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Recognition and Protection of Indigenous Communities under Minister of Home Affairs Regulation Number 52 of 2014: Problems of Implementation at the Local Level

A. Ilham Saputra[1], Burhanudin Yusuf[2]
[1] Universitas Pancasila
[2] Universitas Satya Negara Indonesia
Correspondence: ailhamsaputraachmad@gmail.com[1],burhanudin.yusuf@usni.ac.id[2]

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ABSTRACT
Recognition and protection of Indigenous Communities in Indonesia depend on the extent to which constitutional recognition is translated into effective legal and administrative mechanisms at the local level. Minister of Home Affairs Regulation Number 52 of 2014 establishes a recognition mechanism through identification, verification and validation, recommendation, and determination by the competent local government. This study examines the recognition and protection mechanism under Minister of Home Affairs Regulation Number 52 of 2014 and analyses the institutional and regulatory factors affecting its implementation at the local level. The study employs normative legal research using statutory, conceptual, and case approaches. Primary and secondary legal materials are analysed qualitatively and prescriptively through Legal Effectiveness Theory and Legal System Theory. The analysis identifies institutional capacity, the functioning of Indigenous Community Committees, evidentiary requirements, local government decision-making, and fragmented regulatory arrangements as the principal implementation issues documented in the reviewed cases and literature. The analysis further demonstrates that recognition of an Indigenous Community does not necessarily result in comprehensive protection of customary rights when the recognition process remains disconnected from regulatory regimes governing customary land, forestry, customary villages, and spatial planning. Accordingly, the study proposes strengthening procedural certainty, institutional capacity, community participation, supervision, cross-sectoral coordination, and regulatory synchronization to ensure that formal recognition can serve as a coherent legal basis for the continuing protection of Indigenous Communities and their traditional rights.

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INTRODUCTION

Recognition and protection of Indigenous Communities (Masyarakat Hukum Adat) remain an important issue within the Indonesian legal system. Article 18B paragraph (2) of the 1945 Constitution recognizes Indigenous Communities and their traditional rights, subject to their continued existence and their conformity with societal development and the principles of the Unitary State of the Republic of Indonesia (Republic of Indonesia, 1945). Constitutional recognition establishes an important legal foundation, but it does not by itself determine the legal status of a particular Indigenous Community at the local level. Formal recognition still requires an administrative process through which the existence, territory, customary law, institutions, and other characteristics of the community can be established.

The distinction between constitutional recognition and formal administrative recognition is also reflected in the development of Indonesian jurisprudence. Constitutional Court Decision Number 35/PUU-X/2012 strengthened the legal position of Indigenous Communities by distinguishing customary forests from state forests and affirming the relevance of Indigenous Communities and their customary territories within the legal framework. In this context, recognition is not merely a declaration

of community identity; it may also determine the legal basis for the recognition and protection of customary territories, institutions, and traditional rights. Consequently, the effectiveness of constitutional recognition depends on the existence of administrative and legal mechanisms capable of translating that recognition into concrete legal status and protection at the local level.

Minister of Home Affairs Regulation Number 52 of 2014 establishes a procedural framework for the recognition and protection of Indigenous Communities through identification, verification and validation, recommendation, and determination, with local governments playing a central role in its implementation. Identification covers the history of the Indigenous Community, customary territory, customary law, customary assets or objects, and customary institutions. The results are subsequently examined through verification and validation before a recommendation is submitted for formal determination. This framework places substantial responsibility on local government institutions and the Indigenous Community Committee to translate evidence of customary existence into formal legal recognition.

The existence of a formal procedure, however, does not necessarily produce uniform outcomes across regions. Gunawan (2018), in examining the Cek Bocek Selesek Reen Suri Indigenous Community in Sumbawa, found that the implementation of Minister of Home Affairs Regulation Number 52 of 2014 had not been effective. The study identified regional regulatory arrangements, institutional interests, the position of the local government, and conflict involving the Indigenous Community as factors affecting the recognition process. A similar issue appears in Central Maluku, where Lainsamputty (2022) found that formal recognition and protection had not yet been determined, with implications for the legal position of Negeri as a customary village. These cases indicate that the implementation of the recognition mechanism may be affected by local institutional and regulatory conditions.

Recent studies indicate that these implementation difficulties extend beyond individual regional cases and involve the interaction between recognition mechanisms and other regulatory regimes. Research on customary forest recognition in West Papua shows that decentralization does not automatically result in recognition when national regulatory arrangements and local government priorities do not provide sufficient institutional support (Sopaheluwakan et al., 2023). More recent research likewise identifies regulatory fragmentation, institutional capacity, political relationships, and local government support as factors influencing the transition from formal recognition to effective protection of customary rights (Hidayat et al., 2026). These issues become more complex when customary territories intersect with legal regimes governing customary land, forestry, customary villages, and spatial planning, because recognition under one regulatory framework does not necessarily resolve the legal and administrative requirements arising under another.

