From Recognition to Legal Protection of Customary Land Rights: Evidence from Malaysia and Philippines

Mexsasai Indra [a,*], Ismandianto [b], Muchid Albintan [c,*], Fabli Yusof [c], Agus Riwanto [d]

[a] Faculty of Law, University of Riau, Pekanbaru, Indonesia.
[b] Faculty of Social and Political Sciences, University of Riau, Pekanbaru, Indonesia.
[c] Fakulti Undang-Undang, Governan dan Hubungan Antarabangsa, Universiti Kebangsaan Malaysia, Malaysia.
[d] Faculty of Law, Universitas Sebelas Maret, Surakarta, Indonesia.

* Corresponding Author: mexsasai.indra@lecturer.unri.ac.id

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ABSTRACT

Indonesia recognizes customary land rights through its constitutional framework, however regional authorities continue to face difficulties in providing effective legal protection for these rights. This study investigates the legal and administrative barriers that limit the recognition and implementation of decisions issued by Malay customary institutions in Riau Province. It also examines how Malaysia and the Philippines address comparable challenges in customary land governance. The research adopts a qualitative approach combining empirical legal inquiry and comparative legal analysis in Bengkalis Regency and Dumai City. Data collection involved interviews with 18 key informants, two focus group discussions, field observations, and documentary examination. The researchers analyzed the evidence through thematic coding, triangulation, and functional comparison across the three jurisdictions. The findings reveal three significant issues. First, the absence of formal procedures for receiving and recording customary decisions prevents regional authorities from translating customary recognition into effective administrative protection. Second, Malaysia's limited administrative mechanisms contribute to prolonged litigation, while the Philippines encounters difficulties integrating recognized customary interests into its formal land registration system. Third, the research develops an institutional framework that combines participatory legal communication, customary mediation, and stronger administrative capacity within existing regional government powers.

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Introduction

In Riau Province, claims over customary territory are repeatedly raised by Malay customary law communities against the holders of plantation and forestry concessions.[1] One documented case from the study area shows the pattern. In *Dusun Suluk Bongkal*, *Koto Pait Beringin* Village, Bengkalis Regency, the Sakai community has been in conflict with the industrial forest concession of PT Arara Abadi since the concession was granted by Ministerial Decree Number 743/Kpts-

[1] Simon Manda and Lizzy Banda, "Seeing like the State? Customary Land Pressures and Fracturing Tenure Systems in Rural Zambia," *Land Use Policy* 132 (2023): 106833, https://doi.org/10.1016/j.landusepol.2023.106833.

II/1996; a forced eviction with the loss of two children was recorded in December 2008, mediation meetings were convened by the sub-district head and the Bengkalis Regional House of Representatives in 2012 and in 2015 and were recorded in minutes, and yet a community member was prosecuted in 2020 for clearing land inside the claimed area and a new clash over the same land was reported in 2021.[2] The minutes of the mediation were kept, but they were never converted into a legal status for the land, and the conflict returned. The claim of the community is supported by a decision of a customary institution and by a boundary that has been recognised inside the community for generations, while the concession is supported by a permit issued by a state authority.[3] Such disputes are not produced only by a conflict between two legal norms.[4] They are produced by the absence of a procedure through which the decision of a customary institution can be placed in the administrative file on which the matter is decided.[5]

Recognition itself is not in doubt. Customary law community units and their traditional rights are recognised and respected under Article 18B paragraph (2) of the 1945 Constitution, and cultural identity and traditional rights are protected under Article 28I paragraph (3). *Ulayat* rights are acknowledged in Article 3 of the Basic Agrarian Law, customary forest was removed from the category of state forest by Constitutional Court Decision Number 35/PUU-X/2012, and customary villages are provided for in the Village Law.[6] The Indonesian legal system therefore contains statutory, religious, customary and judicial normativity at the same time.[7] The question examined in this study is not whether customary law is recognised, but whether that recognition is translated into enforceable legal status, administrative authority, territorial protection and a remedy at the regional level.[8] Under regional autonomy, regional governments are placed between the state and local communities, but legal communication is rarely participatory, and national

[2] Philip Aniah et al., "Land Use Transitions and Tenure Dynamics in Ghana's Savannah: Exploring the Socio-Environmental Nexus in West Gonja," *Social Sciences & Humanities Open* 14 (2026): 103619, https://doi.org/10.1016/j.ssaho.2026.103619.

[3] Akalu Assfaw Wolde, "Assessing the Dynamic Impact of Formal and Perceived Land Rights on Fruit Tree Cultivation: Exploring the Moderating Role of Forest Ecology, Gender, and Land Acquisition Method," *Trees, Forests and People* 20 (2025): 100871, https://doi.org/10.1016/j.tfp.2025.100871.

[4] Hasnah Faizah et al., "Customary Leadership and Sustainable Development: The Role of Niniok Mamak Nan 20 in Village Governance and Cultural Preservation in Kampar, Indonesia," *Social Sciences & Humanities Open* 14 (2026): 103534, https://doi.org/10.1016/j.ssaho.2026.103534.

[5] Sanne Akerboom and Robin Kundis Craig, "How Law Structures Public Participation in Environmental Decision Making: A Comparative Law Approach," *Environmental Policy and Governance* 32, no. 3 (2022): 232–46, https://doi.org/10.1002/eet.1986.

[6] Lloyd J S Baiyegunhi, Femi E Oni, and Ajibade O Adeoye, "Land Tenure Security and Sustainability-Oriented Household Welfare among Smallholder Farmers: Evidence from Southwest Nigeria," *Environmental and Sustainability Indicators* 32 (2026): 101631, https://doi.org/10.1016/j.indic.2026.101631.

[7] L A Fredrick, C Lucian, and J Urassa, "Women and Land Rights: The Impact of Formalization in Tanzania's Coastal Region," *Research in Globalization* 10 (2025): 100288, https://doi.org/10.1016/j.resglo.2025.100288.

[8] Raphael Kweyu and Stephen Kehinde Medase, "Land Inequality and Spatial Dimension: Evidence from Household Surveys," *Trees, Forests and People* 27 (2026): 101396, https://doi.org/10.1016/j.tfp.2026.101396.

regulations are therefore often felt as foreign while customary law is pushed aside.[9]

The problem is visible in the regional regulations of Riau itself. A provincial regulation on *ulayat* land was issued in 2015, but two of its provisions were annulled by the Supreme Court in 2018 on the application of Talang Mamak and *Batu Songgan* customary communities, because the provisions opened customary land to mining and investment interests, and the regulation has not been revised since.[10] A second provincial regulation on the recognition of customary law communities was issued in 2018, but it is tied to environmental protection and does not provide a general procedure for the receipt of customary decisions.[11] At the national level, the land ministry introduced in 2024 a Register of *Ulayat* Land that can be followed by a right of management, and this instrument removed the earlier requirement that a regional regulation must exist before registration is possible; the instrument was, however, criticised by indigenous organisations for its lack of participation and for its repetition of earlier procedures.[12] Technical guidelines on how customary decisions are to be received by regional officials are still missing, so integration is handled case by case and usually only after a conflict has appeared.[13]

A similar disparity between legal recognition and practical implementation persists in customary forest governance. The Constitutional Court requires regional governments to formally recognize customary law communities through regional legal instruments before the relevant authorities can determine their customary forest status. However, Riau remains among the provinces that have yet to adopt the necessary legal instruments. Research conducted in Aceh further reveals that formal recognition alone does not guarantee effective protection, as authorities have officially recognized only a limited proportion of the customary forest areas claimed by local communities, despite the existence of relevant regional regulations.[14] Land disputes, forest conflicts and disagreements over

[9] Bruno Barbosa Borges, "Legal Pluralism, Indigenous Rights and the Inter-American Corpus Iuris," *UNIO – EU Law Journal* 7, no. 2 (2021): 60–76, https://doi.org/10.21814/unio.7.2.4028.
[10] Baslyd B Nara, Monica Lengoiboni, and Jaap Zevenbergen, "Assessing Customary Land Rights and Tenure Security Variations of Smallholder Farmers in Northwest Ghana," *Land Use Policy* 104 (2021): 105352, https://doi.org/10.1016/j.landusepol.2021.105352.
[11] Dennis Kamaanaa Sumbo, "Indigenes' Exclusion from Neo-Customary Land: A Perspective from Changes in Usufruct Rights in Pramso, Peri-Urban Kumasi – Ghana," *Land Use Policy* 120 (2022): 106268, https://doi.org/10.1016/j.landusepol.2022.106268.
[12] James S Kaba et al., "Towards Equitable Access to Land for Cocoa Farming: The Role of Customary Land Tenure System in Migrant and Female Cocoa Farmers Decision to Adopt Good Agronomic Practices in Ghana," *Trees, Forests and People* 22 (2025): 100987, https://doi.org/10.1016/j.tfp.2025.100987.
[13] Malin Olofsson, "Expanding Commodity Frontiers and the Emergence of Customary Land Markets: A Case Study of Tree-Crop Farming in Venda, South Africa," *Land Use Policy* 101 (2021): 105203, https://doi.org/10.1016/j.landusepol.2020.105203.
[14] Sakeus Kadhikwa, Michael Bollig, and Stéphanie Eileen Domptail, "Pan-Ontological Institutional Bricolage? The Urgent Need for a Dialogue between State and Customary Authorities in Namibian Conservancies," *Land Use Policy* 161 (2026): 107887, https://doi.org/10.1016/j.landusepol.2025.107887.

