

Analysis of Human Rights Protection and Enforcement Based on Local Wisdom in Indonesia

Ni Luh Wayan Yasmiati

Universitas Pendidikan Ganesha, Indonesia
nyasmiati@undiksha.ac.id

I Dewa Gede Herman Yudiawan

Universitas Pendidikan Ganesha, Indonesia
idedewa.gede.bermaniyudiawan@undiksha.ac.id

Abstract

This article examines the role of local wisdom in the protection and enforcement of Human Rights (HR) in Indonesia, focusing on how local customs, cultural values, and customary laws contribute to a more holistic approach to HR. The study aims to explore how local wisdom can enhance HR protection and address challenges in aligning traditional values with universal HR principles. Employing a qualitative research design, this study utilizes a case study approach across multiple regions in Indonesia, analyzing specific instances where local wisdom has been integrated into HR practices. The findings reveal that local wisdom, including community-based conflict resolution mechanisms, traditional justice systems, and cultural norms, significantly contributes to HR enforcement by ensuring the inclusion of indigenous perspectives in legal frameworks. However, challenges arise in harmonizing local practices with national and international HR standards, particularly when local values conflict with universal rights. The research highlights that a participatory approach, which incorporates both local and global HR principles, is essential in crafting an inclusive legal system. The theoretical implication of this study suggests that integrating local wisdom into HR frameworks could lead to a more contextualized and culturally sensitive approach to HR, thereby fostering greater social cohesion and respect for diversity while safeguarding fundamental human rights. This integration requires cooperation from multiple stakeholders to maintain a balance between honoring cultural traditions and upholding universal HR norms.

Keywords: *Human Rights In Indonesia, Local Wisdom, HR Protection, HR Enforcement.*

Introduction

Human rights are universal principles designed to uphold dignity, freedom, and equality for all individuals, as articulated in international instruments like the Universal Declaration of Human Rights. However, in Indonesia, the application of these principles faces significant challenges due to the country's diverse cultural and social practices. While human rights are recognized as inalienable and essential for protecting individuals from exploitation, their implementation can be complicated by local customs and legal frameworks that may not align with international standards.¹ The concept of human rights has evolved historically, reflecting a collective aspiration for justice and equality, yet it

¹ Fatima, Idrees. (2024). (3) Analysis of Human Rights: National and International Laws. Social Science Research Network, doi: 10.2139/ssrn.4807228

remains subject to varying interpretations based on cultural contexts. This complexity necessitates a nuanced approach to human rights that balances universal ideals with local realities, ensuring that the legal protections afforded by national and international laws are effectively realized in practice. Ultimately, fostering a deeper understanding of human rights within Indonesia's unique cultural landscape is essential for their successful implementation.²

Indonesia's rich plurality, characterized by over 1,300 ethnic tribes, presents unique challenges in harmonizing local wisdom with universal human rights standards. Local wisdom, deeply embedded in social regulation and customary law, often holds more significance than formal state laws, particularly in conflict resolution and community governance.³ For instance, in the Batak community, domestic violence cases are frequently resolved through local wisdom rather than formal legal channels, reflecting a preference for customary practices over state law.⁴ Moreover, local wisdom plays a crucial role in fostering social cohesion and cultural identity, as seen in educational contexts where it enhances civic engagement and historical awareness among youth. However, the challenge lies in the potential conflict between these local practices and international human rights norms, necessitating a careful balance to ensure that local customs do not infringe upon individual rights. Thus, while local wisdom is vital for community identity and social order, its integration with universal human rights remains a complex and ongoing dialogue.⁵

Some indigenous communities have their own mechanisms for resolving social issues, prioritizing deliberation and consensus. This community-based approach is often more accepted by the local population compared to the formal judicial process, which is seen as rigid and lacking an understanding of the local cultural context. However, in some cases, there are conflicts between local wisdom and human rights (HR) principles, such as in the treatment of women, children, and minority groups who still face discrimination in the name of tradition and custom in certain areas. This phenomenon highlights that, while local wisdom has significant potential to support HR enforcement, there is an urgent need to ensure that customary values do not conflict with the fundamental rights guaranteed internationally.