The interaction between recognition and other regulatory frameworks is also evident in the development of customary land administration. Peraturan Menteri (Permen) ATR/BPN Number 14 of 2024 introduces a separate administrative framework for the administration and registration of customary land. Although recognition of an Indigenous Community and administration of customary territory are closely related, they are not identical legal processes. The existence of separate requirements and administrative procedures may create additional coordination needs when recognition of the community must subsequently be connected with the legal administration of its customary territory. This situation illustrates that formal recognition under Minister of Home Affairs Regulation Number 52 of 2014 cannot be examined independently from the broader regulatory framework governing customary land and territory.

Administrative implementation at the local level also presents practical difficulties concerning the determination of customary territories. The Directorate General of Regional Administration Development of the Ministry of Home Affairs identified difficulties relating to the determination of customary territories, including differences between customary boundaries and administrative boundaries and variations in interpretation and implementation at the local level. These difficulties are relevant because customary territory constitutes one of the elements examined in the recognition process. Where territorial information is disputed, incomplete, or difficult to reconcile with existing administrative boundaries, the verification and determination process may require coordination among different governmental institutions and the Indigenous Community concerned.

Against this background, existing studies have generally examined recognition and protection of Indigenous Communities through particular regional cases or specific sectoral issues, such as

customary villages, customary forests, customary land, or local institutional arrangements. While these studies provide important evidence concerning implementation at the regional level, a broader synthesis is required to examine how institutional capacity, evidentiary requirements, local government decision-making, and regulatory fragmentation interact within the implementation of Minister of Home Affairs Regulation Number 52 of 2014. This study therefore focuses on the implementation of the recognition and protection mechanism at the local level and examines how the interaction between local institutional arrangements and overlapping regulatory regimes affects the realization of legal protection for Indigenous Communities and their traditional rights.

Based on the problems identified above, this study addresses two research questions. First, how is the recognition and protection mechanism for Indigenous Communities under Minister of Home Affairs Regulation Number 52 of 2014 implemented at the local level? Second, what institutional and regulatory factors affect the effectiveness of the mechanism in providing legal protection for Indigenous Communities and their traditional rights? These questions are examined through normative legal analysis of the applicable regulatory framework and selected regional cases in order to identify both the operation of the recognition procedure and the factors that shape its implementation.

RESEARCH METHODS

Normative legal research employs statutory, conceptual, and case approaches. Statutory analysis examines the legal framework governing recognition and protection of Indigenous Communities, particularly Minister of Home Affairs Regulation Number 52 of 2014 and related regulations. Conceptual analysis examines legal recognition, legal protection, legal effectiveness, and legal system, while case analysis examines selected regional cases concerning implementation of the recognition mechanism at the local level. Primary and secondary legal materials are analyzed qualitatively and prescriptively.

Legal Effectiveness Theory provides an analytical framework for examining the operation of the recognition mechanism at the local level, particularly in relation to legal rules, implementing institutions, and conditions affecting implementation. Legal System Theory is applied to examine the relationship among legal substance, legal structure, and legal culture within the recognition and protection process. Application of both theories supports a distinction between regulatory problems and implementation problems arising from institutional capacity and local administrative practices.

Comparative analysis of selected regional cases is conducted to identify similarities and differences in the implementation of Minister of Home Affairs Regulation Number 52 of 2014. Central Kalimantan is examined in relation to the functioning of the Indigenous Community Committee, Nagari Kapa in relation to incomplete formal recognition, and Sumbawa in relation to institutional, political, and regulatory interaction. The comparison is used to formulate a synthesis of the conditions affecting recognition and the extent to which formal recognition provides a basis for the protection of customary rights.

RESULTS AND DISCUSSION

Recognition and Protection Mechanism for Indigenous Communities under Minister of Home Affairs Regulation Number 52 of 2014

Minister of Home Affairs Regulation Number 52 of 2014 establishes a legal and administrative framework for the recognition and protection of Indigenous Communities at the regional level. The framework is significant because constitutional recognition under Article 18B paragraph (2) of the 1945 Constitution does not, by itself, provide a procedure for determining the legal status of a particular Indigenous Community. Subroto (2019) notes that the issuance of the Regulation provided a more concrete basis for local governments to translate State recognition of Indigenous Communities into formal administrative recognition. The Regulation therefore provides a procedural link between constitutional recognition and formal recognition at the local level.

The authority to carry out recognition is distributed within the regional government structure. The Regulation places recognition and protection within the responsibility of local government, while the detailed process at the regency or municipal level is carried out through an Indigenous Community Committee established by the regent or mayor. The Committee does not ultimately grant recognition. Its function is to examine the existence of the Indigenous Community through identification,

verification, and validation and to submit a recommendation to the head of the local government. The institutional design therefore separates the assessment of customary existence from the authority to issue the formal determination.

Identification provides the factual basis for recognition. The Regulation requires examination of the history of the Indigenous Community, customary territory, customary law, customary assets and/or objects, and customary institutions or customary governance systems. These elements establish the characteristics through which the existence and continuity of an Indigenous Community can be assessed. Research concerning implementation of the Regulation similarly emphasizes that the identification stage covers the history, customary law, customary territory, customary assets, and customary institutions of the community (Gunawan, 2018).

