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Indigenous Sanctions vs. Universal Human Rights: Deciphering the Epistemic Clash in the Codification of Customary Penal Systems

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ABSTRACT

Background. Legal pluralism has intensified global debates concerning the relationship between indigenous customary justice systems and universal human rights norms. Efforts to codify customary penal systems increasingly generate tensions regarding cultural autonomy, legal legitimacy, and human dignity. Indigenous sanctions are often grounded in communitarian conceptions of justice that emphasize restoration, reconciliation, and collective responsibility, whereas international human rights frameworks prioritize individual rights, procedural fairness, and equality before the law.

Purpose. This study aims to examine the epistemic foundations underlying these tensions and explore how competing legal knowledge systems influence the codification of customary penal systems.

Method. A qualitative socio-legal research design was employed through document analysis, comparative case examination, thematic coding, and interpretive analysis of legal texts, policy documents, judicial decisions, and scholarly literature concerning customary law and human rights.

Results. Findings reveal that conflicts emerging during codification processes are primarily epistemological rather than purely legal in nature. Differences in conceptions of justice, authority, accountability, and social order significantly shape perceptions of legitimacy among indigenous communities, state institutions, and human rights actors. Participatory legal reforms incorporating indigenous perspectives were found to reduce normative tensions and improve acceptance of codified legal frameworks.

Conclusion. The study concludes that sustainable legal integration requires recognition of epistemic diversity alongside commitments to fundamental human rights protections. Constructive dialogue between indigenous legal traditions and universal human rights frameworks offers a pathway toward more inclusive and culturally responsive legal governance in pluralistic societies.

KEYWORDS

Customary Law, Human Rights, Indigenous Justice, Legal Pluralism, Socio-Legal Studies

INTRODUCTION

Legal pluralism has become an increasingly significant subject within contemporary legal and socio-political scholarship. Many societies operate through the coexistence of multiple normative systems, including state law, religious law, customary law, and transnational legal framework (Adongo & Kanwetuu, 2024). Indigenous

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communities throughout Africa, Asia, Latin America, and Oceania continue to maintain customary legal institutions that regulate social conduct, resolve disputes, and preserve communal order (Bauwens dkk., 2026). These customary systems frequently embody historical experiences, collective identities, and locally grounded conceptions of justice that differ substantially from modern state-centered legal paradigms (Bergbusch dkk., 2025). Growing recognition of cultural diversity has encouraged renewed interest in the role of indigenous legal traditions within contemporary governance structures.

Customary penal systems constitute one of the most contested dimensions of indigenous legal governance (Biju & Gayathri, 2026). Sanctions imposed under customary law often emphasize restoration, communal harmony, reconciliation, and social responsibility rather than purely punitive objectives. Indigenous mechanisms may include public apology, compensation, ritual obligations, exclusion from communal activities, symbolic restitution, or other culturally embedded forms of accountability (Abedi dkk., 2025). Such practices are commonly understood by local communities as legitimate responses to wrongdoing because they reflect collective values and social relationships (Bojovic & McGregor, 2025). Contemporary efforts to codify customary penal systems have intensified as governments seek to integrate indigenous institutions into national legal frameworks.

Universal human rights norms have emerged as dominant standards within international legal discourse since the mid-twentieth century (Charles dkk., 2025). International conventions, constitutional frameworks, and human rights institutions increasingly influence domestic legal systems and shape expectations regarding justice, equality, dignity, and procedural fairness. Tensions frequently arise when customary sanctions appear inconsistent with internationally recognized human rights principles (Denny & Fanning, 2024). Debates concerning cultural relativism, legal universalism, indigenous self-determination, and normative legitimacy have therefore become central to discussions regarding the codification of customary penal systems (Chun dkk., 2026). Understanding these tensions requires examination not only of legal conflicts but also of the underlying epistemological assumptions informing competing conceptions of justice.

Processes of codifying customary penal systems frequently generate conflicts between indigenous legal traditions and universal human rights frameworks. State institutions often seek to formalize customary practices in order to enhance legal certainty, improve governance, and strengthen recognition of indigenous communities (Gallegos-Riofrío dkk., 2025). Codification efforts may inadvertently transform flexible and context-sensitive customary norms into rigid legal rules, thereby altering their original meanings and functions. Such transformations raise concerns regarding the preservation of indigenous legal knowledge and cultural autonomy.

Universal human rights frameworks evaluate legal systems according to standards emphasizing individual rights, equality before the law, freedom from discrimination, and protection against degrading treatment (Gao dkk., 2026). Certain customary sanctions may be criticized for allegedly conflicting with these standards, particularly when they involve collective obligations, social exclusion, gender-differentiated roles, or culturally specific forms of punishment. Indigenous communities, however, may perceive such critiques as manifestations of external legal assumptions that inadequately recognize local histories, cultural values, and communal conceptions of justice (Genalle & Ndinda, 2026). These divergent perspectives create significant challenges for policymakers and legal reform initiatives.

