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Environmental Law, the State, and the People: Examining the Reciprocal Obligations of Protection

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Original Article

Abstract

Widespread environmental degradation in Indonesia frequently gives rise to conflicts among local communities, the state, and business entities. Although Law No. 32 of 2009 provides a legal framework for resolving environmental disputes, the effectiveness of its implementation remains uncertain. This study examines the efficacy of both litigation and non-litigation mechanisms—particularly mediation and administrative approaches—in addressing such disputes. It also assesses the integration of customary law into the national legal system and identifies critical weaknesses in the enforcement of environmental regulations. Employing a normative legal approach supported by case studies of nine environmental conflict cases, the findings indicate that mediation and administrative legal processes often fail to deliver ecological justice. Moreover, customary law remains insufficiently harmonized with formal legal structures. Weak law enforcement, overlapping institutional authorities, and limited community participation further hinder effective resolution. The study concludes that regulatory reform, the strengthening of customary legal systems, and community empowerment are essential to enhancing environmental dispute resolution in Indonesia.

Keywords: *Environmental Disputes, Customary Law, Law Enforcement*

Abstrak

Kerusakan lingkungan hidup yang meluas di Indonesia seringkali memicu konflik antara masyarakat, negara, dan pelaku usaha. Meskipun Undang-Undang No. 32 Tahun 2009 telah menyediakan kerangka hukum penyelesaian sengketa, efektivitas implementasinya masih dipertanyakan. Penelitian ini bertujuan untuk menganalisis efektivitas mekanisme litigasi dan non-litigasi (khususnya mediasi dan pendekatan administratif), mengevaluasi integrasi hukum adat dalam sistem nasional, serta mengidentifikasi faktor kelemahan implementasi hukum lingkungan. Menggunakan pendekatan yuridis normatif dan studi kasus terhadap sembilan sengketa lingkungan, penelitian menemukan bahwa mediasi dan administrasi hukum seringkali tidak menjamin keadilan ekologis, sementara hukum adat belum terintegrasi secara harmonis. Penegakan hukum lemah, koordinasi lembaga tumpang tindih, dan partisipasi masyarakat minim. Penelitian ini menyimpulkan bahwa reformasi regulasi, penguatan hukum adat, dan pemberdayaan komunitas adalah kunci dalam mendukung penyelesaian sengketa.

Kata kunci: *Sengketa Lingkungan, Hukum Adat, Penegakan Hukum*

1. INTRODUCTION

The environment constitutes a critical foundation for the sustainability of human life and other living organisms. A balanced ecosystem, along with maintained air and water quality and the preservation of biodiversity, underpins sustainable development. However, in recent decades, environmental degradation has intensified due to large-scale, unregulated exploitation of natural resources. In Indonesia, this issue has become increasingly complex, given the country's rich biodiversity juxtaposed with intensive exploitation, particularly in the mining sector, large-scale agriculture, and infrastructure development.

Environmental degradation not only results in ecological harm but also triggers social and legal conflicts—especially in regions inhabited by indigenous peoples and local communities who rely heavily on land and natural resources now contested among the state, corporations, and civil society. Consequently, environmental disputes in Indonesia are not purely ecological but encompass legal, political, and humanitarian dimensions. Within this context, the legal framework plays a pivotal role in ensuring both ecological and social justice.

Normatively, Indonesia possesses various legal instruments governing environmental protection and management, including Law No. 32 of 2009 on Environmental Protection and Management (PPLH Law), alongside numerous sectoral regulations. However, empirical studies indicate persistent challenges in the implementation of these laws, particularly concerning enforcement, institutional coordination, and community participation. In many cases, affected communities suffer disproportionately, while perpetrators of environmental destruction often evade legal accountability.

The PPLH Law incorporates non-litigation dispute resolution mechanisms such as mediation and arbitration, which offer more expedient and mutually beneficial alternatives. Furthermore, customary law has gained increasing recognition for its role in resolving environmental conflicts, particularly in areas populated by indigenous groups. These approaches align with the principles of restorative justice and local participation in environmental governance. Nonetheless, questions remain regarding their effectiveness, especially concerning the formal recognition of customary mechanisms, the legal enforceability of mediation outcomes, and structural barriers limiting community access to justice.

Environmental issues have become central to development discourses globally, including in Indonesia. Previous research has demonstrated that environmental degradation leads to multifaceted social, legal, and economic conflicts. A major driver of environmental harm in Indonesia is the unchecked exploitation of natural resources, including deforestation, mining, and agricultural land expansion. In this context, the

resolution of environmental disputes—particularly those involving indigenous peoples—is crucial.

