

Digital Press Social Sciences and Humanities

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International Conference on Nusantara Philosophy: Philosophy of Well-Being:
Revisiting the Idea of Sustainable Living and Development

M. Rodinal Khair Khasri, Rangga Kala Mahaswa, Taufiqurrahman, Dela
Khoirul Ainia, Shoim Mardiyah (eds)

Reclaiming Global Welfare: The Critical Role of Indigenous Legal Systems in Addressing Climate Change, Overconsumption, and Biodiversity Loss

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Abstract

Indigenous people are practitioners and inheritors of distinctive cultures, in which they have their own way of relating to the surroundings and the people. Indigenous people are known for their local wisdom and discrepancy in customary law. In contrast to the traditional cultures, the planet we call home keeps evolving, and so do complex issues around us. Humanity nowadays is no stranger to problems that are the cost of modernization such as climate change, biodiversity loss, and overconsumption. Studies and research never stop at one point to find a way to overcome those issues. There goes a saying 'modern problem requires modern solution', in lieu of the statement, the existence of indigenous people and their customary law have proven that they indeed have their own unique regulations to preserve nature and prevent overconsumption, which is what modern people need the most to reach the idea of sustainable living and development. For instance, people could reflect on the Dayak Kenyah Leppo' Ke tribe in North Kalimantan, to find a solution to conquer our urgent global situation. In fact, Indigenous law communities can be included to participate in climate change and biodiversity loss. Empowerment of indigenous peoples with their local knowledge through environmental empowerment based on local wisdom can provide support, use and management of natural resources while maintaining the strength of their law, their spiritual abilities and the beliefs they embrace. The appliance of the indigenous law itself to solve climate and consumption issues might be the key to humanity and nature welfare for a lifetime. By delving into the law of the predecessors, we would be given an opportunity to analyze Indonesia's legal vacuum in terms of nature perseverance and fix the behavior of people living in the modern era in order to keep mother nature last longer.

Keywords

indigenous law, sustainable living, development, local wisdom

1 Introduction

In an era marked by unprecedented global challenges, humanity is facing crises that threaten the very fabric of life on Earth. Overconsumption, biodiversity loss, and climate change are not merely environmental issues; they are profound symptoms of systemic disconnection from the natural world. While technological innovations and policy frameworks have been widely implemented to address these issues, they often fall short of delivering sustainable solutions that resonate across diverse cultures and ecological systems. In this context, the application of indigenous law and the utilization of local wisdom emerge as critical pathways to forge a more harmonious and sustainable future.

Indigenous law, deeply rooted in the traditions, customs, and worldviews of native communities, offers an alternative paradigm for environmental stewardship. Unlike conventional legal systems, which are often anthropocentric and commodify nature, indigenous law is fundamentally intertwined with the belief that humans are part of a larger ecological community. This perspective fosters a reciprocal relationship with the environment, emphasizing the preservation and regeneration of natural resources

for future generations. By integrating such philosophies into global efforts to combat overconsumption, biodiversity loss, and climate change, we can benefit from time-tested practices that align with the principles of ecological balance and sustainability.

Customary knowledge, as embodied in indigenous practices, provides a wealth of insights into sustainable living. Many indigenous communities have lived in harmony with their environments for centuries, developing sophisticated systems of resource management, biodiversity conservation, and climate resilience. These systems are not merely about survival; they are manifestations of a profound understanding of the interconnectedness of life. For instance, the rotational farming techniques of the Dayak people in Indonesia, the sacred groves of the Khasi in India, and the water management systems of the Australian Aboriginals are examples of how local wisdom has effectively mitigated environmental degradation while ensuring the well-being of the community.

The relevance of indigenous law and customary knowledge becomes even more pronounced when we consider the failures of modern approaches to these global issues. Overconsumption, driven by unsustainable economic models and consumer culture, has led to the depletion of natural resources and the generation of enormous waste. Indigenous philosophies, which often espouse values of moderation and respect for natural limits, can challenge and transform this trajectory. For example, the Maori concept of *kaitiakitanga* emphasizes guardianship and care for the Earth, promoting a holistic view of resource use that prioritizes long-term well-being over short-term gain.

