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New Ways of Teaching Adat (Customary) Law at Indonesian Law Schools

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We appreciate the insightful comments and suggestions from Herlambang P. Wiratraman, Yance Arizona and Wiebke Wiesigel on an earlier draft of this article.

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New Ways of Teaching Adat (Customary) Law at Indonesian Law Schools

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Abstract

While customary law typically is not the sole legal system regulating people's daily lives, it still plays a big role in shaping the behavior of countless individuals worldwide. For this reason, law schools in many countries teach customary law courses, but these courses often present customary law as a sterile set of principles and norms detached from studying social reality. This approach associates customary law with traditional communities whose members live in relative isolation from the world, ignoring the fact that customary law operates in a legally pluralistic universe, interacting with religious and state law systems, and that it adapts to new economic and social conditions. This way of teaching customary law is common in Indonesia. The present article discusses the origins of the current situation and the need for innovations in customary law courses in Indonesia. We analyze the current shortcomings and challenges in the existing adat (customary) law courses and propose socio-legal approach to improve their relevance. This new approach aims to equip students with knowledge that has more practical relevance and enhances the course's doctrinal features. In so doing, we pay tribute to Keebet von Benda-Beckmann's indefatigable efforts to better understand and recognize the importance of adat in the context of legal pluralism in Indonesia.

Keywords: customary law, legal pluralism, legal education, Indonesia, socio-legal approach

Abstrak

Meskipun bukan lagi satu-satunya sistem hukum yang mengatur kehidupan sehari-hari masyarakat, hukum adat (customary law) masih memainkan peranan besar dalam membentuk perilaku banyak orang di seluruh dunia. Dengan alasan itu, sekolah-sekolah hukum di banyak negara mengajarkan mata kuliah hukum adat kepada mahasiswanya. Akan tetapi, mata kuliah ini sering kali menyajikan hukum adat sebagai seperangkat prinsip dan norma yang steril, terpisah dari realitas sosialnya. Pendekatan semacam ini kerap mengasosiasikan hukum adat dengan komunitas tradisional yang anggotanya hidup relatif terisolasi dari dunia luar, mengabaikan fakta bahwa hukum adat beroperasi dalam semesta hukum yang plural, berinteraksi dengan sistem hukum agama dan negara, serta beradaptasi dengan kondisi ekonomi dan sosial yang baru. Pendekatan mengajar hukum adat seperti ini umum ditempuh di Indonesia. Oleh karena itu, artikel ini membahas asal mula pendekatan pengajaran hukum adat hari ini dan kebutuhannya akan inovasi. Kami menganalisis kelemahan dan tantangan dalam mata kuliah hukum adat yang ditawarkan beberapa fakultas hukum di Indonesia dan mengusulkan pendekatan sosio-legal untuk meningkatkan relevansinya. Pendekatan baru ini bertujuan untuk membekali mahasiswa dengan pengetahuan empiris yang lebih relevan secara praktis sekaligus juga memperkuat aspek-aspek doktrinal dalam mata kuliah hukum adat. Dengan melakukan hal ini, kami memberi penghormatan kepada upaya tak kenal lelah Keebet von Benda-Beckmann untuk lebih memahami dan mengenali pentingnya adat dalam konteks pluralisme hukum di Indonesia.

Kata Kunci: *hukum adat, pluralisme hukum, pendidikan hukum, Indonesia, pendekatan sosio-legal*

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I. Introduction

Customary law is still a common subject in the curriculum of law schools in post-colonial countries. So it is in Indonesia, where the teaching of customary or 'adat' law has a tradition that started when Indonesia was still a Dutch colony. Adat law courses were taught at the Rechtshoogeschool in Batavia (now Jakarta) and at the universities of Leiden and Utrecht, preparing students for the judiciary, civil service or private legal professions in the colony.[5] Even under the United East Indies Company (*Vereenigde Oostindische Compagnie* – VOC), knowledge of adat law had already been gathered and disseminated to deal with local authority structures and to maintain 'quiet and order' in the colonial territory. However, adat law as a special subject in academic research and teaching was only fully developed after the start of the 20th century by the Leiden professors Van Vollenhoven and Snouck Hurgronje. Van Vollenhoven, in particular, promoted the study of adat law as a key part of colonial legal education. In Indonesia, many still refer to him as the 'father of adat law' (Burns 1989; F & K von Benda-Beckmann 2011, K von Benda-Beckmann 2019; Bedner 2021).

When Indonesia proclaimed its independence in 1945, the government of the new Republic did not take such a positive view of adat law and its teaching, as it saw adat law mainly as an obstacle to creating a unified national legal system. In 1947, Indonesia's first Minister of Justice and Professor of Adat Law Soepomo (1947) even held that adat law was something of the past. In 1951, through the so-called Emergency Law (Undang-Undang darurat), the government abolished adat courts and took over the application of adat law into the state courts. Yet, in practice, abolishing adat law turned out to be difficult (Jaspan 1965) as local communities continued to adhere to their legal traditions. In Aceh, the adat law courts that had been abolished during the War of Independence had to be temporarily reinstated (Lev 1973). Hence, adat law retained its position in Indonesian legal education, and today, more than 75 years later, it is still part of the national legal curriculum in every public law school.

Even though a series of state policies have greatly diminished adat law's scope and importance, the reasons that adat law (and adat law teaching) have remained in Indonesia's legal system and education are still the same as in colonial times. The first reason is expediency: while the Indonesian state's legitimacy is incomparably larger than its colonial predecessor's, to maintain its authority, local notions of justice and the adat law in which they are embedded need to be taken into account. The second reason is democratic: to ignore adat law goes against the ideal of local autonomy and respect for local notions of justice.

[5] For further discussion on *Rechtshoogeschool*, see Djalins (2013).

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The main problem with the current teaching of adat law in Indonesian law faculties is that it fails to consider the specific nature of adat.[6] This situation is also common for contemporary customary law teaching in many other post-colonial countries (Mchombu 2006; Himonga & Diallo 2017; Maithufi & Maimela 2020). In Indonesia, the debate about adat law's character goes back to colonial times, where, from the start, the dynamic characteristics of adat law were contested and attempts were made to force it into a 'modern' doctrinal mold. This debate even extended to the dominant so-called Leiden school itself (Burns 2004). Despite Van Vollenhoven's insistence that adat law evolves from multiple sources and is dynamic ("living law"), his main pupil Ter Haar increasingly – even if not exclusively – emphasized the importance of decisions by adat authorities as its primary source (Van Dijk 1948, 5-33), thus making adat law more amenable to be translated into a modern state framework.