customary sanctions are repeated in the same areas, and legal protection for marginalised groups is delayed.[15]

Previous studies have examined the role of legal pluralism and participatory legal communication in strengthening the relationship between customary legal systems and formal state institutions.[16] It has been reported that the legitimacy and the effectiveness of local regulations are increased when indigenous communities are involved in the law-making process, and it has been argued that legal integration depends on intermediary institutions that are able to open dialogue between different legal systems.[17] Studies on Indonesian customary law have documented the persistence of *ulayat* land as living law in Baduy, Minangkabau and Riau communities, and the effectiveness of customary dispute settlement in comparison with formal mechanisms.[18] Comparative work on customary law and modern legal systems has shown that recognition and effective protection are different stages, and that the courts of plural jurisdictions have often become the place where customary land claims are decided when no administrative route is open.[19] A recent article in this journal compared the Indonesian regional framework with the Philippine National Commission on Indigenous Peoples and concluded that implementation, not recognition, is the weak point.[20] However, most of this work is conceptual or is limited to one jurisdiction, and the lessons of neighbouring plural jurisdictions have not been translated into a procedure that can be applied by an Indonesian regional government.[21]

Two limits of the existing literature are therefore addressed here. First, the barrier to protection has usually been explained as a clash of norms between state law and customary law; the possibility that the barrier is administrative, that is, the absence of a destination for customary decisions, has not been tested with field

[15] Tegan Brock, Maureen G Reed, and Katherine J Stewart, "Indigenous Community Participation in Resource Development Decision-Making: Practitioner Perceptions of Legal and Voluntary Arrangements," *Journal of Environmental Management* 283 (2021): 111922, https://doi.org/10.1016/j.jenvman.2020.111922.

[16] Doni Wainiqolo, Joeli Varo, and Digby Race, "Hybrid Land Governance and Customary Tenure: Coexistence of Communitarian and Contractarian Practices in Naraiyawa Village, Fiji," *Land Use Policy* 166 (2026): 107961, https://doi.org/10.1016/j.landusepol.2026.107961.

[17] Sandra F Joireman and Rosine Tchatchoua-Djomo, "Post-Conflict Restitution of Customary Land: Guidelines and Trajectories of Change," *World Development* 168 (2023): 106272, https://doi.org/10.1016/j.worlddev.2023.106272.

[18] Stephen Kehinde Medase and Maxwell Sifuna, "How Government Performance, Informational Environment, Trust, and Traditional Authority Shape Local Land Governance in Africa," *Land Use Policy* 171 (2026): 108236, https://doi.org/10.1016/j.landusepol.2026.108236.

[19] Sarah Walker et al., "Overlapping Land Rights and Deforestation in Uganda: 20 Years of Evidence," *Global Environmental Change* 82 (2023): 102701, https://doi.org/10.1016/j.gloenvcha.2023.102701.

[20] Abdul-Rasheed Amidu, Alirat Olayinka Agboola, and Muhammed Bolomope, "How Do Key Actors and Governance Structures Interact in Large-Scale Land Acquisition? An Institutional Theory Perspective," *Land Use Policy* 164 (2026): 107963, https://doi.org/10.1016/j.landusepol.2026.107963.

[21] Buluma Bwire, "Integration of African Customary Legal Concepts into Modern Law: Restorative Justice: A Kenyan Example," *Societies* 9, no. 1 (2019), https://doi.org/10.3390/soc9010017.

data.[22] Second, comparison has been used to describe other jurisdictions, but not to identify which element of those jurisdictions produces protection and which does not.[23] This study is aimed at (1) explaining the structural and communicative barriers to the integration of customary decisions into regional legal governance in Riau; (2) comparing, on the basis of function, the administrative destination given to customary land claims in Indonesia, Malaysia and the Philippines; and (3) formulating and validating an operational framework by which a customary decision on customary land can be received, recorded and given administrative effect inside the competences that regional governments already hold.[24] The object of protection is delimited to customary land and natural-resource rights, that is, *tanah ulayat* and customary forest held by Malay customary law communities; cultural identity and community autonomy are treated only where they bear on that object.[25]

This study addresses a significant practical challenge in protecting customary land rights. Without clear and effective administrative procedures, formal recognition provides limited legal protection, allowing longstanding land disputes to persist and recur within the same communities. Furthermore, the provincial regulation on *ulayat* land currently under preparation in Riau may encounter the same implementation difficulties that have constrained the effectiveness of the 2015 regulation. These circumstances highlight the importance of establishing an institutional framework that translates legal recognition into enforceable rights, strengthens administrative accountability, and provides effective mechanisms for resolving customary land disputes.[26] The legal problem examined here is stated as follows: a decision taken by a customary institution over customary land is accepted inside the community and is treated as binding there, but no procedure exists through which that decision can enter the administrative record of the regional government, so the decision cannot be converted into a legal position that is protected against a third party.[27]

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[22] Jordan Chamberlin, William J Burke, and Hambulo Ngoma, "Smallholder Farm Management under Evolving Land Institutions: Evidence from Zambia," *Land Use Policy* 166 (2026): 108011, https://doi.org/10.1016/j.landusepol.2026.108011.

[23] Getie Gebrie Eshetie, Berhanu Kefale Alemie, and Abebe Mengaw Wubie, "Barriers to Responsible Land Tenure Governance in Advancing Land Degradation Neutrality: Insights from Alawuha Watershed of North Wello Zone, Ethiopia," *Current Research in Environmental Sustainability* 11 (2026): 100355, https://doi.org/10.1016/j.crsust.2026.100355.

[24] Oluwafemi Adekola, Pauliina Krigsholm, and Kirsikka Riekkinen, "Adapted Institutional Analysis and Development Framework for Understanding Customary Land Institutions in Sub-Saharan Africa – A Case Study from Nigeria," *Land Use Policy* 131 (2023): 106691, https://doi.org/10.1016/j.landusepol.2023.106691.

[25] Melisa M Chawaremera, "Displaced Belongings: Indigenous Identity, Customary Law and the Struggles for Recognition in Post-Colonial Migration Systems," *Frontiers in Human Dynamics* 7 (2025): 1–9, https://doi.org/10.3389/fhumd.2025.1655777.

[26] Esther Makhetha, "Women in Agriculture in Southern Africa: Land Ownership, Labour and Social Structures," *Social Sciences & Humanities Open* 14 (2026): 103562, https://doi.org/10.1016/j.ssaho.2026.103562.

[27] Luis Miguel Silva-Novoa Sánchez et al., "Drivers of Conflict over Customary Land in the Middle Drâa Valley of Morocco," *World Development* 188 (2025): 106872, https://doi.org/10.1016/j.worlddev.2024.106872.

The argument established in this study is that the weakness of customary land protection in Riau is not caused mainly by a conflict of norms; it is caused by the absence of an administrative destination for customary decisions.[28] Where such a destination exists, the same normative difference does not prevent protection; where it does not exist, constitutional recognition remains declaratory.[29] The contribution is therefore procedural rather than normative, and the comparison with Malaysia and the Philippines is used to show that the argument holds beyond Indonesia.[30] Two working concepts are used throughout. Legal uncertainty is treated as a measurable state and is assessed through four indicators: whether a customary land claim has been given a status in the regional land record; whether a procedure exists through which a customary decision can be entered into an administrative file; whether the competent authority can be identified without dispute; and whether a remedy is available to the community when the claim is refused.[31] Legal communication is defined as the set of institutionalised procedures through which a legal norm, a claim or a decision is transmitted, translated and contested between state authorities and customary institutions, together with the record that the procedure leaves in the administrative file. It is therefore distinguished from public information, in which material is delivered but no record of the community position is produced.[32]

Research Method

A socio-legal qualitative case study was used, combined with a functional legal comparison. The socio-legal design was required by the research problem, not by the size of the research team.[33] The problem is whether a procedure exists in practice through which a customary decision reaches the administrative file of the regional government; the written regulations describe competences, but they do

[28] James Gbeku Alidzi et al., "Co-Governance for Green Infrastructure Preservation: Collaborative Strategies in Customary Land Tenure Cities of Sub-Saharan Africa," *Environmental Development* 57 (2026): 101315, https://doi.org/10.1016/j.envdev.2025.101315.