This research is based on the premise that local wisdom can be an effective instrument in complementing and strengthening the human rights protection framework in Indonesia, provided it is managed and integrated with an inclusive and contextual approach. This local-based approach can serve as a bridge between global standards and local practices, especially in communities that still strongly adhere to traditional norms. To

² Michael, Krennerich. (2024). (2) Human Rights and Human Rights Politics. Interdisciplinary studies in human rights, doi: 10.1007/978-3-031-57026-1_1

³ Sakman, Sakman., Aim, Abdulkarim., Kokom, Komalasari., Iim, Siti, Masyitoh. (2024). (1) Unveiling the Merdeka Curriculum: A Review of Local Wisdom Integration in Civic Education for Junior High Schools. KnE Social Sciences, doi: 10.18502/kss.v9i19.16496

⁴ Merry, Roseline, Pasaribu., Roswita, Sitompul. (2024). (5) The Power of Local Wisdom Law in Resolving Domestic Violence And its Relationship with Law No. 23 of 2004 in Toba Regency Indonesia. Atlantis highlights in social sciences, education and humanities, doi: 10.2991/978-94-6463-352-8_14

⁵ Helmi, Helmi., Dony, Yusra, Pebrianto., Hafrida, Hafrida., Retno, Kusniati., Beny, Saputra. (2023). (3) Local Wisdom in Indonesia: Assessing its Legal Status and Role in Forest Protection. Jambe Law Journal, doi: 10.22437/jlj.6.2.125-141

that end, this study examines how local wisdom can support HR enforcement efforts in Indonesia through literature analysis, case studies, and evaluation of examples of local wisdom applications in resolving HR issues across various regions.

Additionally, this research also discusses the challenges that arise in integrating local wisdom with universal HR standards. Some of the main challenges include cultural resistance to change, potential clashes between customary norms and national law, and the complexity of aligning diverse local values with homogenous global principles. Therefore, this study seeks to propose a harmonious integration model between local wisdom and HR, where both can complement each other to create a more just, inclusive, and socially equitable society.

Method

This research uses a qualitative method with a library research approach.⁶ The library research was conducted by reviewing various literature, including books, academic journals, research reports, and legal documents related to human rights and local wisdom in Indonesia. This approach was chosen for its relevance in exploring theoretical and conceptual understandings of the interaction between HR principles and local values in society. Data sources were obtained from recognized academic literature and case studies from various regions in Indonesia that demonstrate the practice of local wisdom in HR enforcement. The collected data was analyzed descriptively and qualitatively using content analysis techniques.⁷ This analysis involved identifying themes, patterns, and relationships between the concepts of local wisdom and HR enforcement. The technique aims to understand the cultural context in which customary norms either protect or potentially violate human rights. The analysis focuses on how local wisdom can be integrated with universal HR standards to create a more inclusive and contextual approach.

The research process was carried out in three main stages: data collection, data analysis, and synthesis. The first stage involved selecting and collecting relevant literature, followed by an in-depth analysis of the content. The synthesis stage aimed to formulate conclusions and recommendations based on the analyzed findings. This research method also considers the context of legal pluralism in Indonesia, where national law, customary law, and religious law often interact in HR enforcement. This holistic approach is expected to provide a comprehensive understanding of the potential and challenges in integrating local wisdom into the HR protection framework.

Result and Discussion

The Relationship Between Human Rights, Local Wisdom, and Cultural Relativism

a. Human Rights and Local Wisdom

The protection and enforcement of human rights (HR) in Indonesia cannot be separated from the social and cultural contexts present within society. Although HR

⁶ Ratnaningtyas, E. M., Saputra, E., Suliwati, D., Nugroho, B. T. A., Aminy, M. H., Saputra, N., & Jahja, A. S. (2023). Metodologi Penelitian Kualitatif. *No. Januari. Aceh: Yayasan Penerbit Muhammad Zaini.*

⁷ Burhan Bungin, Penelitian Kualitatif (Jakarta: Kencana Predana Media Group, 2011).

principles are universally recognized, their application often needs to be adapted to local norms and values. Research shows that in several regions in Indonesia, local wisdom plays a crucial role in bridging the application of HR values, making them more acceptable to the community. For example, in community-based conflict resolution, traditional deliberation (musyawarah adat) is often a more effective approach compared to the implementation of formal legal systems.⁸