The latter approach is even more attractive from the perspective of a newly independent state that pursues nation-building and economic development and, therefore, seeks to create legal unity and certainty. Unsurprisingly, Indonesian governments have followed Ter Haar's approach after independence rather than Van Vollenhoven's (Pompe 1994; Von Benda-Beckmann 2011). In a chicken-and-egg-like situation, Van Vollenhoven's subtle approach by combining legal and ethnographic research to adat law was abandoned, which made it also practically impossible to continue the line of policy recognizing adat law's specific nature (Lev 2000, Pompe 2005).

However, fully sustaining Ter Haar's approach became increasingly difficult as well. The state's continuous emasculation of adat authorities, a key feature of Ter Haar's conception of adat law, progressively undermined the basis for Ter Haar's adat law (Lev 2000; Benda-Beckmann 2011). Consequently, adat law teaching has continued to rely on colonial texts that have been increasingly interpreted according to civil law framework and treated as codes of law.[7] Adat law teaching has thus become increasingly similar to teaching other popular law disciplines, such as private and criminal law, which heavily rely on abstract norms and principles.

[6] By "specific nature of adat," we refer to the characteristics that define adat law as a living and evolving system. Adat is dynamic, adapting to changing social conditions and drawing from multiple sources, including community consensus and practices, rather than relying solely on written codes or authoritative decisions. Its operation is deeply embedded in local contexts, where beliefs, local economies, and politics also influence its application.

[7] The discussion on empirical and doctrinal teaching of adat law reminds of the the discussion on living and official customary law in African countries. To clarify, Indonesia does not have official customary law in the sense of customary rules or regulations validated by the state as law, as is the case in many African countries. Nevertheless, just as in Indonesia, current African scholarship on non-state customary law—including many textbooks—often adopts a formalistic and state-centric approach.

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The present article addresses this situation. Starting with a brief overview of the origins of the current problems we present several suggestions to overcome the shortcomings of adat law teaching. In so doing, we invite discussion on improvements needed in the customary law courses and legal education in a broader sense. In other words, we discuss *why* it is important to innovate adat law teaching to bring its doctrinal features closer to reality, instill empirical sensitivity in students, and *how* this can be achieved.

This article is written based on our observations over decades of research and teaching on adat law in Indonesia. The first two authors are lecturers and researchers of adat law themselves, and they have been involved in efforts to innovate adat law teaching for over ten years. The other two authors are not directly involved in adat law teaching but have studied related subjects for many years (see, for example, Vel 2008; Bedner 2021). The third author has been conducting research on adat and adat law in Sumba and other places in Indonesia for almost 40 years. The fourth author has been involved in research and debates concerning adat law and Indonesian legal thinking for over 30 years. The article also relies on information obtained from a Focus Group Discussion (FGD) in which adat law lecturers from seven universities in Yogyakarta and Central Java shared their current Adat Law syllabus and their thoughts on developing the course.[8] The participants also provided their syllabi and teaching plans during the meeting, thus serving as valuable resources for this article.[9]

Our proposed innovation is inspired by a Law and Society approach that is generally useful for legal education (Bedner & Vel 2021). The central aims of this approach are to provide students with the tools for more nuanced legal interpretations and to make them aware of the relationship between law and social justice. Amidst the formalist tendencies of Indonesian legal education, adat law is one of the few courses that provide an opportunity to discuss law within their social context. Adat law, for instance, not only serves as an alternative mechanism for dispute resolution but also, as shown in many land and natural resources struggles, as a tool and strategy to protect people's rights from state arbitrariness (Bedner 2019). Teaching adat law within Indonesian legal education provides crucial support for law students to become competent legal professionals or justice providers, particularly when faced with the complexities of diverse legal systems within multicultural societies.

[8] We also appreciate the insightful comments and suggestions from Herlambang P. Wiratraman, Yance Arizona and Wiebke Wiesigel on an earlier draft of this article.
[9] Those seven universities are Universitas Gadjah Mada (UGM), Universitas Islam Indonesia (UII), Universitas Atma Jaya UAJY), Universitas Ahmad Dahlan (UAD), Universitas Diponegoro (Undip), Universitas Sebelas Maret (UNS), and Universitas Kristen Satya Wacana (UKSW). The FGD was organized by the Djojodigoeno Adat Law Center of UGM, held on 15 January 2024. Adriaan Bedner from the Van Vollenhoven Institute for Law, Governance and Society also joined the meeting.

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We have written this article not only to start a discussion on the innovation of teaching adat law in Indonesian Law Schools but also as a contribution to this special issue of the Indonesian Journal of Socio-Legal Studies in memory of Keebet von Benda-Beckmann. Together with her husband, Franz von Benda-Beckmann, she has devoted her career to the study of legal pluralism and the anthropology of law (Roth 2022). Indonesia is where Keebet and Franz did most of their research, and they wrote numerous articles that touched upon the issue of adat within the context of legal pluralism. Keebet has also taught, supervised, and inspired innumerable students, researchers, and activists. Our effort to inspire lecturers in Indonesia to create new ways of teaching customary law is a project that builds on her legacy.[10]

II. Locating the problems and exploring a way forward

In the past, adat law was officially applicable to the large majority of the East Indie, making it important for the Dutch colonial administration to govern the plural legal landscape of the colony. Reflecting on that condition, some have argued that adat law was, in fact, a Dutch creation, as officials documented the adat in ways that made it amenable to be applied in a Western-style legal system. However, this view has been dismissed by Franz and Keebet von Benda-Beckmann, who argue that the epistemology used by Van Vollenhoven was much more subtle than claimed by Burns and others (F. & K. von Benda-Beckmann 2011). They contend that Van Vollenhoven's approach kept 'official' adat law much closer to 'real-life' adat law than critics suggest.