[29] Klaus Deininger et al., "Investment Impacts of Gendered Land Rights in Customary Tenure Systems: Substantive and Methodological Insights from Malawi," *World Development* 147 (2021): 105654, https://doi.org/10.1016/j.worlddev.2021.105654.

[30] Chidiogo Uzoamaka Akpuokwe et al., "The Impact of Judicial Reforms on Legal Systems: A Review in African Countries," *International Journal of Applied Research in Social Sciences* 6, no. 3 (2024): 198–211, https://doi.org/10.51594/ijarss.v6i3.850; Kasper Hoffmann et al., "On Violent Conflict, Land Scarcity, and Power in an Urban Frontier in Congo," *World Development* 201 (2026): 107337, https://doi.org/10.1016/j.worlddev.2026.107337; Yufeng Wu, "Between Constraint and Empowerment: Rural Homestead Land and Migrant Workers' Subjective Integration in Urban China," *Journal of Rural Studies* 126 (2026): 104282, https://doi.org/10.1016/j.jrurstud.2026.104282.

[31] Helena Hastie et al., "Plot, Power, Promises: Community Decision-Making at the Land-Energy Nexus in South Africa," *Energy Research & Social Science* 135 (2026): 104657, https://doi.org/10.1016/j.erss.2026.104657.

[32] Xuanwei Ma and Zheng You, "Regional Higher Education Governance in Transition: The Diffusion and Challenges of CAMPUS Asia in the Global South," *International Journal of Educational Development* 120 (2026): 103479, https://doi.org/10.1016/j.ijedudev.2025.103479.

[33] Smith Ouma and Malachi Odongo, "The Political Economy of Land Data Assemblages in Informal Settlements," *Geoforum* 171 (2026): 104606, https://doi.org/10.1016/j.geoforum.2026.104606.

not show what happens to a customary decision after it is signed.[34] That question can only be answered by observing the actors who produce, receive or refuse such decisions. A doctrinal analysis of the regulations was carried out first, so that the competences actually held by regional governments could be established, and the empirical data were then used to trace the route of a customary decision through those competences.[35] The research was carried out in Bengkalis Regency and Dumai City, Riau Province. Both locations were selected because Malay customary institutions are active there, because contact between customary communities and regional officials happens often, and because the Suluk Bongkal conflict described above is located in Bengkalis.[36] Informants were chosen purposively on the basis of their direct role in dispute settlement, customary leadership or regional legal governance.[37] Eighteen key informants were interviewed in depth, and two focus group discussions were held, one at each location, with representatives of customary institutions and regional offices. The composition of the informants is shown in Table 1. The identity of individual informants is protected by codes, which are used in the presentation of the findings.[38]

Table 1. Key Informants and Focus Group Discussions

Group	Code	Number	Role in relation to customary land
Customary council (*Majelis Kerapatan Adat*) members, LAMR Bengkalis and Dumai	CC-01 to CC-05	5	Decide customary land disputes; sign customary decisions
Executive committee (Dewan Pimpinan Harian) members and customary leaders (*batin, penghulu*)	EC-01 to EC-07	7	Prepare, document and disseminate customary decisions; represent the community before officials
Regional government officials (legal bureau, land and spatial planning office, forestry service, sub-district heads)	GO-01 to GO-04	4	Receive claims; issue or refuse administrative instruments
Academics (law and public administration)	AC-01 to AC-02	2	Expert view on the legal position of customary decisions
Focus group discussions	FGD-B, FGD-D	2	Validation of the barriers and of the draft framework in Bengkalis and Dumai

Source: Author's own analysis.

[34] Corinne J Unger, John Burton, and Deanna Kemp, "Abandoned Mine Clusters and Their Intersection with Indigenous Peoples' Land Rights in Australia," *Journal of Environmental Management* 385 (2025): 125357, https://doi.org/10.1016/j.jenvman.2025.125357.

[35] Yves Laumonier et al., "Economic Valuation of Ecosystem Services across Land-Use Scenarios in Borneo's Threatened Forest Frontier Landscapes," *Environmental and Sustainability Indicators* 32 (2026): 101587, https://doi.org/10.1016/j.indic.2026.101587.

[36] Abel Gwaindepi and Helen Akolgo-Azupogo, "Land Tenure Conflicts in Ghana and Zimbabwe: An Institutional Perspective," *World Development* 205 (2026): 107438, https://doi.org/10.1016/j.worlddev.2026.107438.

[37] Akkaş, "Sampling Methods in Qualitative Sampling in Multicultural Settings," in *Principles of Conducting Qualitative Research in Multicultural Settings*, 2024, 32–54, https://doi.org/10.4018/979-8-3693-3306-8.ch003.

[38] Loraine Busetto, Wolfgang Wick, and Christoph Gumbinger, "How to Use and Assess Qualitative Research Methods," *Neurological Research and Practice* 2, no. 1 (2020), https://doi.org/10.1186/s42466-020-00059-z.

Results and Discussion

Legal Recognition and Effective Protection of Customary Land Rights

The first objective requires that the barriers be located inside the competences that regional governments actually hold.[39] The document analysis shows that these competences are narrower than the manuscript literature usually assumes, and that the regional government cannot be described simply as a bridge between the state and the community.[40] Three points are established. First, the recording of customary territory is shared. Under the 2024 land ministry regulation, the identification of *ulayat* land is carried out with the participation of the regional government, but the entry in the Register of *Ulayat* Land and the later grant of a right of management are made by the land office and the minister; the regional government supplies information and a recommendation, and it no longer holds the gate that a regional regulation once formed.[41] Second, forestry is not a regional competence.[42]

After Constitutional Court Decision Number 35/PUU-X/2012, customary forest is no longer state forest, but its determination is still issued by the central ministry responsible for forestry, and a regional legal product that recognises the community is required as a condition.[43] Responsibilities that belong to central institutions must therefore not be attributed to regional authorities. Third, dispute settlement is facilitative.[44] No adjudicative power over customary land disputes is held by regional governments; what is held is the power to convene, to mediate, to record and to give administrative effect to a settlement through an instrument of the regional head, and the power to recognise a customary law community by a decree of the regent or mayor after verification by a committee, as provided by the Ministry of Home Affairs.[45] The provincial regulations on customary matters that were in force during the fieldwork are listed in Table 2. For each regulation, the

[39] Sonia Guelton et al., "Revisiting (Neo)Liberalism in Land Policy: Trends in Property Rights Regimes across Europe," *Land Use Policy* 160 (2026): 107843, https://doi.org/10.1016/j.landusepol.2025.107843.
[40] Ioana Botea et al., "Right to Stay? Long-Run Experimental Evidence on Land Formalization and Widows' Tenure Security in Benin," *Journal of Development Economics* 179 (2026): 103675, https://doi.org/10.1016/j.jdeveco.2025.103675.
[41] Wilson Kodwo McWilson, "Property Rights Misalignment in Peri-Urban Ghana: A Land Use Rights Transfer Framework with Lessons from China and Hong Kong," *Habitat International* 176 (2026): 103946, https://doi.org/10.1016/j.habitatint.2026.103946.
[42] Andi Rahmat Hidayat, Otto Hospes, and C.J.A.M. Termeer, "Uneven Recognition: A Comparative Study of Indigenous Communities' Struggle for Securing Customary Land Rights in Indonesia," *Land Use Policy* 167 (2026): 108061, https://doi.org/10.1016/j.landusepol.2026.108061.
[43] A Panman et al., "Customary Property Rights and Urban Property Values: Insights from Ingonyama Trust Lands in Durban, South Africa," *Land Use Policy* 171 (2026): 108266, https://doi.org/10.1016/j.landusepol.2026.108266.
[44] Yescha Nuradisa Ekarachmi Danandjojo, Samira Ramezani, and Johan Woltjer, "Layered Land Rights under Government-Led Decentralization: Implications for Land Value Capture Implementation in Jakarta, Indonesia," *Land Use Policy* 171 (2026): 108270, https://doi.org/10.1016/j.landusepol.2026.108270.
[45] Charity Bazaabadire Lankono, David Forkuor, and Festus Atribawuni Asaaga, "Examining the Impact of Customary Land Secretariats on Decentralised Land Governance in Ghana: Evidence from Stakeholders in Northern Ghana," *Land Use Policy* 130 (2023): 106665, https://doi.org/10.1016/j.landusepol.2023.106665.

