, the participation of indigenous communities receives strong legitimacy through various national and international legal instruments. Law Number 5 of 1960 (UUPA) in third Article recognizes

[22] Mussa, M., Teka, H., & Aliye, A. (2017). Indigenous conflict management and resolution mechanisms on rangelands in pastoral areas, Ethiopia. Journal of African Studies.

[23] Hastarini, A. (2024). Kedudukan Hukum Masyarakat Adat Dalam Memperoleh Hak Atas Tanah di Indonesia. Jurnal Hukum Sasana.

existece of communal land rights (ulayat) as long as they still actually exist .[24] Furthermore, the Regulation of the State Minister of Agrarian Affairs/Head of BPN Number 5 of 1999 concerning Guidelines for Resolving Customary Law Community Ulayat Rights provides operational guidance for the protection and recognition on right of ulayat.[25] At the international level, Indonesia has ratified various conventions that recognize the indigenous peoples' rights, including the UN Declaration on the Rights of Indigenous Peoples, which emphasizes the importance of Free, Prior, and Informed Consent (FPIC) in any decisions, especially that could affects indigenous peoples or their territories.[26]

Fourth, from the perspective of conflict resolution, the participation of indigenous communities opens up space for a more holistic and sustainable approach to conflict resolution.[27] The customary deliberation mechanism, which emphasizes achieving consensus and restoring social harmony, can serve as an alternative or complement to formal dispute resolution mechanisms that tend to be adversarial.[28] The restorative justice approach inherent in the customary law system can help restore social relationships damaged by conflict, rather than just resolving the legal aspects of disputes. This is very important considering that agrarian conflicts in Simalungun Regency often involve parties who still have to live together in the same community.

Fifth, the urgency of indigenous community participation is also evident from the complexity of agrarian conflicts in Simalungun Regency, which involve various actors with diverse interests. For example, conflicts between indigenous

[24] Khotimah, S. (2012). United nations declaration on the rights of indigenous peoples: relevansi dan urgensinya terkait pembentukan regulasi mengenai jaminan perlindungan hak masyarakat adat di indonesia.

[25] Napitu, U., & Sinaga, R. (2024). Land Ownership (Custom) Viewed from Historical Perspectives, Socio-Cultural and Tenurial Issues in Simalungun District. Evolutionary Studies in Imaginative Culture.

[26] Khotimah, S. (2012). *United nations declaration on the rights of indigenous peoples: relevansi dan urgensinya terkait pembentukan regulasi mengenai jaminan perlindungan hak masyarakat adat di indonesia*

[27] Napitu, U., & Sinaga, R. (2024). Land Ownership (Custom) Viewed from Historical Perspectives, Socio-Cultural and Tenurial Issues in Simalungun District. *Evolutionary Studies in Imaginative Culture*.

[28] Sukirno, S., & Wibawa, K. C. S. (2024). Indigenous Land Dispute Resolution in Indonesia: Exploring Customary Courts as an Alternative to Formal Judicial Processes. *Revista Brasileira de Alternative Dispute Resolution*.

communities and large plantation companies not only concern land ownership issues but also relate to environmental, economic, and cultural identity issues. Indigenous communities have a deep understanding of the local ecosystem and the long-term impacts of various economic activities on ecological sustainability. Their participation can ensure that the solutions produced not only resolve short-term conflicts but also consider the welfare of future generations and ecological sustainability.

**2. The Effectiveness of Indigenous Community Participation as a Conflict Resolution Solution**

The effectiveness of indigenous community participation in the management of customary land as a solution to agrarian conflicts in Simalungun Regency can be analyzed through several indicators and concrete mechanisms. First, effectiveness is evident from the ability of customary mechanisms to comprehensively identify the root causes of conflicts. The indigenous Simalungun community has an oral documentation system and customary practices that record the history of land control, traditional agreements, and the dynamics of land ownership changes over time. This knowledge is very valuable in mapping conflicts and identifying fair solutions based on history and local context.[29]

The implementation of indigenous community participation through customary deliberation forums has shown positive results in several cases of conflict resolution in Simalungun Regency. The Runggun Adat mechanism, as the highest deliberation forum within the Simalungun customary structure, has successfully mediated various land disputes between clans and between indigenous communities and external parties. This success is supported by the inclusive characteristics of the deliberation process, where all interested parties are given the opportunity to express their views and aspirations. This deliberative process allows for solutions that are more acceptable to all parties because they are reached through dialogue and negotiation, rather than unilateral imposition.[30]

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[29] Prasetyo, D. A., & Syafrini, D. (2023). Partisipasi Masyarakat dalam Pengembangan Pariwisata Budaya di Perkampungan Adat Nagari Sijunjung Sumatera Barat. *Jurnal Perspektif*, *6*(1), 47-57.