Nevertheless, the danger of ‘fossilizing’ or even ‘reinventing’ adat law was always imminent. In practice, it was tempting for colonial judges and officials to treat the 'documentation' of adat law as official codification, despite the warnings of those who collected them that the adat compilations should be approached with caution and not considered as a code of law (Jaspan 1965; Koesnoe 1979; Burns 1989; F. & K. von Benda-Beckmann 2011). In a joint article with Bertram Turner, Keebet von Benda-Beckmann argued that this view of customary law resulted from incorporating it into the state colonial legal system. She called this colonial-created version of customary law "neo-tradition" (K. von Benda-Beckmann & Turner 2018, 261).[11]

[10] This article is part of our Project for Innovation of Teaching Adat Law (PINTAL), a collaboration initiative between the Indonesia researchers of the Van Vollenhoven Institute and colleagues at the Law Faculty of Universitas Gadjah Mada in Yogyakarta. For further information, see https://www.universiteitleiden.nl/en/research/research-projects/law/project-for-innovation-of-teaching-adat-law.

[11] In the African context, the integration of customary law into the national legal system through formalization has led to the co-existence of "official customary law" and "living customary law" (Himonga & Diallo, 2017). The official version of

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Over time, the colonial syllabi became increasingly detached from adat legal practice, but law schools continued to use them (Ball 1982; Burns 1989; Massier 2008; Wignjosoebroto 2014; Simarmata 2018;). The syllabus from the Rechtshoogeschool remains popular today—at least among adat law lecturers—and continues to influence adat law teaching in over 300 Indonesian law schools. Some changes have been made, yet they are neither substantial nor comprehensive. Untrained lecturers in adat law and certain conservative attitudes have hindered adat law courses from engaging in relevant contemporary discussions. As a result, students often get the impression that adat law never changes and is typically an attribute of backward societies.

This condition poses a problem not only from an academic perspective, which stresses the importance of 'valid' knowledge, but also from a professional standpoint. As mentioned earlier, the teaching of adat law in law schools aims to equip the (colonial) government with the means to administer the law effectively, driven by considerations of efficiency and justice. This objective remains unchanged, and achieving it hinges on the ability of adat law education to present a version of doctrinal adat law informed by contemporary normative legal practices in communities where adat law remains pertinent. Such an approach requires integrating legal ethnographic findings into the curriculum.

Combining the doctrinal approach with a more empirical and context-sensitive approach is even more urgently needed because of the contemporary legal reality of legal pluralism. The current adat law course has become obsolete, not only because of its outdated teaching materials and approach but also because it assumes that adat law is immune from the influence of other legal systems. In practice, adat is connected to a complex web of normative orders where adat law shapes and is shaped by other justice systems, as well as economic and religious belief systems. In the next section, we will discuss how this pluralistic condition, together with societal changes, has resulted in a changing idea of adat that differs from what has been understood by the traditional teaching of adat law.

III. Adat as a Social Reality

This article proposes innovation for adat law teaching based on two fundamental arguments: that adat law continuously changes and adapts to new societal circumstances and is a constituting element of the mix of normative systems present in a specific local society. The

customary law in South Africa bears the mark of colonialism and apartheid, as it was designed to advance colonial or apartheid state interests, therefore requiring law schools to decolonize their legal education (Onyango, 2013).

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formalistic nature of colonial syllabi hardly pays attention to those changes and that plural normative system.

A. Continuously Changing Adat Law

In practice, adat law (or, in general, customary law) is not an isolated and static subject.[12] Since pre-colonial times, it has been influenced by external factors and has influenced other interacting systems and actors. This, for instance, can be traced by looking at how trade has influenced changes in society as well as their adat (custom). Steven Gudeman (2008) addresses this dilemma of being caught between the relational economy and the market economy, highlighting how trade introduces individualism that conflicts with the social values of the communities. For instance, a community member may sell land inherited from their parents to a stranger despite still being considered adat communal land. While this transaction may be legally permissible under state land law, it could provoke objections from other community members based on adat law. However, with industrialization in adat areas and the increasing notion that land sale brings economic prosperity, the traditional notion that adat land cannot be sold to outsiders permanently may change. As many people with different ethnicities, kinships, and social ties to adat live in the same area, the ideas of traditional social organization will also evolve.

The second main factor in changing customary law has been state formation because it has included the previously self-governing communities in the larger administrative world of the nation-state. State law was introduced to support the interests of the colonial government in keeping order and peace in the country and, most of all, to facilitate the economic interests of colonial companies. The colonial state system influenced customary law by introducing governance through either direct or indirect rule, which to some extent changed the internal hierarchies within local societies (Vel & Makambombu 2019),[13] declaring uncultivated land as state property, removing forests and land for shifting cultivation from the communities' resource pool, and levying taxes that disturbed the local economies. During the New Order era (1966-1988), adat was reconstructed so that its ceremonial features were more explicit than its governing ability. The adat community adapted and established a new balance when the state, through its local institutions and officers, began taking control of the adat territory and became

[12] For a recent discussion on the plural interpretations of *adat* and how it has been used by different stakeholders, see Muur et al. (2019).
[13] For example, in Sumba, in the eastern part of Indonesia, indirect rule changed the internal hierarchy within local society. The Colonial Government selected a few among many local leaders, appointed them a *Raja*, and gave them the authority to levy taxes. In return, the *Raja* had to obey instructions from the Colonial Government (Vel and Makambombu 2019).

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a new authority alongside the traditional one. In Bali, for example, adat villages and state-formed villages are now considered a duality inseparable from Balinese society (Warren 1991).

The third factor that has greatly influenced customary law has been the conversion from vernacular beliefs to universal religions. Local norms and rules became subjected to a new normative order of religion, whether Islam or Christianity. In Indonesia, Buddhism and Hinduism also have a long history, which has created specific forms of religious adat, with Bali as a clear example. In some parts of Indonesia, for example, Aceh (Arfiansyah 2022) or Cianjur (Huis 2015) and Sukabumi (Grijns & Horii 2018), adat and Islam have melted to the extent that the two can hardly be distinguished as separate normative systems. A similar change of more recent origin is found in humanism as the basis of International Human Rights. Although they receive support from social and cultural human rights proponents, parts of customary law face challenges from individual rights, which are also protected by international conventions or declarations.

Keebet and Franz von Benda Beckmann (2013) have written an elaborate analysis of the processes of change mentioned here and the way they have influenced adat communities in Minangkabau, West-Sumatra, Indonesia. One of their main conclusions is that adat law is constantly adapted to changing circumstances and articulates with state law, religious law, and other normative systems. In other words, adat law is part of legal pluralism and cannot be understood in isolation. Such a position brings us to the discussion of adat law as a part of a broader and hybrid normative practice.