Similarly, biodiversity loss—exacerbated by deforestation, habitat destruction, and overexploitation of species—can be addressed through indigenous conservation practices. Indigenous peoples protect approximately 80% of the world's remaining biodiversity, often through traditional land management systems that preserve ecosystems while meeting the needs of local populations. These approaches demonstrate that conservation does not have to come at the expense of livelihoods but can instead foster coexistence and mutual flourishing. For instance, the traditional ecological knowledge of the Amazon's indigenous communities has proven effective in protecting some of the most biodiverse regions on earth, offering valuable lessons for global conservation efforts.

Climate change, the defining challenge of our time, also calls for a reevaluation of existing strategies. Indigenous communities are among the first to experience the devastating impacts of a changing climate, yet they possess a deep reservoir of adaptive strategies rooted in their unique knowledge systems. Practices such as controlled burns by Native American tribes to reduce wildfire risks or the Inuit's observations of ice and wildlife patterns to predict environmental changes showcase the potential of indigenous wisdom to inform climate resilience. These practices, when integrated with modern scientific understanding, can provide innovative solutions to mitigate and adapt to climate change.

However, incorporating indigenous law and wisdom into mainstream approaches to global issues is not without challenges. The marginalization of indigenous communities, erosion of their cultures, and lack of recognition for their rights often hinder the broader application of their knowledge. Overcoming these barriers requires a paradigm shift that respects and values indigenous perspectives as equal partners in the quest for sustainability. This involves legal recognition of indigenous territories, fostering intercultural dialogue, and ensuring the participation of indigenous peoples in decision-making processes at all levels.

Moreover, the application of indigenous law should not be seen as a one-size-fits-all solution. Local wisdom is deeply contextual, shaped by specific environments, histories, and social structures. While this contextuality is a strength, it also necessitates careful consideration of how such knowledge can be adapted and scaled to address global issues without losing its integrity. Collaborative approaches that honor the autonomy of indigenous communities while facilitating knowledge exchange can strike this balance, enabling the global community to learn from and implement indigenous practices in ways that respect their origins.

The challenges of overconsumption, biodiversity loss, and climate change demand innovative and inclusive solutions. Indigenous law and customary knowledge offer a wealth of resources that can complement and enhance modern approaches to these crises. By embracing the local wisdom of indigenous communities, we can move towards a future that respects the limits of our planet, values the

interconnectedness of life, and ensures the well-being of all species. The integration of indigenous perspectives is not merely an ethical imperative but a practical necessity to overcome the environmental challenges of our time.

2 Methods

The type of research used is qualitative research that aims to explore or understand social indications in a natural social context by prioritizing a deep communication interaction process between researchers and the phenomena being studied (Creswell, 2018). According to Creswell there are 6 stages of qualitative research, namely problem identification, literature search, determination of intent and purpose, collection of information, review and interpretation of information, and writing of report results. The research method used is qualitative descriptive whose problem solving is done by providing a description of the subject that is used as the object of research, namely The Kenyah Leppo'Ke tribe. Researchers can interpret the meaning of the research conducted based on their own understanding and perspective, and the research conducted does not use statistics.

3 Results and Discussion

3.1 Delving into the Customary of Kenyah Leppo' Ke Indigenous People

The Kenyah Leppo' Ke tribe who live in Apau Ping Village are known for their culture which is very close to their communal life. Their culture is rich in unique values regarding art, social, religion, and science. Culture as an inseparable part of a society makes the Kenyah Leppo Ke' indigenous community maintain, continue, and continue to grow in their traditional culture. Including the existence of indigenous law which is part of traditional culture. Indigenous law can reflect the hereditary heritage of how a traditional society lives its daily life. Including the indigenous law of the Kenyah Leppo Ke' tribe which not only reflects the hereditary heritage of their ancestors, but also plays an important role in maintaining the sustainability of their lives until now. This sustainability is marked by many things. For example, the role of the indigenous law of the Dayak Kenyah Leppo' Ke tribe which protects the sustainability of the forest in the place where they live by making a letter of agreement. This letter of agreement was made by the indigenous leader together with the indigenous community members and does not only apply to indigenous people, but this letter of agreement also applies to tourists in Apau Ping Village. This letter usually contains a narrative to protect rare items, regulate parts of the forest used as tourist attractions, parts of the forest as customary land, and parts of the forest used as protected forests.