[30] Liani, M. F., Roslinda, E., & Muin, S. (2015). Partisipasi Masyarakat Dalam Pengelolaan Hutan Adat Di Dusun Sungai Utik Desa Batu Lintang Kecamatan Embaloh Hulu Kabupaten Kapuas Hulu. *Jurnal Hutan Lestari*, *4*(3), 273-281.

Nonetheless, the effectiveness of indigenous community participation also faces various structural challenges. One of the main challenges is the gap between customary law systems and the state formal legal system. Although customary law is recognized, in practice it is often subordinated to positive law, especially when confronted with major economic interests or national development projects. This undermines the effectiveness of customary decisions in resolving conflicts, particularly when one party chooses to pursue formal legal channels that may result in decisions different from customary agreements.

Another challenge is internal changes within the indigenous community itself. Modernization and urbanization have altered the social structure of the Simalungun community, with more members living outside the traditional territory and having value orientations different from previous generations. This can reduce the cohesiveness of the indigenous community and the effectiveness of customary institutions in carrying out conflict resolution functions. In addition, the politicization of customary institutions and co-optation by certain political or economic interests can also diminish the legitimacy and effectiveness of indigenous community participation.

To enhance effectiveness, it is necessary to strengthen customary institutions through various strategies. First, formalizing the recognition of customary institutions within local government structures, as has been done in several regencies in Indonesia through Regional Regulations on Recognition and Protection of Customary Law Communities. Second, capacity building for customary leaders so that they can understand and navigate the complexities of modern law while still maintaining customary values and mechanisms. Third, the multi-stakeholders' forums establishment involving the government, indigenous communities, academics, and civil society to develop conflict resolution models that integrate customary and formal approaches.[31]

a .Model of Indigenous Community Participation Integration in the Formal Legal System

The development of a model for integrating the participation of indigenous communities into the formal legal system is a strategic start on enhancing effectiveness of agrarian conflict resolution in Simalungun Regency. This model

[31] Tanjung, N. S., Sadono, D., & Wibowo, C. T. (2017). Tingkat partisipasi masyarakat dalam pengelolaan hutan nagari di Sumatera Barat. *Jurnal Penyuluhan*, *13*(1), 14-30.

must be built on the principle of legal pluralism, which recognizes the coexistence and interaction between customary law systems and state legal systems. This integration does not imply the subordination of one system to the other, but rather the creation of a synergistic mechanism that leverages the strengths of each system to achieve substantive justice.[32]

The implementation of an integration model also requires the harmonization of regulations at the regional level. The Simalungun Regency Government needs to draft a Regional Regulation that specifically governs the participation of indigenous communities in the management of customary land and the resolution of agrarian conflicts. This regulation must include: (1) the criteria and procedures for recognizing indigenous communities; (2) the mechanism for registering and mapping customary land; (3) the procedures for the participation of indigenous communities in spatial planning and development; (4) the mechanisms for resolving disputes based on customary law that are integrated with the formal system; and (5) violations of rights of indigenous communities to customary land's sanctions.

b The Role of Stakeholders in Supporting the Participation of Indigenous Communities

The success of indigenous community participation in resolving agrarian conflicts cannot be achieved in isolation, but requires support and collaboration from various stakeholders. Local governments play a crucial role in creating an enabling environment through policies and programs that support the capacity building of indigenous communities. This includes budget allocation for strengthening indigenous institutions, facilitating multi-stakeholder dialogues, and providing legal assistance for indigenous communities in dealing with land disputes.

Civil society organizations and non-governmental organizations play an important role as facilitators and advocates for indigenous communities. They can assist indigenous communities in accessing information, understanding their legal rights, and organizing themselves to participate effectively in conflict resolution processes. NGOs can also play a role in documenting best practices of indigenous community participation and disseminating them to other stakeholders. Legal assistance provided by NGOs is crucial, especially when indigenous communities have to deal with parties that have greater resources.