presence or absence of a procedure by which a customary decision can be received into an administrative file was checked. None of the four provides such a procedure.[46]

Table 2. Regional Regulations of Riau Province on Customary Matters and the Presence of an Administrative Destination

Regulation	Subject matter	Administrative destination for a customary decision
Riau Provincial Regulation Number 1 of 2012	Position and functions of the Riau Malay Customary Institution (LAMR)	None; LAMR is recognised as a partner, but its decisions are not addressed to any office
Riau Provincial Regulation Number 10 of 2015	*Ulayat* land and its utilisation; Articles 10(1)–(2) and 16(1) annulled by Supreme Court Decision Number 13 P/HUM/2018	Identification of *ulayat* land is provided for, but no procedure links a customary decision to the land record; not revised after the annulment
Riau Provincial Regulation Number 14 of 2018	Guidelines for the recognition of customary law communities in environmental protection and management	Recognition is tied to environmental matters; no general channel for land decisions
Riau Provincial Regulation Number 24 of 2018	Empowerment of customary communities: institutional aspects, assistance and facilities; duties of customary institutions; guidance by the provincial office for community and village empowerment	Empowerment is provided for, but no office is named to receive or record customary decisions
Riau Provincial Regulation Number 2 of 2019	Institutional structure, filling of positions and term of office of the customary village head	Concerns the structure of customary villages only

Table 2 examines five provincial regulations governing customary institutions, customary land, and community recognition in Riau Province, with particular attention to the administrative mechanisms available for implementing customary decisions. The findings reveal a persistent gap between formal legal recognition and effective administrative protection. First, Provincial Regulation Number 1 of 2012 recognizes the institutional position and functions of the Riau Malay Customary Institution but does not designate a government office responsible for receiving or recording its decisions. Second, Provincial Regulation Number 10 of 2015 provides for the identification and utilization of customary land. However, following the annulment of certain provisions by the Supreme Court, the regulation lacks a clear procedure connecting customary decisions with official land records. Third, Provincial Regulation Number 14 of 2018 addresses the recognition of customary law communities within environmental protection and

[46] Nilna Aliyan Hamida, "Adat Law and Legal Pluralism in Indonesia: Toward a New Perspective?," *Indonesian Journal of Law and Society* 3, no. 1 (2022): 1, https://doi.org/10.19184/ijls.v3i1.26752.

management, without establishing a general administrative mechanism for customary land decisions. Fourth, Provincial Regulation Number 24 of 2018 strengthens customary community institutions but does not assign responsibility for documenting their decisions. Finally, Provincial Regulation Number 2 of 2019 regulates customary village institutions without establishing broader land administration procedures. Collectively, these regulations demonstrate that institutional recognition remains insufficient without designated administrative responsibilities and formal mechanisms for implementing customary decisions.

Customary institutions in Riau are living legal bodies, and land tenure, natural resource use and community cohesion are still regulated through them.[47] The *Lembaga Adat Melayu* Riau (LAMR) is the most influential of these institutions, and its authority rests on the principle *adat bersendi syarak, syarak bersendi Kitabullah*, by which customary governance is tied to Islamic values, social consensus and collective responsibility.[48] More than twenty indigenous communities in the province, among them the *Talang Mamak*, the Sakai and the Malay communities of the coast and the rivers, maintain their own legal systems, which are collective in character, are based on deliberation, and are administered by the *batin*, the *penghulu* or the *ninik mamak*.[49] In the field, customary dispute settlement over land is regarded by the community as more effective and more acceptable than formal mechanisms, because it is cheaper, faster and directed toward the repair of social relations rather than punishment.[50]

The way in which a customary decision on land is produced was reconstructed from the observation of two council sessions and from the interviews with the customary council and the executive committee Figure 1. Five stages were identified.[51] The issue is first identified and received by the council; the matter is then prepared for deliberation by the *Majelis Kerapatan Adat* and the *Dewan Pimpinan Harian*; agreement is reached by consensus and is checked against Malay custom and Islamic values; the decision is signed by the chairs of the two bodies

[47] Sarah Friese et al., "Regional Governance of the Energy Transition: A Comparison of Spatial Policies in Germany," *Energy Research & Social Science* 142 (2026): 105080, https://doi.org/10.1016/j.erss.2026.105080.
[48] Sabyasachi Kar, Gaurav R Sinha, and Puneet Dwivedi, "Rules and Interactions around Customary Tree Ownership in Forested Public Lands: A Qualitative Study in Jharkhand, India," *Forest Policy and Economics* 172 (2025): 103442, https://doi.org/10.1016/j.forpol.2025.103442; Sara Alhola and Abel Gwaindepi, "Land Tenure Formalisation and Perceived Tenure Security: Two Decades of the Land Administration Project in Ghana," *Land Use Policy* 143 (2024): 107195, https://doi.org/10.1016/j.landusepol.2024.107195.
[49] Chris Huggins, Lina Awadalla, and Neema Kingamkono, "Women's Rights to Land in Tanzania: Does Village Land Use Planning Strengthen Women's Land Rights?," *Journal of Rural Studies* 119 (2025): 103805, https://doi.org/10.1016/j.jrurstud.2025.103805.
[50] Lidya Rahmadani Hasibuan, "The Concept of Restorative Justice in the Juvenile Criminal Justice System: A Narrative Review of the Indonesian Context," *Scholars International Journal of Law, Crime and Justice* 5, no. 7 (2022): 263–72, https://doi.org/10.36348/sijlcj.2022.v05i07.004; Emmanuel Joseph Odoyi and Kirsikka Riekkinen, "Exploring Land Policy Tools and Instruments for Formalising Informal Settlements in Nigeria," *Habitat International* 166 (2025): 103605, https://doi.org/10.1016/j.habitatint.2025.103605.
[51] Lindani Mhlanga, "Untangling Indigenous Land Rights: Compensating Cultural and Spiritual Losses Caused by Mining Activities in South Africa," *The Extractive Industries and Society* 26 (2026): 101823, https://doi.org/10.1016/j.exis.2025.101823.

and is issued in the name of the institution; and the decision is finally disseminated so that it is known and obeyed by the community.[52] The process is systematic, deliberative and documented. What is missing is the sixth stage: after dissemination, the signed document has no addressee outside the community.[53] Members of the customary council and of the executive committee stated consistently that the signed decision is kept in the archive of the customary institution and is neither sent to, nor requested by, any government office (informant groups CC and EC).[54]

Three barriers were identified when the themes from the interviews, the observation and the documents were compared Table 3. The first barrier is the absence of an institutionalised channel. During the fieldwork, legal communication by the regional governments was carried out mainly in a top-down way: regulations were announced at the village or sub-district level, two-way dialogue was rarely opened, and the material was delivered in formal Indonesian without translation and without guidance from local representatives.[55] Regional officials confirmed that no standing forum exists in which a customary decision can be presented and minuted, that no unit of the regional government is responsible for receiving such decisions, and that customary institutions are invited only for ceremonial occasions or when a conflict has already escalated (informant group GO; confirmed in FGD-B and FGD-D).[56] The second barrier is the weak recognition of customary dispute settlement. The result of a customary mediation is respected by the parties inside the community, but it is not accepted by the land office or the forestry service as a document with legal weight, because no regulation names it as such; the Suluk Bongkal minutes of 2012 and 2015 are the clearest example, since they recorded an agreement between the company and the community with the sub-district head as witness, but they were not followed by any instrument of the regional head and were not entered in any land record.[57] The third barrier is limited capacity on both sides. Regional officials have little technical understanding of customary legal systems, while customary institutions lack legal documentation,

[52] Abhijit Dey et al., "Customary Tree Tenure in Transition: Interactions with Statutory Land Tenure and Ecological Implications," *Forest Policy and Economics* 193 (2026): 103963, https://doi.org/10.1016/j.forpol.2026.103963.

[53] Ayona Datta and Neha Gupta, "Piecing the 'Land Puzzle': The Invisible Labours of India's National Land Digitalisation Initiative," *Political Geography*, 2026, 103686, https://doi.org/10.1016/j.polgeo.2026.103686.

