UTS ePRESS

Cosmopolitan Civil Societies: An Interdisciplinary Journal

Vol. 18, No. 3
2026

© 2026 by the author(s). This is an Open Access article distributed under the terms of the Creative Commons Attribution 4.0 International (CC BY 4.0) License (https://creativecommons.org/licenses/by/4.0/), allowing third parties to copy and redistribute the material in any medium or format and to remix, transform, and build upon the material for any purpose, even commercially, provided the original work is properly cited and states its license.

Citation: Syahril, M. A. F., Pransisto, J., Wiwin, W., Jufri, S. 2026. Customary Barriers and Indigenous Land Rights: Legal Cosmopolitanism and Resistance in Papua. *Cosmopolitan Civil Societies: An Interdisciplinary Journal*, 18:3, 53–66. https://doi.org/10.5130/ccs.v18.i3.10538

ISSN 1837-5391 | Published by UTS ePRESS | https://epress.lib.uts.edu.au/journals/index.php/mcs

ARTICLE (REFEREED)

Customary Barriers and Indigenous Land Rights: Legal Cosmopolitanism and Resistance in Papua

Muh. Akbar Fhad Syahril[1,*], Johamran Pransisto[1], Wiwin Wiwin[1], Supriadi Jufri[2]

[1] Institut Ilmu Sosial dan Bisnis Andi Sapada, Parepare-Indonesia
[2] Universitas Muhammadiyah Sidendreng Rappang, Sidrap-Indonesia

Corresponding author: Muh. Akbar Fhad Syahril, Institut Ilmu Sosial dan Bisnis Andi Sapada, Jl. H. Andi Sapada No.11, Kel. Sumpang Minangae, Kec. Bacukiki Barat, Kota Parepare, South Sulawesi 91121, Indonesia, akbar9.a9@gmail.com

DOI: https://doi.org/10.5130/ccs.v18.i3.10538
Article History: Received 22/06/2026; Revised 04/08/2026; Accepted 14/08/2026; Published 16/11/2026

Abstract

This reseach examines *Palang Adat* and red cross practices depicted in the documentary Pesta Babi as Indigenous grassroots strategies asserting customary land rights (*hak ulayat*) and territorial sovereignty over ancestral lands and forests amid large-scale development in South Papua. Combining normative-juridical and socio-legal approaches with statutory, conceptual, and case-based analysis, it assesses *hak ulayat* recognition and protection under Indonesia's constitutional, agrarian, special-autonomy, and regional frameworks, revealing persistent gaps between formal recognition and effective protection. These practices operate as legal-symbolic markers beyond state certification and bureaucracy, expressing localized free, prior, and informed consent (FPIC). Drawing on UNDRIP and debates on legal cosmopolitanism and cosmopolitan civil society, the article interprets them as cosmopolitan Indigenous rights claims challenging state-centred legality and demanding legal pluralism and global justice within Indonesia's legal-political order. The findings inform debates on environmental justice, resource governance, and civil society's defence of *hak ulayat*.

Keywords

Customary Gate (*Palang Adat*); Communal Land Rights (*hak ulayat*); Legal Cosmopolitanism; Indigenous Peoples' Rights; *Pesta Babi* (Pig Feast) Documentary

DECLARATION OF CONFLICTING INTEREST The author(s) declared no potential conflicts of interest with respect to the research, authorship, and/or publication of this article. **FUNDING** This study was conducted as an internal research project, with institutional support through access to facilities and research resources, rather than direct financial funding.

Introduction

In the Papuan context, agrarian conflicts and the expansion of large-scale development projects are deeply intertwined with issues concerning the status and protection of indigenous communal *hak ulayat*. As a collective entitlement over land, forests, and natural resources governed by customary law, *hak ulayat* has historically constituted the foundation of identity, social cohesion, and the economic sustainability of indigenous communities. However, the penetration of state licensing regimes and extractive investments has frequently positioned *hak ulayat* in a subordinate role relative to land tenure systems derived from national positive law. Within this framework, the practice of installing customary barriers (*Palang adat*) and red crosses in South Papua can be interpreted as a juridical-cultural expression by indigenous communities to reaffirm the validity of customary law and assert their *ulayat* claims in the face of state authority and corporate interests.

The legal basis for the implementation of special autonomy in Papua is established under Law Number 21 of 2001 concerning Special Autonomy for the Province of Papua, promulgated in the State Gazette of the Republic of Indonesia of 2001, Number 135. This legislation constitutes a principal regulatory framework governing the recognition and administration of Papua's special autonomous status within the constitutional structure of the Republic of Indonesia. Nevertheless, such recognition often remains declaratory and has not been fully implemented in practice. Rahmadi demonstrates that until recent years, no regency or municipality in Papua has enacted regional regulations recognizing *hak ulayat*, despite the explicit mandate for such regulatory frameworks within the Special Autonomy regime. As a consequence, land disputes among indigenous communities, corporations, and the government continue to recur due to the absence of a clear regulatory framework governing the recognition and demarcation of *hak ulayat*. This condition reveals a persistent gap between the formal-legal claims of recognition of customary rights and the administrative as well as political practices at the local level.

Critical agrarian law scholarship states that *hak ulayat* constitutes a crucial instrument for the protection of indigenous peoples amid the pressures of globalization and capitalist expansion (Syahril 2024). Dirkareshza et al. (2020) show that customary rights have a complex public-private dimension, where indigenous communities hold collective authority, while land becomes a common property that cannot be treated solely as a commodity in market logic. This paper adopts a normative legal approach to examine the urgency of establishing specific regulations governing the customary rights of customary law communities. It argues that a clearer and more comprehensive regulatory framework is necessary to prevent the marginalization of collective rights and to ensure that the legal protection of customary law communities is effectively implemented in practice. Similar findings were presented in the research of Rupadana and Swetasoma (2025), which highlighted how massive investment in the natural resources sector has pushed customary lands to become objects of conflict and eviction, leading indigenous communities to lose access to their living spaces.