Customary territory gives the identification process a broader legal dimension because recognition concerns not only the existence of a community but also the territorial context in which its customary relationships and rights operate. The issue becomes more complex where customary territory intersects with land, forestry, or other sectoral interests. The Enggano case, for example, demonstrates the connection between recognition of Indigenous Communities and regulatory regimes concerning customary land, forests, natural resources, and local government authority (Nurhidayah, 2017).

The results of identification are subsequently examined through verification and validation. This stage assesses the information and evidence concerning the existence of the Indigenous Community before formal determination. The results are announced to the community, providing an opportunity to raise objections. Where an objection is submitted, the findings may be examined again before the process proceeds to determination. The procedure consequently incorporates an opportunity to review the factual basis of recognition before the final administrative decision is issued.

Following verification and validation, the Committee submits its recommendation to the head of the local government. At the regency or municipal level, the regent or mayor makes the formal determination of recognition and protection based on the Committee's recommendation. The distinction between recommendation and determination is significant because the Committee performs the institutional assessment, while the head of the local government exercises the formal administrative authority to recognize the Indigenous Community. Adianto (2020) identifies this arrangement as an important feature of the Permendagri mechanism because recognition is formalized through a decision of the head of the region.

The use of a regional head's decision as the instrument of recognition also demonstrates the relationship between the Permendagri mechanism and other regulatory requirements. Adianto (2020) discusses the legal relationship between recognition of Indigenous Communities and the subsequent acquisition of rights over customary land. This relationship indicates that formal recognition of an Indigenous Community may constitute an important legal basis for subsequent processes concerning customary rights, while the legal consequences of recognition may depend on the regulatory framework governing the particular right being asserted.

Recognition is not intended to end with the issuance of the determination. The Regulation also provides a framework for the protection, guidance, and supervision of Indigenous Communities. Accordingly, formal determination represents a point within a continuing governmental process rather than an isolated administrative act. Protection, guidance, and supervision provide the subsequent governmental dimension of recognition and connect formal status with continuing responsibilities toward recognized Indigenous Communities.

From a procedural perspective, the mechanism establishes a sequence comprising identification, verification and validation, opportunity for objections, recommendation by the Indigenous Community Committee, and determination by the head of the local government. Each stage performs a distinct function within the recognition process: identification establishes the factual basis, verification and validation examine the evidence, objections provide an opportunity for review, recommendation records the Committee's assessment, and determination produces the formal administrative status. The structure therefore provides a defined administrative pathway for translating evidence of customary existence into formal recognition.

Implementation experience, however, indicates that the existence of this procedural pathway does not necessarily result in uniform outcomes across regions. In Sumbawa, for example, Gunawan (2018) found that implementation of Minister of Home Affairs Regulation Number 52 of 2014 was affected by regional regulatory arrangements, institutional interests, the position of the local

government, and conflicts involving the Indigenous Community. The case demonstrates that the operation of the formal mechanism is situated within existing local institutional and regulatory conditions.

Accordingly, Minister of Home Affairs Regulation Number 52 of 2014 provides the procedural foundation for formal recognition, while its implementation requires the interaction of the Indigenous Community Committee, local government, and other relevant institutions. The distinction between the regulatory procedure and the conditions under which it operates is important for understanding subsequent implementation problems. The following discussion therefore examines the institutional factors that affect the operation of the recognition mechanism at the local level.

Institutional Problems in the Local Implementation of the Recognition Mechanism

ormal recognition does not necessarily mean that the recognition mechanism will operate effectively at the local level. Minister of Home Affairs Regulation Number 52 of 2014 provides the institutional framework, but its implementation depends on the capacity of local governments, the functioning of the Indigenous Community Committee, the availability of evidence, and the willingness of relevant authorities to bring the process to a final determination. Salamat's study of Central Kalimantan highlights the importance of the Indigenous Community Committee in the recognition and protection process. The functioning of the Committee is therefore relevant to the capacity of local institutions to carry out the recognition mechanism (Salamat, 2022).

The Indigenous Community Committee occupies a particularly important position because much of the substantive work takes place before a decision can be issued. Its responsibilities require examination of customary history, territory, customary law, assets, and institutions, followed by verification and validation of the available information. Such work cannot always be completed through ordinary administrative records. Historical accounts, customary practices, community institutions, and knowledge concerning territorial boundaries may all constitute relevant evidence. For that reason, the quality of the recognition process depends not only on whether a Committee has been formally established, but also on whether its members have sufficient knowledge, resources, and institutional support to assess the evidence properly.

Evidence itself may become a source of difficulty. Indigenous Communities do not necessarily maintain their history and territorial boundaries in the form of documents normally used by government agencies. Customary knowledge may instead be transmitted through community institutions and collective memory. The verification process therefore requires a degree of administrative flexibility without sacrificing legal certainty. If government officials rely too heavily on documentary evidence that does not reflect the way customary communities preserve their history, communities with a continuing customary structure may encounter difficulties in demonstrating their existence through the prescribed procedure.