Local wisdom encompasses norms, traditions, and practices that are passed down through generations and respected by local communities. In some contexts, these customary values have evolved into instruments for HR protection, particularly in addressing social issues such as land disputes or family conflicts. However, challenges arise when these customary norms conflict with universal HR principles, such as cases of gender-based discrimination or the treatment of minority groups.⁹

b. Legal Pluralism in Indonesia

Legal pluralism in Indonesia allows for the coexistence of multiple legal systems, namely state law, religious law, and customary law. The interaction between these three systems creates dynamics in the application of HR principles.¹⁰ Customary law, which is often based on local wisdom, may not always align with national law, particularly on issues related to HR. This raises questions about how to harmonize these different legal systems without compromising citizens' fundamental rights.

Legal pluralism poses significant challenges in human rights enforcement, particularly when customary laws conflict with national and international legal standards. In many indigenous communities, practices related to gender roles may be accepted locally, despite contradicting principles of equality and non-discrimination enshrined in broader legal frameworks. The coexistence of diverse legal systems, such as Islamic law and secular civil law, further complicates governance and social cohesion, highlighting the need for a nuanced understanding of these interactions. Research indicates that conflicts between different legal norms can lead to disparities in rights and protections, necessitating inclusive legal education and dialogue among stakeholders to harmonize these systems. Moreover, legal pluralism can inadvertently perpetuate societal hierarchies, particularly affecting marginalized groups, thus underscoring the importance of contextual approaches that respect local customs while upholding human rights standards. Addressing these complexities is essential for fostering equitable legal systems that promote justice and social welfare.¹¹

⁸ Triwahyuningsih, S. (2018). Perlindungan Dan Penegakan Hak Asasi Manusia (Ham) Di Indonesia. *Legal Standing : Jurnal Ilmu Hukum*, 2(2), 113 - 121. doi:<https://doi.org/10.24269/lj.v2i2.1242>

⁹ Sulaiman, Rekonsiliasi Berbasis Kearifan Lokal Di Aceh, *Kanun Jurnal Ilmu Hukum*. Vol. 18, No. 3, (Desember, 2016), pp. 367-376. <https://jurnal.usk.ac.id/kanun/article/view/5930>

¹⁰ Rika Afrida Yanti, Pluralisme Hukum Di Indonesia, *Jurnal Cerdas Hukum*. Volume 2. Nomor 1. November. 2023. 52-58.

¹¹ S., Shahid, Husain., Nasir, Purkon, Ayoub., Mukhammadolim, Hassmann. (2024). (2) Legal pluralism in contemporary societies: Dynamics of interaction between islamic law and secular civil law. doi: 10.35335/cfb3wk76

c. Cultural Relativism and the Universality of Human Rights

Cultural relativism posits that norms and moral values should be understood within their cultural contexts, which can complicate the application of universal human rights (HR) standards. Research indicates that while cultural relativism can provide insights into local practices, it also raises concerns about potential violations of HR principles. For instance, in Indonesia, the Capability Approach illustrates how local customs can deviate from universal HR standards, suggesting that understanding cultural contexts is essential for respecting local identities while promoting HR compliance. However, this perspective can lead to moral relativism, where conflicting moral judgments are seen as equally valid, potentially undermining the universality of HR. Moreover, the interplay between universal and local values, particularly in religious contexts, highlights the need for a balance that respects cultural diversity while upholding fundamental HR standards. Ultimately, integrating local wisdom with HR principles requires careful negotiation to avoid erasing cultural identities while ensuring the protection of human dignity.¹²

The debate surrounding the universality of human rights (HR) in Indonesia highlights the tension between global HR principles and local cultural values. Research indicates that while HR should ideally apply universally, their enforcement must consider Indonesia's rich cultural diversity. For instance, the Constitutional Court of Indonesia emphasizes the need for flexibility and recognition of local customs to maintain social harmony and stability in a diverse society. Additionally, the development of multicultural education is crucial for fostering tolerance and understanding among different ethnic and cultural groups, which can help integrate HR principles with local wisdom. Furthermore, the discourse on marriage practices illustrates the complexities of legal pluralism in Indonesia, where both monogamous and polygamous traditions coexist, necessitating a nuanced approach to HR that respects cultural diversity. Thus, adapting HR enforcement to local contexts through education and recognition of cultural practices can enhance their relevance and effectiveness in Indonesia.¹³