With particular reference to Papua, Rahmadi argues that the formal recognition and determination of the customary rights of indigenous communities should be understood not only as a legal obligation of the state, but also as a strategic instrument for mitigating land disputes, supporting land-registration processes, and enhancing legal certainty in areas affected by conflict. Similarly, the failure to establish local legal instruments for the recognition and protection of customary rights has generated layered legal uncertainty, which in turn has exacerbated agrarian conflicts in several regions of Papua (Rahmadi 2022). The absence of formal recognition has led indigenous peoples to seek other avenues to defend their land, including through protest mechanisms, access blockades, and various forms of non-institutional resistance rooted in customary law. In this framework, the customary cross and the red cross appear as 'legal markers' in the indigenous community version that articulate customary rights outside the state's land certification and registration scheme.

The documentary *Pesta Babi* (2026) places the symbol of the customary cross and the red cross as integral parts of the customary law practice, narrating how the indigenous people of South Papua use pig festival traditions, rituals, and religious symbols to communicate claims to customary rights and rejection of land grabs. The pig festival is not simply represented as a cultural ceremony, but instead as a forum for customary deliberation where collective decisions about land and forests are formulated, resolved and physically marked through the installation of bars in customary areas. In this way, the film shows how customary law operates through a combination of norms, rituals, and symbols that mark territorial boundaries, call for community solidarity, and convey a message of resistance to state and corporate actors.

From the perspective of legal cosmopolitanism, the practice of protecting customary rights through customary law in Papua can be read as a claim for global justice which demands that national and international legal systems recognize legal pluralism and the collective rights of indigenous peoples. Legal cosmopolitanism encourages the recognition of historically marginalized communities, including indigenous peoples, as legal subjects entitled to the protection of categories of human rights, *hak ulayat*, and sustainable environmental rights (Damanik 2025). In the Papuan context, the demand for the recognition of customary rights and the practice of installing customary bars can be understood as an attempt by indigenous peoples to incorporate their legal norms into broader cosmopolitan conversations about land and resource rights, while criticizing the centralistic bias of state law that ignores the applicability of customary law.

Studies of customary law communities and customary rights in West Papua and Papua show that conflicts between customary law and state law often arise in cases of forestry, mining, and strategic infrastructure project concessions, where customary land becomes an unequal arena for negotiation (Nussy 2025). For example, research on the regulation of customary rights in Manokwari, revealed that special regional regulations on customary rights have not been optimally implemented, resulting in conflicts between indigenous peoples and oil and gas companies continuing to recur, while positive laws do not provide a resolution mechanism that is sensitive to social structures and customary values (Auparai 2024). On the other hand, an ethnographic study of customary law societies in West Papua shows that customary rights not only function as a legal category, but also as a cultural institution that regulates human relations with land, ancestors, and fellow community members. This underscores that the neglect of customary rights not only undermines the legal interests of indigenous peoples but also threatens their cultural identity and the sustainability of their traditional ways of life.

Based on this mapping, this study specifically aims to analyze how the customary cross and the red cross in the film *Pesta Babi* (2026) represent the practice of affirming customary rights and the resistance of indigenous Papuan peoples to the expansion of large-scale development projects, as well as examining the extent to which these practices can be read within the framework of legal cosmopolitanism and the international indigenous peoples' rights regime. Accordingly, this study examines: the configuration of the customary rights of indigenous peoples in Papua within national and international legal systems, including the gaps between legal recognition and practical implementation; and the role of customary symbols, namely the customary cross and the Red Cross, as "legal texts" that express indigenous peoples' claims to rights recognition and ecological justice amid contemporary agrarian conflicts. Theoretically, this study conceptualizes customary symbols as a form of legal cosmopolitanism that challenges the dominance of state-law monism and affirms legal pluralism. Practically, it provides a basis for strengthening customary-rights protection, developing Papuan customary law-sensitive agrarian dispute-resolution mechanisms, and supporting transnational advocacy for indigenous communities amid globalization and capital expansion, as depicted in *Pesta Babi* (2026).

Research Methods

This research uses a juridical normative legal research method that It conceptualizes the legal system as a coherent body of written norms codified in statutory instruments, regulations and doctrines (Juliardi

et al. 2023). The focus of the analysis is directed at the consistency, coherence, and adequacy of the norms that govern the recognition of customary law and customary rights in Papua, as well as their relationship with customary law practices represented through the symbol of the customary cross and the red cross in the documentary *Pesta Babi* (2026). This study utilises a statutory approach to examine the provisions of the 1945 Constitution, the Basic Agrarian Law (UUPA), the Papua Special Autonomy Law, special regional regulations, and other relevant sectoral legislation. It further employs a conceptual analysis to clarify the meanings of indigenous communities, customary rights, customary law, legal pluralism, and legal cosmopolitanism. Where relevant judicial decisions are available, the study also draws on a case-based analysis to assess how norms concerning customary rights and indigenous peoples have been interpreted and applied in judicial practice (Syarif et al. 2024).

This study treats the film *Pesta Babi* (2026) as a documentary source, interpreting it through the context of qualitative textual and visual analysis material that records the practice and symbolization of customary law in the context of contemporary agrarian conflicts, rather than empirical data from fieldwork. The analysis of the film is carried out textually by identifying scenes, symbols, and statements related to the affirmation of customary rights and the rejection of land grabbing, which are then placed in a critical dialogue with the national positive legal framework and international indigenous peoples' rights standards (Irwansyah & Yunus 2021). Primary legal materials (laws and regulations and court decisions) and secondary legal materials (books, journal articles, institutional reports, and doctrines) were collected through literature studies, inventoried, and classified based on their type and relevance to the formulation of the problem (Nawi & Syahruddin 2022). The analysis was carried out in a normative qualitative manner by interpreting the provisions of the law, comparing interrelated norms, assessing the harmony between the regulation of customary rights and the position of customary law in Papua, and examining the extent to which the normative construction can explain and accommodate the claims of indigenous peoples as reflected in the practice of customary crosses and red crosses (Sampara & Husen 2018).