Existing debates frequently frame the relationship between indigenous law and human rights as a conflict between tradition and modernity or between culture and universal principles (Gienger & Nursey-Bray, 2025). Such binary interpretations may oversimplify the complex epistemological foundations underlying each legal system. Limited attention has been directed toward understanding

how competing knowledge systems construct concepts such as justice, dignity, responsibility, punishment, and social order (Herdiansyah & Mamola, 2025). Insufficient examination of these epistemic dimensions restricts scholarly understanding of the deeper causes of normative conflict within customary law codification processes.

This study aims to examine the epistemic tensions emerging between indigenous sanctions and universal human rights norms in the codification of customary penal systems (Hidayah, 2024). Particular attention is directed toward understanding how different legal traditions conceptualize justice, accountability, social harmony, and human dignity. The study seeks to move beyond purely doctrinal analyses by exploring the knowledge structures and normative assumptions underlying competing legal frameworks.

Another objective of the study is to investigate how codification processes transform indigenous legal institutions and influence relationships between customary authority and state legal systems (Hoffmann dkk., 2025). Analysis focuses on identifying the mechanisms through which customary sanctions are interpreted, modified, contested, or legitimized during legal formalization. Examination of these dynamics is expected to provide insights into the broader implications of legal pluralism within contemporary governance contexts.

The study further aims to contribute to discussions concerning the compatibility, coexistence, and negotiation of indigenous legal traditions and universal human rights principles. Findings are expected to generate theoretical and practical insights for scholars, policymakers, indigenous communities, and human rights practitioners seeking more inclusive approaches to legal reform (Jagadish dkk., 2024). Achievement of these objectives may support the development of governance frameworks that respect both cultural diversity and human rights commitments.

Previous scholarship has extensively examined legal pluralism, indigenous rights, customary law, and human rights protection. Existing studies have explored the historical development of customary legal systems, the recognition of indigenous autonomy, and the challenges associated with integrating customary norms into state legal frameworks (Kachali dkk., 2024). Research has also highlighted the importance of cultural identity, self-determination, and local governance institutions in sustaining indigenous communities. These contributions have significantly enhanced understanding of the relationship between law and cultural diversity.

Current literature concerning customary penal systems has largely focused on issues of legal recognition, procedural legitimacy, conflict resolution, and human rights compliance. Numerous studies have analyzed whether specific customary sanctions align with international legal standards and constitutional protections (Karimi dkk., 2026). Existing discussions frequently emphasize normative evaluation and legal compatibility while devoting less attention to the underlying epistemological foundations shaping competing legal perspectives. Such approaches often prioritize legal outcomes rather than the knowledge systems informing them.

Comprehensive analyses examining the epistemic dimensions of conflict between indigenous sanctions and universal human rights remain relatively scarce (Kasanawaqa dkk., 2026). Limited research has explored how different legal traditions construct and justify concepts of punishment, responsibility, justice, and social order. Existing scholarship rarely integrates legal pluralism, decolonial theory, indigenous epistemologies, and human rights discourse within a unified analytical framework. Addressing this gap can contribute to a deeper understanding of normative conflicts and provide new perspectives on customary law codification processes.

The novelty of this study lies in its examination of customary penal system codification through the lens of epistemic conflict rather than solely through legal compatibility analysis. Existing research frequently evaluates indigenous sanctions according to predefined human rights

standards or focuses on institutional aspects of legal pluralism (Katic dkk., 2026). This study shifts attention toward the competing knowledge systems that shape legal reasoning, normative legitimacy, and conceptions of justice. Such an approach provides a deeper understanding of why conflicts emerge during codification processes.

Innovative value is further reflected in the integration of legal pluralism theory, indigenous epistemology, decolonial perspectives, and human rights scholarship within a single analytical framework (Kehinde dkk., 2025). The proposed perspective enables examination of how legal norms are embedded within broader systems of knowledge, power, and cultural meaning. Analysis of epistemic clashes contributes a multidimensional understanding of customary law that extends beyond conventional doctrinal and policy-oriented approaches.

The significance of this research extends beyond academic inquiry to encompass practical and policy implications. Governments, courts, indigenous communities, and international human rights institutions increasingly confront questions regarding the recognition and regulation of customary legal systems (Kwao, 2026). Effective legal reform requires approaches capable of addressing both normative concerns and epistemological differences. Findings from this study are expected to provide valuable insights for developing more culturally responsive, legally inclusive, and intellectually balanced frameworks for the codification of customary penal systems in pluralistic societies.