[54] Basri Ibrahim, Fauzi Yusof, and Wan Saifudin Wan Hasan, "Malay Customs According to Islamic Perspective," *International Journal of Academic Research in Business and Social Sciences* 8, no. 10 (2018): 380–400, https://doi.org/10.6007/ijarbss/v8-i10/4743; Caitlin Ryan, "Land Matters, Gender, and de Facto Authority in (Un)Expected Places," *Political Geography* 131 (2026): 103625, https://doi.org/10.1016/j.polgeo.2026.103625.

[55] Peter Ho, "Debunking the Chinese Unitary State via Legal Pluralism: Historical, Indigenous and Customary Rights in China (1949–Present)," *World Development* 151 (2022): 105752, https://doi.org/10.1016/j.worlddev.2021.105752.

[56] Laura Meinzen-Dick and Helder Zavale, "Gender and Tenure Insecurity in a Matrilineal Customary System," *Land Use Policy* 157 (2025): 107646, https://doi.org/10.1016/j.landusepol.2025.107646.

[57] Yetimoni Kpeebi and Michael Osei Asibey, "Customary Land Tenure and Climate Land Transitions: A Justice Lens on Ghana's Land Governance," *Land Use Policy* 164 (2026): 107945, https://doi.org/10.1016/j.landusepol.2026.107945.

maps and organisational routines for formal contact with state bodies. Executive committee members and customary leaders described the effect of this limitation: customary territory is known by its natural boundaries and by oral history, but no map and no written record exist in the form that the land office requires, so the claim cannot be presented in that form (informant group EC; field documentation).[58]

Table 3. Themes, Sub-Themes and Sources of Evidence for the Three Barriers

Theme (barrier)	Sub-themes from coding	Sources	Indicator of legal uncertainty affected
No institutionalised channel	Top-down announcement of regulations; no standing forum; no unit responsible for receiving customary decisions; contact only after escalation	CC (5), EC (7), GO (4); observation of coordination meeting; FGD-B, FGD-D	Procedure for entry into an administrative file
Weak recognition of customary settlement	Customary mediation respected inside the community but treated as informal by land and forestry offices; mediation minutes without follow-up instrument	EC (7), GO (4); Suluk Bongkal minutes 2012 and 2015; Table 2	Status in the land record; availability of a remedy
Limited capacity on both sides	Officials unfamiliar with customary law; customary institutions without maps, written records or budget; dependence on individual goodwill	GO (4), CC (5), AC (2); field documentation	Identification of the competent authority

Applying the four indicators of legal uncertainty to customary land claims in both research locations reveals a consistent pattern of inadequate legal protection. Three of the four indicators remain unmet across all examined cases: customary claims lack formal recognition in official land records, administrative authorities provide no established procedure for registering these claims, and affected communities have no clearly defined legal remedy when authorities refuse to recognize them.[59] Only the competent authority can sometimes be identified, and even then it is disputed between the land office and the forestry service. By the definition adopted in this study, the claims are therefore legally uncertain, and the uncertainty is produced by procedure, not by norm. It was also found that districts in which the existence of a customary community had been acknowledged in a regional legal product were in a stronger position, because the acknowledgment

[58] Uffe Jakobsen, Henrik Larsen, and Emma J Stewart, "Introduction: Indigenous Self-Governance in the Arctic States," *The Polar Journal* 14, no. 1 (2024): 1–8, https://doi.org/10.1080/2154896X.2024.2342116.
[59] William R I Sopaheluwakan et al., "Two-Decade Decentralization and Recognition of Customary Forest Rights: Cases from Special Autonomy Policy in West Papua, Indonesia," *Forest Policy and Economics* 151 (2023): 102951, https://doi.org/10.1016/j.forpol.2023.102951.

could be cited before the land office; where no such product existed, the community was told that its claim was a unilateral statement without legal recognition, which is the same reasoning that the courts have used to deny standing to unrecognised communities.[60]

Comparative Legal Protection of Customary Land Rights in Malaysia and the Philippines

The legal protection of customary land rights presents a persistent challenge in jurisdictions that recognize customary law alongside formal state law. Although constitutional and statutory provisions acknowledge the relationship between indigenous communities and their ancestral territories, the effectiveness of such recognition depends on the administrative institutions responsible for implementing it. Legal recognition alone does not necessarily establish a procedure through which customary communities can document their claims, secure official acknowledgment, or obtain remedies against competing land interests. Malaysia and the Philippines provide two distinct approaches to this problem. Their legal frameworks demonstrate how different arrangements for recognizing customary tenure influence the relationship between community authority, government administration, and the enforceability of land rights.[61]

Malaysia regulates customary land rights through a legal framework that distributes substantial authority over land matters to individual states. Article 74 and the Ninth Schedule of the Federal Constitution establish the constitutional basis for this distribution, while Article 161A provides additional recognition of the position of indigenous communities in Sabah and Sarawak. In Sarawak, Section 5 of the Land Code recognizes Native Customary Rights arising from legally recognized forms of occupation, cultivation, and customary land use. These provisions acknowledge that customary interests may exist independently of conventional registered ownership. However, the protection of such interests requires communities to establish their claims according to applicable legal requirements. The Sarawak Land Code also regulates the extinguishment of customary rights, compensation, and procedures for challenging administrative determinations. These arrangements demonstrate that customary recognition operates within a formal system of administrative verification and judicial protection.[62]

The Philippines adopts a more specialized statutory approach through Republic Act Number 8371 of 1997, commonly known as the Indigenous Peoples' Rights Act.

[60] M Rafsan Jzani, "The Effectiveness of Restorative Justice in Resolving Criminal Acts: Interaction Between Ocu Customary Law and Positive Law," *Jurnal Ius Constituendum* 10, no. 3 (2025): 394–414, https://doi.org/10.26623/jic.v10i3.12234.

[61] Melissa Kennedy et al., "Governance Barriers to Climate Change Adaptation in Regional Catchment Management," *Environmental Science & Policy* 184 (2026): 104491, https://doi.org/10.1016/j.envsci.2026.104491.

[62] Dirham Dirhamsyah et al., "Revitalizing Indonesian Marine Governance: The Need for Legal Reform," *Social Sciences & Humanities Open* 14 (2026): 103084, https://doi.org/10.1016/j.ssaho.2026.103084.

This legislation recognizes the rights of indigenous cultural communities to ancestral domains and establishes the National Commission on Indigenous Peoples as the principal institution responsible for their recognition and protection. Section 11 provides for the formal recognition of ancestral domain rights through Certificates of Ancestral Domain Title, while Section 52 establishes procedures for identifying boundaries, examining customary evidence, and issuing certificates. The legislation also requires the registration of these certificates with the appropriate Register of Deeds. Unlike a system that relies primarily on judicial recognition, the Philippine framework expressly connects customary claims with an administrative process for determining and documenting ancestral domain rights.[63]

Despite these differences, both jurisdictions demonstrate that statutory recognition must operate through accessible and effective administrative procedures. Malaysia provides legal mechanisms for recognizing customary interests and addressing their extinguishment, although the applicable procedures differ among states and may require judicial intervention where disputes remain unresolved. The Philippines establishes a dedicated institution and a formal certification process, but effective protection still depends on the implementation of administrative decisions and coordination with land registration authorities. These institutional differences provide an important basis for assessing whether customary land protection depends primarily on the existence of legal recognition or on the capacity of government institutions to translate that recognition into enforceable administrative outcomes.