Results and Discussion

CONFIGURATION OF CUSTOMARY LAW AND CUSTOMARY RIGHTS IN PAPUA

The legal position of customary law and *hak ulayat* in Papua is shaped by Indonesia's constitutional and statutory framework, which recognises indigenous communities and their traditional rights but makes such recognition conditional upon state-determined criteria (Syahril 2024). Article 18B (2) of the 1945 Constitution recognises and respects customary law communities and their traditional rights, provided that they remain living, are consistent with societal development and the principles of the Unitary State of the Republic of Indonesia, and are regulated by law; Article 28I (3) further affirms respect for the cultural identity and traditional rights of indigenous communities (Republic of Indonesia 1945). However, the qualifying language in Article 18B (2), particularly the requirements that communities remain "living" and conform to "the development of society," creates broad interpretive discretion, enabling governmental and bureaucratic authorities to determine recognition based on state assessment rather than on criteria developed and maintained by indigenous communities themselves.

The 1960 Basic Agrarian Law places customary rights as part of the national land law with an integrative, but at the same time, subordinative approach (Pertiwi & Jaman 2025) In practice, customary rights in Papua are often positioned as a declaratively valid category of customary law but are easily overruled when dealing with permits for forestry, mining, and infrastructure project concessions.

In Papua, *hak ulayat* is generally understood as the highest collective entitlement of indigenous communities over particular territories; it is communal in character, inseparable from tribal identity and kinship relations, and cannot be freely transferred (Mulyadi 2022). Evidence from the Badan Pemeriksa

Keuangan (BPK) Papua Representative 2022 and Samosir (2020), published by the World Resources Institute (WRI) Indonesia, further indicates that these rights provide the basis for regulating land use, control, and allocation among community members, with customary leaders including *ondoafi*, tribal chiefs, and other local authorities playing a central role in governing the distribution and transfer of use rights. Papua's diverse customary leadership arrangements, including king, big man, clan-based, and hybrid systems, demonstrate that customary legal institutions cannot be fully captured by categories of national positive law. Consequently, state-led standardisation and registration of customary land through modern land-administration systems may reduce the social, spiritual, and relational dimensions of land to objects of material rights. The cited WRI publication should be attributed to Samosir, while the year and full bibliographic details of the BPK Papua Representative document must be verified and included in the reference list (Samosir 2020).

The Papuan Special Autonomy Law (Republic of Indonesia, 2001) provides a more explicit framework for the recognition of customary rights. Article 43 obliges the Papua Provincial Government to recognise, respect, protect, empower, and develop the rights of indigenous peoples, including the *hak ulayat* of customary law communities and the individual rights of their members (Pertiwi & Jaman 2025). It further provides that, insofar as *hak ulayat* continues to exist, it shall be exercised by the relevant customary authorities in accordance with local customary law. Any provision of customary land for other purposes must be preceded by deliberation with the affected indigenous community to obtain agreement on both the transfer of the required land and the compensation provided. The Papuan Special Autonomy Law therefore positions customary law and *hak ulayat* as integral components of land governance in Papua and requires active, fair, and prudent government mediation in customary-land disputes. Nevertheless, this normative framework does not necessarily ensure effective implementation in practice.

Following the introduction of the Papuan Special Autonomy Law (Republic of Indonesia 2001), the Papua Provincial Government enacted Papua Special Regional Regulation (*Perdasus)* No. 23 of 2008 concerning the *hak ulayat* of customary law communities and the individual land rights of their members. The regulation establishes definitions of customary law communities and *hak ulayat*, and provides procedures for determining their existence, including research at the district or municipal level, territorial mapping and boundary identification, formal designation by the Governor or Regent/Mayor, and the involvement of customary institutions in land management. Regulation No. 23 of 2008 was designed as an instrument for recognising and protecting customary rights in Papua; however, its implementation has remained limited due to the complexity of customary-land disputes and institutional capacity constraints. Accordingly, despite its relatively robust normative framework, the regulation continues to face significant administrative and political barriers in practice (David, Sondakh & Korua 2023).

Rahmadi (2020) emphasises that the formal determination of *hak ulayat* through regional legal instruments is essential to establishing legal certainty in land administration. However, in many parts of Papua, local regulations recognising customary rights have not been effectively implemented, allowing agrarian disputes between indigenous communities and business entities to recur without a clear legal basis for resolution. This creates a paradox: *hak ulayat* is recognised normatively under the 1945 Constitution, the Basic Agrarian Law, the Papuan Special Autonomy Law, and *Perdasus* No. 23 of 2008, yet the absence of formal determination leaves such rights vulnerable to disregard during land-acquisition processes. This demonstrates a persistent gap between legal norms and their implementation.

Dirkareshza et al. (2020) further argue that *hak ulayat* is subordinated to the state's right of control and consequently depends heavily on formal legal recognition through implementing instruments. This weakens the bargaining position of indigenous communities vis-à-vis the state and concession holders, as customary rights that have not been formally determined and registered are often treated as less authoritative than rights arising from state-issued permits. In Papua, this framework deepens power asymmetries: indigenous communities must navigate complex legal and administrative procedures, whereas corporations may rely

on formal permits as readily accepted evidence of legal control over land. Rahmadi (2022) documents the absence of local recognition regulations and its link to land disputes in Papua, while Dirkareshza et al. (2020) discuss the legal vulnerability of *hak ulayat* within Indonesia's agrarian framework.