Pertiwi et al. underscore the significance of customary law in resolving environmental disputes in customary forest territories. Their study reveals that traditional deliberative mechanisms successfully resolve up to 75% of disputes through peaceful means, reflecting the restorative justice values and collectivist ethos of indigenous communities. Nevertheless, they also identify substantial challenges, such as limited formal recognition by the state and external economic pressures, suggesting that the national legal system has yet to fully accommodate local justice traditions.[1]

Similarly, Swari and Cahyani investigate the normative conflict between the Mineral and Coal Mining Law (Minerba Law) and the Environmental Protection Law (PPLH Law), specifically between Article 162 of the former and Article 66 of the latter. Their findings highlight how legal contradictions undermine protections for communities affected by mining activities, emphasizing the urgent need for regulatory harmonization.[2] Wicaksono et al., meanwhile, examine the root causes of agrarian conflicts, attributing them primarily to population growth and limited land availability. Their study critiques the government's apparent lack of political will to resolve these issues structurally, noting that current policies are often repressive rather than preventive.[3]

Koeswahyono and Maharani proposed the establishment of an Agrarian Court as a specialized judicial institution dedicated to resolving agrarian conflicts. This proposal stems from the need to deliver substantive justice in land dispute resolution, which general courts have thus far inadequately addressed. Their argument aligns with the principles of Article 33 of the 1945 Constitution, which emphasizes the use of land to promote the greatest welfare of the people.[4]

Wantua et al. evaluated the role of mediation in resolving environmental disputes following the enactment of the Job Creation Law. Although mediation has long been recognized in Indonesian legal practice, its effectiveness has recently been questioned due to regulatory inconsistencies arising from a Constitutional Court ruling. This has generated legal uncertainty, particularly regarding the technical implementation of

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1 Putri Pertiwi, Faridatus Sakdiyah, and Feryll Anugrah Rian, "Implementasi Hukum Adat Dalam Penyelesaian Sengketa Lingkungan: Studi Etnografis Di Kawasan Hutan Adat," *Perkara: Jurnal Ilmu Hukum Dan Politik* 2, no. 4 (2024): 589–602, https://doi.org/10.51903/perkara.v2i4.2231.

2 Novita Ratna Swari and Indah Cahyani, "Pengaturan Pengelolaan Sumber Daya Alam Dan Lingkungan Hidup Di Kawasan Pertambangan Mineral Dan Batu Bara," *Journal Inicio Legis* 3, no. 1 (2022): 38–51, https://doi.org/10.21107/il.v3i1.14899.

3 Setiawan Wicaksono, Bintang Bagas, and Agung Reyhansyah, "Penyelesaian Sengketa Dan Konflik Pertanahan Di Indonesia: Kajian Politik Hukum," *Dialogia Iuridica* 16, no. 1 (2024): 68–95, https://doi.org/10.28932/di.v16i1.9993.

4 Imam Koeswahyono and Diah Pawestri Maharani, "Rasionalisasi Pengadilan Agraria Di Indonesia Sebagai Solusi Penyelesaian Sengketa Agraria Berkeadilan," *Arena Hukum* 15, no. 1 (2022): 1–19, https://doi.org/10.21776/ub.arenahukum.2022.01501.1.

mediation and the formal recognition of its outcomes.[5] Nurlinda noted that, despite the comprehensive provisions of the Environmental Protection and Management Law (PPLH Law), significant weaknesses remain in its implementation. Many environmental conflicts persist due to inadequate enforcement by both central and regional government authorities.[6]

Prabu et al. emphasized that mediation should be prioritized as an alternative dispute resolution mechanism before resorting to litigation in environmental cases. However, the primary obstacles include the absence of authoritative oversight for enforcing mediation outcomes and the lack of mechanisms to prevent recurrent environmental damage.[7] Asnah criticized current environmental policies for failing to prevent environmental degradation. He underscored the necessity of strengthening law enforcement, promoting multi-sectoral participation, and integrating sustainability into development planning. Furthermore, Asnah asserted that environmental protection must be recognized as a fundamental human right guaranteed by the state.[8]

Nisa and Suharno examined law enforcement in forest fire cases, revealing critical deficiencies in the government's legal response. Weak enforcement not only undermines deterrence but also reflects a lack of political will to support sustainable development.[9] Sasuwuk discussed various forms of environmental litigation and highlighted the significance of alternative dispute resolution (ADR) mechanisms. He identified class actions, legal standing, and citizen lawsuits as relevant legal tools for addressing environmental pollution and damage. Nonetheless, the success of these mechanisms largely depends on the courage of affected communities and institutional support.[10]

Nafi' BS stressed the crucial role of administrative enforcement in environmental law, which functions both preventively and reactively. However, frequent regulatory changes contribute to uncertainty in supervision procedures and administrative

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5 Fence Wantua et al., "Eksistensi Mediasi Sebagai Salah Satu Bentuk Penyelesaian Sengketa Lingkungan Hidup Pasca Berlakunya Undang-Undang Cipta Kerja," *Bina Hukum Lingkungan* 7, no. 2 (2023): 267–89, http://dx.doi.org/10.24970/bhl.v7i2.342.