The comparative analysis directly addresses the difficulties identified in Bengkalis Regency and Dumai City, where customary institutions issue decisions concerning land disputes without a clearly established procedure for incorporating those decisions into regional administrative records. The research therefore examines three related questions: how each jurisdiction recognizes customary claims, which institutions receive and determine those claims, and how administrative decisions acquire legal effect within the formal land governance system. By comparing these mechanisms, the study identifies institutional arrangements that may strengthen the relationship between customary authority and regional government responsibilities. The central argument is that effective legal protection requires more than formal acknowledgment of customary rights. It requires an identifiable administrative pathway through which competent authorities receive customary decisions, examine their legal significance, record the

[63] Petrit Nimani, Shefqet Avdija, and Artan Maloku, "Customary Law and Modern Legal Systems: A Comparative Perspective," *Corporate Law and Governance Review* 7, no. 2 (2025): 77–83, https://doi.org/10.22495/clgrv7i2p8.

resulting determinations, and provide appropriate remedies when disputes remain unresolved. [64]

Table 4. Functional comparison of the administrative destination of customary land claims in Indonesia (Riau), Malaysia and the Philippines

Element	Indonesia (Riau)	Malaysia	Philippines
Constitutional basis	Art. 18B(2) and Art. 28I(3) of the 1945 Constitution	Art. 8(5)(c) (Orang Asli), Art. 153 and Art. 161A (natives of Sabah and Sarawak)	Art. II s. 22 and Art. XII s. 5 of the 1987 Constitution (ancestral lands)
Main statutory instrument	Basic Agrarian Law art. 3; Forestry Law art. 67; Village Law; Permendagri 52/2014; Permen ATR/BPN 14/2024; provincial regulations	Aboriginal Peoples Act 1954 (Peninsular); Sarawak Land Code 1958 ss. 5, 6, 6A; Sabah Land Ordinance 1930 ss. 15, 76	Indigenous Peoples' Rights Act 1997 (RA 8371)
Who decides the customary claim	Regent or mayor (recognition of the community); land office and minister (register and right of management); forestry ministry (customary forest)	State authority and land office (gazettement, native communal reserve, territorial domain up to 1,000 ha); civil courts on claims of pre-1958 rights	National Commission on Indigenous Peoples (NCIP), which issues a Certificate of Ancestral Domain Title (CADT) after delineation and validation
Place of the customary institution's decision	Respected inside the community; no office named to receive it	Native courts hear breaches of custom; land claims against non-natives go to civil courts; customs of pemakai menoa and pulau galau held not to have the force of law (*TR Sandah*)	Customary law has primacy in disputes among community members (s. 65); NCIP has jurisdiction after customary remedies are exhausted (s. 66)
Free, prior and informed consent	Not required by statute for regional decisions	Not required by statute; compensation for aboriginal reserves at the discretion of the state	Required as a precondition for any licence in an ancestral domain (s. 59)
Remedy when the claim is refused	Administrative court action against the refusal; standing often denied to unrecognised communities	Common-law native title claim in the civil courts (*Adong, Sagong, Nor Nyawai, Madeli*)	Appeal within NCIP and then to the Court of Appeals
Observed weakness	No administrative destination at the regional level; recognition remains declaratory	Litigation is slow, costly and unpredictable; judicial recognition capped by *TR Sandah*; government implementation of judgments insufficient	Delineation and titling are slow; conflicting mandates between NCIP, environment and agrarian agencies; titles not always registered with the Registry of Deeds

In Malaysia, the recognition of customary land rights is older and more explicit than in Indonesia.[65] Aboriginal areas and reserves in Peninsular Malaysia may be

[64] Simone Di Zio et al., "Mapping Policy Priorities and Family Needs in Regional Official Documents of Northeast Italy Using Generative Text Analysis," *Socio-Economic Planning Sciences* 106 (2026): 102561, https://doi.org/10.1016/j.seps.2026.102561.

[65] Keigo Obara and Ahmed Raza, "Adaptive Food and Nutrition Governance: The Role of Regional and Subregional Technical Platforms and Partnerships amidst a Crisis of Multilateralism," *Food Policy* 145 (2026): 103213, https://doi.org/10.1016/j.foodpol.2026.103213.

gazetted by the state authority under the Aboriginal Peoples Act 1954, and native customary rights created before 1 January 1958 are recognised by the Sarawak Land Code, while the Sabah Land Ordinance provides for native customary rights and for communal title.[66] However, gazettement is discretionary and slow, and the administrative route depends on the state land office.[67] The gap was therefore filled by the courts. In *Sagong bin Tasi* the High Court and the Court of Appeal recognised a common-law proprietary interest of the Orang Asli in their customary land; in *Sagong* bin Tasi the interest was held to carry the right to compensation under the Land Acquisition Act; in *Nor Anak Nyawai* the Iban concepts of pemakai menoa (territorial domain) and pulau galau (communal forest reserve) were accepted as sources of native customary rights; and in *Madeli bin Salleh* the Federal Court confirmed that pre-existing native rights survive the enactment of land legislation.[68]

The judicial route reached a ceiling in *TR Sandah*, in which the Federal Court held that pemakai menoa and pulau galau were not customs having the force of law, and the Sarawak legislature responded in 2018 by inserting section 6A, under which a native territorial domain may be recognised administratively up to a limit of 1,000 hectares.[69] *Sagong bin Tasi*The literature is consistent on the effect: the courts delivered recognition that the executive had not delivered, but the process was slow, costly and unpredictable, the implementation of judgments by state governments remained insufficient, and communities were left to re-occupy land on the strength of a judgment that no office had been ordered to record.[70]

The Malaysian experience therefore confirms the Riau finding from the opposite direction. Where the administrative destination for a customary claim was discretionary or absent, the claim was pushed into litigation, and the court became the destination.[71] That route produced recognition, but it did not produce routine protection, because a judgment must still be translated by an office into a record.[72]

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[66] Shwan Jamal Azeez, "Fragmented Authority, Credible Commitment, and Natural Gas Governance in a de Facto State: The Kurdistan Regional Government," *The Extractive Industries and Society* 28 (2026): 101990, https://doi.org/10.1016/j.exis.2026.101990.

[67] Yu Chen et al., "The Impact of Local Government Debt Governance on Cross-Regional Investment," *International Review of Economics & Finance* 108 (2026): 105350, https://doi.org/10.1016/j.iref.2026.105350.

[68] Mengzhu Zhang and Shenjing He, "Who Feels Secure in Customary Tenure and Why? A Triangular Framework of Perceived Tenure Security in China's Small Property Right Housing," *Cities* 107 (2020): 102900, https://doi.org/10.1016/j.cities.2020.102900.

[69] Baslyd B Nara, Monica Lengoiboni, and J A Zevenbergen, "Testing a Fit-for-Purpose (FFP) Model for Strengthening Customary Land Rights and Tenure to Improve Household Food Security in Northwest Ghana," *Land Use Policy* 109 (2021): 105646, https://doi.org/10.1016/j.landusepol.2021.105646.

[70] Budi Prakosa Adi, "Creating Synergy between Restorative Customary Law Values and the Retributive National Legal System," *SHS Web of Conferences* 221 (2025): 3002, https://doi.org/10.1051/shsconf/202522103002.

[71] Alexandra C Hartman et al., "Strengthening Common Property Rights Institutions in Liberia: Quasi-Experimental Evidence on Customary Governance and Equity Effects," *Land Use Policy* 146 (2024): 107250, https://doi.org/10.1016/j.landusepol.2024.107250.

[72] Jamaa LAMKIES and Mohammed KEHEL, "Decentralized Cooperation and Regional Development Planning in Morocco: Institutional Misalignments and Their Implications for Regional Policy and Territorial Cohesion," *Regional Science Policy & Practice* 18, no. 9 (2026): 100326, https://doi.org/10.1016/j.rspp.2026.100326.

The 2018 amendment of the Sarawak Land Code is, in effect, the creation of an administrative destination after two decades of litigation, and its limit of 1,000 hectares shows the price that is paid when the destination is created late and under pressure.[73]

The Philippines chose the opposite design. The Indigenous Peoples' Rights Act of 1997 created a national commission that identifies, delineates and titles ancestral domains, gives primacy to customary law in disputes among community members, requires free, prior and informed consent before any licence is issued inside an ancestral domain, and provides an appeal within the commission and then to the courts.[74] The constitutionality of the Act was upheld in Cruz v Secretary of Environment and Natural Resources. On paper, every element that is missing in Riau is present.[75] In practice, the titling process is slow, the implementing rules took almost a decade to be issued, the mandates of the commission overlap with those of the environment and agrarian agencies, and ancestral domain titles have not always been registered with the Registry of Deeds, so that a community may hold a title that the land registry does not recognise.[76] The Philippine case shows that an administrative destination is necessary but not sufficient; the destination must be linked to the land registry and must be protected against conflicting sectoral mandates, or it produces a document without protection, which is what the *Suluk Bongkal* minutes are in Riau.[77]

Three lessons follow for the Riau framework. First, the destination must be placed inside an existing competence that already produces a legally recognised record; in Indonesia, that record is the decree of the regent or mayor recognising the community and the Register of *Ulayat* Land at the land office, both of which exist since 2014 and 2024 respectively.[78] Second, the content of the custom must be written into the regional legal product, so that the recognition cannot be narrowed later by a court in the way that *TR Sandah* narrowed the Iban customs.[79] Third, the

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[73] Benjamin Schonthal, "Buddhism, Law, Buddhist Law," *Annual Review of Law and Social Science*, 2025, 209–27, https://doi.org/10.1146/annurev-lawsocsci-050420-105512.

