

# Participatory Communication as a Strategy for Empowering Indigenous Communities in Customary Land Rights Legislation

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**Abstract.** *This study examines participatory communication practices in the legislative process concerning customary land rights (tanah ulayat) of the Batak Toba indigenous law community, particularly in the implementation of Regional Regulation of Toba Regency Number 1 of 2020. Customary land rights possess not only economic value but also cultural, historical, and collective identity dimensions. However, in legislative practice, indigenous communities often do not receive equal opportunities for participation. This research employs a qualitative approach with a case study method in four agrarian conflict areas: Sigapiton, Lumban Sitorus, West Lumbanrau, and Gurgur Aek Raja. Data were collected through in-depth interviews, participatory observation, and analysis of legal documents and media sources. Data analysis was conducted using the Miles and Huberman model as well as thematic analysis. The findings reveal that communication in the legislative process remains elitist and has not been fully dialogical. Structural barriers in the form of bureaucratic dominance and cultural barriers arising from differences in value systems weaken indigenous community participation. This study proposes a participatory communication model based on local wisdom that emphasizes deliberative dialogue, customary deliberation, and equality of participation. These findings contribute to the development of participatory communication theory within the context of legal pluralism and provide practical recommendations for the formulation of inclusive policies.*

**Keywords:** *Participatory Communication, Customary Land Rights, Indigenous Communities, Batak Toba, Legislation*

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## INTRODUCTION

The relationship between the state and indigenous law communities in the management of customary land rights (tanah ulayat) is a strategic issue within the context of legal pluralism in Indonesia (Iswari et al., 2025; Harahap et al., 2025; Buana & Mamonto, 2023; Umar, 2026; Febrianty et al., 2026). For the Batak Toba community, customary land is not merely viewed as an economic asset, but also as a symbol of collective identity, history, and social legitimacy (Simamora, 2025; Naibaho & Su, 2025; Sibarani, 2018). In response to the need for legal recognition and protection of indigenous peoples, the Government of Toba Regency enacted Regional Regulation Number 1 of 2020 concerning the Recognition and Protection of Indigenous Peoples. The regulation was intended to provide legal certainty and strengthen the protection of customary rights, including customary land rights, for indigenous communities in Toba Regency. However, its implementation has faced various challenges, particularly in areas where agrarian

conflicts involving customary lands remain unresolved (Kansanga et al., 2019; Kobusingye et al., 2016; Muharman, 2025; Ojo, 2023).

The phenomenon of agrarian conflicts in Toba Regency, particularly in Sigapiton, Lumban Sitorus, West Lumbanrau, and Gurgur Aek Raja, illustrates the complexity of implementing legal recognition of indigenous rights. These four areas were selected because they represent significant cases of disputes concerning the recognition and protection of customary land rights and reflect communities directly affected by the implementation of Regional Regulation Number 1 of 2020. Furthermore, these areas provide strategic cases for examining how communication between government institutions and indigenous communities shapes the legislative process and its outcomes. Despite the existence of legal instruments intended to protect indigenous rights, many community members continue to perceive that their aspirations and customary perspectives have not been adequately accommodated (Hartwig et al., 2018; Gilbert & Lennox, 2019; Sylvester et al., 2016; Hossain & Ballardini, 2021; Hiriart-Bertrand et al., 2020).

This condition indicates that the issue extends beyond the limited effectiveness of legal protection. More fundamentally, it reflects the absence of equal, dialogical, and culturally sensitive communication in the legislative process. According to Marion et al. (2022), Hale (2020), Jackson (2018), Rodríguez & Inturias (2018) Legislation is therefore not merely a formal legal mechanism but also a communicative arena in which meanings are negotiated, power relations are exercised, and indigenous identities are represented or marginalized. The extent to which indigenous communities can participate in legislative processes significantly influences the legitimacy and effectiveness of policies concerning customary land rights.

Theoretically, participatory communication emphasizes the importance of active community involvement as subjects rather than objects of communication (Rijal, 2023; Pearce et al., 2015; Jones, 2016). This perspective is reinforced by Habermas's deliberative theory, which highlights the importance of an inclusive and equal public sphere for rational dialogue, as well as Lazoroska et al. (2021) and Saunders et al. (2020) concept of parity of participation, which emphasizes justice through equal opportunities for participation in decision-making processes. Within the context of legal pluralism, these perspectives provide an analytical foundation for understanding how communication practices shape the recognition of indigenous rights and the formulation of legal policies.