6 Ida Nurlinda, "Kebijakan Pengelolaan Sumber Daya Alam Dan Dampaknya Terhadap Penegakan Hukum Lingkungan Indonesia," *Bina Hukum Lingkungan* 1, no. 1 (2016): 1–9, https://bhl-jurnal.or.id/index.php/bhl/article/view/17.

7 Alexander Prabu et al., "Penyelesaian Sengketa Lingkungan Di Luar Pengadilan Pada Persoalan Hukum Perdata Dan Hambatannya: Analisa Undang-Undang Nomor 32 Tahun 2009 Tentang Perlindungan Dan Pengelolaan Lingkungan Hidup," *Jurnal Surya Kencana Dua: Dinamika Masalah Hukum Dan Keadilan* 8, no. 1 (2021): 111–132, https://doi.org/10.32493/SKD.v8i1.y2021.11688.

8 Nur Asnah, "Kebijakan Dan Tanggung Jawab Pemerintah Dalam Mewujudkan Perlindungan Dan Pengelolaan Sumber Daya Alam Bagi Masa Mendatang," *Jurnal Senpling Multidisiplin Indonesia* 1, no. 1 (2023): 1–7, https://doi.org/10.52364/senpling.v1i1.2.

9 Anika Ni'matun Nisa and Suharno Suharno, "Penegakan Hukum Terhadap Permasalahan Lingkungan Hidup Untuk Mewujudkan Pembangunan Berkelanjutan: Studi Kasus Kebakaran Hutan Di Indonesia," *Jurnal Bina Mulia Hukum* 4, no. 2 (2020): 294–312, https://jurnal.fh.unpad.ac.id/index.php/jbmh/article/view/92.

10 Prisky S. Sasuwuk, "Alternatif Penyelesaian Sengketa Lingkungan Menurut Undang-Undang N0. 32 Tahun 2009 Tentang Perlindungan Dan Pengelolaan Lingkungan Hidup," *Lex Et Societatis* 6, no. 5 (2018): 50–58, https://doi.org/10.35796/les.v6i5.20355.

sanctions.[11] Fadhilah et al. highlighted the need to strengthen the legal system to support effective environmental management, emphasizing that success depends on legal compliance, oversight, and community involvement. They argued that appropriate legal strategies are necessary to embed environmental protection within the collective behavior of society.[12]

Collectively, these studies indicate that although Indonesia has a relatively comprehensive environmental legal framework, its practical implementation remains weak. Conflicts between economic development and environmental protection, along with poor integration between formal legal institutions and customary law, exacerbate this situation. Consequently, the resolution of environmental disputes often fails to protect vulnerable groups such as indigenous peoples, smallholder farmers, and local communities.

Although numerous studies have examined environmental dispute resolution, few have specifically addressed the effectiveness of integrating national positive law with local wisdom (customary law) in practical, field-level implementation. Moreover, in-depth analyses of structural barriers hindering both preventive and restorative enforcement of environmental law remain limited. This study provides a novel perspective by assessing the extent to which existing legal mechanisms effectively address the complexity of environmental disputes in Indonesia, while offering strategic recommendations to enhance the functional capacity of environmental law. The objectives of this study are to:

1) Analyze the effectiveness of current legal mechanisms for resolving environmental disputes in Indonesia through both litigation and non-litigation channels, with particular emphasis on mediation and administrative approaches;
2) Examine the degree to which customary law can be harmoniously integrated with national law in managing environmental conflicts involving indigenous and local communities; and
3) Identify factors that undermine the implementation of environmental law, including issues related to enforcement, institutional coordination, and community participation.

2. RESEARCH METHODOLOGY

This study employs a normative legal approach, a research method grounded in the analysis of written legal norms. This approach was selected because the focus of the

[11] Samhan Nafi' BS, "Penegakan Hukum Administrasi Dalam Perlindungan Dan Pengelolaan Lingkungan Hidup Di Indonesia," *Unes Law Review* 6, no. 4 (2024): 10099–115, https://doi.org/10.31933/unesrev.v6i4.1983.