[74] Pisca A Tias, Constance L McDermott, and Mari E Mulyani, "Navigating the Nexus between Customary Norms and State Laws in Shaping Rural Forest Governance: A Case Study in Aceh Province, Indonesia," *Forest Policy and Economics* 182 (2026): 103672, https://doi.org/10.1016/j.forpol.2025.103672.

[75] Helge M Flick et al., "Governing Microplastics in the North-East Atlantic: The Importance of Regional Frameworks in the Absence of a Global Treaty," *Marine Policy* 191 (2026): 107173, https://doi.org/10.1016/j.marpol.2026.107173.

[76] Samira Behroozeh, Masoud Bijani, and Omid Sharifi, "Determining and Validating Criteria for Effective Governance of Jazmurian Wetland towards Regional Deprivation Alleviation," *Environmental and Sustainability Indicators* 31 (2026): 101335, https://doi.org/10.1016/j.indic.2026.101335.

[77] N Sellheim and O Ojanperä, "Indigenous Youth and International Conservation Law: Five Case Studies," *Review of European, Comparative and International Environmental Law* 31, no. 1 (2022): 115–25, https://doi.org/10.1111/reel.12421.

[78] Huining Shi, "How Do Regional Intellectual Property Disputes Affect Corporate Supply Chain Resilience? An Analysis of the Moderating Effects of Digital Financial Development and Legal Efficiency," *Finance Research Letters* 114 (2026): 111062, https://doi.org/10.1016/j.frl.2026.111062.

[79] Jie Wang et al., "From Fragmentation to Integration: Regional Health Governance in Southeast Asia," *The Lancet Global Health*, 2026, 104014, https://doi.org/10.1016/j.langlo.2026.104014.

record must be linked to the sectoral agencies, in particular forestry, before a concession is issued, or the record will be overridden by a permit, as in Suluk Bongkal and as in the Philippine cases where a title was not registered.[80]

Bridging Customary Recognition and Legal Protection Through Institutional Reform

The effectiveness of customary land protection depends on how public institutions translate constitutional recognition into administrative decisions that communities can invoke and defend. Article 18B paragraph (2) of the Indonesian Constitution recognizes customary law communities and their traditional rights, while Article 28I paragraph (3) protects traditional cultural identities and community rights. Article 3 of Law Number 5 of 1960 further acknowledges customary communal rights within the national agrarian system. These provisions establish the legal foundation for protecting customary land, but they do not resolve every procedural question concerning the treatment of decisions issued by customary institutions. Regional authorities must still determine how to receive customary decisions, examine supporting evidence, identify the responsible institution, and provide appropriate legal remedies. The relationship between constitutional recognition and administrative implementation therefore constitutes a central issue in strengthening customary land governance.[81]

The empirical investigation in Bengkalis Regency and Dumai City provides evidence of this institutional problem. The research involved interviews with 18 key informants, two focus group discussions, participant observation during two customary council sessions and one coordination meeting at the regency level, and examination of customary decisions and administrative correspondence. The analysis applied four indicators of legal certainty to the customary land claims examined in both locations. Three indicators remained unmet across the examined cases: the absence of formal status in land records, the absence of an established procedure for submitting customary decisions to the relevant administrative authority, and the absence of a clearly identified remedy when authorities refused to acknowledge those decisions. These findings demonstrate that customary dispute resolution and government administration do not operate through a sufficiently connected institutional process.

The legal framework governing customary communities already provides several mechanisms for recognition. Minister of Home Affairs Regulation Number 52 of 2014 establishes procedures for identifying, verifying, validating, and formally recognizing customary law communities. Article 5 requires the identification process to examine community history, customary territory,

[80] Olga Stepanova, Merritt Polk, and Hannah Saldert, "Understanding Mechanisms of Conflict Resolution beyond Collaboration: An Interdisciplinary Typology of Knowledge Types and Their Integration in Practice," *Sustainability Science* 15, no. 1 (2020): 263–79, https://doi.org/10.1007/s11625-019-00690-z.
[81] Claudia Coral et al., "Shifting the Narrative: Women Farmers' Agency at the Land–Labour Interface in Cocoa Production," *Journal of Rural Studies* 124 (2026): 104088, https://doi.org/10.1016/j.jrurstud.2026.104088.

customary law, traditional property, and customary institutions. Article 6 provides for recognition through decisions of the competent regional authority following the prescribed verification process. These requirements establish an administrative foundation for recognizing customary communities. However, recognition of a community does not automatically determine the ownership or legal status of every parcel claimed under customary law. Authorities must distinguish the legal recognition of a community from the administrative examination of its territorial claims and the legal consequences of individual customary decisions.

The regulatory framework has developed further through Ministerial Regulation of Agrarian Affairs and Spatial Planning Number 14 of 2024 concerning the Administration and Registration of Customary Communal Land. This regulation replaced Ministerial Regulation Number 18 of 2019 and introduced more specific arrangements for administering customary communal land. It regulates the recording of customary land, the maintenance of relevant information, and procedures through which eligible customary communities may pursue formal land registration. The regulation therefore provides an important legal basis for connecting customary land recognition with the national land administration system. Nevertheless, its existence does not automatically resolve the institutional difficulties identified in the research locations. Effective implementation still requires coordination between regional authorities responsible for community recognition and the institutions responsible for land administration.[82]

A particularly important distinction arises between administrative recording and the registration of land rights. Ministerial Regulation Number 14 of 2024 recognizes procedures for recording customary communal land and provides pathways for certain forms of registration. Article 15 allows eligible customary communities to apply for Management Rights over qualifying customary land recorded in the relevant customary land register. Article 16 also recognizes that customary land may retain its customary status when the community does not seek its establishment as Management Rights. Article 17 provides a separate arrangement for registering qualifying communal land as collective ownership in the circumstances prescribed by the regulation. These provisions demonstrate that Indonesian law recognizes different legal consequences for customary land administration. Administrative recording, Management Rights, and collective ownership should therefore not be treated as interchangeable legal outcomes.[83]

The regional regulatory framework in Riau adds another institutional dimension. Provincial Regulation Number 1 of 2012 recognizes the position of the Riau Malay Customary Institution, while Provincial Regulation Number 10 of 2015

[82] Keyuan Zou and Qiang Ye, "The Relationship between UNCLOS and Customary International Law: Some Reflections," *Marine Policy* 154 (2023): 105691, https://doi.org/10.1016/j.marpol.2023.105691.
[83] Jennifer Day and Willy Missack, "Pem Graon: Customary Tenants in the Case of Tebakor, Port Vila, Vanuatu," *Cities* 161 (2025): 105880, https://doi.org/10.1016/j.cities.2025.105880.

addresses customary land and its utilization. Other regional regulations concerning customary institutions, environmental governance, and customary village administration establish additional forms of institutional recognition. However, the examination of these instruments in the research identifies a continuing difficulty in connecting decisions issued by customary institutions with the administrative procedures used by regional government agencies. The principal concern is not simply whether customary institutions possess legal recognition. It concerns whether the relevant authorities have established a reliable procedure for receiving their decisions, determining their legal relevance, and responding through the appropriate administrative mechanism.[84]

The institutional reform should concentrate on the relationship between customary decision making and existing administrative powers. Regional governments do not need to assume the functions of national land registration authorities to improve customary land protection. They can establish procedures for receiving customary documents, verifying the authority of the issuing institution, examining the participation of affected parties, and determining which government agency possesses the competence to act. These procedures would create an administrative record of customary decisions without automatically transforming those decisions into registered land rights. Such a distinction would preserve the legal responsibilities of customary institutions while respecting the statutory authority of government agencies.