B. Adat Law as a constitutive element of *hukum lokal*

Contemporary understanding of legal pluralism has moved from merely acknowledging the co-existence of several legal systems within a social space to emphasizing the interactions among these systems (Merry 1988; Santos 2006). Such interactions may lead to conflicts in determining whether behaviour is lawful or unlawful, or they may give rise to establishing more or less stable jurisdictional boundaries between competing systems. However, these interactions may also lead to new legal practices that mix various elements from different legal systems in such a way that a new normative consensus emerges – implicit or explicit. This consensus may concern both procedure – how to establish the particular rules in a given case – or substantive law – what rules are applicable. In this article, we argue that adat law, along with other legal systems, is one of the constitutive elements of such law. We propose to refer to these consensual

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normative rules and practices that result from legal pluralism in a specific social field as *hukum lokal* (local law).[14]

Hukum lokal is usually a hybrid resulting from various legal systems, but not necessarily so. For some communities, *hukum lokal* still is adat law itself, in the sense that it relies on a local legal tradition, that, it is sustained by local institutions with some authority, and finally that, those who are supposed to be governed by *hukum lokal* consider the rules they apply as adat. However, especially in urban settings, we see that the recognition of rules no longer relies on tradition, or traditional community structures and authority, but also on religious law, state law or new norms and their corresponding authority structures. They are produced by economic changes, global movements, and socio-political contestations, and locals define them as law.[15] Here it is important to note that 'local' commonly denotes a geographical space, but it may also refer to groups or communities that are ethnic, religious, corporate or digital in nature. Therefore, *hukum lokal* is a much broader phenomenon than adat law, encompassing both traditional and contemporary norms derived from various normative orders as interpreted, modified and mixed by communities in their daily life.

The notion of *hukum lokal* describes a phenomenon similar to what many Indonesian legal scholars refer to as 'living law', or *hukum yang hidup dalam masyarakat* (law that lives in society, hereafter referred to as *hukum yang hidup*). The reason we prefer *hukum lokal* is that, over time, *hukum yang hidup* has also been used in another sense, as a much broader notion of 'society's sense of justice' – thus missing precisely the notion of how law is actually practiced and experienced in specific local contexts. In the words of Franz and Keebet Von Benda-Beckmann, after Indonesia gained its independence, "the ideas of living law expressed in the judgments and political legal rhetoric had, however, lost firm connection with the ground, the 'inner order of social associations'." (F. & K. Von Benda-Beckmann 2009: 185-187). Conversely, there is also a tendency in Indonesian legal scholarship to equate living law with adat law. In order to avoid such conceptual confusion, we prefer to use *hukum lokal* as a term that is more specific and – we hope – less controversial.

An example of the application of *hukum lokal* can be seen in child marriage and polygamy in Indonesia. In many parts of Indonesia, individuals must navigate through three different legal systems to marry. Marriages typically begin with customary and religious processes, then will

[14] Therefore, although we refer 'local law' as the English translation of *hukum lokal*, it differs from the commonly understood concept of local law as laws made by sub-national governments (such as state, district, or municipal regulations), as discussed in Thompson (2019) and the Queensland Government (2022).
[15] Here we rely on a notion first developed by Tamanaha (2000).

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be finally registered in civil registration. In the context of child marriage or polygamy, which are strongly limited by state law, customary and religious mechanisms are used to provide partial legality, which is sufficient for communities to consider the marriage as 'legal'. When the child reaches adulthood, or circumstances allow for polygamy, then the marriage is registered based on state law and obtains its full legality. These practices and the rules that govern them have evolved in such a way that it is challenging to identify from which legal system they derive. In other words, they are genuine hybrids (Van Bemmelen & Grijns 2019; Grijns & Horii 2018).

Another example is related to land ownership. In Indonesia, proof of land ownership is commonly demonstrated through land ownership documents issued by state officials. However, in practice, this does not mean that adat mechanisms are not applicable in land matters. Adat law still applies in the transfer, utilization, use, and termination of rights, and serves as the basis for official decisions regarding land (Kurnia Warman 2010; Simarmata 2015). In few cases, adat chiefs can also issue a statement letter and letter of release as evidence of land ownership and transfer. A letter of release explains the granting of adat plots of land to individuals, both within the adat community and outsiders, which causes a change in the land status to state land (Simarmata & Utama, 2021). Therefore, despite the fact that land ownership documents are state law products, their issuance often relies heavily on adat law and authorities.

The practices observed in society cannot be classified as the application of a single legal system. Various legal systems are modified, compromised, and mixed with one another, forming a hybrid law at the community level. By introducing the notion of *hukum lokal*, we aim to show students that adat law is part of a broader plural legal order applied within the communities concerned, without entering the conceptual quagmire of *hukum yang hidup*. This will help students develop their empirical sensitivity to how law works in reality. New ways of teaching adat law are necessary to equip law graduates with the knowledge about how adat law may evolve as a constituting element of *hukum lokal*. Such knowledge is indispensable to any professional jurist operating in a modern multicultural society.

IV. Teaching Adat Law

Disconnected from adat law in practice, the doctrinal teaching of adat law oversimplifies local diversity, complexity, and the dynamic nature of adat, as well as societal changes over time. It assumes that applying adat law means applying predetermined principles and norms to actual societal events. Consequently, adat law teaching revolves around instructing students about

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these abstract principles and norms, mostly derived from ethnographic fieldwork conducted over a century ago. As a result, outdated teaching resources lead to obsolete and irrelevant materials and methods.

Moreover, alongside the dominance of a conservative doctrinal approach, the teaching of adat law also suffers from a lack of institutional support. It has become a marginalized subject in Indonesian legal education, rarely sparking interest among law schools, lecturers, or students. Instead, it is entangled in a vicious cycle of neglect and disinterest.

In the next part, we will consider what this looks like in practice.