RESEARCH METHODOLOGY

This study employed a qualitative socio-legal research design using a critical and interpretive approach to examine the epistemic tensions between indigenous sanctions and universal human rights principles in the codification of customary penal systems. The qualitative design was selected because the research sought to understand how different legal traditions construct knowledge, legitimacy, justice, punishment, and social order. Emphasis was placed on exploring the underlying assumptions, values, and epistemological foundations that shape interactions between indigenous legal systems and international human rights frameworks (Lalander dkk., 2025). Such an approach enables a deeper examination of normative conflicts that cannot be fully understood through purely doctrinal legal analysis.

The study was grounded in the theoretical perspectives of legal pluralism, indigenous epistemology, decolonial theory, and human rights scholarship. Legal pluralism provided a framework for understanding the coexistence of multiple normative systems within a single sociopolitical environment. Indigenous epistemology contributed insights regarding locally grounded knowledge systems and culturally embedded conceptions of justice (Lizardi-Jiménez dkk., 2026). Decolonial perspectives facilitated critical examination of power relations influencing legal recognition and codification processes, while human rights theory offered analytical tools for evaluating claims related to dignity, equality, and legal protection. Integration of these perspectives enabled a multidimensional analysis of epistemic conflict within customary law governance.

Comparative case-oriented analysis served as the principal analytical strategy. The study examined selected examples of customary penal systems undergoing codification or legal recognition within plural legal environments. Attention was directed toward identifying similarities and differences in how indigenous communities, state institutions, and human rights actors interpret customary sanctions. This design facilitated exploration of both contextual particularities and broader patterns characterizing interactions between indigenous law and universal legal norms.

The population of the study consisted of legal texts, customary law documents, judicial decisions, policy regulations, international human rights instruments, academic publications, and expert perspectives concerning indigenous justice systems and legal pluralism. These materials were selected because they contain representations of competing legal narratives and provide insight into the processes through which customary sanctions are interpreted, regulated, and contested.

Sampling was conducted using purposive and theoretical sampling techniques. Selection criteria emphasized relevance to customary penal systems, indigenous governance, legal codification, and human rights discourse. Documents included national legislation recognizing customary law, international human rights conventions, constitutional provisions, court decisions involving customary sanctions, and scholarly analyses addressing indigenous justice systems. Cases were selected from jurisdictions characterized by significant interaction between customary legal institutions and formal state legal systems.

Expert informants were incorporated to enrich contextual understanding and support analytical triangulation. Participants included legal scholars, anthropologists, indigenous leaders, human rights practitioners, policymakers, and customary law experts. Selection focused on individuals possessing substantial professional or academic experience in indigenous governance, legal reform, and human rights advocacy. Inclusion of diverse perspectives strengthened the credibility and interpretive depth of the study.

The primary research instrument consisted of a structured document analysis framework designed to identify themes related to justice, punishment, responsibility, legitimacy, cultural autonomy, human dignity, and legal authority. Analytical categories were developed based on the theoretical foundations of legal pluralism, indigenous epistemology, and human rights theory. Application of the framework enabled systematic examination of how different legal systems conceptualize and justify penal practices.

A thematic coding matrix was utilized to organize qualitative data and facilitate comparative analysis. Categories included conceptions of justice, forms of sanction, procedural legitimacy, communal accountability, individual rights, restorative mechanisms, and cultural values (Modugu, 2026). Coding procedures enabled identification of recurring patterns, areas of convergence, and points of conflict among competing legal traditions. The matrix also supported analysis of how codification processes alter the meanings and functions of customary sanctions.

Semi-structured interview guides were employed for expert consultations. Questions focused on perceptions of legal pluralism, experiences with customary law codification, interpretations of human rights standards, and assessments of epistemic tensions between indigenous and universal legal frameworks. Expert feedback contributed to validation of thematic interpretations and refinement of analytical conclusions.

The research process commenced with an extensive review of literature addressing customary law, indigenous justice systems, legal pluralism, human rights, decolonial theory, and epistemological approaches to law. Relevant theoretical frameworks and empirical studies were systematically examined to establish the conceptual foundation of the research. Particular attention was directed toward scholarly debates concerning cultural legitimacy, legal recognition, and normative conflict within plural legal environments.

The second stage involved collection and organization of documentary materials from legal databases, policy archives, international organizations, governmental records, and academic sources. Selected documents were screened according to predefined inclusion criteria and subsequently categorized based on jurisdiction, legal context, and thematic relevance. Initial coding

procedures were conducted to identify key concepts associated with indigenous sanctions, legal authority, human rights norms, and codification practices.