The comparative experiences of Malaysia and the Philippines provide useful institutional lessons. In Sarawak, Malaysia, Section 5 of the Land Code recognizes Native Customary Rights under legally prescribed conditions. The legislation also regulates the extinguishment of those rights and provides procedures for compensation claims. Where the competent authority extinguishes recognized customary rights, affected persons may submit claims supported by evidence within the prescribed period. This arrangement demonstrates the importance of identifying the authority responsible for receiving claims and establishing a formal procedure for examining their legal consequences. However, the existence of such procedures does not eliminate disputes concerning the origin, extent, or recognition of customary interests. Judicial proceedings may remain necessary where parties contest substantive legal questions.[85]

The Philippines provides a more specialized administrative framework through Republic Act Number 8371 of 1997, the Indigenous Peoples' Rights Act. The legislation recognizes ancestral domain rights and establishes the National Commission on Indigenous Peoples as the principal institution responsible for their

[84] Adi Wicaksana, Anindita Putri, and Marco Orias, "Transformation of National Law Towards a Just Democratic State," *Journal of Law and Humanity Studies* 2, no. 1 (2025): 1–7, https://doi.org/10.59613/xbfbde43.
[85] Rahmi Dwi Sutanti et al., "Customary Law as an Instrument of Restorative Justice: An Alternative Approach to Criminal Conflict Resolution in Plural Legal Systems," *Clio. Revista de Historia, Ciencias Humanas y Pensamiento Critico.* 5, no. 10 (2025): 1348–81, https://doi.org/10.5281/zenodo.15453907.

recognition and protection. Section 52 regulates the identification and delineation of ancestral domains through community participation, examination of customary evidence, and administrative determination. The legislation also connects the issuance of ancestral domain certificates with formal land records. These arrangements demonstrate the value of assigning responsibility to a designated institution and establishing a recognizable sequence of administrative procedures. Nevertheless, the effectiveness of recognition continues to depend on institutional coordination, reliable documentation, and the resolution of competing claims.[86]

The comparison identifies a common requirement across the three jurisdictions. Customary land protection becomes more predictable when communities can identify the institution responsible for receiving their claims, understand the evidence required, obtain a formal administrative response, and challenge decisions through legally available procedures. Malaysia illustrates the importance of statutory procedures for examining claims and compensation, while the Philippines demonstrates the significance of specialized administrative recognition and coordination with land records. Indonesia can draw on these institutional functions without directly adopting either country's legal structure. Its reform must remain consistent with the constitutional division of authority, regional government responsibilities, and national land registration legislation.[87]

The institutional model begins with formal administrative acknowledgment. Regional governments should designate an office responsible for receiving customary decisions and recording their submission. The receiving authority should identify the customary institution, the affected community, the disputed land, and the documents supporting the decision. It should also issue written confirmation that the government has received the submission. This procedure would establish an administrative destination for customary decisions and reduce uncertainty concerning institutional responsibility. However, acknowledgment of receipt should not constitute recognition of ownership or a determination that the submitted claim satisfies the requirements for land registration.[88]

The second component concerns verification of customary decisions. The competent authority should examine the legal status of the customary institution, the procedures followed in reaching the decision, the participation of affected parties, and the available evidence concerning the disputed land. Relevant documentation may include customary deliberation records, descriptions of

[86] Julia R Entwistle and Hanson Nyantakyi-Frimpong, "Community Land Governance in Liberia: Implications for Tenure Security and Land Concessions," *Land Use Policy* 153 (2025): 107555, https://doi.org/10.1016/j.landusepol.2025.107555.
[87] Chansheng He et al., "Operationalizing Systems Thinking in Water Governance: A Framework for Advancing Regional Water Security," *Environmental Science & Policy* 185 (2026): 104526, https://doi.org/10.1016/j.envsci.2026.104526.
[88] Jacobo Ramirez et al., "Conflicting Injustices in Decolonization and Indigenous Land Rights: The Case of the Lake Turkana Wind Power Project," *Energy Research & Social Science* 120 (2025): 103912, https://doi.org/10.1016/j.erss.2024.103912.

territorial boundaries, community testimony, historical records, and administrative correspondence. Where the claim concerns land subject to existing registered rights, the authority must identify those rights and determine the appropriate legal procedure. Verification should establish the relevance and reliability of the submitted material without allowing regional officials to exercise powers reserved for competent land registration authorities or courts.

The third component involves participatory legal communication. The empirical investigation demonstrates the importance of improving communication between customary institutions and government authorities. Communities need accessible information concerning the documents required for recognition, the administrative stages involved, and the legal consequences of government decisions. Regional authorities should provide opportunities for customary representatives and affected parties to clarify competing claims and respond to relevant evidence. Such participation would improve procedural transparency and reduce misunderstandings concerning the authority of customary decisions. It would also strengthen accountability by requiring administrative institutions to explain the legal grounds for their responses. [89]

The fourth component concerns customary mediation and dispute resolution. Customary institutions may resolve disputes through deliberation and agreements grounded in recognized community practices. However, mediation outcomes should receive appropriate documentation, and competent authorities should determine whether further legal action is necessary. Where parties reach an agreement concerning a matter within their lawful authority, the relevant institution may examine the documentation required to give the agreement its intended legal effect. Where disputes concern registered ownership, competing private rights, or the legality of administrative decisions, the parties must have access to the competent administrative or judicial forum. This distinction would prevent customary mediation from becoming a substitute for legally required procedures.[90]

The fifth component concerns institutional capacity and coordination. Regional governments should strengthen the ability of officials to examine customary documentation, understand the legal position of customary communities, and identify the limits of their administrative competence. Customary institutions should also improve the documentation of deliberations, decisions, and territorial information. Coordination with land administration authorities is particularly important when a customary claim requires examination under Ministerial

[89] Merry Tjoanda, "The Expansion and Existence of the Indigenous Rights of Sea in Indigenous Villages (Review of the Customary Right of Coastal and Marine Areas of Halong State)," *Journal of Cultural Heritage Management and Sustainable Development* 10, no. 3 (2020): 209–16, https://doi.org/10.1108/JCHMSD-05-2018-0034.

[90] Abdul Wahab, "Public Policy Formulation with Justice: Administrative Law Perspective," *International Journal of Scientific Research (IJSR)* 2, no. 1 (2025): 17–25, https://doi.org/10.62894/a.

Regulation Number 14 of 2024. An effective system should enable regional authorities to transmit relevant documents to the competent institution without assuming that such transmission automatically establishes a registered right.

The sixth component requires written administrative responses and accessible remedies. Government institutions should explain whether they accept a submission for further examination, require additional evidence, refer the matter to another competent authority, or reject the request. Each response should identify the relevant legal and factual grounds. Where the law permits administrative objections or judicial review, affected parties should receive information concerning those procedures. This mechanism would address the absence of identifiable remedies observed in the research locations and strengthen accountability for administrative decisions and inaction.

These components form an integrated institutional framework that connects customary decisions with legally appropriate government action. The framework begins with customary deliberation and documentation, continues through administrative submission and verification, and concludes with a reasoned response or referral to the competent institution. It also preserves the distinction between recognition of customary communities, administrative recording of customary land, and the formal registration of land rights. This distinction is essential because effective legal protection requires authorities to recognize legitimate customary interests without creating uncertainty concerning existing registered rights or exceeding statutory powers.[91]

The reform therefore advances beyond the adoption of additional declarations recognizing customary communities. It concentrates on the administrative procedures necessary to give existing recognition practical legal consequences. By establishing designated responsibilities, consistent documentary standards, participatory examination, institutional coordination, and accessible remedies, regional governments can strengthen customary land protection within their existing authority. The model responds directly to the procedural deficiencies identified in the empirical investigation while drawing on the comparative institutional arrangements of Malaysia and the Philippines. Its principal contribution lies in demonstrating how customary recognition can become an effective component of land governance through accountable administrative procedures rather than remaining confined to institutional acknowledgment.

Conclusion

This study establishes that the limited legal protection of customary land rights in Riau Province arises primarily from institutional and administrative deficiencies rather than direct contradictions between customary law and state

[91] Patricia Funjika and Lauren Honig, "Customary Courts, State Institutions, or Opting out: Patterns of Forum Pluralism in Three African Countries," *World Development* 195 (2025): 107113, https://doi.org/10.1016/j.worlddev.2025.107113.

law. The empirical findings identify three principal barriers: the absence of established procedures for submitting customary decisions to government authorities, inadequate administrative recognition of customary dispute settlements by land and forestry institutions, and limited institutional capacity among customary authorities and government officials. Across the examined claims, three of the four indicators of legal certainty remained unmet, particularly those concerning official land records, administrative procedures, and accessible remedies. The comparative analysis of Malaysia and the Philippines demonstrates that formal recognition cannot independently secure customary land rights without effective administrative implementation. Malaysia illustrates how difficulties in accessing administrative recognition may increase reliance on judicial proceedings, while the Philippines demonstrates that formal recognition documents require coordination with land registration and relevant government institutions to provide practical protection. These experiences establish the importance of connecting customary decisions with administrative responsibilities and legally recognized procedures.

To address these limitations, the study develops an institutional framework integrating participatory legal communication, customary mediation, and administrative capacity strengthening within the existing authority of regional governments. The research also reports that intended institutional users assessed the proposed framework as feasible and acceptable. The framework establishes a pathway for receiving, documenting, examining, and responding to customary decisions while preserving the statutory authority of land administration institutions and courts. Effective protection therefore requires more than constitutional acknowledgment: it depends on administrative procedures that give customary decisions an identifiable institutional destination, an official record, and access to appropriate legal remedies.

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