A. Present-day Adat Law courses

Following the mandatory national policy and consensus in the association of state law school deans in Indonesia, all law schools in Indonesia are required to offer at least one course of adat law (two credits) in their bachelor program. While most of the law schools take the minimum requirements, only a few universities, such as the Universitas Gadjah Mada (UGM) in Yogyakarta and the Universitas Riau (Unri), offer additional adat law courses on top of the mandatory two-credit course. Some of these additional courses are also mandatory and part of the law school's core curriculum,[16] while the others (around four to six courses) are electives.[17]

Syllabi shared during the FGD with seven law schools in Central Java also indicated that the reading list given to the students mainly consists of old textbooks published from the 1930s to the 1980s.[18] Despite the extensive works and broad categorization of Van Vollenhoven on adat law, most of those textbooks written by Indonesian scholars lean more towards Ter Haar's *Beginselen en Stelsel van het Adatrecht* (1948), following his subject classification and even the content within such classification. These include some themes of social organization, family law, marriage law, inheritance law, land law, obligations, and the law of delicts.[19]

Ter Haar's categorization also shapes the structure and subjects of the Adat Law course. These subjects are usually taught in sequence, assuming that the first topic (the pattern of social organization structure) determines family, marriage, land, and inheritance rules (Simarmata

[16] The additional mandatory courses include "Hukum Adat dan Perkembangannya" (Adat Law and its Development) at UGM and "Hukum Adat Melayu" (Adat Law of Malay) at Unri.
[17] UGM's elective courses: Adat Law Communities: Global Discourse; 2) Adat Law in Legislation; 3) Adat Law in Court Decisions; and 4) Adat Law and Local Wisdom. Unri's elected courses: 1) Malay Adat Penal Mediation; 2) Religion and Malay Adat; and 3) Land Law and Malay Adat.
[18] Among classic adat law literature, the most popular textbooks are written by Ter Haar (1948), Soepomo (2000), Djojodigoeno (1958), Iman Sudiyat (1978), Muhammad Koesnoe (1979), Hilman Hadikusuma (2014), Soerjono Soekanto (1983), and Bushar Muhammad (1981). Additionally, there are several references to new literature published from the 1980s up to recently, but the differences from the earlier works are minimal (See Setiadi 2013; Wulansari 2016).
[19] In Bahasa Indonesia (in the same sequence), these topics are *Susunan Persekutuan Hukum, Hukum Keluarga, Hukum Perkawinan, Hukum Waris, Hukum Tanah, Hukum Perutangan, and Delik Adat*.

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2018). Prior to those seven subjects, lecturers usually give their students some introductory sessions on adat law, comprising discussions on definitions, the history of adat law, the characteristics of adat law, the (state) legal basis of adat law, and the differences between adat law and Western-style state law.

Some observers have criticized adat law courses for being outdated and irrelevant, noting that law schools often teach a version of adat law that includes old laws no longer practiced (Dwiyatmi & Fobia 2019; Kurniawan 2013; Simarmata 2018). They argue that the topics and literature in these courses have barely changed in decades. The content often focuses on adat law that no longer exists today, mainly relying on concepts and principles developed during the colonial era instead of incorporating contemporary ethnographic findings. With most lecturers trained in a formalistic and state-centered approach, the adat law course becomes increasingly isolated, emphasizing classical doctrines and principles. This isolation leads to a loss of relevance as the course becomes detached from the influence of other legal systems and socio-cultural complexities in society.

It is important to highlight that some initiatives to innovate adat law teaching have taken place in various law schools with different approaches and results. Some law schools still cover all of Ter Haar's seven subjects, while others teach only a selection of them, and some even emphasize only one topic.[20] In addition to that classic classification, law schools have made some additions by connecting the discussion of adat law with its relationship to state law. Several universities conclude their Adat Law courses with one or two meetings focusing on the position of adat law within the national legal system (at UAJY and UAD) or legislation concerning adat law communities (at UNS and UKSW). This can be considered an endeavor to make adat law more relevant to the current legal discussion and, at some point, indicate an awareness of legal pluralism.

Another variation comes from the Association of Adat Law Lecturers – APHA (*Asosiasi Pengajar Hukum Adat*).[21] APHA suggested a syllabus for adat law as general teaching guidance for its members.[22] Although most teaching subjects are the same as those mentioned above, APHA's syllabus arranges those subjects in a different sequence. It does not start with the social organization field but with several meetings on the adat delict. The social organization field is taught after this, followed by land and debt law meetings. In addition, they also include topics

[20] Several universities, such as UGM, UAJY, UAD, and UKSW, include almost all seven fields in their teaching plans. UNS covers only four fields, while UII's and Undip's teaching plans cover only one.
[21] APHA was established in 2017 and has members come from state and private law schools across Indonesia. For further information see: https://apha.or.id/
[22] We thank Yando Zakaria for informing us about this initiative and sending us the draft of this syllabus.

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that discuss the position of adat law in national and international law and research on customary law.

At Faculty of Law UGM, efforts to innovate adat law courses initiate by the Adat Law Department and the Adat Law Research Center "Djojodigoeno." Since 2013, they have gradually updated the reading materials to include new references from current research and social science literature. Methodological changes have also been implemented, incorporating case law studies, group assignments and discussions, and more interactive lectures and seminars. Innovations have further been made by introducing new topics alongside the classic ones that have been taught since the colonial era. These new topics include adat in pluralistic legal orders, adat in legislation and judiciary, adat and natural resources, and adat in relation to women's rights. Some new courses with a comparative approach have also been initiated, such as "Indigenous Peoples: Global Discourse" and "The Recognition of Indigenous Peoples."

Another initiative for improvement was undertaken by a project called Strengthening Legal Education in Eastern Indonesia (SLEEI). This three-year project (2019-2022) was a collaborative effort between the Leiden University in the Netherlands and six universities in Indonesia. The main objective of this project was to strengthen the teaching capacity of university lecturers in eastern Indonesia. One way to achieve this was by revising the current syllabi (RPKPS) of courses, focusing on integrating SLEEI's themes (legal reasoning, ethics, gender, and local context) into the existing course outlines and developing interactive teaching methods. The integration of the local context, for instance, advised the revised syllabus to use more local cases, aiming to help students become familiar with their surroundings (Vel et al. 2022).

B. Reason for Conservatism

Why is such conservatism hard to change? Why are adat law lecturers in Indonesian law schools not encouraged to change their outdated teaching materials and methods? The reasons might lie in both internal and external factors.

Internal factors such as human resources policies and teaching frameworks within law schools, as well as lecturers' interests, play significant roles. The expertise of law lecturers in Indonesia is often determined by the department in which they are posted. A lecturer who is an expert in foreign direct investment is most likely to be in the business law department and teach major courses related to business law, for instance. Despite over 300 bachelor's degree programs in law across the Indonesian archipelago (Chandranegara 2023), only a handful of law schools

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have dedicated departments for Adat Law. Notably, Unri and UGM, located respectively in Sumatra and Java Island, are among the few that offer such departments. Surprisingly, despite the substantial role of adat law in the eastern region's community of Indonesia, there are no specialized adat law departments in law schools in those areas.