Based on this background, this study aims to analyze participatory communication practices in the legislation of customary land rights in Toba Regency, identify structural and cultural barriers that hinder meaningful participation, examine power relations and the representation of indigenous communities within the legislative process, and formulate a participatory communication model grounded in local wisdom. By integrating participatory communication theory, deliberative democracy, and legal pluralism within a single analytical framework, this study offers a comprehensive perspective on indigenous land governance and addresses a gap that remains relatively underexplored in previous research.

## **METHODS**

This study employs a qualitative approach using a case study method. The research was conducted in four agrarian conflict areas in Toba Regency, namely Sigapiton, Lumban Sitorus, West Lumbanrau, and Gurgur Aek Raja. These locations were selected purposively because they represent areas where conflicts concerning the recognition of customary land rights (tanah ulayat) of the Toba Indigenous Peoples have occurred. The four locations provide relevant cases for examining participatory communication in the legislative process concerning the recognition and protection of customary land rights.

Primary data sources consisted of interviews with traditional leaders, members of the Regional House of Representatives (DPRD), and local government officials. Informants were selected using purposive sampling based on their knowledge, experience, and involvement in issues related to customary land rights. The study involved four traditional leaders, each

representing one customary land area, as they possess extensive knowledge regarding the historical background, ownership, and management of customary lands. In addition, two DPRD members were selected because of their involvement in the formulation and discussion of regional regulations concerning indigenous peoples and customary land rights. Secondary data sources included Regional Regulation Number 1 of 2020, legal documents, and various media reports relevant to the study.

Data collection techniques involved in-depth interviews, participatory observation, and documentation studies. Interviews were conducted using semi-structured interview guides, allowing flexibility in exploring participants' experiences and perspectives while maintaining consistency with the research objectives. Each interview lasted approximately 60–90 minutes. Participatory observation was undertaken to observe interactions and communication processes among indigenous communities, local government actors, and other stakeholders involved in customary land issues. During the observation process, field notes were systematically recorded to document important events, interactions, and contextual information. Documentation studies were also conducted by examining legal documents, government reports, media publications, and other relevant materials.

Data analysis was carried out using the Miles and Huberman interactive model, which includes data reduction, data presentation, and conclusion drawing/verification. Following the data reduction stage, thematic analysis was employed as the primary coding strategy to identify, categorize, and interpret recurring patterns related to participatory communication in the legislative process. In this study, thematic analysis complemented the Miles and Huberman model by providing a systematic approach for coding and interpreting qualitative data, thereby enabling a deeper understanding of communication patterns, stakeholder participation, and policy formulation processes concerning customary land rights.

## **RESULTS AND DISCUSSION**

### **Communication Practices in Customary Land Legislation**

The findings of this study indicate that communication practices in the legislative process of Regional Regulation of Toba Regency Number 1 of 2020 are still dominated by a top-down and elitist communication pattern. Although there are formally public participation mechanisms such as public hearings and public consultations, in practice these forums have not provided equal opportunities for indigenous communities to substantively express their aspirations. The findings reveal that indigenous communities are often involved only at the final stage as a form of formal policy legitimacy.

This condition demonstrates that the communication process has not fulfilled the principles of participatory communication as proposed by Thomas & Turnbull (2018), which emphasize the importance of horizontal dialogue among social actors. In this context, the Batak Toba indigenous community still tends to be positioned as an object of communication rather than as an active subject in the legislative process. In fact, active participation is a key element in developing critical awareness and policy legitimacy.

Furthermore, these findings reinforce the study of Sjarlis et al. (2026), which states that communication in the legislative process in Indonesia remains one-way and lacks dialogue. The legislative process places greater emphasis on the delivery of information rather than on the deliberative exchange of ideas. As a result, the aspirations of indigenous communities are not optimally accommodated in the resulting legal products.

From the perspective of Habermas's deliberative theory, this condition indicates that an ideal public sphere (ideal speech situation) has not yet been established, where all parties have equal opportunities to present arguments free from domination of power. Thus, the legislative communication practices that occur do not fully reflect the principles of inclusive deliberative democracy.

## **Structural and Cultural Barriers in Participatory Communication**

This study identifies two main categories of barriers in participatory communication, namely structural barriers and cultural barriers.

### ***Structural Barriers***

Structural barriers are related to the dominance of state institutions in the legislative process, particularly bureaucratic and political actors. Hierarchical power structures limit indigenous communities' access to decision-making processes. In addition, limited access to information and the low transparency of the legislative process further strengthen the participatory exclusion of indigenous communities.