[12] Hakim Fadhilah et al., "Implementasi Undang-Undang Nomor 32 Tahun 2009 Tentang Perlindungan Dan Pengelolaan Lingkungan Hidup Terhadap Kebersihan Lingkungan Masyarakat," *Cross-Border* 5, no. 2 (2022): 1190–1200, https://journal.iaisambas.ac.id/index.php/Cross-Border/article/view/1260.

study is to examine the effectiveness, appropriateness, and legal validity of environmental dispute resolution regulations in Indonesia, encompassing both litigation and non-litigation mechanisms, as well as their potential integration with customary law. Within this framework, law is conceptualized as a norm (das Sollen) rather than a social phenomenon (das Sein), thereby directing the analysis toward relevant statutes, legal principles, doctrines, and judicial decisions.

The study utilizes three categories of legal materials. Primary legal materials include the Environmental Protection and Management Law (PPLH Law), the Basic Agrarian Law (UUPA), the Mining Law (Minerba Law), the Supreme Court Regulation (PERMA) on mediation, and pertinent rulings from the Constitutional Court and other courts concerning environmental disputes. Secondary legal materials consist of legal literature, scholarly articles, research reports, and expert opinions related to environmental law and dispute resolution. Tertiary legal materials, such as legal dictionaries, encyclopedias, and bibliographic indexes, are employed to support argumentation and interpretation.

Data collection was conducted through a comprehensive literature review, tracing national and international legal databases including JDIH, the Supreme Court, and the Constitutional Court repositories. Legal analysis was performed using various interpretative methods, including grammatical, systematic, historical, teleological, and sociological approaches. The outcomes of these interpretations were analyzed argumentatively and comparatively to derive normative conclusions and formulate recommendations for relevant legal reforms.

3. RESEARCH RESULT AND DISCUSSION

3.1. Effectiveness of Legal Mechanisms in Resolving Environmental Disputes in Indonesia

This study aims to evaluate the effectiveness of legal mechanisms in resolving environmental disputes in Indonesia through both litigation and non-litigation channels, with particular emphasis on mediation and administrative approaches. The analysis focuses on the extent to which these mechanisms achieve ecological and social justice for affected communities while promoting corporate accountability for environmental restoration.

Nine representative environmental dispute cases were analyzed to illustrate prevailing resolution patterns in Indonesia. The findings indicate that, normatively, Law Number 32 of 2009 provides a comprehensive legal framework. However, practical implementation remains challenged by weaknesses in law enforcement and institutional responsiveness. Mediation, as a predominant non-litigation method, serves as the initial resolution pathway in most cases, including the Buyat Bay Case, Sroyo River Pollution, and Pond Abrasion by PT Kayu Lapis Indonesia. Nonetheless, its effectiveness is

limited; while mediation often results in compensation for victims, it frequently neglects holistic environmental recovery and tends to be transactional in nature.

Administrative approaches, exemplified by the Balikpapan Oil Leak and PT Marimas cases, typically involve the imposition of administrative sanctions on corporate actors. These sanctions are generally mild and lack enforceable obligations for long-term ecological restoration. In several instances, environmental violations result solely in administrative fines without accompanying criminal prosecution, despite significant community impacts. Litigation as a formal dispute resolution channel has been employed in cases such as the DKI Jakarta Residents' lawsuit over air pollution. Although the judiciary has made notable progress—ruling partially in favor of residents and mandating stricter government regulation of air quality—field implementation of these decisions remains minimal, highlighting a disconnect between formal and substantive justice.

A clear failure to enforce legal norms is evident in the Lapindo Mud case, where conflicts between state and corporate responsibilities delayed resolution. Law enforcement has been unable to concretely affirm accountability for environmental remediation. Community participation in dispute resolution remains limited, with most residents only engaged post-impact. The principle of participation enshrined in Articles 65 and 66 of Law No. 32 of 2009 has yet to be effectively implemented in a preventive manner. The results suggest that the effectiveness of legal mechanisms in resolving environmental disputes in Indonesia remains suboptimal. Non-litigation channels such as mediation and administrative sanctions have not fully guaranteed ecological justice for affected parties. Litigation, while more formal and capable of establishing legal precedent, is often protracted, costly, and yields decisions that are poorly enforced. Mediation facilitates dialogue between disputants but, without robust regulatory frameworks and independent oversight, outcomes tend to favor economically and politically dominant parties. Administrative sanctions lack sufficient deterrent effect due to weak supervision and lenient penalties. Furthermore, litigation processes impose burdens of proof and access barriers that disadvantage victimized communities.

These findings corroborate the conclusions of Wantua et al., who identified structural obstacles to mediation in Indonesia, particularly following the ambiguous legal status of the Job Creation Law.[13] Consistent with Pertiwi et al., who highlight the critical role of customary law in resolving environmental conflicts, this study also finds that the state's approach to indigenous peoples remains subordinate and has yet to be effectively integrated into the national legal system.[14]

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[13] Wantua et al., "Eksistensi Mediasi Sebagai Salah Satu Bentuk Penyelesaian Sengketa Lingkungan Hidup Pasca Berlakunya Undang-Undang Cipta Kerja."

