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## Preservation of Protected Forest Functions: The Effectiveness of Customary Sanctions (Givu) in *To Kulawi*

Insarullah Insarullah<sup>1\*</sup>, Imran Imran<sup>2</sup>, Ikbal Ikbal<sup>3</sup>, Arfanita Arfanita<sup>4</sup>

<sup>1,2,3,4</sup>Law Faculty, Universitas Tadulako, Palu, Indonesia

### Correspondence

Insarullah Insarullah, Law Faculty, Universitas Tadulako, Palu, Indonesia, Jl. Soekarno Hatta No.KM. 9, Tondo, Kec. Mantikulore, Kota Palu, Sulawesi Tengah 94148, e-mail: incha.ullah@gmail.com

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*Original Article*

### Abstract

This study aims to examine the role of the *To Kulawi* traditional institution and assess the implementation of customary sanctions (Givu) in preserving the function of protected forests in Sigi Regency. It is expected to contribute to strengthening the *To Kulawi* traditional institution. The research employs an empirical legal approach, focusing on the practical application of law (law in action) within society. The findings indicate that the existence and role of the *To Kulawi* traditional institution are essential for preserving the function of protected forests and implementing customary sanctions (Givu) in Sigi Regency. The application of these customary sanctions within the *To Kulawi* indigenous community has been effective and is widely accepted as a governing norm for forest preservation in the region. Therefore, it is recommended to enhance the recognition and protection of the *To Kulawi* traditional institution through policies enacted by regional and village governments, such as regional or village regulations.

**Keywords:** *Customary Sanctions (Givu), Conservation, Protected Forest*

### Abstrak

Penelitian ini bertujuan untuk mengetahui peran lembaga adat *To Kulawi* dan untuk mengetahui penerapan sanksi adat (givu) dalam pelestarian fungsi hutan lindung di Kabupaten Sigi, dan diharapkan berguna untuk penguatan terhadap lembaga adat *To Kulawi*. Penelitian ini menggunakan jenis penelitian hukum empiris yaitu penelitian tentang bekerjanya hukum (law in action) di masyarakat. Hasil penelitian menunjukkan bahwa eksistensi dan peran lembaga adat *To Kulawi* dalam pelestarian fungsi hutan lindung dan penerapan sanksi adat (givu) di Kabupaten Sigi sangat dibutuhkan masyarakat dan penerapan sanksi adat (givu) di masyarakat adat *To Kulawi* secara signifikan berjalan dengan baik dan keberadaannya diterima oleh masyarakat sebagai suatu aturan dalam melestarikan fungsi hutan lindung di Kabupaten Sigi. Oleh karena itu, perlu dilakukan penguatan pengakuan dan perlindungan terhadap eksistensi lembaga adat *To Kulawi* melalui kebijakan pemerintah daerah dan pemerintah desa dalam bentuk peraturan daerah dan/atau peraturan desa.

**Kata kunci:** *Sanksi Adat (Givu), Pelestarian, Hutan Lindung*

## 1. INTRODUCTION

The management of protected forest areas is of significant importance, encompassing activities such as their establishment, boundary delineation, and other essential management actions, particularly in relation to the unique flora and fauna they harbor. Forest protection and security are critical for preventing and minimizing damage to forests, safeguarding state rights over forests and their products, and ensuring their strategic value to both community and national interests. Forests serve as vital natural biological resources, life-support systems, and national assets.<sup>1</sup>

As key components of biodiversity, forests provide substantial value for human welfare, offering both tangible and intangible benefits. Tangible benefits include the provision of timber, wildlife, and mineral resources, while intangible benefits encompass recreational opportunities, water management regulation, and erosion prevention.<sup>2</sup> Furthermore, forests hold non-commercial values, such as serving as cultural and civilizational heritage, as well as supporting environmental conservation and the well-being of local communities.<sup>3</sup>

The involvement of local communities residing in and around forests is a crucial factor in ensuring the sustainability of forest resources. The challenges of forest management heavily rely on the active participation of these communities due to their direct dependence on forest resources.<sup>4</sup> Community engagement in forest management is deeply intertwined with the values and norms upheld by customary law societies, which form the institutional foundation of local governance.<sup>5</sup>

Customary law societies are integral to the identity of Indonesia as a nation. These societies constitute an essential element of the national legal framework within the Unitary State of the Republic of Indonesia.<sup>6</sup> As a pluralistic nation, Indonesia is home to hundreds of ethnic groups, languages, and customary law societies spread across

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<sup>1</sup> Septian Rulianto, Adam Malik, and Andi Sahri Alam, "Motivasi Masyarakat Desa Mire Terhadap Perlindungan Hutan Di Kawasan Hutan Lindung Kecamatan Ulubongka Kabupaten Tojo Una-Una," *Jurnal Warta Rimba* 6, no. 2 (2018): 1–37.