These findings are consistent with Lindsey & Butt (2018), who argue that Indonesia's legal system is still dominated by formalistic and bureaucratic approaches, often neglecting the social realities of indigenous communities. Adjei et al. (2017), Radhuber & Radcliffe (2023), Murphy (2019), Ratner et al. (2017) also emphasize that decentralization has not fully strengthened the position of indigenous communities in resource governance, including customary land rights.

Furthermore, Safitri (2019) points out that legal pluralism in Indonesia still faces challenges in implementation, particularly in integrating customary law into the state legal system. This condition reinforces the finding that structural barriers are a major factor contributing to weak participatory communication in customary land legislation.

### ***Cultural Barriers***

Cultural barriers relate to differences in value systems, language, and perspectives between indigenous communities and the government. In Batak Toba society, communication is often conducted through customary deliberation mechanisms that are rich in symbols and cultural values. However, these mechanisms are not always accommodated within formal legislative processes.

Li (2019) highlights that in the context of globalization, indigenous narratives are often marginalized by modern development discourse. This creates communication gaps between the state and indigenous communities. In addition, Callahan & Ledgerwood (2016); Koschut (2018) and Marta & Septyana (2017) emphasize that symbols and signs in communication play an important role in constructing social identity, which is often not understood by state actors. Thus, cultural barriers are not only related to language differences, but also to differences in interpreting social reality. When communication fails to bridge these differences, the participation of indigenous communities becomes ineffective.

### **Power Relations and Representation in Legislation**

Power relations are an important factor influencing communication practices in customary land legislation. The findings indicate an imbalance in the relationship between the state and indigenous communities, where the state possesses greater authority in determining policy directions. Coté (2016) and Amponsah & Agyemang (2024) asserts that customary land rights are the foundation of indigenous community existence, yet they are often marginalized in development policies. Sanders (2018) also demonstrate that customary land conflicts are not only related to ownership, but also to the legitimacy of legal identity.

In this context, the representation of indigenous communities in the legislative process remains symbolic rather than substantive. The presence of customary leaders in legislative forums is often not accompanied by real influence in decision-making. This indicates that participation remains at the level of formal representation rather than substantive participation. Blue et al. (2019) perspective on parity of participation is relevant in explaining this phenomenon.

Fraser argues that social justice can only be achieved when all parties have equal opportunities to participate in social and political processes. In this case, unequal power relations

prevent the achievement of participatory equality, resulting in policies that tend to be unjust toward indigenous communities. In addition, Aliyeva (2023); Panjaitan et al. (2025) demonstrate that cultural communication plays an important role in constructing meaning in public interaction. When communication is not sensitive to cultural contexts, the representation of indigenous communities in policy becomes distorted.

### **A Participatory Communication Model Based on Local Wisdom**

Based on the research findings, a participatory communication model based on local wisdom is proposed as an alternative approach in the legislative process concerning customary land rights. This model emphasizes four main elements:

#### ***Deliberative Dialogue***

Referring to Habermas, communication must be dialogical and open, providing space for all parties to express arguments rationally.

#### ***Integration of Customary Deliberation***

Sumaya (2025) and Nasoha et al. (2024) emphasizes the importance of integrating customary deliberation mechanisms into the legislative process. This enables communication to become more contextual and aligned with the cultural values of the community.

#### ***Equality of Participation***

Nengsih & Edy (2026) concept of parity of participation serves as the foundation for ensuring that all actors have equal positions in communication.

#### ***Strengthening Identity and Cultural Communication***

Surianto et al. (2025) demonstrate that participatory communication can strengthen collective awareness and social cohesion. In this context, communication must be capable of accommodating the symbols, values, and cultural identities of indigenous communities. This model positions communication as a process of meaning construction involving interaction between state law and customary law. Thus, legislation is understood not merely as a formal legal process, but also as a social process involving the negotiation of identities and interests.

### **CONCLUSION**

Communication in the legislative process concerning customary land rights has not yet been fully participatory. Structural and cultural barriers remain the main factors limiting the involvement of indigenous communities. Therefore, a more inclusive and dialogical communication model is needed to ensure equal participation and representation of indigenous peoples in the legislative process.

### **SUGGESTION**

To address these challenges, the government should provide equal and open spaces for dialogue between state institutions and indigenous communities. The integration of customary deliberation mechanisms into the legislative process is also necessary to ensure that local cultural values and traditions are properly accommodated. In addition, strengthening the communication capacity of indigenous communities is important so that they can actively and effectively participate in policy discussions and decision-making processes. Finally, the development of policies based on local wisdom should be prioritized in order to create legislation that is more inclusive, culturally sensitive, and socially just.

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