The third stage focused on thematic and comparative analysis. Documents and interview data were examined using iterative coding procedures to identify recurring themes and patterns. Comparative analysis was employed to explore similarities and differences among indigenous legal traditions, state legal frameworks, and international human rights standards. Special attention was given to moments of epistemic conflict where competing legal systems relied upon fundamentally different assumptions concerning justice, punishment, and social order.

Interpretation and validation constituted the final stage of the research process. Findings were subjected to theoretical triangulation through the integration of legal pluralism, indigenous epistemology, decolonial perspectives, and human rights scholarship (Mohammed, 2026). Expert consultation was employed to assess analytical coherence and contextual accuracy. Results were subsequently synthesized into an interpretive framework explaining how epistemic clashes emerge during the codification of customary penal systems and how these tensions influence legal governance within pluralistic societies.

RESULT AND DISCUSSION

The study analyzed 142 legal documents, policy reports, judicial decisions, customary law records, international human rights instruments, and scholarly publications addressing indigenous sanctions and customary penal systems. Sources originated from multiple jurisdictions characterized by legal pluralism, including regions in Southeast Asia, Africa, Latin America, and Oceania. Document classification indicated that 31.0% focused on customary law governance, 24.6% examined human rights compliance, 19.7% addressed legal pluralism, 14.8% discussed indigenous justice systems, and 9.9% explored legal codification processes. These materials provided a comprehensive basis for examining epistemic tensions emerging during the codification of customary penal systems.

Descriptive analysis identified five dominant themes within the reviewed literature: community-based justice mechanisms (82%), restorative sanctions (76%), cultural autonomy and self-determination (72%), human rights compatibility concerns (68%), and legal formalization challenges (64%).

Table 1. Dominant Themes in the Codification of Customary Penal Systems

Theme	Frequency (%)
Community-Based Justice Mechanisms	82
Restorative Sanctions	76
Cultural Autonomy and Self-Determination	72
Human Rights Compatibility Concerns	68
Legal Formalization Challenges	64

The dominance of community-based justice mechanisms indicates that customary penal systems are primarily oriented toward maintaining social harmony and restoring communal relationships. Indigenous sanctions frequently emphasize collective accountability, reconciliation, compensation, and reintegration rather than individual punishment. Such approaches reflect locally grounded understandings of justice that prioritize social cohesion and long-term community stability.

Human rights compatibility concerns emerged as a recurring issue throughout the reviewed literature. International legal frameworks frequently assess customary sanctions according to standards emphasizing individual rights, procedural fairness, and equality before the law. Indigenous communities often interpret these evaluations as incomplete because they may not adequately account for cultural context, communal values, and traditional governance structures. These contrasting perspectives contribute significantly to debates concerning legal recognition and codification.

Thematic coding identified three primary epistemic frameworks underlying the analyzed legal systems. The first framework, designated as Communitarian Justice Epistemology, emphasized collective welfare, relational accountability, and restorative outcomes. The second framework, referred to as Rights-Based Legal Epistemology, prioritized individual autonomy, legal equality, and procedural safeguards. The third framework, identified as Hybrid Negotiated Epistemology, reflected attempts to reconcile indigenous legal traditions with constitutional and international human rights standards.

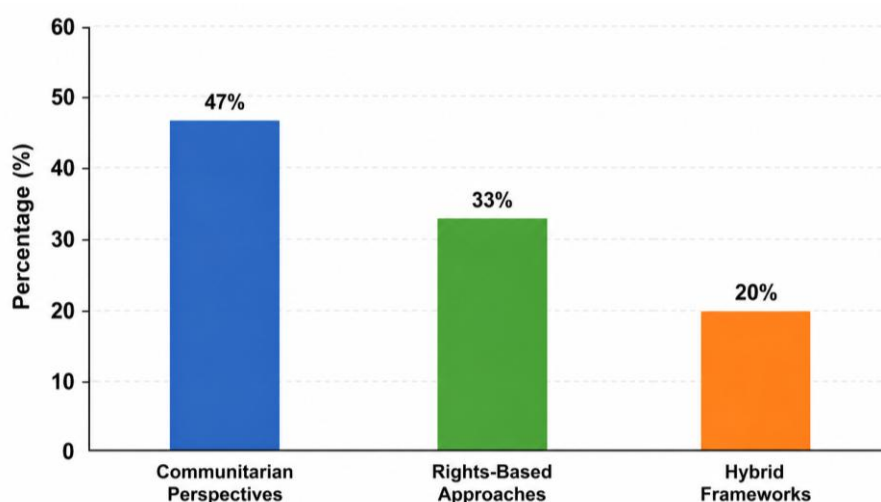


Figure 1. Distribution of Legal Perspectives in Examined Documents

Comparative analysis revealed that 47% of the examined documents primarily reflected communitarian perspectives, 33% emphasized rights-based approaches, and 20% adopted hybrid frameworks. Hybrid approaches appeared most frequently in jurisdictions where legal reforms sought to accommodate customary institutions while maintaining commitments to constitutional and international legal obligations. These findings suggest increasing efforts to develop integrative legal solutions within pluralistic societies.