Formal recognition can also remain unresolved despite the continued existence of evidence concerning an Indigenous Community. In the Nagari Kapa case, Abidin and Firmansyah (2024) found that the Indigenous Community had not been formally determined by the local government, although evidence concerning its customary history, territory, customary property, and institutions remained available. The study associated the absence of formal recognition with difficulties in protecting customary rights, particularly customary land rights, and also identified problems concerning the understanding and application of the regulatory hierarchy governing Indigenous Communities. This case demonstrates that the availability of substantive evidence does not, by itself, ensure completion of the formal recognition process.

The Sumbawa case illustrates a different configuration of institutional difficulty. Gunawan (2018), examining the Cek Bocek Selesek Reen Suri Indigenous Community, found that Minister of Home Affairs Regulation Number 52 of 2014 had not been effectively implemented. The study identified several factors surrounding the implementation process, including Regional Regulation of Sumbawa Regency Number 23 of 2007 concerning customary institutions, the position of the Sultan of Sumbawa, statements by the regent, and conflict between the Indigenous Community and PT Newmont Nusa Tenggara. The case indicates that implementation of the recognition mechanism operates within existing local institutional and regulatory arrangements rather than independently from them (Gunawan, 2018).

Cianjur provides a contrasting local context. Regional government documents describe institutional arrangements involving the establishment of an Indigenous Community Committee and the stages of identification, verification and validation, determination, guidance, supervision, and reporting. The Cianjur example therefore illustrates how the national recognition framework can be incorporated into local administrative arrangements. In comparison with Nagari Kapa and Sumbawa, the case is useful for demonstrating that local implementation is shaped by the extent to which the regulatory framework is translated into functioning institutional procedures (Tim Penyusun Naskah Akademik Rancangan Peraturan Daerah tentang Desa Adat Kabupaten Cianjur, 2024).

The comparison of these cases shows that institutional problems do not take a uniform form across regions. Central Kalimantan highlights the role of the Indigenous Community Committee; Nagari Kapa demonstrates the consequences of recognition remaining incomplete despite available evidence; Sumbawa shows the interaction between recognition and existing local institutional, political, and regulatory arrangements; while Cianjur illustrates the incorporation of the recognition framework into local administrative arrangements. The common feature across these cases is the dependence of the recognition process on the capacity and operation of local institutions.

Another institutional issue concerns the transition from the Committee's recommendation to the final determination. The Committee may complete identification, verification, and validation and submit its recommendation, but formal recognition still requires action by the competent local government. This gives the head of the local government an important role in converting the Committee's findings into a legal determination. Where the administrative route following the recommendation is unclear or delayed, recognition may remain pending even after substantial preparatory work has been completed.

The decision-making stage may also be affected by the broader interests associated with customary territory. Recognition can have implications for land use, natural resources, development planning, existing administrative arrangements, and the interests of other actors within the claimed territory. Salamat's research further emphasizes the relevance of government commitment, coordination, budgeting, and stakeholder involvement in the formation of regional regulations concerning Indigenous Communities. These factors indicate that the implementation of recognition requires institutional coordination extending beyond the Committee's technical assessment.

The institutional problems are closely connected with the regulatory environment in which local governments operate. The Sumbawa experience, for example, involved interaction between the recognition mechanism, local regulatory arrangements, and forestry regulation. This indicates that an institution may face difficulties not solely because of its internal capacity, but also because it must determine how different legal instruments apply to the same community or territory. Where the relationship among these instruments is unclear, the recognition process can become administratively more complex.

Taken together, the documented cases indicate that strengthening implementation requires attention to the entire institutional chain. Local governments require adequate administrative capacity to establish and support the Committee; Committee members require sufficient expertise and resources to conduct identification and verification; Indigenous Communities require meaningful opportunities to contribute evidence concerning their history and territory; and the administrative pathway from recommendation to determination needs to be sufficiently clear. These institutional dimensions provide the basis for the next analysis concerning the interaction between the recognition mechanism and other regulatory regimes.

Regulatory Fragmentation and Legal Synchronization

Recognition of an Indigenous Community does not operate within a single regulatory framework. Once customary territory and traditional rights become relevant to the recognition process, other areas of law may also apply, particularly land administration, forestry, spatial planning, and customary village governance. The resulting difficulty is not merely the number of regulations involved, but the interaction among different legal regimes and institutions that may exercise authority over the same community or territory. Each regime may establish distinct procedures, evidentiary requirements, and legal consequences for the recognition or protection of customary rights.

A fundamental distinction must therefore be maintained between recognition of the Indigenous Community and protection of the rights associated with its customary territory. Minister of Home Affairs Regulation Number 52 of 2014 establishes a mechanism for determining the existence and legal status of the Indigenous Community, but such determination does not necessarily resolve the legal status of every parcel of customary land or forest within the recognized territory. Subsequent administrative measures may still be required under the applicable agrarian, forestry, spatial-planning, or other sectoral frameworks. Recognition may consequently provide a legal basis for the community's status while leaving particular questions concerning the administration and protection of its customary territory to be addressed under other regulatory regimes

Forestry provides a clear example of this regulatory interaction. Sopaheluwakan et al. (2023), examining customary forest recognition in West Papua, found that the decentralization framework was not accompanied by a sufficiently supportive forestry regulatory framework. Their study identified the continuing emphasis of forestry regulation on centralized state control and the limited prioritization of customary forest recognition by provincial and regency governments. The findings indicate that the existence of decentralized governmental authority does not, by itself, ensure recognition of customary forests when sectoral regulations and local policy priorities do not provide sufficient support for that recognition.