Meanwhile, at Andalas University in West Sumatra, the mandatory adat law course is managed by the Private Law department. However, the Criminal Law and Constitutional Law departments also offer several elective courses related to adat law. In other law schools, courses on adat law are typically provided under the management of departments such as Law and Society (*Hukum dan Masyarakat* - Universitas Udayana), Private Law (*Hukum Perdata* – Universitas Jambi), or Basic Legal Science (*Bagian Dasar Ilmu Hukum* – Universitas Airlangga).

Without a dedicated department or, at least, a lecturer with passion and expertise in adat law, it is unrealistic for law schools to encourage innovation in their adat law courses. For many lecturers, teaching adat law is more of a side job rather than a core expertise, as they likely already have their primary focus on more popular legal subjects such as Civil Law, Administrative Law, Criminal Law, or Environmental Law. Lecturers who teach adat law but are already passionate and expert in other areas of law may find innovating adat law courses unattractive, given the multitude of teaching and administrative responsibilities they already bear.

Reforming adat law courses requires lecturers, predominantly law graduates, to venture into the realm of social sciences, adapt to new approaches and paradigms, and implement new teaching methods accordingly. Senior lecturers often resist innovating their courses because they are comfortable with the current teaching methods and feel more connected to the faculty environment by maintaining a doctrinal teaching style. Additionally, the prospect of revising course syllabi and undergoing training in socio-legal research introduces new responsibilities and potential burdens, which lecturers nearing retirement may find unappealing. When senior lecturers show disinterest in these initiatives, junior lecturers are hesitant to initiate course reform, perceiving it as ethically inappropriate to oppose their senior colleagues, especially if those seniors hold decision-making positions within the faculty.

Meanwhile, the external factors might relate to government policies on legal education reform as well as the institutional dynamics of law schools. After a short upheaval during the early 20th century, the popularity of adat law gradually decreased in line with the post-independence government’s efforts to develop a unified Western-style legal system. The rapid

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economic development during the New Order (1966-1998) required skilled civil, business, and international law experts. The strengthening of state judiciary institutions demanded experts in criminal, civil, state administration, and constitutional law.

In response, law schools in Indonesia began reforming their curricula with the primary orientation of producing " practice-ready graduates." In 1973, several deans of Indonesian law faculties met with the sub-consortium of legal studies of the Ministry of Education and Culture in Lembang to agree on efforts to encourage uniformity in the curriculum of law schools, specialization among law faculties, and openness to multi- and interdisciplinary approaches (Anwar 2011; Sidharta 2013). The effort to unify the curriculum was ultimately successful in 1993 and was formalized through the Minister of Education and Culture Decree No. 17/1993, later revised by Decree 0325/U/1994. This decree established a national curriculum that primarily focused on legal skills, consisting of General Courses (10 credits), Basic Legal Skills Courses (11 credits), Legal Skills Courses (47 credits), and Complementary Courses (14 credits) (Rizal 1998). Arief (1994) stated that the policy target of higher legal education at the undergraduate level outlined by the Legal Studies Consortium (*Konsorsium Ilmu Hukum* - KIH) at that time was 'professional expertise and proficiency as a law graduate.' Undergraduate legal education is expected to be a 'professional law school,' differing from the master's and doctoral levels, which tend toward critical academic thinking.

Strongly influenced by the state-centric orientation since early independence and technocratic legal education reforms from the 1970s onwards, adat law gradually lost prominence in discussions about Indonesian law development and within law school curricula. In 1975, the Faculty of Law of UGM and the BPHN (Badan Pembinaan Hukum Nasional - National Law Development Agency) held a Seminar, "Adat Law and the Development of National Law". In one of its conclusions, the seminar stated, "Adat law is an important source for obtaining materials for the development of national law aimed at unification without neglecting the evolving customary law in court practices." [23]

[23] The complete conclusion states (Badan Pembinaan Hukum Nasional 1975):
1. Adat law is an important source for obtaining materials for the development of national law aimed at unification without neglecting the evolving customary law in court practices.
2. Utilizing materials from adat law means:
   a. Using the concepts and principles of adat law to formulate legal norms that meet the legal needs of society.
   b. Modernizing adat law institutions to meet contemporary needs without eliminating the characteristics and personality of Indonesia.
   c. Integrating adat law concepts into new legal institutions. Foreign law is used to enrich and develop national law.
   d. In the development of national property law, adat law is one of the components, whereas in family law and inheritance law, it is the core element.

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This seminar marks two significant points. Firstly, it serves as a joint affirmation between the state (represented by BPHN) and legal scholars to position adat law as subordinate to and legal resources of the unification of state law. Secondly, the seminar also underscores a shift in the teaching and research of adat law, moving from a previous focus on understanding local concepts and rules towards incorporating adat law into the national legal system. This positioning weakened adat law in relation to the state.[24] From such a position, what matters from adat law is its ability to support state-determined development, economic progress, and stability.

V. New ways of teaching Adat Law: Combining empirical and doctrinal approaches in adat law teaching

Law schools typically apply the doctrinal approach to elevate the normativity of Adat Law; otherwise, the course would understand and explain adat as a mere custom. [25] However, relying solely on the doctrinal -especially in its formalist approach- may render adat law teaching obsolete and irrelevant for contemporary conditions. To address the gap between the reality of adat practices and what is taught in law schools, this article proposes integrating a socio-legal approach into the adat law course to complement the predominant doctrinal style in the current teaching.

The primary role of the socio-legal approach in teaching adat law would be to sensitize students to three critical understandings related to adat law. First, to understand adat as a community's 'internal order'. This means that the socio-legal approach can help the teaching of adat law to discuss what the community considers as order and justice, and how they govern themselves with norms, institutions, and other modalities. This understanding also includes the variation of meaning and interests of adat within the community, resulting from internal dynamics as well as external influences.