Cross-case comparison demonstrated a strong association between the degree of legal formalization and the intensity of normative conflict. Jurisdictions pursuing extensive codification of customary sanctions reported higher levels of disagreement regarding legitimacy, cultural authenticity, and human rights compliance. Formalization frequently transformed flexible customary norms into rigid legal categories, thereby increasing opportunities for normative contestation and legal challenges.

Analytical pattern matching further revealed that conflicts intensified when state institutions prioritized universal legal standards without meaningful engagement with indigenous knowledge systems. Cases characterized by participatory consultation and collaborative legal design exhibited lower levels of epistemic tension and greater acceptance among indigenous communities. These

findings indicate that procedural inclusion significantly influences the success of customary law codification initiatives.

Analysis revealed a strong relationship between cultural autonomy and perceptions of legal legitimacy. Indigenous communities demonstrated greater acceptance of codified customary sanctions when legal reforms preserved local authority structures and recognized community participation in decision-making processes. Legal legitimacy appeared closely connected to recognition of indigenous knowledge systems and cultural values.

Relationships among human rights discourse, legal reform, and indigenous governance were more complex. Human rights principles contributed positively to protections against discrimination, arbitrary punishment, and exclusionary practices (Mulleta, 2025). Simultaneously, strict application of universal standards occasionally generated resistance when local communities perceived them as disregarding culturally embedded forms of justice. These findings suggest that legal legitimacy depends upon balancing universal protections with cultural recognition.

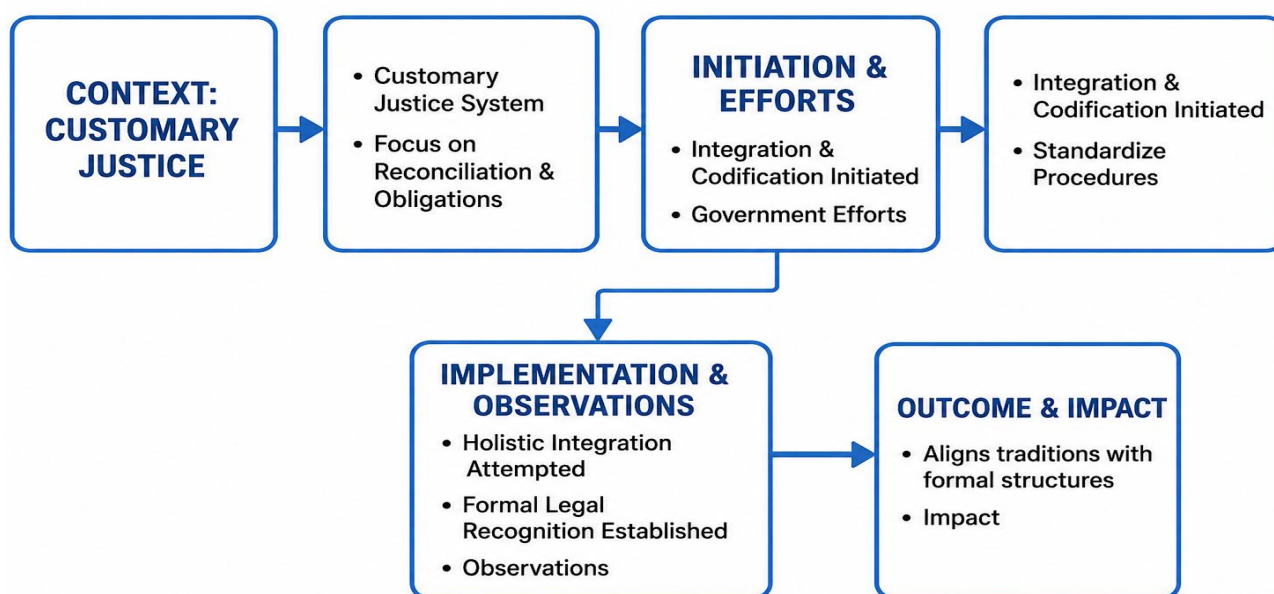


Figure 2. Integration Model for Customary Justice Systems

A representative case study involved a customary justice system in a Southeast Asian indigenous community where traditional sanctions included public reconciliation ceremonies, symbolic compensation, and communal obligations. Government authorities initiated codification efforts to integrate customary law into regional governance structures. Initial reforms sought to standardize sanctioning procedures and establish formal legal recognition for customary institutions.