A similar issue arises from the division of authority among different levels of government. Jayuska et al. (2025) identify ambiguity concerning the role of provincial governors in the recognition of Indigenous Communities, particularly where customary territories extend across regency or municipal boundaries. Their study also identifies coordination problems between provincial and regency governments and weak harmonization between regional customary regulations and national law. These findings demonstrate that the administrative structure of recognition may become more complex when the territorial scope of an Indigenous Community does not correspond to the administrative boundaries established by the State.

Cross-boundary customary territories consequently present a specific synchronization problem. Where a customary territory extends across more than one administrative area, a recognition procedure conducted by only one regency or municipality may not adequately address the legal status of the entire territory. The relevant local governments may also operate under different regulations, institutional arrangements, and administrative priorities. Without an appropriate coordination mechanism, the same Indigenous Community may therefore encounter multiple administrative authorities and potentially different approaches to the recognition and subsequent protection of its customary territory. This issue is particularly relevant to legal certainty because the territorial scope of customary rights may not follow the administrative boundaries used for governmental decision-making.

Spatial information provides another important dimension of legal synchronization. Dako et al. (2024), in their study of the Boti Indigenous Community in Timor Tengah Selatan, applied a socio-spatial approach to verify the existence of the Indigenous Community and its customary territory. Their study considered customary history, customary territory, customary law, customary institutions, traditional practices, and evidence of customary forest management. The findings demonstrate that verification of Indigenous Communities can involve spatial information alongside customary and institutional evidence, thereby providing a more comprehensive basis for establishing the territorial dimension of recognition.

The significance of spatial evidence extends beyond the recognition procedure itself. Information concerning customary territory may subsequently be relevant to land administration, environmental management, forestry, and spatial planning. If territorial information established during recognition is not consistently reflected in relevant governmental systems, the legal and administrative treatment of the same territory may remain fragmented. The integration of verified customary territorial information can therefore support consistency between the initial recognition decision and subsequent administrative processes, while allowing each sector to apply its own substantive requirements

Land administration presents a comparable distinction. Recognition of an Indigenous Community and administration of customary land are related but legally distinct processes. The former concerns the existence and legal status of the community, whereas the latter concerns the administration and legal treatment of rights over particular areas of land. The development of more specific regulatory arrangements concerning customary land therefore makes coordination between the recognition mechanism and subsequent land administration increasingly important. Formal recognition should

provide relevant factual and legal information for subsequent processes without being treated as automatically resolving every question concerning land rights.

Customary village governance may also intersect with the recognition mechanism. In some regions, recognition of an Indigenous Community has consequences for the institutional status of customary villages. The Central Maluku experience discussed in the preceding analysis illustrates this relationship: the absence of formal recognition was associated with difficulties concerning the determination of Negeri as a customary village. This demonstrates that recognition may have legal consequences extending beyond the immediate status of the community, particularly where customary institutions are connected with local governmental structures.

Regulatory fragmentation should therefore be understood as a problem of interaction rather than simply as the existence of numerous regulations. Multiple legal instruments can coexist without necessarily producing uncertainty when their respective functions, institutional responsibilities, and legal consequences are clearly defined. Difficulties arise when the same community or territory is subject to different recognition requirements, administrative authorities, evidentiary standards, or understandings of legal status. In such circumstances, facts concerning customary history, territory, or institutions may need to be established repeatedly under different regulatory frameworks.

This fragmentation also affects legal certainty for local governments. Officials implementing the recognition mechanism may need to determine how it relates to regulations governing forests, land administration, village boundaries, or spatial planning. Where the relationship between these regimes is insufficiently clear, uncertainty may affect the sequence of administrative action and the allocation of institutional responsibility. The resulting problem is therefore not necessarily a direct contradiction between legal provisions, but the absence of a sufficiently clear relationship among rules that regulate different aspects of the same community or territory.

Legal synchronization should consequently extend beyond the elimination of formally contradictory provisions. It requires a workable relationship among the institutions, procedures, evidentiary findings, and legal consequences involved in recognition and subsequent protection. A determination of an Indigenous Community should be capable of functioning as a reliable legal reference for subsequent processes concerning customary land, forests, customary villages, and spatial planning, while sector-specific requirements remain applicable where required by law.

A more coherent approach would require both vertical and horizontal coordination among the institutions involved. Shared spatial information, coordinated verification, clearer rules concerning the legal effect of recognition, and mechanisms for addressing cross-boundary customary territories could reduce duplication and improve consistency among administrative processes. Jayuska et al. (2025) similarly emphasize the importance of stronger vertical and horizontal coordination in responding to fragmented recognition arrangements.