<sup>2</sup> Rulianto, Malik, and Alam.

<sup>3</sup> Muhammad Alie Humaedi, "Tradisi Pelestarian Hutan Masyarakat Adat Tau Taa Vana Di Tojo Una-Una Sulawesi Tengah," *Jurnal Penelitian Sosial Dan Ekonomi Kebutanan* 11, no. 1 (2014): 91–111, <https://doi.org/10.20886/jphka.2014.11.1.91-111>.

<sup>4</sup> Magdalena Magdalena, "Peran Hukum Adat Dalam Pengelolaan Dan Perlindungan Hutan Di Desa Sesaot, Nusa Tenggara Barat Dan Desa Setulang, Kalimantan Timur," *Jurnal Penelitian Sosial Dan Ekonomi Kebutanan* 10, no. 2 (2013): 110–21, <https://doi.org/10.20886/jpsek.2013.10.2.110-121>.

<sup>5</sup> Hamzah Hamzah, Didik Suharjito, and Istomo Istomo, "Efektifitas Kelembagaan Lokal Dalam Pengelolaan Sumber Daya Hutan Pada Masyarakat Nagari Simanau, Kabupaten Solok," *Risalah Kebijakan Pertanian Dan Lingkungan* 2, no. 2 (2015): 117–28, <https://doi.org/10.20957/jkebijakan.v2i2.10979>.

<sup>6</sup> Yanis Maladi, "Eksistensi Hukum Adat Dalam Konstitusi Negara Pasca Amandemen," *Mimbar Hukum* 22, no. 3 (2010): 450–64, <https://doi.org/10.22146/jmh.16235>; Hendra Nurtjahjo, *Legal Standing Kesatuan Masyarakat Hukum Adat: Dalam Berpekerja Di Mahkamah Konstitusi* (Jakarta: Salemba Humanika, 2010).

thousands of islands, both large and small.<sup>7</sup> These societies maintain their own distinct legal norms, which govern their communal lives.

Customary institutions, as representations of their respective societies, play a pivotal role in organizing and preserving their communities. These institutions are established only after the formation of customary societies and are vital in maintaining the customs and traditions that evolve over time.<sup>8</sup> In many regions of Indonesia, customary institutions continue to exist and significantly contribute to the preservation of cultural practices and traditions.

Among the numerous customary law communities in Indonesia, the To Kulawi Customary Law Community in Sigi Regency, Central Sulawesi Province, stands as a concrete example. This community exemplifies the enduring presence and relevance of customary law societies in sustaining cultural heritage and adapting to contemporary challenges.

## 2. RESEARCH METHODOLOGY

This study was conducted in Sigi Regency, with the population consisting of all individuals residing in the vicinity of the protected forest area in South Kulawi District. This location was selected due to its characteristics aligning with the objectives of the research. The sample was determined using the purposive sampling method, a technique based on specific criteria relevant to the research needs.<sup>9</sup> This process began with the stratification of potential respondents to ensure diversity and adequate representation of the studied population. Data collected through the questionnaire were processed using a simple frequency distribution table. This approach enabled the calculation of the percentage of respondents' answers, which were subsequently analyzed to draw conclusions aligned with the research objectives.

## 3. RESEARCH RESULT AND DISCUSSION

### 3.1. Legal Aspects of the Role of To Kulawi Customary Institutions in Supervising the Conservation of Protected Forest Functions

The presence and active involvement of indigenous communities living in and around forests are crucial to the conservation of forest resources. Forest management faces significant challenges, primarily depending on the participation of local communities, as their daily lives are closely tied to utilizing forest resources to meet familial needs.