[14] Pertiwi, Sakdiyah, and Rian, "Implementasi Hukum Adat Dalam Penyelesaian Sengketa Lingkungan: Studi Etnografis Di Kawasan Hutan Adat."

Wicaksono et al. emphasize the weak political will in addressing agrarian conflicts, a point further confirmed by the cases involving PT Multi Harapan Utama and PT Inti Indorayon, which illustrate how corporate power often eclipses legal protections for local communities.[15] In this context, the proposal by Koeswahyono and Maharani for establishing an Agrarian Court is particularly relevant, as it responds to the urgent need for a fair and expeditious resolution of complex natural resource disputes.[16]

This study identifies three primary factors underpinning the limited effectiveness of environmental dispute resolution mechanisms in Indonesia: weak law enforcement, insufficient community participation, and overlapping regulations across sectors. First, law enforcement remains predominantly reactive and administrative, with sanctions rarely accompanied by concrete environmental restoration obligations. Second, community access to justice is constrained by information deficits, financial barriers, and limited legal assistance. Third, conflicts between the Environmental Law and sectoral legislation such as the Mining Law (Minerba Law) and Forestry Law undermine the enforcement of environmental protections, a loophole frequently exploited by business actors to evade accountability.

The study underscores that mediation and administrative dispute resolution are only effective when supported by a genuine state commitment to transparency, accountability, and community participation. Furthermore, the presence of independent and robust law enforcement institutions is crucial. Despite a relatively comprehensive normative legal framework, the environmental dispute resolution system in Indonesia faces significant implementation challenges. Without institutional strengthening, regulatory harmonization, and enhanced community capacity, both litigation and non-litigation mechanisms will continue to demonstrate limited efficacy.

These findings confirm that mediation should be viewed not as a conclusive solution but as an initial instrument that requires support through binding legal obligations, including ecosystem restoration and recognition of affected communities' rights.[17] Similarly, administrative approaches must be reinforced by stringent sanctions that incentivize behavioral change among business actors. Litigation remains vital for establishing legal precedents[18], but procedural simplification is necessary to improve public accessibility. Looking ahead, regulatory reform is imperative to clarify the interplay between sectoral laws and to promote dispute resolution mechanisms grounded in ecological justice and restorative principles.

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15 Wicaksono, Bagas, and Reyhansyah, "Penyelesaian Sengketa Dan Konflik Pertanahan Di Indonesia: Kajian Politik Hukum."

16 Koeswahyono and Maharani, "Rasionalisasi Pengadilan Agraria Di Indonesia Sebagai Solusi Penyelesaian Sengketa Agraria Berkeadilan."

17 Djumardin Djumardin, "Mediasi Sebagai Pilihan Penyelesaian Perselisihan," *Jatiswara* 30, no. 3 (2015): 479–92, https://doi.org/10.29303/jtsw.v30i3.115.

18 Jacqueline Peel and Hari M. Osofsky, "Litigation as a Climate Regulatory Tool. Legitimacy of Outcomes: Performance, Effects (and Side-Effects)," in *International Judicial Practice on the Environment*, ed. Christina Voigt (Cambridge: Cambridge University Press, 2019), 311–36, https://doi.org/10.1017/9781108684385.013.

3.2. Integration of Customary Law into the National Legal System for Resolving Environmental Conflicts in Indonesia

This study examines the extent to which customary law has been harmoniously integrated into Indonesia's national legal framework for resolving environmental conflicts involving indigenous peoples and local communities. This inquiry stems from the recognition that indigenous groups are disproportionately affected by natural resource exploitation, yet their legal status within the national system remains functionally precarious. Analysis of nine major environmental conflict cases in Indonesia reveals persistent tensions among state law, corporate interests, and community rights. A recurring pattern emerges, characterized by inadequate recognition and protection of indigenous peoples' rights throughout conflict resolution and decision-making processes.

For instance, in the case of PT Multi Harapan Utama in Kutai, despite mediation efforts facilitated by the National Human Rights Commission (Komnas HAM) and the Regional House of Representatives (DPRD), indigenous peoples continued to face criminalization. This exemplifies the state's failure to elevate customary law as an equal and legitimate basis for dispute resolution. Although Article 63 of Law No. 32 of 2009 acknowledges community roles in environmental protection—including those of indigenous peoples—lack of concrete recognition of customary rights relegates these communities to subordinate positions.