Secondly, to understand adat law within the framework of legal pluralism. Although the doctrinal style often discusses adat law's relationship with state law, it frequently does so in formalistic and superficial manners, positioning adat law as subordinate to state law. Socio-legal approaches can help adat law courses acknowledge the complex nature of legal systems and understand how adat law interacts with and influences other legal orders in a multicultural

[24] For example, this can be seen in the Emergency Law of 1951, which abolished adat courts and placed the application of adat law under state courts. Furthermore, in 1975, the Village Law abolished the existence of adat villages and replaced them with administrative villages as part of the state governance unit.
[25] Interview R. Simarmata with Herman Slaats (19/02/2024).

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context. In many life events, individuals may turn to adat law, religious law, state legislation, or a combination thereof, depending on their access, interests, gender, and socio-cultural context within the community.

Awareness of this issue has existed for a long time. Ter Haar (1948), for example, even dedicated a chapter in his book to discussing "the place of adat law in the legal system," which includes discussions ranging from native administration of justice to village and religious justice. Decades later, Indonesian scholars and the APHA-suggested syllabus have provided some space in their textbooks to discuss the position of adat law within the Indonesian legal system, usually emphasizing the state's recognition of adat law through the constitution and legislation. However, in these works, adat law is still viewed as subordinate to state law rather than mutually influential.

Lastly, it is important to understand that adat is constantly changing. Almost a century ago, Van Vollenhoven distinguished between 'lawyers' adat' and 'peoples' adat', emphasizing the importance of considering the various contexts in which adat law was reproduced (Benda-Beckmann, K. 2019: 406). Translating Van Vollenhoven's idea into innovating the teaching of adat law suggests focusing on changes that have influenced its fundamental concepts, values, principles, and norms of customary law.[26]

Further, the two examples below will illustrate how the socio-legal and doctrinal approaches are combined to teach some adat law topics. The first pertains to inheritance rights for women. The doctrinal approach to Adat Law posits that kinship-based social organization influences daughters' inheritance rights differently. In patriarchal communities, daughters typically do not inherit, with inheritance rights reserved solely for sons, while matriarchal communities adhere to the opposite (Ter Haar 1948; Sudiyat 1978). Differently, socio-legal approach does not take these rules for granted. Instead, it explains how the rules have changed and what factors have caused those changes. This approach prompts a discussion on legal pluralism by examining the factors influencing these changes, such as the impact of Syariah and state law on adat law, the effects of the Indonesian Marriage Law and the 1961 Supreme Court ruling on Adat Law.[27] The approach may also investigate changes in rural and urban communities due to the modernization and individualization processes. A woman from a patrilineal community living in an urban area might prefer to pursue her inheritance rights

[26] Interview R. Simarmata with Herman Slaats (19/02/2024).
[27] Indonesia Supreme Court Case Number 179/K/Sip/1961. This decision determines that a daughter has equal rights as a son to inherit their parents' properties. The case was brought to court by a daughter of the Batak Karo ethnic group of North Sumatra. This decision was against the Adat Law of Batak Karo at that time, which did not entitle a daughter to inherit their parents' properties.

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through the state court instead of traditional mechanisms, as customary practices often only grant inheritance rights to male descendants (Sulistyowati Irianto, 2003).

The second example is concerning adat communal land (hak ulayat). The concept was initially formulated by Van Vollenhoven, who delineated six characteristics, one of which stipulates that hak ulayat cannot be permanently transferred to outsiders (Ter Haar 1948; Holleman 1981; Bosko 2014). In this case, the socio-legal approach will help to explore how long-term and extensive migration, commoditization, forest designation, and permit issuance have altered the meaning and applicability of this concept. Furthermore, it will discuss how adat law communities have adapted and reinterpreted this concept when facing encroachments on communal land by granting land rights to corporations.

Integrating socio-legal approach into adat law teaching will help students capture the dynamic characteristics of adat and socio-cultural changes influenced by internal and external factors. However, it is also necessary to ensure that empirical understanding and sensitivity provided by the socio-legal approach is continued by "legal discussion". This means that after conducting the socio-legal analysis, adat law teaching can be directed to discuss to what extent adat basic conception, values, rules or principles have changed, reshaped, or reinterpreted after the social changes.[28] This step applies a doctrinal perspective, which includes formulating new rules or principles based on empirical findings.

From the perspective of state officials, judges and lawmakers, this doctrinal approach to adat law has clear merits. First, it alerts them to the co-existence of different conceptions or principles of justice. Second, adat law in abstract norms and principles makes it easier for officials and judges to decide on adat law-related disputes. Third, it is easier for lawmakers to recognize and incorporate such legal principles and rules into new legislation. The preference for the 'doctrinal' adat law approach is also reinforced by the nature of legal education, which is not only an academic discipline but also a professional training.

The approach changes we suggested above might require adjustments in both the content and the teaching methods. This article is not intended to explain all aspects of such innovations in detail. However, as a starting point and to provide more illustration, adat law lecturers might want to consider incorporating some of the topics listed below in their courses and syllabi. In line with our suggestion to integrate doctrinal and socio-legal approaches in teaching adat law, our suggestions are also based on those two approaches.

[28] Interview R. Simarmata with Herman Slaats (19/02/2024)

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To enrich socio-legal discussions in the adat law course, adat law lecturers might want to consider the following topics in their course:

1. Multi-meaning and internal dynamics of adat law

   Students need to understand adat not as a singular concept, but as multiple ideas interpreted differently by parties with different interests. In many cases, adat practices are heavily influenced by power relations and how adat is internally negotiated.
2. Adat and legal pluralism

   It is also essential to discuss the position of adat law within plural and overlapping legal orders, including the tensions and compromises that arise between adat law and other normative systems.
3. Adat and social justice

   In this context, adat can be an alternative means of accessing justice and achieving a more equitable distribution of resources. However, it can also contribute to social inequalities. Adat can be the basis for discriminatory and oppressive actions against vulnerable groups, but it also has the potential to serve as a mechanism for protecting them.
4. Adat as a constitutive element of *hukum lokal*

   In some cases, *hukum lokal* is not solely about adat law but has become a mixture of various influences. Therefore, it is important to see how adat also influences and shapes *hukum lokal* and is used in various cross-cutting issues that occur in the community.