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<sup>7</sup> Direktorat Pemberdayaan Komunitas Adat Terpencil Republik Indonesia, *Atlas Nasional Persebaran Komunitas Adat Terpencil* (Jakarta: Direktorat Pemberdayaan Komunitas Adat Terpencil Republik Indonesia, 2004).

<sup>8</sup> Hendra Hendra, "Totua Ngata Dan Konflik: Studi Atas Posisi Totua Ngata Sebagai Lembaga Adat Di Kecamatan Marawola," *Antropologi Indonesia: Indonesian Journal of Social and Cultural Anthropology* 34, no. 1 (2024): 15–28, <https://doi.org/10.7454/ai.v34i1.3194>.

<sup>9</sup> Irwansyah Irwansyah, *Penelitian Hukum: Pilihan Metode Dan Praktik Penulisan Artikel*, ed. Ahsan Yunus (Yogyakarta: Mirra Buana Media, 2020).

The role of To Kulawi customary institutions in preserving the function of protected forests in Sigi Regency can be analyzed using an indicator of community awareness of these institutions' roles, as reflected in respondents' answers presented in Table 1.

**Tabel 1.**

*Respondents' Perceptions of the Role of Customary Institutions in Conserving Protected Forest Functions*

No	Respondents' Answers	Respondents' Status				Total	%
		Community	NGO	Government	Customary Stakeholders		
		F	F	F	F	F	
1	Available	40	3	9	5	57	81
2	Unavailable	7	0	0	0	7	10.0
3	Know nothing	3	2	1	0	6	9.0
	Total	50	5	10	5	70	100

Based on the data in Table 1, the ranking of respondents' answers indicates that 57 out of 70 respondents (81%) affirmed the significant role of customary institutions in managing and supervising the function of protected forests. Conversely, 7 respondents (10%) indicated that these institutions played no significant role, while 6 respondents (9%) stated they were unaware of their role. This data demonstrates the dominant influence of customary institutions in villages within the South Kulawi District, as 81% of respondents acknowledged their critical role. The community perceives customary institutions as vital for monitoring, maintaining, and ensuring the continued function of protected forests.

“Traditional institutions in the village are very helpful in the affairs of the sub-district government, particularly in maintaining environmental quality in villages in South Kulawi District. Many issues involving forest encroachment are resolved at the level of traditional institutions.<sup>10</sup>”

This perspective aligns with the general sentiment of respondents, who highlighted the significance of customary institutions in maintaining village order, regulating environmental use, and preserving protected forests. Customary institutions are notably strict and enforce sanctions on those found guilty of encroachment in customary courts.

Community involvement in environmental management is essential and transcends boundaries. Community participation in environmental management is broad in scope, encompassing not only the involvement of individuals affected by regulations or administrative decisions but also the participation of societal groups and organizations.<sup>11</sup> Effective participation often exceeds the capacities of individuals, whether in terms of financial resources or knowledge. Consequently, the involvement

<sup>10</sup> Rudolf Djiloy, “Interview with Head of South Kulawi District.”

<sup>11</sup> Koesnadi Hardjasoemantri, *Aspek Hukum Peran Serta Masyarakat Dalam Pengelolaan* (Yogyakarta: Gadjah Mada University Press, 1993).

of groups and organizations, particularly those engaged in environmental conservation, is indispensable for ensuring sustainable forest management.

The role of customary institutions in the village is essential for maintaining and fostering a conducive environment within the local customary community. This role is deeply rooted in traditions preserved and upheld across generations by the To Kulawi community in Sigi Regency.<sup>12</sup> Specifically, concerning the preservation of protected forest functions, this has evolved into a habit and even a cultural practice within the To Kulawi customary community.

Supervision as an action that compares “das sollen” (what should be) with “das sein” (what is), essentially describing a process in which management assesses whether actual outcomes align with planned objectives. Supervision involves two key aspects: comparing actual events with pre-established plans and implementing necessary corrections if actual events deviate from the plans.<sup>13</sup>

These principles highlight that planned objectives do not always align with reality. To ensure alignment, supervision is necessary throughout the management process, including the preservation of protected forest functions.<sup>14</sup> The role of customary institutions in supervising the preservation of protected forests in Sigi Regency is reflected in the perspectives of community members who participated as respondents in this study. Supervision conducted by customary institutions, supported by community participation, must be sustained because village communities recognize the critical importance of protecting forest functions.