The gap between normative recognition and the effective protection of customary rights constitutes a significant source of agrarian disputes. Pertiwi and Jaman (2025) emphasise that although the legal framework provides a basis for recognising customary rights, the lack of clear, consistent operational mechanisms often puts indigenous communities on the defensive, forcing them to respond only after their land has been incorporated into concession schemes. This observation aligns with Rahmadi's finding (2022) that unclear regional-level technical arrangements, particularly those concerning the mapping of customary territories and the determination of territorial boundaries, are among the factors that trigger agrarian disputes. The importance of mapping and clear boundary determination for reducing uncertainty and conflict is also reflected in subsequent discussions of customary-land governance in Papua.

The institutional framework governing customary rights in Papua involves multiple actors: the central government, particularly the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN); provincial and district or municipal governments; and customary institutions that exercise traditional authority. Samosir (2020) explains that participatory mapping enables indigenous communities to document customary territories and contribute their knowledge to local development planning. In parallel, the Complete Systematic Land Registration (*Pendaftaran Tanah Sistematis Lengkap PTSL*) programme and the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Regulation No. 18 of 2019 treat the measurement, mapping, and recording of customary land as important measures for legal certainty (Komalasari 2019). However, where these processes are not participatory, formal land administration may weaken the authority of indigenous leaders and overlook the flexible, narrative, and collectively remembered character of customary law. This creates tension between the demands of formal land administration and the social foundations of customary tenure. Ministerial Regulation No. 18 of 2019 specifically provides for the measurement, mapping, and recording of customary land in the land register, while Samosir (2020) frames participatory mapping as a means of community involvement.

At the local level, Hidayat and Nugroho's study of customary land among the Moi people in Sorong (2024) demonstrates that customary rights are closely connected to histories of territorial control, genealogical relationships, and local knowledge of boundaries, which may be identified through natural markers and customary symbols. Although the Papuan Special Autonomy Law (Republic of Indonesia 2001) recognises *hak ulayat*, Article 43(3) provides that its exercise applies only insofar as the right continues to exist in practice. This criterion is often assessed through administrative and legal indicators that may not fully correspond to indigenous communities' own understandings of land tenure. Such epistemic tension can produce competing assessments of the validity of land claims, particularly where oral histories and customary practices are not reflected in written documentation. Article 43(3) expressly links the exercise of *hak ulayat* to its continuing existence in practice and assigns its exercise to the relevant customary authorities under local customary law.

Structurally, the configuration of customary law and *hak ulayat* in Papua is also shaped by national policies that promote investment and infrastructure development in eastern Indonesia. The Cabinet Secretariat has presented the Papuan Special Autonomy framework as a mechanism for improving welfare through regional development, particularly in education, health, and infrastructure (Republic of Indonesia, Cabinet Secretariat 2021). However, the implementation of customary-rights protection often encounters pressure from economic-development agendas and National Strategic Projects. Local governments therefore face a tension between their obligation to recognise and protect indigenous rights and their pursuit of investment, infrastructure, and regional-revenue targets. Agrarian disputes in Papua should consequently be understood not only as legal-normative issues, but also as political-structural problems shaped by relations between central and regional authorities.

The configuration described above has contributed to recurring customary-land disputes involving indigenous communities, government authorities, state-owned enterprises, and private companies. For example, David et al.'s analysis of the conflict between indigenous communities and Pertamina in Manokwari shows that, although Regulation No. 23 of 2008 provides a legal basis for recognising *hak ulayat*, its implementation remains limited (David, Sondakh & Korua 2023). The study attributes this limitation to the complexity of customary-land claims and the limited ability of relevant government institutions to translate the regulation into effective procedures for recognition, dispute resolution, and enforcement. Differing interpretations of the scope and holders of *hak ulayat* further complicate the process. This dispute illustrates how normative uncertainty and weak implementation mechanisms can hinder the effective protection of customary rights. David et al. identify the Manokwari dispute as an example of the continuing difficulty of applying Regulation No. 23 of 2008 to complex customary-land claims.

In such situations, indigenous Papuans have developed various ways to assert customary rights outside of formal procedures, including through symbolic and normative practices rooted in their own customary laws. The installation of customary bars and other symbols on land claimed as customary can be understood as a response to the inadequacy of positive legal protection, as well as an explicit statement that the land is subject to the customary law regime. From the point of view of legal configuration, this act is a legal counter-narrative that reminds us that behind the entire set of national regulations, there is a surviving customary legal system that demands substantive, not just declarative, recognition.

At the conceptual level, the existence of customary rights in Papua challenges the monistic orientation of Indonesian agrarian law, which tends to concentrate authority over land in the state. Customary rights reflect a model of communal tenure grounded in collective solidarity and spiritual relationships with land; consequently, they do not fully align with the individualisation of *hak ulayat* and the commodification of living space (Pertiwi & Jaman 2025). From the perspective of legal pluralism, the recognition of customary rights should not be treated merely as a limited accommodation within the national legal system, but as an expression of constitutionally recognised legal pluralism. The ideal legal configuration therefore requires an equal and meaningful dialogue between customary and state law.

The configuration of customary law and *hak ulayat* in Papua must also be understood in relation to international standards on indigenous peoples' rights, particularly the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). UNDRIP (United Nations 2007) affirms indigenous peoples' rights to their traditionally owned, occupied, or used lands, territories, and resources, and requires states to provide legal recognition and protection that respects indigenous customs, traditions, and tenure systems. However, Sallata argues that these standards have not been fully internalised into Indonesia's legal and institutional framework for protecting indigenous rights in Papua (Sallata 2022). Accordingly, customary law and *hak ulayat* in Papua operate at the intersection of constitutional norms, national agrarian law, special-autonomy arrangements, local customary law, and international human-rights standards. The resulting tensions contribute to protracted customary-land disputes and raise questions of substantive justice for indigenous communities

Overall, the configuration of customary law and customary rights in Papua is shaped by the overlapping norms of various levels of the constitution (Indonesia 1945), the Basic Agrarian Law, (Republic of Indonesia 1960), Special Autonomy Law (Republic of Indonesia 2001), Regulation 23 (Papua Province 2008), ministerial regulations, and doctrines that textually recognize customary law communities and customary rights, but include many conditions and loopholes that make such recognition conditional. Such structures tend to result in low legal certainty for indigenous peoples because their rights can always be renegotiated in the name of national or development interests. This uncertainty is an important background to understand why indigenous Papuans continue to look for alternative ways, including through the symbolism of the customary cross, to affirm their customary rights and demand a fairer and more consistent legal configuration.