Ultimately, the legal significance of recognition depends partly on whether the recognition decision can operate coherently within the wider regulatory system. Minister of Home Affairs Regulation Number 52 of 2014 provides an entry point for formal recognition of an Indigenous Community, but the consequences of that recognition may extend into regulatory regimes administered by other institutions. Where those institutions do not consistently use or give effect to the relevant findings concerning the community and its customary territory, formal recognition may have a more limited practical reach. Legal synchronization is therefore necessary to connect recognition as a formal administrative status with the continuing legal administration and protection of customary rights.

Effectiveness of the Recognition Mechanism at the Local Level

The implementation of Minister of Home Affairs Regulation Number 52 of 2014 should be assessed by examining the extent to which its legal design operates through local institutions and produces a sufficiently clear basis for the recognition and subsequent protection of Indigenous Communities. The existence of a formal procedure does not, by itself, demonstrate that the mechanism operates consistently in practice. Recent research identifies continuing gaps between formal recognition and its implementation, particularly where recognition criteria are unclear and the process depends substantially on local institutional conditions (Kusuma & Hermawan, 2025). Accordingly, the relevant issue is not whether the regulation provides a procedure, but whether that procedure can be translated into a functioning administrative outcome at the local level.

Soerjono Soekanto's Legal Effectiveness Theory provides the principal analytical framework for examining this implementation gap. Soekanto (2008) identifies five factors relevant to the operation of law: the legal rule, law-enforcement institutions, supporting facilities, society, and legal culture. Applied to the recognition mechanism, Minister of Home Affairs Regulation Number 52 of 2014 constitutes the relevant legal rule, while local governments and Indigenous Community Committees form important parts of the institutional structure responsible for carrying it out. The remaining factors are reflected in the availability of administrative resources, the participation of Indigenous Communities, and the extent to which recognition is incorporated into local governmental practice.

The evidence discussed in the preceding sections indicates that institutional capacity is one of the principal points at which the mechanism may encounter difficulties. Identification, verification, and validation require the assessment of historical, territorial, legal, and institutional evidence, while the final determination depends on the competent local authority. Consequently, limitations in the capacity of the Indigenous Community Committee, administrative resources, or relevant expertise can affect the process before it reaches the determination stage. Kusuma and Hermawan (2025) similarly identify institutional strengthening and greater procedural clarity as important elements in improving the legal protection of customary communities. These findings show that the regulatory procedure is dependent on institutional conditions for its practical operation.

Local administrative and political conditions may further shape the implementation process. Recognition can have consequences for customary territory and may therefore intersect with land use, natural resources, development planning, and existing governmental arrangements. Simamora (2025), for example, identifies administrative and political constraints in the protection of Toba Batak customary land, including the absence of an operational regional regulation, inadequate spatial and historical data, and limited Indigenous Community participation in verification. These findings provide documentary support for the proposition that local implementation is influenced by conditions surrounding the recognition process, rather than by the text of the regulation alone.

Friedman's Legal System Theory complements this analysis by distinguishing legal substance, legal structure, and legal culture (Friedman, 1975). In this context, Minister of Home Affairs Regulation Number 52 of 2014 forms part of the legal substance; local governments, Indigenous Community Committees, and other relevant institutions constitute the legal structure; and the attitudes and patterns of conduct through which recognition is understood and implemented form part of the legal culture. This framework helps explain why a formally established procedure may produce different outcomes across localities. The variation does not necessarily indicate that the regulation itself is defective; rather, it demonstrates that the operation of the rule depends on the interaction between its substantive provisions, implementing institutions, and local administrative practices.

The legal-substance dimension also becomes more complex because recognition is connected to several other regulatory regimes. The Ministry of Home Affairs mechanism operates alongside regulations concerning agrarian affairs, forestry, villages, and spatial planning, each of which may establish different requirements and institutional responsibilities. Afnaini and Hamdan (2026) identify overlapping sectoral regulations and differing recognition requirements as sources of legal uncertainty in customary land recognition. Their findings are consistent with the regulatory fragmentation identified in the preceding section: the administrative determination of an Indigenous Community may constitute an important legal foundation, but it does not independently resolve every issue concerning customary land and other territorial rights.

This relationship is particularly important when distinguishing recognition from protection. Recognition establishes the legal status of the Indigenous Community, whereas protection concerns the practical safeguarding of the community's institutions, territory, and traditional rights through the wider legal system. Jayus (2020) observes that constitutional, statutory, and regional recognition has not always been accompanied by sufficient protection in practice. More specifically, Purwanto and Widyawati (2026) demonstrate that customary land registration under ATR/BPN Regulation Number 14 of 2024 remains connected to prior recognition by local government, while the determination process itself may become an obstacle to subsequent land registration. Thus, the legal consequence of recognition depends partly on whether the determination can be used effectively in subsequent sectoral administrative processes.

The preceding analysis of regulatory fragmentation provides the basis for understanding this issue more precisely. Legal synchronization does not require all regulatory regimes to adopt identical procedures. Rather, the relevant requirement is that different institutions can work from compatible legal facts and that a determination under one regulatory framework can provide a meaningful reference for subsequent action under another. Leliak (2026) identifies regulatory fragmentation and disharmonization among sectoral laws as structural factors affecting the protection of customary territories, while Rahmawati and Maksum identify administrative capacity, intergovernmental coordination, legal pluralism, and relations among State actors, Indigenous Communities, and economic interests as factors influencing customary land policy. These findings indicate that the operation of the recognition mechanism should be assessed as part of an interconnected legal system rather than as an isolated administrative procedure.