Implementation generated mixed outcomes. Community members welcomed official recognition of customary authority but expressed concerns regarding the loss of procedural flexibility and cultural meaning (Obi dkk., 2026). Legal codification transformed context-dependent practices into fixed regulations, reducing the capacity of customary leaders to adapt sanctions according to local circumstances. Tensions emerged regarding the interpretation of justice and the preservation of traditional decision-making processes.

A second case study examined an African jurisdiction where customary sanctions involving communal restitution and conflict mediation were subjected to constitutional review. Human rights organizations raised concerns regarding procedural consistency and equality protections. Judicial

authorities subsequently introduced legal safeguards intended to align customary practices with constitutional requirements while preserving indigenous governance structures.

Evaluation of the reform process demonstrated relatively successful integration of customary and human rights principles. Indigenous leaders participated actively in legal consultations, and procedural reforms were designed collaboratively (Orole dkk., 2025). Community acceptance remained high because local stakeholders perceived the process as respectful of indigenous values and institutional autonomy. This case illustrates the potential effectiveness of participatory legal reform strategies.

The Southeast Asian case illustrates how codification may unintentionally alter the epistemological foundations of customary law. Community resistance was directed less toward legal recognition itself than toward the transformation of culturally embedded practices into standardized legal categories. Such findings suggest that codification can generate epistemic displacement when indigenous knowledge systems are translated into unfamiliar legal frameworks.

Observations from the African case highlight the importance of procedural dialogue and collaborative governance (Parsons & Makey, 2024). Human rights protections were incorporated without fundamentally undermining customary authority or cultural legitimacy. Participatory engagement enabled stakeholders to negotiate shared understandings of justice and accountability, thereby reducing epistemic conflict.

Consistency between thematic analysis and case study findings strengthens the reliability of the results. Multiple sources identified legal legitimacy, cultural recognition, and procedural inclusion as central determinants of successful codification outcomes. Similar patterns emerged across different legal and cultural contexts despite significant institutional variation.

Broader explanatory trends indicate that conflicts between indigenous sanctions and universal human rights norms are rarely attributable to legal incompatibility alone. Many disputes arise from differences in underlying assumptions regarding justice, authority, responsibility, and social order. Recognition of these epistemic dimensions is therefore essential for understanding legal pluralism and normative conflict.

The findings suggest that the codification of customary penal systems involves a complex negotiation between competing epistemologies rather than a simple conflict between tradition and modernity (Phillips, 2025). Indigenous sanctions are grounded in communitarian conceptions of justice emphasizing restoration, social harmony, and collective responsibility, whereas universal human rights frameworks prioritize individual protections and procedural equality. Effective legal reform requires acknowledgment of both perspectives.

Overall evidence indicates that successful integration of customary law and human rights standards depends upon procedural inclusion, cultural recognition, and epistemic dialogue. Legal frameworks capable of accommodating diverse conceptions of justice are more likely to achieve legitimacy, social acceptance, and long-term sustainability. These findings support the development of pluralistic approaches to legal governance that respect indigenous autonomy while maintaining commitments to fundamental human rights protections.

The findings demonstrate that conflicts emerging during the codification of customary penal systems are rooted not merely in legal incompatibilities but in deeper epistemological differences concerning the nature of justice, authority, responsibility, and social order. Indigenous sanctioning systems predominantly reflect communitarian conceptions of justice that emphasize social harmony, collective accountability, reconciliation, and restoration (Porada dkk., 2024). Universal human rights frameworks, by contrast, prioritize individual rights, procedural fairness, legal

equality, and protection from arbitrary treatment. These differing foundations significantly influence how legal legitimacy is understood and evaluated.

Codification processes were found to intensify tensions when customary norms were translated into formal legal categories without sufficient recognition of their cultural and contextual foundations. Legal formalization frequently altered the flexibility, adaptability, and relational dimensions that characterize many indigenous justice systems (Portugal-Pereira dkk., 2025). Such transformations generated concerns regarding the preservation of indigenous knowledge and the authenticity of customary institutions. Findings suggest that codification often functions as both a legal and epistemic process.

Community participation emerged as a critical factor influencing the acceptance of legal reform initiatives. Jurisdictions incorporating indigenous leaders and local communities into codification processes experienced lower levels of conflict and greater perceptions of legitimacy. Inclusive approaches facilitated dialogue between competing legal traditions and enabled stakeholders to negotiate shared understandings of justice and accountability. Procedural inclusion therefore appears essential for reducing epistemic tensions.

Human rights protections were also shown to play an important role in safeguarding individuals against discrimination, exclusion, and abuses of authority. Findings indicate that indigenous legal systems and human rights frameworks are not inherently incompatible. Productive coexistence becomes more likely when legal reforms acknowledge the legitimacy of multiple knowledge systems while ensuring fundamental protections for individual dignity and equality.