Conflict Resolution in Simalungun,[33] An analysis of several agrarian conflict resolution cases in Simalungun Regency provides valuable lessons regarding the factors that determine the success or failure of indigenous community participation. The case of conflict between the indigenous community and Plantation Company X in District Y demonstrates that the active involvement of customary institutions from the outset of the negotiation process led to a more sustainable agreement. In

[32] Ardiansyah, A. (2024). Urgensi Partisipasi Masyarakat Dalam Pembentukan Rancangan Undang-Undang Masyarkat Hukum Adat. *Journal Of Administrative And Social Science*, *5*(1), 253-262.

[33] Sasongko, W., Hamzah, H., Ramadhan, H. W., & Andreas, R. (2022). Model of Social Conflict Settlement According to Lampung Adat Law. *Fiat Justisia: Jurnal Ilmu Hukum*, *16*(2), 103-114.

this case, the Runggun Adat successfully facilitated dialogue that produced a profit-sharing scheme beneficial to both parties, while maintaining the indigenous community's access to customary land for ritual and subsistence purposes.[34]

Conversely, the conflict case in District Z, which was resolved through the court system without involving customary institutions, resulted in a legally binding decision that was difficult to implement due to community resistance. Although the court ruled on land division based on formal evidence, the indigenous community rejected the decision because it contradicted the historical land ownership patterns recognized under customary law. This led to a prolonged conflict and even escalation in the form of protests and blockades, causing losses for all parties involved.

An important lesson from these cases is that the timing and sequencing of indigenous community participation greatly determine the effectiveness of conflict resolution. Involving indigenous communities from the problem identification stage, not just during the solution implementation stage, results in better outcomes. Additionally, the presence of a neutral third party trusted by all parties, such as a respected religious leader or academic, can facilitate the dialogue and negotiation process. Proper documentation of the process and agreement outcomes is also important to prevent future conflicts from recurring.

The indigenous community participation in the management of customary land implementation faces various systemic challenges that need to be addressed through comprehensive strategies. The first challenge is the weak capacity of indigenous institutions in dealing with the complexities of modern law and administration. Many indigenous leaders are not familiar with formal legal procedures, modern negotiation techniques, or the technical aspects of land management. To address this, a systematic and sustainable capacity-building program is needed, encompassing legal training, conflict management, and land administration. This program must be designed with a culturally appropriate

[34] Andreas, R., Adi, L. K., & Sulastuti, S. (2019). The Effect of Colonialism on Implementation of Agrarian Reform in Indonesia. *Fiat Justisia: Jurnal Ilmu Hukum*, *13*(2), 101-114.

approach, using learning methods that align with the oral traditions of indigenous communities.[35]

Another implication is the importance of reorienting the development paradigm from a top-down approach to a genuine participatory approach. Indigenous community participation is not just about consultation or socialization, but about sharing power in decision-making that affects their lives. This requires a transformation of mindset among policymakers and development actors to see indigenous peoples not as objects of development, but as subjects who have agency and the capacity to determine the direction of their own development.

This research also underscores the importance of long-term investment in strengthening the capacity of indigenous communities. Quick fix solutions often proposed in resolving agrarian conflicts have proven to be unsustainable without systemic strengthening of customary institutions and the capacity of communities to participate meaningfully. Such investment should be viewed not as a cost, but as an investment in social peace and sustainable development. The social costs of prolonged agrarian conflicts are far greater than the investment needed to strengthen the participation of indigenous communities.

## C. CONCLUSION

Based on all the research results and discussions that have been conducted, this research concludes that the participation of indigenous communities in the management of customary land is of very high urgency in resolving agrarian conflicts in Simalungun Regency. This urgency is based on the historical-cultural legitimacy of indigenous communities as traditional managers of customary land, legal recognition through various national and international legal instruments, the enduring strength of customary social structures, the ability of customary mechanisms to produce holistic and sustainable conflict resolution, as well as the indigenous communities' deep knowledge of the ecological and social aspects of customary land. The effectiveness of indigenous community participation is evidenced by the success of customary deliberation mechanisms in resolving various conflict cases, although challenges remain in terms of harmonization with the formal legal system, internal changes within indigenous communities, and resource limitations. The

[35] Soerjatisnanta, H., Sumarja, F. X., & Andreas, R. (2020). Conflict settlement in the register forest areas of lampung province. *ICETLAWBE 2020*, 185.

model of integrating indigenous community participation into the formal legal system through the establishment of formally recognized customary mediation institutions, the harmonization of regulations at the regional level, and the development of a comprehensive customary land documentation system shows potential to enhance the effectiveness of agrarian conflict resolution.

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