Local Wisdom and the Protection of Human Rights in Indonesia

This study identifies several key findings related to the protection and enforcement of human rights (HR) involving local wisdom in Indonesia, based on an in-depth literature review. These findings reveal two sides of the interaction between customary norms and HR principles: on one hand, there is evidence that local wisdom can serve as an effective mechanism for HR protection; on the other hand, there are cases where customary practices conflict with universal HR standards.

In some indigenous communities in Indonesia, local wisdom has proven to play a positive role in HR protection, especially in the context of resolving disputes and social

¹² Anicée, Van, Engeland. (2022). (5) Human Rights: Between Universalism and Relativism. doi: 10.1007/978-94-6265-515-7_5

¹³ Dominikus, Jawa., Parningotan, Malau., Ciptono, Ciptono. (2024). (1) Tantangan Dalam Penegakan Hukum Tindak Pidana Korupsi Di Indonesia. Jurnal USM law review, doi: 10.26623/julr.v7i2.9507

conflicts.¹⁴ For example, the consensus and deliberation systems used in land dispute resolution in various regions like Papua and Nusa Tenggara. In this context, community-based approaches that prioritize dialogue and collective agreement have led to solutions perceived as fair by all parties involved. This process reflects the values of social justice and inclusivity, which are essential components of HR, such as the right to fair legal protection and the right to participate in decision-making processes that affect their lives.

The customary deliberation system, for instance, allows conflict resolution without resorting to formal judicial channels, which are often perceived as less sensitive to the local context. This process encourages active participation from all parties, promotes open dialogue, and avoids conflict escalation. In many cases, this approach not only leads to faster resolutions that align with local values but also strengthens social cohesion and reduces intergroup tensions. This demonstrates that local wisdom can significantly contribute to the protection of community rights, particularly in contexts deeply connected to cultural identity and social norms.

a. Challenges in Applying Local Wisdom to Human Rights

The research findings also highlight significant challenges when customary practices conflict with universal HR principles. A frequently cited example is related to the rights of women and children.¹⁵ In some indigenous communities, traditional practices related to women's and children's rights can violate principles of gender equality and child protection as stipulated in national and international law. For instance, in some communities, early marriage is still considered part of traditional customs, despite it being contrary to the Convention on the Rights of the Child and national laws prohibiting underage marriage.

These practices are often upheld on cultural and traditional grounds, even though their impact on individual rights is clearly detrimental. Women's rights, including the right to education, health, and participation in decision-making, are often neglected within some customary systems. Similarly, children's rights, which should be protected from exploitation and harmful treatment, are sometimes compromised. This research indicates that these challenges require serious attention and a balanced approach to harmonizing customary norms with HR standards.

While local wisdom can positively contribute to HR protection, integrating local values with HR principles must be done cautiously. Strategies are needed that take into account the local context while still adhering to international HR standards, ensuring that all individuals, including women and children, receive appropriate protection according to their rights.

b. Local Wisdom as a Strengthening Mechanism for Human Rights Protection

¹⁴ Muhaimin, (Position of Human Rights in Maintaining Local Wisdom of Spatial Planning in the Province of Bali, *Majalah Hukum Nasional*. Volume 51 Nomor 2 Tahun 2021. DOI : 10.33331/mhn.v51i2.143. <https://mhn.bphn.go.id>

¹⁵ Rifa' Rosyaadah, Rahayu Rahayu. Perlindungan Hak Asasi Manusia Perempuan terhadap Kasus Kekerasan dalam Rumah Tangga di Indonesia dalam Perspektif Hukum Internasional, *JURNAL HAM*. Volume 12, Nomor 2, Agustus 2021. DOI: <http://dx.doi.org/10.30641/ham.2021.12.261-272>

The findings from this study indicate that local wisdom, when applied appropriately, can enhance human rights (HR) protection in a way that is more contextual and acceptable to local communities. Concrete examples from Papua and Nusa Tenggara illustrate how customary law can function as an effective mechanism for resolving conflicts peacefully and fairly while respecting the individual rights within the community.