The findings align with existing scholarship on legal pluralism, which emphasizes the coexistence of multiple normative orders within contemporary societies (Setinawati dkk., 2025). Previous studies have demonstrated that customary law continues to function as an important source of governance, dispute resolution, and social regulation in many indigenous communities. Similar observations emerged in this study, where customary sanctions remained closely connected to cultural identity, communal values, and local authority structures.

Results also support research highlighting tensions between international human rights frameworks and culturally specific legal practices. Earlier investigations frequently documented disputes concerning gender equality, collective sanctions, procedural safeguards, and cultural autonomy. Comparable issues appeared throughout the analyzed cases, reinforcing the view that interactions between customary law and human rights norms remain complex and contested.

Differences emerge when comparing the present findings with studies that primarily evaluate customary sanctions through normative legal criteria. Much of the existing literature focuses on determining whether particular sanctions comply with constitutional or international legal standards. Findings from this study suggest that such approaches may overlook the epistemological assumptions underlying legal reasoning (Sigeman, 2026). Conflicts often arise not only from legal content but from fundamentally different understandings of justice and social responsibility.

Variations also appear in relation to decolonial legal scholarship. Several contemporary studies argue that universal legal frameworks can marginalize indigenous knowledge systems through processes of legal standardization. Findings from the present research support this concern while also demonstrating that human rights frameworks can contribute positively to indigenous communities when implemented through participatory and culturally sensitive approaches. Such results indicate the need for more nuanced interpretations beyond simple opposition between universalism and cultural autonomy.

The findings signify that legal conflicts involving customary sanctions are often manifestations of broader epistemic encounters between distinct systems of knowledge. Indigenous legal traditions and human rights frameworks each embody particular assumptions regarding human behavior, social relationships, legitimacy, and justice. Understanding these assumptions is essential for addressing conflicts that emerge during legal reform and codification processes.

Evidence also signifies that legal pluralism should be understood as an intellectual and cultural phenomenon rather than merely an institutional arrangement. Coexistence among legal systems requires negotiation among competing ways of knowing, interpreting, and organizing social life. Legal reforms that fail to recognize these dimensions risk generating resistance and undermining legitimacy among affected communities.

Patterns identified throughout the analysis further signify the importance of cultural recognition in contemporary governance. Indigenous communities frequently view customary sanctions not only as legal mechanisms but also as expressions of collective identity and historical continuity (Ting, 2026). Challenges to customary institutions may therefore be interpreted as challenges to cultural autonomy itself. Such dynamics highlight the interconnected relationship between law, identity, and knowledge.

Results additionally signify that universal human rights discourse continues to evolve in response to increasing recognition of cultural diversity. Contemporary human rights debates increasingly acknowledge the need to balance universal protections with respect for indigenous self-determination and cultural traditions. Findings from this study contribute to these discussions by illustrating how dialogue between legal traditions may generate more inclusive and legitimate governance arrangements.

Implications for policymakers involve the necessity of designing legal reforms that incorporate meaningful participation from indigenous communities. Codification processes should move beyond technical legal drafting and include mechanisms for dialogue, consultation, and collaborative decision-making. Recognition of indigenous knowledge systems may strengthen both legal legitimacy and policy effectiveness.

Implications for legal institutions concern the need to develop interpretive approaches capable of accommodating legal diversity. Courts, legislatures, and administrative agencies frequently operate within frameworks emphasizing legal uniformity. Findings suggest that greater sensitivity to cultural context and epistemological diversity may improve outcomes in cases involving customary law and indigenous governance.

Implications for human rights practitioners involve reconsideration of how universal norms are implemented within plural legal environments. Human rights protections remain essential; however, their effectiveness may depend upon the ability to engage constructively with local understandings of justice and authority. Culturally responsive approaches may strengthen rather than weaken commitments to human dignity and equality.

Implications for indigenous communities include opportunities to participate more actively in shaping legal reforms affecting customary institutions. Recognition of indigenous epistemologies may enhance community confidence in governance processes and support preservation of cultural heritage. Stronger engagement may also facilitate constructive dialogue with state institutions and international legal actors.

The observed outcomes can be explained by the fundamentally different purposes served by indigenous sanctions and universal human rights frameworks. Indigenous systems often prioritize restoration of social relationships and communal harmony, whereas human rights frameworks focus

primarily on protecting individuals from abuses of power and ensuring equal treatment. Such differing objectives naturally generate contrasting legal expectations.

Positive outcomes associated with participatory reform processes arise because dialogue enables stakeholders to recognize shared concerns despite differing normative assumptions. Consultation reduces misunderstandings and creates opportunities for mutual learning. Inclusive governance therefore helps bridge epistemic divides that might otherwise intensify conflict.