Taken together, the two theoretical perspectives clarify the principal findings of this study. From Soekanto's perspective, the implementation of the recognition mechanism is affected by the quality of the legal rule, institutional capacity, supporting resources, community participation, and local legal culture. From Friedman's perspective, these issues reflect the interaction of legal substance, legal structure, and legal culture. The empirical and documentary materials examined in this study indicate that the central difficulty is therefore not the absence of a formal recognition mechanism, but the uneven capacity of the legal and institutional system to translate that mechanism into a determination that can operate coherently across related regulatory fields.

On this basis, the answer to the second research question can be formulated more precisely. The operation of the recognition mechanism at the local level is affected by three interconnected conditions: (1) procedural and administrative certainty in the recognition process; (2) institutional capacity and coordination among the local actors responsible for identification, verification, validation, and determination; and (3) the ability of the resulting recognition decision to connect with regulatory mechanisms governing customary land, forests, customary institutions, and spatial planning. These conditions should not be treated as three separate deficiencies, because weakness in one can affect the operation of the others.

The findings consequently support a strengthening approach directed at the implementation chain rather than at a single provision of Minister of Home Affairs Regulation Number 52 of 2014. Priority areas include strengthening the capacity of local governments and Indigenous Community Committees, clarifying the transition from recommendation to final determination, ensuring meaningful community participation in verification, and establishing stronger coordination with sectoral institutions. Such measures would strengthen the connection between formal recognition and the subsequent administration of customary rights, while preserving the distinct legal functions of land, forestry, village, and spatial-planning regimes.

Strengthening the Recognition and Protection Mechanism

Strengthening the recognition and protection mechanism should focus on improving the continuity, clarity, and accountability of the existing recognition process. Minister of Home Affairs Regulation Number 52 of 2014 already establishes the principal stages of identification, verification and validation, recommendation, and determination. The findings discussed in this study indicate that difficulties arise when evidence cannot be sufficiently established, institutional responsibilities are unclear, or a process does not proceed from one stage to the next within a predictable administrative framework. Reform should therefore concentrate on improving the operation of the existing mechanism rather than creating an entirely separate recognition procedure.

The first area requiring improvement is the evidentiary framework used in identification, verification, and validation. The five elements for establishing an Indigenous Community provide an important basis for assessment, but their application requires clearer standards concerning the types of evidence that may be considered and the manner in which different forms of evidence are assessed. Historical records, customary narratives, territorial knowledge, customary institutions, and spatial information should be assessed as complementary forms of evidence. Dako et al. (2024), through their socio-spatial study of the Boti Indigenous Community, demonstrate the relevance of combining customary, institutional, and spatial information in establishing the existence and territory of an Indigenous Community. A clearer evidentiary framework would therefore allow customary knowledge to be appropriately considered alongside documentary and spatial evidence.

Procedural certainty should also extend across the entire recognition process. Establishing requirements for individual stages is insufficient if there is no corresponding mechanism to monitor the progression of a case toward final determination. Each recognition process should have a documented administrative status indicating the stage completed, outstanding requirements, responsible institution, and reasons for any delay. Particular attention should be given to the period following the submission of the Indigenous Community Committee's recommendation. A recommendation should be followed by a clearly defined administrative process leading to the decision of the competent local authority. This would provide Indigenous Communities and government institutions with greater clarity concerning the status of an application and the steps that remain to be completed.

A specific mechanism should also be available for recognition processes that remain unresolved. Delays may arise from incomplete evidence, objections, institutional disagreement, or uncertainty concerning territorial boundaries and administrative authority. In such circumstances, the responsible institution should identify the specific issue that prevents the process from continuing, determine which institution is responsible for resolving it, and establish the requirements for further processing. Such a mechanism would provide an administrative distinction between a process that is legitimately awaiting additional evidence and one that has become inactive because of an unresolved institutional issue.

Institutional capacity should be strengthened in parallel with these procedural improvements. The Indigenous Community Committee requires members with sufficient understanding of administrative procedures, customary law, customary institutions, territorial history, and the forms of evidence commonly used by Indigenous Communities. Technical expertise is particularly relevant where customary territories overlap with forests, agricultural land, or other regulated areas. Salamat (2022) emphasizes the importance of the Indigenous Community Committee in the recognition process, while Hidayat et al. (2026) identify local institutional capacity and relationships between government actors and Indigenous Communities as relevant factors in customary land recognition. Institutional strengthening should therefore address both administrative capacity and the substantive expertise required to conduct verification appropriately.

Meaningful participation of Indigenous Communities should form an integral part of the verification process. Community members should have the opportunity to present evidence concerning their history, customary institutions, territorial boundaries, and traditional practices, as well as to respond to the results of verification and validation. This is particularly important where relevant evidence is preserved through customary knowledge and oral transmission rather than government archives. Participation can also provide an opportunity to identify disputed territorial boundaries or competing claims before the recognition process reaches its final stage. In this respect, participation serves both an evidentiary and procedural function within the recognition mechanism.