Not only that, the Dayak Kenyah Leppo' Ke indigenous community also made legal regulations that were mutually agreed upon. These regulations tend to be the rules and procedures for maintaining indigenous culture amidst the onslaught of more modern cultures. Culture is not just art, but also includes religious systems, organizational systems in society, kinship systems, livelihood systems, and many more. The elements of this system made the Dayak Kenyah Leppo' ke culture and when it changes without proper filtering, it is possible that the sustainability that has been maintained from generation to generation will simply be damaged. However, this does not mean that the Dayak Kenyah Leppo' Ke indigenous community is closed to change. The Dayak Kenyah Leppo' Ke indigenous community is still open to new cultures through domestic and foreign tourist visits, getting to know and even learning other languages, and its people have also used electricity and the internet. All of these touches of modernization have indeed and undeniably increased the welfare of indigenous people.

However, it does not rule out the possibility of negative impacts of modernization such as the interest of young men and women in the village which may hinder the inheritance of their hereditary culture. With the existence of indigenous law rules that are made and agreed upon effectively, it can protect

the Dayak Kenyah Leppo' Ke tribe in Kalimantan which has a variety of cultures without closing itself off from newer and more modern cultures.

As previously explained, the culture of the Dayak Kenyah Leppo' Ke tribe in maintaining the welfare of its people can be manifested from various elements. For example, in the belief system of the Dayak Kenyah Leppo' Ke tribe. This tribe has more beliefs than what is usually called animism. The Dayak Kenyah Leppo' Ke tribe believes in the balance of the cosmos and uses its indigenous law as a tool to carry out and maintain its belief system. The role of this indigenous law also continues to the bilateral kinship system adopted by the Dayak tribe. This kinship system is an inheritance system that does not differentiate between boys and girls. Lineage is drawn from both parents, father and mother. Family life also consists of a nuclear family and an extended family. This system is certainly maintained, can be passed down, and is adhered to today thanks to the indigenous law system.