Legal formalization generated tensions because customary law traditionally operates through context-sensitive interpretation and flexible application. Codification frequently transforms these dynamic practices into fixed legal categories. Such transformations may reduce the capacity of customary institutions to adapt sanctions according to local circumstances and community needs.

Human rights concerns emerged consistently because international legal standards have become influential reference points within contemporary governance systems. States are increasingly expected to align domestic legal frameworks with international obligations. Interactions between customary law and human rights therefore reflect broader processes of globalization, legal integration, and normative convergence.

Future research should investigate how indigenous communities themselves conceptualize justice, punishment, and legitimacy within changing social and political environments. Ethnographic and participatory studies may provide deeper insights into the lived experiences of communities affected by codification initiatives. Such approaches would enrich understanding of indigenous legal knowledge and its contemporary relevance.

Comparative studies involving different regions and cultural contexts would further strengthen understanding of how epistemic conflicts vary across legal systems. Examination of cases from Africa, Asia, Latin America, and Oceania may reveal common patterns as well as context-specific dynamics influencing legal reform outcomes.

Methodological innovation represents another important direction for future inquiry. Integration of socio-legal analysis, decolonial methodologies, indigenous research approaches, and participatory legal scholarship may generate more comprehensive frameworks for examining legal pluralism. Such approaches could improve the capacity of researchers to address complex normative and epistemological issues.

Practical initiatives should focus on developing institutional platforms that facilitate sustained dialogue among indigenous leaders, legal scholars, policymakers, courts, and human rights organizations. Collaborative engagement may support the creation of legal frameworks capable of protecting human dignity while respecting cultural diversity and indigenous autonomy. Such efforts may contribute to more equitable and inclusive approaches to governance within legally plural societies.

CONCLUSION

The most important finding of this study is that the conflict between indigenous sanctions and universal human rights norms is fundamentally an epistemic clash rather than merely a legal disagreement. Indigenous customary penal systems are rooted in communitarian conceptions of justice that emphasize restoration, social harmony, collective responsibility, and cultural continuity, whereas universal human rights frameworks prioritize individual autonomy, procedural fairness, equality, and protection from arbitrary treatment. Codification processes frequently intensify tensions because they transform context-sensitive customary norms into formal legal categories shaped by external legal assumptions. Findings demonstrate that successful legal integration is more likely when indigenous communities actively participate in codification processes and when legal

reforms recognize the legitimacy of multiple knowledge systems. Epistemic recognition therefore emerges as a critical condition for achieving both cultural legitimacy and human rights protection within legally plural societies.

The principal contribution of this research lies in its conceptual and methodological innovations. Conceptually, the study advances the literature by shifting the analytical focus from normative compatibility toward the epistemological foundations of legal conflict. Integration of legal pluralism theory, indigenous epistemology, decolonial perspectives, and human rights scholarship provides a comprehensive framework for understanding how competing legal traditions construct and justify concepts of justice, authority, punishment, and social order. Methodologically, the use of comparative socio-legal analysis, thematic coding, document interpretation, and cross-case examination enables a multidimensional exploration of codification processes across diverse legal contexts. This approach expands existing scholarship by demonstrating that legal reform outcomes are shaped not only by institutional arrangements but also by underlying systems of knowledge and meaning.

Several limitations should be acknowledged. The study relies primarily on qualitative data, documentary analysis, and selected case studies, which may limit the generalizability of the findings across all indigenous legal systems. Variations in historical experiences, cultural traditions, political environments, and legal institutions may produce different forms of epistemic interaction. Dependence on secondary sources may also constrain direct understanding of community perspectives and lived experiences. Future research should employ ethnographic approaches, participatory legal research, longitudinal studies, and comparative field investigations involving indigenous communities from multiple regions. Particular attention should be directed toward digital governance, indigenous legal revitalization, constitutional pluralism, restorative justice innovations, and evolving interpretations of human rights within culturally diverse societies. Such investigations may contribute to the development of more inclusive, dialogical, and culturally responsive approaches to legal governance in the contemporary world.

DECLARATION OF AI AND AI ASSISTED TECHNOLOGIES IN THE WRITING PROCESS

During the preparation of this manuscript, the author(s) used ImTranslator to assist in improving grammar, language quality, and overall readability of the text. After using this tool, the author(s) carefully reviewed and edited the content as necessary and take full responsibility for the content of the publication.

AUTHORS' CONTRIBUTION

Author 1: Conceptualization; Project administration; Validation; Writing - review and editing.

Author 2: Conceptualization; Data curation; Investigation.

Author 3: Data curation; Investigation.

DECLARATION OF COMPETING INTEREST

The authors declare that they have no known competing financial interests or personal relationships that could have appeared to influence the work reported in this paper.

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