THE CUSTOMARY CROSS AND THE RED CROSS AS PRACTICE OF CUSTOMARY LAW IN *PESTA BABI*

In the film *Pesta Babi* (2026) the customary cross and the red cross appear repeatedly as powerful visual elements when the indigenous peoples of Awyu, Marind, Yei, and Muyu mark forest areas claimed as their customary land. Land that will or has entered into the company's concessions for sugarcane plantations, oil palms, or food estate projects is not left vacant, but is symbolically 'fenced' with hundreds to thousands of wooden bars and red crosses planted along the boundaries of customary territory. Wirayudha (2026) states that in Fofi District, Boven Digoel, the Awyu people planted about 1,800 red crosses and customary crosses as a sign of resistance to the clearing of forests for biodiesel. In the context of customary law, this act can be read as an affirmation of the norm that the land is under the control of the indigenous community and should not be cultivated without their consent.

The customary cross and the red cross are mediums that combine the spiritual, political, and juridical dimensions of Papuan customary law. Spiritually, the red cross and the customary cross connect the claim to the land with the Christian faith that has long been internalized in Papuan society and with the ancestral bond to the forest as a sacred space. Politically, the movement, referred to as the 'Red Cross Movement' is a form of collective mobilization to show that indigenous peoples refuse to remain silent and refuse to be constructed as passive parties in development projects. From a juridical point of view, the customary cross marks that the territory is subject to the customary law regime, so any acquisition, logging, or land clearing without customary negotiations is seen as a violation of customary norms and a violation of customary rights.

Tehupeiory argues that *Pesta Babi* portrays a conflict over the living space of indigenous communities rather than merely an economically motivated land grab. From this perspective, customary land is not simply an economic asset; it is integral to the identity, social continuity, and sustainability of indigenous communities (Tehupeiory 2026). This understanding accords with Article 18B(2) of the 1945 Constitution, which recognises and respects customary law communities and their traditional rights, and Article 3 of the Basic Agrarian Law, which recognises *hak ulayat* insofar as it continues to exist and is exercised consistently with national interests (Republic of Indonesia 1945; Republic of Indonesia 1960). Read in this context, customary barriers and red crosses in the film may be interpreted as collective customary assertions that the relevant territory is neither vacant nor freely available for unilateral designation as state land or idle land by public authorities or investors. Tehupeiory's commentary (2026) characterises customary land as central to indigenous identity and continuity, while also framing the film as a portrayal of conflict over indigenous living space.

In accounts discussing *Pesta Babi* (2026), the customary cross and the red cross are presented as symbols of indigenous resistance to the treatment of Papua as unoccupied or freely available land. Jubi reported that the film conveys the message that Papua is not empty land, but a living space for indigenous communities whose forests and territories are threatened by National Strategic Projects and large-scale agribusiness expansion. The red cross and customary barriers may therefore be interpreted as normative declarations that the land remains under indigenous authority and should not be logged, converted to monoculture plantations, or cleared without community consent. Rather than functioning merely as visual elements, these symbols operate as customary markers of territorial boundaries and collective opposition, comparable in function to prohibitory notices or boundary markers in a written legal system, but grounded in customary legal norms.

From the perspective of Papuan customary law, marking land with specific signs forms part of traditional practices for regulating access, use, and control over territory. Hidayat and Nugroho's study of customary land among the Moi people in Sorong shows that customary tenure is closely connected to collective agreement, community-based authority, and the continuing communal character of *hak ulayat* (Hidayat &

Nugroho 2024). Territorial boundaries may be recognised through locally agreed natural features and customary markers rather than solely through formal cadastral documentation. In *Pesta Babi* (2026), this practice is rearticulated through prominent red crosses that retain Christian spiritual symbolism while invoking customary understandings of territorial boundaries and prohibitions. The film therefore illustrates the continuity and adaptation of customary legal practices within changing historical and religious contexts, without displacing their fundamental role in regulating customary rights.

The film depicts the customary cross and red cross as symbols through which indigenous communities communicate both internally and externally. Within the community, these symbols affirm that a decision has been reached through deliberation and collective agreement; in *Pesta Babi* (2026), this function is associated with the *Pesta Babi* tradition as a space for discussion, consensus-building, and the confirmation of shared decisions. For state institutions, companies, and the wider public, the symbols signal that the territory is subject to living customary rights and cannot be treated as unoccupied land or developed without meaningful engagement with the affected community. Rather than constituting documentary proof that free, prior, and informed consent (FPIC) has been obtained, the symbols should be understood as a locally grounded demand for participation, recognition, and consent in decisions affecting customary territory. This reading is consistent with Constitutional Court Decision No. 35/PUU-X/2012, which affirmed that customary forests are not state forests but forests held by indigenous communities, although the symbols in the film are not a direct legal consequence of that decision (Constitutional Court of Indonesia 2012). They instead illustrate how indigenous communities translate legal recognition into local forms of expression and political action, making the customary cross a normative medium between customary law, state law, and indigenous-rights claims. FPIC under UNDRIP requires good-faith consultation through indigenous peoples' representative institutions to obtain consent before approving projects that affect their lands, territories, or resources.