Supervision should further be strengthened to support accountability throughout the recognition process. Provincial government institutions can assist in identifying recognition cases that remain unresolved at the regency or municipal level and facilitate coordination where implementation problems extend beyond the capacity of a single local government. Central government guidance can likewise contribute to greater consistency in the interpretation and implementation of the recognition framework. Such supervision should remain complementary to the authority of the competent local government. Its function should be to provide guidance, coordination, and accountability where implementation encounters persistent procedural or institutional difficulties.

Cross sectoral coordination should form another component of the strengthening framework. Recognition of an Indigenous Community may subsequently be relevant to customary land administration, forestry, customary village governance, and spatial planning. Relevant institutions should therefore be able to use factual information established through the recognition process, particularly information concerning customary history, institutions, and territory. This would reduce the need for Indigenous Communities to repeatedly establish substantially similar facts in separate administrative procedures. Dako et al. (2024) demonstrate the relevance of spatial information in establishing customary territory, while the discussion of regulatory fragmentation in this study shows the difficulties that may arise when related information is not adequately connected across institutional processes.

Regulatory synchronization should consequently focus on establishing clear relationships among the recognition mechanism and the sectoral regimes that subsequently address customary rights.

Regional regulations concerning Indigenous Communities should be developed consistently with applicable national regulations governing customary land, forestry, villages, and spatial planning. Where different regulatory regimes establish separate requirements, their respective functions and relationships should be clearly defined. The purpose is not to require all sectors to apply an identical procedure, but to ensure that a determination made under the recognition mechanism can provide a reliable legal and administrative reference for subsequent processes.

Strengthening the mechanism should also distinguish between matters that require procedural standardization and matters that require contextual flexibility. Administrative stages, documentation requirements, institutional responsibilities, and mechanisms for monitoring procedural progress can be formulated with greater consistency. At the same time, the assessment of customary history, territorial knowledge, customary institutions, and community specific evidence requires sufficient flexibility to accommodate differences among Indigenous Communities. A balanced approach would therefore provide predictable administrative standards without reducing the ability of the recognition process to accommodate the diverse social and customary characteristics of Indigenous Communities.

The strengthening of the recognition mechanism should ultimately be directed toward continuity between recognition and subsequent protection. Procedural certainty can clarify how a case moves toward determination; stronger institutional capacity can improve the quality of verification; community participation can strengthen the evidentiary basis of recognition; supervision can improve administrative accountability; and cross sectoral coordination can connect recognition with subsequent legal processes. These measures address different stages and institutional relationships within the existing framework, while maintaining the distinct functions of the legal regimes governing customary land, forests, customary institutions, and spatial planning.

Accordingly, the principal reform priority is to ensure that recognition operates as a connected legal and administrative process rather than as an isolated determination. Minister of Home Affairs Regulation Number 52 of 2014 provides the procedural foundation, while its practical consequences depend on the capacity of implementing institutions and its relationship with other areas of law. Strengthening the mechanism should therefore prioritize procedural certainty, evidentiary clarity, institutional capacity, meaningful community participation, supervision, and cross sectoral coordination. This approach responds directly to the implementation problems identified in the preceding analysis and provides a basis for translating formal recognition into continuing legal protection of Indigenous Communities and their traditional rights.

CONCLUSION

Minister of Home Affairs Regulation Number 52 of 2014 establishes a formal legal and administrative mechanism for recognizing and protecting Indigenous Communities through identification, verification and validation, recommendation, and determination by the competent local government. At the local level, however, implementation does not produce uniform outcomes. Documented cases demonstrate that recognition may be delayed or remain incomplete because of difficulties in establishing evidence, limited institutional capacity, unclear progression between procedural stages, and differences in local administrative conditions. Recognition therefore operates not only as a legal procedure but also as an administrative process whose outcome depends on the capacity of the institutions responsible for carrying it out.

Institutional and regulatory factors jointly shape the subsequent protection of customary rights. Local cases do not demonstrate a single pattern of implementation failure; rather, they reveal different points at which the recognition process may encounter difficulties. Institutional constraints primarily concern the capacity of local governments and Indigenous Community Committees to conduct identification, verification, validation, and determination. Regulatory fragmentation becomes significant when recognized communities and their customary territories subsequently fall within legal regimes governing land, forestry, customary villages, and spatial planning. Recognition of an Indigenous Community must therefore be distinguished from the legal administration and protection of particular customary rights.

Greater procedural certainty, stronger institutional capacity, appropriate evidentiary standards, meaningful community participation, effective supervision, and coordination among relevant institutions provide the principal basis for strengthening the existing mechanism. Rather than replacing sectoral regulatory regimes, these measures should establish clearer connections between formal

recognition and subsequent processes concerning customary rights. Formal determination under Minister of Home Affairs Regulation Number 52 of 2014 can consequently serve as a stronger legal and administrative foundation when supported by capable local institutions and coherent interaction with the wider regulatory framework. Such an approach answers the two research questions by clarifying both the operation of the recognition mechanism at the local level and the institutional and regulatory conditions that shape its implementation.

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