Similarly, in the cases of Tambak Abrasion by PT Kayu Lapis Indonesia and pollution by PT Inti Indorayon Utama, non-litigation approaches such as mediation and demonstrations were employed. However, formal legal proceedings did not explicitly recognize customary law's role in shaping ecologically and socially just settlements. Only in the Sroyo River pollution case and the Air Pollution lawsuit in Jakarta did community participation become more pronounced; nevertheless, this involvement occurred primarily within the formal legal domain rather than through empowerment of customary law institutions. This indicates that community success in seeking justice largely depends on access to state law rather than on strengthening customary law frameworks.

The case analyses suggest that customary law remains insufficiently integrated within Indonesia's environmental dispute resolution system. State law continues to dominate, with customary law often relegated to symbolic or informal roles. Although legislation such as Articles 63 and 65 of Law No. 32 of 2009 formally recognizes indigenous participation, implementation at the grassroots level falls short of providing substantive protection. The integration of customary and national law has yet to develop within a genuinely collaborative framework that ensures ecological justice. Mediation processes frequently exclude key customary stakeholders, while decision-making remains centralized within formal institutions. Consequently, conflict resolution

mechanisms often lack sensitivity to the cultural values and indigenous justice systems essential for sustainable and equitable environmental governance.

The findings of this study corroborate those of Pertiwi et al., who highlight that although customary law holds significant potential for restorative dispute resolution, its effectiveness is constrained by the lack of formal recognition within the state legal framework. While approximately 75% of conflicts in customary forest areas are resolved through indigenous deliberative processes, these outcomes lack binding legal force without integration into the national legal system.[19] This study also aligns with Wicaksono et al., who underscore the weak political will in addressing agrarian conflicts[20], and with Koeswahyono and Maharani, who advocate for the establishment of an Agrarian Court as a specialized judicial body responsive to the socio-cultural realities of indigenous communities. Both studies emphasize the need for adaptive legal mechanisms that reflect local contexts.[21]

Conversely, Prabu et al. and Wantua et al. emphasize mediation as a key instrument for environmental dispute resolution, yet they offer limited discussion on incorporating customary legal principles within mediation processes. This study addresses that gap by demonstrating that the efficacy of mediation heavily depends on the formal recognition of local customary law as a legitimate source of authority. The absence of a formalized system recognizing customary law-based settlements renders such resolutions vulnerable to annulment under state legal mechanisms.[22] In contrast, indigenous communities employ consensus-driven settlement frameworks grounded in local values such as deliberation, collective compensation[23], and ecological restoration, which are congruent with principles of ecological justice.

Effective integration can only be achieved if the state moves beyond asserting the supremacy of national law and instead fosters a framework of legal pluralism that enables equitable collaboration between formal and customary legal systems. This principle is exemplified by the Free, Prior, and Informed Consent (FPIC) approach, which mandates the full participation of indigenous peoples in decisions affecting their

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19 Pertiwi, Sakdiyah, and Rian, "Implementasi Hukum Adat Dalam Penyelesaian Sengketa Lingkungan: Studi Etnografis Di Kawasan Hutan Adat."

20 Wicaksono, Bagas, and Reyhansyah, "Penyelesaian Sengketa Dan Konflik Pertanahan Di Indonesia: Kajian Politik Hukum."

21 Koeswahyono and Maharani, "Rasionalisasi Pengadilan Agraria Di Indonesia Sebagai Solusi Penyelesaian Sengketa Agraria Berkeadilan."

22 Prabu et al., "Penyelesaian Sengketa Lingkungan Di Luar Pengadilan Pada Persoalan Hukum Perdata Dan Hambatannya: Analisa Undang-Undang Nomor 32 Tahun 2009 Tentang Perlindungan Dan Pengelolaan Lingkungan Hidup"; Wantua et al., "Eksistensi Mediasi Sebagai Salah Satu Bentuk Penyelesaian Sengketa Lingkungan Hidup Pasca Berlakunya Undang-Undang Cipta Kerja."

23 Na'imatur Rohimah, "Peran Perangkat Adat Desa Dalam Penyelesaian Sengketa: Pendekatan Hukum Peradilan Adat Di Aceh," *Maliki Interdisciplinary Journal* 1, no. 5 (2023): 67–74, https://urj.uin-malang.ac.id/index.php/mij/article/view/4916.

environment.[24] However, the harmonization of customary and national law is hindered by overlapping and sometimes conflicting regulations, notably among the Minerba Law, Forestry Law, and Environmental Law. This regulatory ambiguity creates loopholes exploited by industry actors to evade accountability, simultaneously weakening the bargaining power of local communities.