Legal cosmopolitanism and indigenous peoples' rights provide a broader framework for interpreting the customary cross and red cross depicted in *Pesta Babi* (Pertiwi & Jaman 2025). Soetjipto examines the implementation of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) in West Papua and argues that indigenous peoples' rights to land, territories, and resources form part of the international human-rights framework that requires states to respect, protect, and fulfil those rights (Soetjipto 2022). UNDRIP affirms indigenous peoples' rights to determine priorities and strategies for the development or use of their lands, territories, and resources, and requires states to consult and cooperate in good faith to obtain their free, prior, and informed consent before approving projects affecting them (United Nation 2007 arts. 10, 19, 26, 32). In this context, the customary cross and red cross depicted in *Pesta Babi* (2026) may be interpreted as local expressions of demands for participation, recognition, and consent before customary land is converted for large-scale plantation or other industrial purposes. They should not, however, be treated as legal proof that FPIC procedures have been fulfilled.

At the level of national legal discourse, Tehupeiory (2026) argues that the customary cross and red cross depicted in *Pesta Babi* expose the incomplete implementation of social-justice principles and the constitutional protection of customary rights under the Basic Agrarian Law (Republic of Indonesia 1960) and the 1945 Constitution (Republic of Indonesia 1945). The film illustrates how investment permits and development projects may prevail over the effective protection of indigenous peoples' rights, despite the Constitutional Court's affirmation that customary forests are not state forests in Decision No. 35/PUU-X/2012 (Constitutional Court of Indonesia 2012). The customary barriers and red crosses may therefore be interpreted not only as protests against corporate activities, but also as critiques of the state's failure to align development practices with constitutional protections and principles of agrarian justice.

Through the lens of film and legal studies, *Pesta Babi* (2026) can be positioned as a form of 'customary law documentation' that records the practice of enforcing customary norms in the midst of the onslaught of national strategic projects. The customary cross and red cross captured on camera are proof that indigenous

peoples still rely on symbolic devices to declare rights and prohibitions, while formal channels such as customary land certification, government mediation, and legal litigation have not provided adequate certainty. By making customary bars the focus of repeated visuals, the film makes room for normative readings: it shows that customary law is not an abstract entity, but rather is present through the concrete act of embedding bars as norm enforcement on the ground. The customary cross and the red cross as customary law practices in *Pesta Babi* (2026) can be tied to the findings of customary law literature and customary rights in Papua.

INDIGENOUS CROSSES, LEGAL COSMOPOLITANISM, AND INDIGENOUS PEOPLES' RIGHTS CLAIMS

The customary crosses and red crosses erected by indigenous Papuans are not limited to their local meaning as signs of prohibition or resistance to land dispossession. More broadly, they may be understood as articulations of legal claims that demand recognition of indigenous peoples as rights-bearing communities with historical, spiritual, and communal relationships to their customary territories. These symbols therefore operate not only within local customary law but also create a space for cosmopolitan legal interpretation, through which local claims to land and forests are connected to wider discourses on global justice, human rights, and legal pluralism.

Legal cosmopolitanism essentially rejects the view that the state is the sole centre of legal legitimacy and justice. In this perspective, structurally marginalized communities, including indigenous peoples, can make moral and legal claims that go beyond the boundaries of mere national legality. Its relevance to Papua lies in the fact that customary land conflicts cannot always be adequately resolved through the national legal apparatus, especially when the state is involved in granting concessions or development projects that erode the living space of indigenous peoples. Therefore, the customary bar can be understood as a normative expression that speaks not only to the state but also to the global community about the existence of injustices that demand recognition and correction.

In the context of indigenous peoples' rights, the most relevant international instrument is the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). Soetjipto argues (2022) that UNDRIP provides an important normative framework for understanding the position of indigenous Papuans, particularly regarding rights to land, territories, natural resources, cultural identity, and participation in decisions affecting their future. UNDRIP affirms indigenous peoples' rights to lands, territories, and resources that they have traditionally owned, occupied, or otherwise used, and requires states to provide legal recognition and protection that respects indigenous customs, traditions, and land-tenure systems. In this context, the customary cross and red cross may be understood as local articulations of rights that possess international normative legitimacy.

This reading becomes increasingly important because the problem in Papua is not only a land ownership dispute in the private sense, but a conflict regarding the sustainability of the existence of indigenous peoples themselves. Customary land in Papua functions as an economic base, identity space, place of kinship relations, as well as a spiritual space that connects the current generation with their ancestors. Therefore, when customary lands are transferred without the legitimate consent of indigenous peoples, what is harmed is not only material rights, but also cultural rights, collective rights, and the dignity of indigenous communities. This is where legal cosmopolitanism becomes relevant, because it allows the reading that violations of customary lands are a matter of global justice, not just a matter of local administration.

In practice, customary bars and red crosses work as a form of translating customary law norms into symbols that can be read more broadly. At the internal level of the community, the symbol affirms that an area is under the protection of customary norms and should not be touched without collective consent. At the external level, it serves as an open declaration that there are living legal claims that cannot be erased by

state permit documents alone. With this dual function, the customary bar becomes a kind of bridge between local legality and the universal claim to justice.

It is this framework that then helps explain why local symbols such as the customary cross can gain transnational resonance. When indigenous Papuans mark their lands with customary crosses and red crosses, the act is no longer solely understood in the local indigenous language but can also be translated into the language of human rights, indigenous peoples' rights, and ecological justice understood by the international community. In other words, such local practices have the capacity to tap into a wider network of solidarity, including human rights institutions, civil society organizations, academics, and virtual communities that monitor agrarian conflicts in Papua. At this point, the customary bar functions not only as a boundary sign, but also as a medium of political and legal communication that transcends the local space.

This aligns with the argument that the recognition of indigenous peoples' rights cannot be limited to a legal-formal approach that requires administrative proof alone. Research on the protection of the tenure rights of indigenous Papuans after the establishment of new autonomous regions confirms that normative recognition that is not followed by concrete protection actually prolongs the vulnerability of indigenous peoples to land acquisition (Suwarno 2025). In such conditions, the customary cross and the red cross are a form of self-affirmation, born from the need to fill the void of legal protection. Logically, this practice suggests that when the state fails to translate legal recognition into effective protection, indigenous peoples will retain their living space through their own normative devices.