Supervision in this context aligns with the principle of a welfare state, where the government is responsible for overseeing and ensuring the effective implementation of protected forest preservation.<sup>15</sup> This responsibility extends to the regional and village governments, which must collaborate with customary institutions to ensure effective supervision around protected forest areas.<sup>16</sup>

Supervision in the Tompi Bugis Village is conducted collaboratively by customary leaders and the village community. This supervision occurs naturally and comprehensively within the To Kulawi community.<sup>17</sup> The recognition and

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<sup>12</sup> Suminton Suminton, “Interview with Chairman of the South Kulawi District Traditional Council” (2023).

<sup>13</sup> J Winardi, *Kepemimpinan Dalam Manajemen* (Jakarta: Rineka Cipta, 2000).

<sup>14</sup> Suyeon Min et al., “Structural Policy Coordination for Forest Ecosystem Services Management in The Legal Accountability System,” *Forest Policy and Economics* 166 (2024): 103282, <https://doi.org/10.1016/j.forpol.2024.103282>.

<sup>15</sup> E M Djafar et al., “Forest Management to Achieve Sustainable Forestry Policy in Indonesia,” in *IOP Conference Series: Earth and Environmental Science*, 2023, 1–11, <https://doi.org/10.1088/1755-1315/1181/1/012021>.

<sup>16</sup> Nofi Sri Utami et al., “Government Responsibilities Related to Converting Forest Functions to Agricultural Land: Study in Batu Malang City,” in *E3S Web of Conferences*, 2023, 1–8, <https://doi.org/10.1051/e3sconf/202344004003>.

<sup>17</sup> Bahar Marzuki, “Interview with Chairman of the Tompi Bugis Village Traditional Institution, South Kulawi District.”

empowerment of customary institutions are constitutional, as stated in Article 18B, paragraph (2) of the 1945 Constitution of the Republic of Indonesia:

“The state recognizes and respects customary law community units and their traditional rights as long as they continue to exist and are in accordance with societal development and the principles of the Unitary State of the Republic of Indonesia, as regulated by law.”

This recognition of customary communities’ rights by the state positively impacts their existence and the preservation of local wisdom. Customary communities, through their daily activities and adherence to long-standing traditions, indirectly contribute to the conservation of protected forest functions. This has become a hallmark of customary communities that remain steadfast in upholding their customs, traditions, and customary laws.

### **3.2. Legal Aspects of Customary Sanctions (Givu) Enforcement by the To Kulawi Community**

Indonesia is a legal state in the material sense, often referred to as a welfare state or “prosperity state.” The primary goal of the Indonesian state is to achieve a just and prosperous society, both spiritually and materially, based on Pancasila.<sup>18</sup> Consequently, Indonesia’s legal framework reflects the independent characteristics of a legal state (Rechtsstaat) grounded in Pancasila. Independence in this context is evident in the application of legal principles guided by the values embodied in Pancasila, which originate from the nation’s cultural heritage.

In this framework, the enforcement of customary law, including customary sanctions (Givu), aligns with the values of Pancasila. Customary sanctions represent a living legal tradition upheld within the To Kaili indigenous community in Sigi Regency. These sanctions, deeply rooted in local wisdom, play a significant role in regulating community behavior and preserving the natural environment, particularly protected forests.

The validity and application of customary sanctions (Givu) in Sigi Regency can be assessed through community knowledge, as reflected in responses to survey questions regarding the enforcement of these sanctions by the To Kulawi customary institution. The results are presented in the following table:

#### **Tabel 2.**

*Respondents’ Statements on the Enforcement of Customary Sanctions (Givu) by Customary Institutions*

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<sup>18</sup> Muhammad Tahir Azhary, *Negara Hukum : Suatu Studi Tentang Prinsip-Prinsipnya Dilihat Dari Segi Hukum Islam, Implementasinya Pada Periode Negara Madinah Dan Masa Kini* (Jakarta: Sinar Grafika, 2003).

No	Respondents' Answers	Respondents' Status				Total	%
		Community	NGO	Government	Customary Stakeholders		
		F	F	F	F		
1	Available	45	5	8	5	63	90
2	Unavailable	2	0	0	0	2	2,9
3	Know nothing	3	0	2	0	5	7,1
	Total	50	5	10	5	70	100

The data indicate that 63 respondents (90%) affirmed the enforcement of customary sanctions (Givu) by customary institutions against forest encroachment to preserve protected forests. Meanwhile, 2 respondents (2.9%) stated that such enforcement does not occur, and 5 respondents (7.1%) were uncertain.