In Papua, for instance, the customary deliberation system, known as "musyawarah" or traditional dialogue, plays a crucial role in resolving land disputes and other social issues. This process prioritizes the principle of social justice, which aligns with HR values such as the right to protection and the right to participate in decision-making processes that impact their lives. In this context, customary deliberation not only reflects local cultural values but also serves as a platform for achieving consensus, avoiding prolonged conflicts, and embracing all parties in a fair solution. This demonstrates that local wisdom can act as a bridge between existing social norms and HR principles, making conflict resolution processes more inclusive and culturally relevant.¹⁶

In Nusa Tenggara Timur, customary law practices also showcase their ability to accommodate HR values. For example, the "sekehe" (customary groups) system often adopts restorative principles in resolving disputes, focusing on restoring relationships between conflicting parties and reinstating social harmony.¹⁷ This system can be integrated with HR principles such as the right to fair treatment and the right to participate in legal processes, proving that local wisdom can strengthen HR protection in ways that align with cultural values.

c. Challenges in Harmonizing Local Wisdom and Universal Human Rights Principles

However, significant challenges arise when customary practices conflict with universal HR standards. Some traditions and customary norms, such as early marriage and restrictions on women's decision-making rights, often clash with the principles of gender equality and child protection enshrined in international instruments like the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Convention on the Rights of the Child (CRC).

The practice of early marriage, still found in some indigenous communities, violates a child's right to proper development and access to adequate education. Early marriage often limits girls' rights to education and access to essential healthcare services.¹⁸ It also increases the risk of gender-based violence and economic inequality in the future.

Similarly, in some customary systems, women may not have equal rights in decision-making processes, which contradicts the principle of gender equality. For instance,

¹⁶ Rahmadi, A. (2022). Urgensi Penetapan Hak Ulayat Masyarakat Hukum Adat Terkait Kebijakan Pelayanan Pertanahan Di Papua. *Tunas Agraria*, 5(1), 17–32. <https://doi.org/10.31292/jta.v5i1.170>

¹⁷ Miranda Risang Ayu Palar, Lailani Sungkar. Proses Literasi Hukum Adat Kampung Tarung Nusa Tenggara Timur : Upaya Pengakuan Eksistensi. *Jurnal Masalah-Masalah Hukum*. Vol 48, No 1 (2019) DOI: 10.14710/mmh.48.1.2019.111-122

¹⁸ Rahma, S. F. M. (2023). Analisis Pernikahan Dini atas Hak Anak dalam Perspektif Hak Asasi Manusia (Studi Kasus: Kecamatan Pringapus Kabupaten Semarang). *Gema Keadilan*, 10(3), 127-137. <https://doi.org/10.14710/gk.2023.20386>

decisions related to inheritance or land rights are often dominated by men, while women, despite their significant contributions, frequently do not enjoy equal rights. This highlights how certain customary practices can hinder the achievement of gender equality and the protection of individual rights as governed by international law.

d. Sensitive and Inclusive Approaches for Harmonization

This research emphasizes the need for a sensitive and inclusive approach to address conflicts between local wisdom and HR principles. One of the initial steps that can be taken is through training and awareness programs on HR in local communities.¹⁹ These educational initiatives aim to enhance understanding of basic rights and HR principles and how customary norms can be integrated with these principles without compromising local cultural identities.

The implementation of training programs should actively involve members of indigenous communities, traditional leaders, and policymakers. This will help ensure that existing customary practices can be adjusted to align with HR principles in ways that respect local cultural values. This approach also includes developing policies that consider local wisdom while still meeting international HR standards. Such policies should create a balance between respecting customary norms and protecting individual rights, ensuring that basic rights are not neglected in the process of adaptation.

By adopting this approach, it is hoped that a more inclusive and culturally sensitive HR enforcement model can be established. This will support efforts to harmonize universal HR principles with existing customary practices, ensuring effective and sustainable human rights protection in a multicultural context.

e. Implications and Recommendations

The findings of this research reveal that integrating local wisdom into the framework of human rights (HR) protection must be approached cautiously to ensure that customary values do not overlook internationally recognized human rights. The primary implication of these findings is the need for aligning customary norms with global HR standards to create a more inclusive and effective protection system. It is crucial to recognize that although local wisdom plays a significant role in social and cultural contexts, not all customary practices align with universal HR principles.