This study confirms that the integration of customary law within Indonesia's national legal system remains largely procedural rather than substantive. Despite formal recognition of indigenous rights in various statutes, such acknowledgment has yet to translate into concrete protections—such as securing indigenous territories, incorporating customary deliberation in mediation, and ensuring enforceability of settlements grounded in customary law. Accordingly, this study advocates for:

1) Reformulation of environmental and agrarian policies to explicitly recognize customary law as a legitimate source of law.
2) Strengthening of local institutions through the establishment of state-recognized, indigenous community-based dispute resolution bodies.
3) Harmonization of sectoral regulations to prevent conflicts between environmental justice principles and indigenous rights.
4) Full implementation of the FPIC principle in all natural resource development projects affecting indigenous territories.
5) Promotion of legal pluralism that complements rather than subordinates customary law to national law, recognizing that ecological justice depends on respecting local values, wisdom, and legal traditions.

3.3. Factors Undermining the Implementation of Environmental Law in Indonesia

This study aims to identify and analyze the key factors that undermine the effective implementation of environmental law in Indonesia, with particular emphasis on three principal dimensions: law enforcement, inter-agency coordination, and community participation. Despite the existence of Law No. 32 of 2009 concerning Environmental Protection and Management (UU PPLH), numerous environmental cases reveal a persistent gap between the robust legal framework and its practical enforcement. This research investigates why these legally strong provisions have failed to translate into tangible environmental protection on the ground. Nine representative environmental cases were examined, encompassing issues such as pollution, ecological degradation,

[24] Ikbal Ikbal, "Prinsip Free And Prior Informed Consent Terhadap Perlindungan Masyarakat Adat Atas Tanah Dalam Perspektif Hukum Hak Asasi Manusia Internasional," *Fiat Justisia: Jurnal Ilmu Hukum* 6, no. 3 (2015): 1–16, https://doi.org/10.25041/fiatjustisia.v6no3.352.

and conflicts over land and natural resources. The case analyses reveal consistent and concerning patterns of implementation weaknesses:

1) Weak and inconsistent law enforcement.
   The Buyat Bay and Balikpapan oil spill cases demonstrate that although environmental violations were substantial and caused widespread harm, the legal sanctions imposed were predominantly light administrative penalties, lacking proportional requirements for environmental remediation. In the Lapindo mudflow case, the ongoing dispute over state versus corporate responsibility led to legal stagnation and unclear accountability for ecological damage.
2) Insufficient institutional coordination.
   In the case of PT Multi Harapan Utama in Kutai, conflicting interests between local government, the Ministry of Energy and Mineral Resources, and the Ministry of Environment and Forestry resulted in inadequate coordination to resolve land disputes, ultimately contributing to the criminalization of indigenous communities. Moreover, weak integration between the PPLH Law and the Minerba Law exacerbated these challenges.
3) Limited community involvement and restricted access.
   Instances such as the pond abrasion caused by PT Kayu Lapis and pollution in the Sroyo River illustrate that affected residents are often excluded from initial decision-making processes, including environmental impact assessments (AMDAL). Even when communities initiate mediation or litigation, outcomes rarely yield substantive changes. Additionally, awareness of legal rights among local populations remains minimal.
4) Overlapping and conflicting sectoral regulations.
   Cases involving PT Inti Indorayon and PT Marimas reveal how sectoral laws in forestry, mining, and industry create regulatory loopholes that facilitate industrial expansion despite direct environmental consequences. The inconsistencies between these sectoral statutes and the PPLH Law create opportunities for corporate exploitation.
5) Lack of commitment to ecological restoration.
   Across nearly all cases, environmental remediation is not prioritized. Resolutions tend to focus on administrative sanctions or individual compensation—such as in Buyat Bay or Lapindo—without implementing sustainable policies for ecosystem rehabilitation.

In conclusion, the study identifies three primary factors that weaken environmental law enforcement in Indonesia:

1) Ineffective and reactive law enforcement.

Although criminal, civil, and administrative sanctions are stipulated in the PPLH Law, enforcement remains suboptimal. Penalties tend to be symbolic rather than deterrent, failing to address environmental harm adequately.

2) Fragmented institutional coordination and regulatory overlap.
The lack of integrated mechanisms among technical ministries and enforcement agencies results in protracted and unclear case resolutions. Sectoral laws often prioritize economic and political interests, conflicting with environmental protection principles.

3) Minimal community participation and restricted access to information.
Communities lack sufficient legal literacy, are often excluded from participatory decision-making, and face barriers to accessing complaint procedures or legal assistance.

The findings of this study align with those of Nurlinda, who identified weak regulatory implementation as a principal factor contributing to escalating conflicts and environmental degradation.[25] Similarly, Wantua et al. observed that despite mediation being formally regulated, its effectiveness remains constrained by ambiguous authority and deficient technical execution.[26] Moreover, Pertiwi et al. emphasized the critical importance of recognizing customary law as a genuine form of community participation.[27] However, in the majority of cases examined, customary law was either disregarded or marginalized, as exemplified by the PT Multi Harapan Utama case. Koeswahyono and Maharani proposed the creation of a specialized agrarian court to more appropriately and sensitively address conflicts through the lens of social and environmental justice.[28] The present study underscores the urgent need to reform such legal institutions, given that general courts frequently fail to prioritize ecological justice.