Legal cosmopolitanism does not negate the role of the state; rather, it requires the state to embrace legal pluralism and recognise that justice cannot always be derived from uniform statutory norms alone. In the context of Papua, this means that national law should not only 'recognize' customary law communities in a general formulation but also provide substantive space for the application of customary law in customary land management, dispute resolution, and determination of development directions. Thus, the cosmopolitan reading of customary bars is not intended to replace national law, but rather to correct its centralistic tendencies and affirm that legal pluralism is a condition of justice for indigenous peoples.

The customary cross and the red cross are not only symbols of local resistance but also a form of normative claim that connects Papuan customary law with the global discourse on indigenous peoples' rights. Through a reading of UNDRIP and literature on the rights of indigenous Papuans, the practice can be understood as a demand for the recognition of customary rights, protection of collective identity, and respect for legal pluralism in the national and international legal systems. Thus, the customary bar acquires a broader meaning: it is not only a sign that the land is guarded by customs, but also a statement that the indigenous peoples of Papua are demanding an equal place in the global justice system.

Conclusion

The customary cross and red cross in South Papua constitute customary-law practices that function as markers of *hak ulayat*, declarations of prohibition, and affirmations of indigenous communities' collective authority over ancestral lands and forests. These practices emerge amid development agendas driven by state-issued permits and capital expansion, where the formal recognition of customary rights remains conditional and inconsistently implemented. The resulting gap between normative recognition and practical protection generates legal uncertainty and encourages indigenous communities to reactivate customary legal mechanisms as counter-claims to state and corporate assertions over land.

This study demonstrates that customary crosses and red crosses may be understood as cosmopolitan claims to indigenous rights. They connect local demands for the recognition of *hak ulayat* with broader discourses on human rights, legal pluralism, and global justice, while challenging the monistic and centralised orientation of national law. Accordingly, these symbols represent not only local resistance but also the assertion of indigenous Papuans as legal subjects entitled to participate in decisions affecting their

territories. This analysis provides a basis for strengthening the recognition and protection of customary rights and for developing agrarian-dispute-resolution mechanisms that are substantively responsive to customary law.

Acknowledgements

The authors express their heartfelt gratitude to the translator, Hamida Hasan, for the care and dedication devoted to this manuscript. Sincere appreciation also goes to every member of the author team, whose generosity with their time, perseverance through challenges, and shared commitment made the completion of this research possible

Disclosure of AI Use

AI-assisted tools were used solely to improve grammar and refine the English rendering of specific legal terms that were not adequately captured by Google Translate. Their use was limited to language editing and did not extend to developing the research arguments, conducting the analysis, or formulating the conclusions. The authors reviewed all revisions and take full responsibility for the final text.

References

Auparai, W-E. 2024., 'Konflik hak ulayat masyarakat hukum adat Mandacan dengan Pt. Pertamina Persero (Studi Putusan Nomor 23/Pdt. G/2021/Pnmnk.)', Diploma thesis, National Land College, Yogyakarta, Indonesia.

Constitutional Court of Indonesia 2012, Constitutional Court Decision 35/PUU-X/2012 2012 https://www.forestpeoples.org/fileadmin/uploads/fpp/migration/news/2013/05/Constitutional_Court_Ruling_Indonesia_16_May_2013_English.pdf

Damanik, P. 2025, 'Dualism of land rights recognition in national and customary legal systems in the perspective of dignified justice: Dualisme pengakuan hak atas tanah dalam sistem hukum nasional dan adat dalam perspektif keadilan bermartabat', *Academia Open*, vol. 10, no. 1. https://doi.org/10.21070/acopen.10.2025.11363

David, M.S., Sondakh, J. and Korua, J.M. 2023, 'Tinjauan yuridis mengenai hak ulayat masyarakat adat Papua Barat terhadap sengketa tanah antara Pertamina dengan warga setempat', *Lex Administratum,* vol. 12, no. 1. https://ejournal.unsrat.ac.id/v3/index.php/administratum/article/view/52600

Dirkareshza, R., Ibrahim, A.L. &Pradana, R. 2020, 'Urgensi hak ulayat terhadap perlindungan masyarakat hukum adat di Indonesia', *Jurnal Ilmiah Hukum DE'JURE: Kajian Ilmiah Hukum,* vol. 5, no. 1, pp. 94–109. https://journal.unsika.ac.id/index.php/jurnalilmiahhukumdejure/article/view/3497

Hidayat, M.T. & Nugroho, E.R. 2024, 'Kedudukan hak milik perorangan atas tanah dat suku oi di Papua Barat (Studi kasus pada kota sorong provinsi Papua Barat)', *Prosiding Seminar Hukum Aktual Fakultas Hukum Universitas Islam Indonesia,* vol. 2, no. 2, pp. 113–124. https://journal.uii.ac.id/psha/article/view/34108

Irwansyah & Yunus, A. 2021, *Penelitian hukum; Pilihan metode & praktik penulisan artikel (edisi revisi)*, 4th ed, Mirra Buana Media, Yogyakarta, Indonesia.

Juliardi, B., Runtunuwu, Y.B., Musthofa, M.H., Darmawansya, A., Asriyani, A., Hazmi, R.M., Syahril, M.A.F., Saputra, T.E., Arman, Z., Rauf, M.A. & Samara, M.S. 2023, *Metode Penelitian Hukum*, Gita Lentera, Padang, West Sumatra, Indonesia.