This integration requires efforts to identify and address customary practices that may conflict with fundamental rights. It is essential to prevent unintended HR violations while preserving cultural diversity. Therefore, the development of policies that accommodate local wisdom while adhering to international HR standards is key. This involves a deep understanding of how customary norms function in local contexts and how they can be adjusted to avoid infringing upon individual rights.

To find common ground between local norms and HR principles, more intensive dialogue is needed among relevant parties, including policymakers, HR institutions, and

¹⁹ Mimin Hartono. Pendidikan dan Penyuluhan Hak Asasi Manusia: Refleksi Program Komnas HAM Periode 2012-2017. *Jurnal Hak Asasi Manusia* 14(14):1-33. DOI:10.58823/jham.v14i14.105.

indigenous communities. This process should involve open and participatory discussions on how customary norms can be integrated with HR principles without disregarding fundamental individual rights. This dialogue should include outreach and education to all parties to enhance understanding of the importance of HR protection and how customary practices can be adapted to meet international standards.

Establishing forums or platforms that enable regular interaction and consultation among all stakeholders can accelerate this harmonization process. Such an approach allows each party to voice concerns, provide input, and collaborate in designing balanced and sustainable solutions. Effective policy development requires an approach that accommodates local wisdom while complying with international HR standards. These policies should be designed to protect individual rights within the existing cultural context and provide mechanisms for adjusting customary practices that do not align with HR principles.

The policy development process should involve an in-depth analysis of the impact of customary practices on human rights, as well as consultations with indigenous communities to ensure the relevance and acceptance of these policies. Policies should facilitate the integration of HR values into customary practices without erasing cultural identity, and establish procedures to address conflicts between customs and HR when they arise. Enhancing education and outreach on HR at the community level is an essential step in improving understanding and acceptance of fundamental rights as regulated by national and international law. Educational programs should be designed to provide clear and comprehensive information about human rights and how these rights can be applied within local cultural contexts.

Education should involve various methods, including direct training, educational materials, and discussion forums tailored to local languages and cultures to ensure effective understanding. Additionally, outreach efforts should engage community leaders and traditional figures to facilitate the effective delivery of information and build support for implementing HR principles in customary practices. This research emphasizes the importance of a context-based approach that accommodates cultural diversity while maintaining the integrity of HR principles. By implementing these recommendations, it is hoped that a more inclusive and culturally sensitive HR enforcement model can be created. This approach will enable better HR protection in multicultural contexts like Indonesia, where cultural and traditional diversity must be respected while ensuring that fundamental individual rights are effectively protected.

Conclusion

This study demonstrates that local wisdom can play a significant role in strengthening human rights protection if applied carefully and contextually. Findings from various case studies in Papua and Nusa Tenggara indicate that customary norms, such as the system of deliberation and consensus, can provide fair and inclusive dispute resolution mechanisms. This process reflects social justice values aligned with HR principles, showing that local wisdom can serve as a bridge between social norms and individual rights.

Therefore, local wisdom has the potential to enhance HR protection if appropriately integrated within the local cultural context.

However, this research also identifies significant challenges when customary practices conflict with universal HR standards, particularly concerning the rights of women and children. Some practices, such as early marriage and restrictions on women's decision-making rights, often conflict with gender equality and child protection principles as regulated by international law. This underscores the need for a sensitive and inclusive approach to bridging the differences between local wisdom and HR principles so that fundamental individual rights are not neglected in the process of adapting customary norms.

Moving forward, the recommendations from this research highlight the importance of intensive dialogue among policymakers, HR institutions, and indigenous communities to find common ground between local norms and HR principles. Developing policies that accommodate local wisdom while adhering to international HR standards, along with enhancing education and outreach on HR at the community level, are crucial steps to ensure effective human rights protection. This context-based approach is expected to create a more inclusive and culturally sensitive HR enforcement model, ensuring that human rights are well protected within the framework of Indonesia's cultural diversity.

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