From a theoretical perspective, the weak enforcement of environmental law reflects a structural failure to realize environmental justice. The state has yet to successfully integrate core principles—such as sustainability, the precautionary principle, and intergenerational equity—into its environmental policies. Transactional resolutions, including financial compensation without accompanying ecological restoration, merely treat symptoms rather than address underlying causes.

Furthermore, law enforcement practices tend to favor investment interests over environmental protection. For instance, the Mineral and Coal Mining Law (Minerba Law) and the Job Creation Law prioritize investment certainty, often treating

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[25] Nurlinda, "Kebijakan Pengelolaan Sumber Daya Alam Dan Dampaknya Terhadap Penegakan Hukum Lingkungan Indonesia."

[26] Wantua et al., "Eksistensi Mediasi Sebagai Salah Satu Bentuk Penyelesaian Sengketa Lingkungan Hidup Pasca Berlakunya Undang-Undang Cipta Kerja."

[27] Pertiwi, Sakdiyah, and Rian, "Implementasi Hukum Adat Dalam Penyelesaian Sengketa Lingkungan: Studi Etnografis Di Kawasan Hutan Adat."

[28] Koeswahyono and Maharani, "Rasionalisasi Pengadilan Agraria Di Indonesia Sebagai Solusi Penyelesaian Sengketa Agraria Berkeadilan."

environmental safeguards as administrative hurdles. This orientation discourages rigorous legal enforcement. The deficiency in public participation similarly reflects an underdeveloped ecological democracy; limited access to information, legal education, and protection undermines public oversight of environmentally harmful industries. This study advocates for a comprehensive reform of Indonesia's environmental legal framework, centered on three critical pillars:

1) Strengthening law enforcement: Environmental enforcement officers must be empowered with adequate authority, resources, and protections to act decisively against polluters. The application of environmental criminal sanctions should serve as a last resort (ultima ratio), especially in cases with systemic impacts.
2) Reformulation and harmonization of sectoral regulations: The Environmental Management Law should serve as the overarching legal framework binding all sectors, preventing sector-specific statutes—such as the Mineral and Coal Mining Law or Plantation Law—from undermining environmental protection. The coordinating authority vested in the Ministry of Environment and Forestry must be enhanced through a binding cross-sectoral governance system.
3) Enhancing community participation and education: Access to justice mechanisms must become more inclusive and transparent, particularly for indigenous and rural communities. This includes simplifying environmental litigation processes, involving citizens in environmental impact assessments (AMDAL), and supporting community-based legal aid initiatives.

The results of this study reveal that Indonesia's environmental crisis is as much an institutional and justice crisis as it is an ecological one. Without robust enforcement, effective coordination, and genuine community engagement, environmental protection risks remaining a mere rhetorical commitment. Political resolve, legal reform, and a collaborative multi-stakeholder approach are imperative to transform environmental law into an effective instrument for achieving ecological justice and safeguarding the interests of future generations.

4. CONCLUSION

This study aims to examine the effectiveness of legal mechanisms for resolving environmental disputes in Indonesia by analyzing both litigation and non-litigation approaches, evaluating the integration of customary law within the national legal framework, and identifying key implementation challenges—particularly in the areas of law enforcement, institutional coordination, and community participation. An analysis of nine prominent environmental cases reveals that, despite the existence of a relatively comprehensive legal foundation under Law No. 32 of 2009 on Environmental

Protection and Management, significant obstacles persist in its practical implementation.

The findings indicate that litigation processes are often protracted and fail to deliver substantive justice, while non-litigation mechanisms—such as mediation and administrative procedures—tend to be procedural in nature, lacking enforceability and failing to ensure environmental restoration or the protection of affected communities' rights. Although customary law is normatively recognized, its operational integration into environmental dispute resolution remains limited and inconsistent. Moreover, structural imbalances—such as the asymmetry between corporate interests and local communities—are compounded by weak inter-agency coordination, overlapping sectoral regulations, and limited public access to legal information and environmental justice mechanisms.

This study contributes to a comprehensive understanding of the structural barriers in Indonesia's environmental dispute resolution system and offers strategic recommendations grounded in both normative and socio-legal perspectives. Nevertheless, this study is constrained by its limited case coverage and the absence of a deeper political-economic analysis. As a policy recommendation, it is essential to harmonize sectoral legislation with the Environmental Protection and Management Law, strengthen the institutional recognition and application of customary law, and enhance community participation through the implementation of the principle of Free, Prior, and Informed Consent (FPIC).

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