The enforcement of customary sanctions (Givu) by customary institutions in the South Kulawi District is notably effective and widely recognized by the community. These sanctions help maintain societal order and uphold traditions that contribute to the conservation of protected forests. The community's reliance on these customary mechanisms underscores their importance.

The To Kulawi indigenous people hold a collective belief that violating customary law harms the entire community. Despite this belief, instances of violations still occur.<sup>19</sup> Continuous enforcement and socialization of customary law, including sanctions, are critical to fostering community awareness and adherence to these regulations.

Community involvement plays a crucial role in the success of customary law enforcement, complementing the efforts of customary institutions. The preservation of protected forest functions directly benefits the community, making their active participation essential. This emphasis on enforcing customary sanctions (Givu) aligns with the principles of a welfare state. The government, alongside customary institutions, is responsible for upholding laws that ensure the preservation of protected forests, which are vital to the welfare of the community and the environment.<sup>20</sup>

The enforcement of customary law through the application of customary sanctions (Givu) by the Tompi Bugis Village Customary Institution has been conducted collaboratively with customary leaders and supported by the Tompi Bugis Village community. This process has operated naturally and comprehensively within the To Kulawi community in Sigi Regency.<sup>21</sup>

The recognition and empowerment of customary institutions at the village level align with constitutional provisions outlined in Article 18B, Paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which states that the state recognizes and respects customary law community units and their traditional rights as long as they are

<sup>19</sup> Jackson S. PH. Tarro, "Interview with Secretary of South Kulawi District."

<sup>20</sup> I Nengah Lestawi and Dewi Bunga, "The Role of Customary Law in The Forest Preservation in Bali," *Journal of Landscape Ecology* 13, no. 1 (2020): 25–41, <https://doi.org/10.2478/jlecol-2020-0002>.

<sup>21</sup> Marzuki, "Interview with Chairman of the Tompi Bugis Village Traditional Institution, South Kulawi District"; Suminton, "Interview with Chairman of the South Kulawi District Traditional Council."

still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia, as regulated by law. This recognition positively impacts the existence of customary communities, enabling them to continue their generational practices while directly contributing to the preservation of protected forests around the To Kulawi customary community settlements in Sigi Regency.

Regarding the focus of this research on customary sanctions in the context of preserving protected forests in Sigi Regency, Hans Kelsen's theory of legal effectiveness provides a relevant framework. According to Kelsen, a legal rule must meet two conditions to be effective: it must be applicable, and it must be acceptable to the community. The relationship between the elements of validity and effectiveness is reciprocal.

Field research on the effectiveness of customary sanctions (Givu) for preserving the function of protected forests demonstrates that the To Kaili customary law in Sigi Regency remains effective in its application. This finding underscores the continued relevance and applicability of customary law within the community and its role in environmental conservation.

## CONCLUSION

The effectiveness of enforcing customary sanctions (Givu) in Sigi Regency relies heavily on the role of customary institutions, which serve as the primary enforcers of customary law in the form of Givu sanctions within the protected forest areas of the region. This effectiveness is substantiated by respondents' statements, evaluated through two key indicators: the role of customary institutions and the supervision conducted by the To Kulawi customary institution. Among 70 respondents, the majority affirmed that the role and oversight of the To Kulawi customary institution are critical in preserving the function of protected forests, utilizing Givu sanctions as legal norms within the customary justice system in the Kulawi KPH Area of Sigi Regency.

The implementation of customary sanctions (Givu) has been effective in the To Kulawi customary community in Sigi Regency. This conclusion is supported by respondents' statements, analyzed through two indicators: the existence of customary sanctions (Givu) and the enforcement of these sanctions by the To Kulawi customary institution. In the context of protecting and preserving the function of protected forests in the Kulawi KPH area of Sigi Regency, the firm and authoritative enforcement of customary sanctions through customary courts has demonstrated effectiveness, as evidenced by field observations and respondents' feedback. This confirms that Givu sanctions effectively contribute to the preservation of protected forest functions in the region.

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