Komalasari, G-A-K. 2019, 'Pengaturan dan kriteria penertiban tanah terlantar di Indonesia', *Jurnal Ilmiah Raad Kertha*, vol. 2, no. 2, pp. 1–12. https://garuda.kemdiktisaintek.go.id/journal/view/19030. https://doi.org/10.47532/jirk.v2i2.157

Mulyadi, L. 2022, *Eksistensi, dinamika, dan pelindungan hukum terhadap hak atas tanah ulayat masyarakat adat di Indonesia*, Penerbit Alumni, Cimenyan, Bandung, West Java, Indonesia.

Nawi, S. & Syahruddin, R.M.A. 2022, *Penelitian hukum normatif versus penelitian hukum empiris*, Kretakupa, Makassar, Indonesia.

Nussy, Y.S. 2025, *Transformasi Papua: Untuk membangun generasi gemilang*, EDU Publisher, Tasikmalaya, West Java, Indonesia.

Papua Province, Special Regional Regulation Number 23 of 2008 concerning Customary Land Rights of Customary Law Communities and Individual Land Rights of Members of Customary Law Communities. Papua Province Regional Gazette Year 2008 Number 23. 2008.

Pertiwi, E. & Jaman, U.B. 2025,*Masa depan hak ulayat: Harmonisasi hukum adat dan kebijakan agraria nasional*, PT Arunika Aksa Karya, Sukabumi, West Java, Indonesia.

Pesta Babi: Kolonialisme Di Zaman Kita 2026, documentary, directed by Dandhy Dwi Laksono and Cypri Paju Dale, Indonesia: PUSAKA, Jubi TV, Greenpeace Indonesia, WatchDoc, Ekspedisi Indonesia Baru and LBH Papua Merauke, Indonesia.

Rahmadi, A. 2022, 'Urgensi penetapan hak ulayat masyarakat hukum adat terkait kebijakan pelayanan pertanahan di Papua', *Tunas Agraria,* vol. 5, no. 1, pp. 17–32. https://doi.org/10.31292/jta.v5i1.170

Republic of Indonesia. 2001. Law Number 21 of 2001 concerning Special Autonomy for the Province of Papua. State Gazette of the Republic of Indonesia of 2001 No. 135, Supplement to the State Gazette of the Republic of Indonesia No. 4151.

Republic of Indonesia. 1960. Law Number 5 of 1960 concerning Basic Agrarian Principles. State Gazette of the Republic of Indonesia of 1960 No. 104, Supplement to the State Gazette of the Republic of Indonesia No. 2043.

Republic of Indonesia 1945, Constitution. https://www.mkri.id/public/content/infoumum/regulation/pdf/uud45%20eng.pdf

Republic of Indonesia, Cabinet Secretariat 2021, Law on Special Autonomy in Papua Is Commitment to Bring Welfare for People: Minister. 16 July, https://setkab.go.id/en/law-on-special-autonomy-in-papua-is-commitment-to-bring-welfare-for-people-minister/

Rupadana, I N. & Swetasoma, C.-G. 2025, 'Eksistensi hak ulayat dan perlindungan hukum terhadap tanah adat di Indonesia', *Aktual Justice*, vol. 10, no. 1, pp. 69–78. https://doi.org/10.70358/aktualjustice.v10i1.1518

Sallata, H.G.Y. 2022, 'Analisis hukum internasional terhadap perlindungan dan pemenuhan hak masyarakat adat yang hidup di laut (sea nomad)= Analysis of international law on the protection and fulfilment on the rights of indigenous peoples living in the sea (sea nomad)', Thesis, Undergraduate degreethesis, Universitas Hasanuddin, Makassar, Indonesia. https://repository.unhas.ac.id/id/eprint/12869/4/B11116303_skripsi.pdf

Samosir, H.T.W. 2020, 'Pemetaan partisipatif, kunci keterlibatan masyarakat dalam pembangunan di tingkat tapak', *Insights: Life at WRI Indonesia*, April 24. https://wri-indonesia.org/id/wawasan/pemetaan-partisipatif-kunci-keterlibatan-masyarakat-dalam-pembangunan-di-tingkat-tapak

Sampara, S. & Husen L. 2018, *Metode penelitian hukum edisi revisi*, Kretakupa Print, Makassar, South Sulawesi, Indonesia.

Soetjipto, A-W. 2022, 'Journey to justice: The United Nations declaration on the rights of indigenous peoples in the context of West Papua', *Journal of Asean Studies*, vol. 10, no. 1, pp. 129–49. https://doi.org/10.21512/jas.v10i1.8491

Suwarno, E. 2025, *Politik kehutanan: dinamika kekuasaan, regulasi, dan tata kelola Indonesia*, Penerbit Adab, Indramayu, West Java, Indonesia.

Syahril, M.A.F. 2024, *Hukum adat: Teori dan dinamika perkembangannya*, Eureka Media Aksara, Purbalingga, Central Java, Indonesia.

Syarif, M., Ramadhani, R., Graha, M.A.W., Yanuaria, T., Muhtar, M.H., Asmah, N., Syahril, M.A.F., Utami, R.D., Rustan, A. &Nasution, H.S. 2024, *Metode penelitian hukum*, Get Press Indonesia,Padang, West Sumatra, Indonesia..

Tehupeiory, A. 2026, 'Refleksi Film *Pesta Babi* Menurut Guru Besar Hukum Agraria FH UKI Prof. Dr. Aarce Tehupeiory, S.H., M.H.', *Kompasiana; Beyond Blogging*, 16 May. https://www.kompasiana.com/cherika/6a083298c925c46b4c71af62/refleksi-film-pesta-babi-menurut-guru-besar-hukum-agraria-fh-uki-prof-dr-aarce-tehupeiory-s-h-m-h#goog_rewarded

United Nations, 2007, United Nations Declaration on the Rights of Indigenous Peoples, United Nations General Assembly Resolution 61/295

Wirayudha, R. 2026, 'Di Balik Pesta Babi', *HistoriA*, May 18. https://historia.id/article/di-balik-pesta-babi