Meanwhile, to enhance the doctrinal features in the adat law course, the lecturer can encourage the following topics or themes:

1. Changing adat norms and principles

   This topic explores the new norms and principles that have emerged from the socio-political changes related to adat and adat communities. It also includes an examination of norms and principles that are no longer relevant in light of current societal developments.
2. Adat law in the state court

   This topic discusses two critical issues regarding the use of adat law in state courts. The first concern is the reasoning of state courts in deciding adat-related cases, including those involving adat communities. The second explores how state judges have used adat law in their decisions in ordinary cases.
3. Adat law in the state legislation

   This topic examines how Indonesian legislation recognizes and regulates adat law and communities. It also delves into the interests and ideologies behind such recognition. A

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recent example of this topic is the incorporation of adat law (or *hukum yang hidup*) in the new Criminal Code (Utama 2021). Beyond that, the government and the parliament have passed hundreds of national and regional legislations related to adat land, community and law.

4. Comparison of state recognition of adat law and community

   By employing a comparative approach, students can be motivated to comprehend the diverse models of interaction between the state and adat (customary) communities both in Indonesia and in other regions globally. Through this comparative exploration, we can illustrate that the adat (customary) law studies are crucial not just within Indonesian legal discourse but also on a global scale.

With the above suggestions, we do not intend to completely replace the entire structure in current adat law courses. Our suggestions could become separate topics or courses on their own, but they could also be themes for discussion within the existing course structure. Some existing topics might still be relevant depending on the extent to which they can encourage student's empirical sensitivity and critical thinking. Therefore, our suggestions on course topics should be considered as part of a reform in the teaching approach.

VI. Institutional support

Although this article is intended to focus on the innovation of adat law courses through the reform of the teaching approach and substance, it is worth making some reference to institutional support as the innovation of the teaching of adat law and legal education in the broader sense, will also be influenced by faculty's institutional policy and framework (Vel et al. 2022). Such support can manifest in two key ways. Firstly, support through human resource policies. First and foremost, law schools need to appoint dedicated lecturers for adat law courses. These lecturers should perceive adat law as their core expertise rather than a secondary duty and prioritize adat law as their primary research interest. In addition to that, law schools may consider employing social science scholars to teach adat law (and other courses, too) and provide socio-legal training for their law lecturers. Innovating adat law courses requires a robust multidisciplinary approach to law. Meanwhile, most lecturers of Adat Law in Indonesian universities hold graduate and postgraduate degrees in law.

The second essential form of institutional support, which extends beyond the reform of adat law courses, involves reforming the current legal education framework to foster the empirical sensitivity of law graduates. Legal education in Indonesia often adheres to a formalist

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approach that is heavily reliant on legislation and classic textbooks (Bedner 2013, 256). However, in practice, law graduates in Indonesia are expected to navigate not only the application of legal rules but also the necessity to find practical solutions to societal problems. Therefore, this institutional support needs to be directed towards encouraging curriculum and teaching method reforms to accommodate better the use of a socio-legal approach, including discussions on how society interprets law within a pluralistic legal landscape.

These changes could begin with innovations in adat law teaching but should not stop there. Law faculties should encourage changes in curriculum and teaching policies, including creating new courses and promoting innovation in existing ones. At Faculty of Law of UGM, one of these efforts was taken by introducing the Law and Society course as a new mandatory subject in 2017. In this course, students learn about legal pluralism, access to justice, semi-autonomous social field and social change, among other topics. However, integrating socio-legal approach does not always require a dedicated course. Socio-legal is more like a perspective that can be integrated into almost any subject taught in law schools. To give students a good foundation, law schools should consider including the socio-legal discussion in foundational courses like Introduction to Indonesian Law (*Pengantar Hukum Indonesia*), Introduction to Legal Studies (*Pengantar Ilmu Hukum*), and Research Methodology. The implementation of this reform demands considerable time, budget, and energy. However, if done in the right way, the reform will prevent adat law teaching and other law courses from being trapped in black-letter legal pedagogy.

VII. Conclusion

The teaching of adat (customary) law in Indonesia has a long history, beginning in the early 20th century during the Dutch colonial period, and has continued to this day. Today, adat law is an integral part of the mandatory curriculum for undergraduate law students. Despite its importance in preparing students to become competent legal professionals who are sensitive to societal dynamics and complexities, adat law courses are now regarded as second-class subjects in law schools. Most students are uninterested in studying adat law beyond following the curriculum requirements. They view adat as synonymous with traditional ideas that are obsolete and irrelevant to the needs of modern society.

This situation is further exacerbated by the lack of institutional support from law schools and the internal stagnation among lecturers in innovating adat law courses. Many law schools teach adat law half-heartedly. Without dedicated lecturers for these courses, they often assign

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lecturers with expertise in other legal fields to teach the subject. Consequently, the course materials are seldom updated and frequently drawn from classic textbooks, some of which were published before independence, undermining the contemporary relevance of adat law.

In addition, the dominance of state-centric and technocratic approaches in legal education further sidelines adat law. In Indonesia's legal development discourse, adat law is often positioned as merely a foundation or source for national law rather than a normative order that coexists and intersects with the state legal system. In practice, however, adat law interacts with state, religious, and international law. It evolves dynamically alongside economic developments, state formation, and the influence of universal religions and values. This interaction not only leads to new adaptations and conflicts but also fosters the emergence of new legal syntheses rooted in diverse normative systems.

The focus of legal education on meeting job market demands has driven schools to produce graduates who are skillful and professional in corporate roles, making adat law appear irrelevant to these goals. This market-oriented approach overlooks the significance of adat law, which, despite its traditional roots, plays a vital role in people's daily lives, local governance, land and natural resource management, and many other societal aspects.

To effectively bridge this gap, law schools and adat law lecturers must foster innovation in teaching adat law. Our proposed approach involves integrating the established doctrinal method with a socio-legal perspective. This entails situating adat law within a conceptual framework that not only presents it in its normative forms but also acknowledges the adat community's internal dynamics and recognizes the interplay between adat law and other normative systems within Indonesia's complex plural legal environment. Practice-wise, this innovation can take various forms, including restructuring the teaching framework and syllabus, introducing new topics or discussion themes, providing training to lecturers in socio-legal approaches, as well as recruiting social science scholars as adat law lecturers.

While this proposal is specifically aimed at innovating customary law teaching, we also believe it can stimulate discussions for innovation in other courses in law schools. By combining doctrinal teachings with empirical perspectives, legal education can transcend its traditional boundaries, producing graduates with a comprehensive understanding of societal issues. In today's globalized legal landscape, legal complexities and conflicts are rising. While the line between global and local issues is getting more blurred, tensions between global law and local notions of justice persist. In this case, a grounded and comprehensive understanding of the local is as important as the global.

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