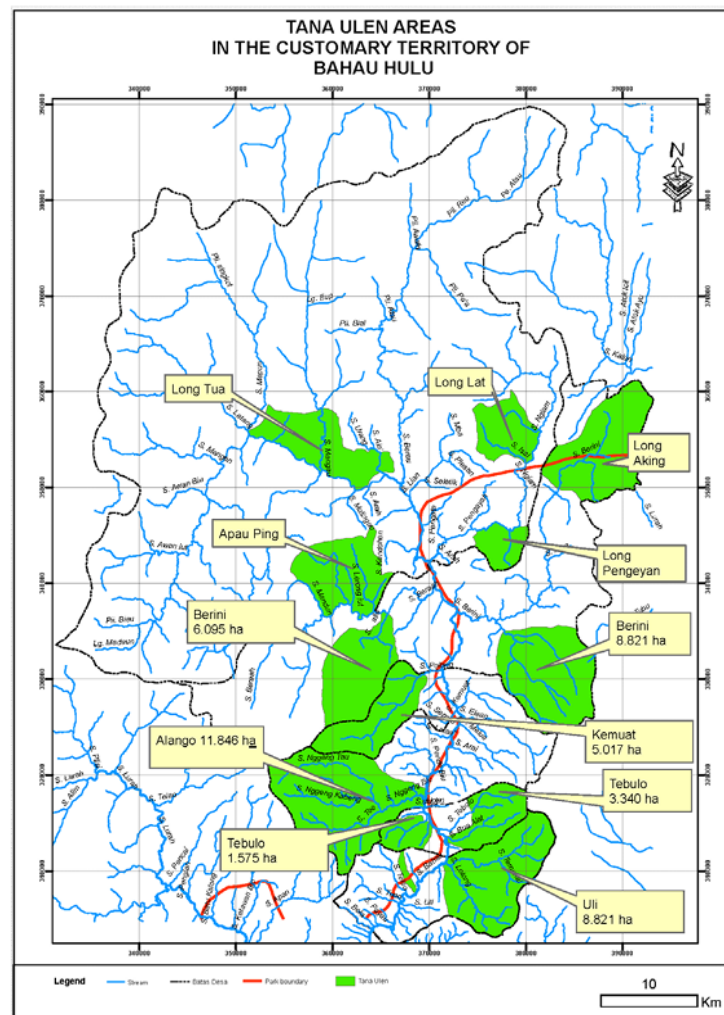


Fig. 1 Tana' Ulen areas in the customary land of Bahau Hulu, Malinau, North Kalimantan (Map by WWF Indonesia, BRWA and Bahau Hulu Customary Council)

Talking about sustainability, we cannot escape the topic from how we can ensure that our life can continue to live prosperously. This is related to a topic that is also regulated in the indigenous law of the Dayak Kenyah Leppo' Ke tribe which regulates the land ownership system. The Dayak tribe makes hunting, fishing traditionally, gathering forest products, and farming as a form of identity of the Dayak culture. The existence of their indigenous law can regulate the ownership of customary land, hunting procedures, to animals that may be hunted so as not to cause disputes. In relation to the livelihood of the community, there

is also an aspect of customary law that regulates objects that are allowed and not allowed to be used when farming, hunting, fishing, and even building stilt houses.

An example that is particularly noteworthy is the practice of Tana' Ulen, which is a traditional method of forest management that guarantees the sustainable utilization of natural resources and helps to preserve biodiversity. The Dayak Kenyah tribe perceives Tana' Ulen as a sacred forest, wherein the land and its flora are collectively governed in terms of their utilization and distribution by the community (Wiati & Angi, 2014). Derived from the term *tana'*, which translates to land in the Kenyah language, and *ulen*, originating from the word *mulen*, signifying the act of claiming or denoting property that is already possessed and should remain undisturbed by others. Consequently, Tana' Ulen generally denotes a legal interpretation as land that is restricted for others. A pattern of control that originates from joint ownership within a group of relatives or a specific customary law community. Their customary laws strictly control the use of resources in these areas, enforce this protection, and resources are only used at specific times and for communal purposes. The decisions on when and how to use Tana' Ulen resources are made through collective deliberation among the community and village leaders, for example, for important events, such as thanksgiving or weddings, but it is limited to once a year.

The efforts to preserve the forest may stem from a desire to ensure the survival of the community as an indigenous entity. It is not only reflects their commitment to conservation but also acts as a means to uphold customary rights, inheritance rights, and traditional rights inherited from their ancestors (Anau, Hakim, Lekson, & Setyowati, 2019). Furthermore, they will experience considerable advantages if their traditional forest is kept intact and managed in a sustainable manner. Forests that are still intact and exhibit high levels of biodiversity are still present in the Tana' Ulen areas, that is a result of the strict management practices that limit access to resources (Eghenter, 2018). The significant dependence between the Dayak Kenyah indigenous community and their environment is emphasized (Sumanto & Takandjandji, 2016), with forest products being harvested while ensuring the sustainability of natural resources, ensuring that the natural environment is protected and resources are used sustainably and balancing human needs with environmental conservation. In this sense, Tana Ulen, as one form of customary law of the Dayak Kenyah Leppo'Ke to regulate and protect the forest, reflects the principles of sustainability where the wellbeing of the community and nature is prioritized.

3.2 Comparative Study : Solutions Offered by Modern and Traditional Custom

In the contemporary discourse surrounding environmental sustainability, the urgency of addressing climate change, biodiversity loss, and the pervasive issue of overconsumption has catalyzed a multifaceted exploration of potential solutions. This exploration necessitates a critical examination of the divergent methodologies employed by modern technological interventions and traditional indigenous practices. Modern solutions, often predicated on principles of innovation, efficiency, and scalability, leverage advancements in scientific research and engineering to mitigate environmental degradation and promote sustainable development. These approaches frequently emphasize the role of technology in enhancing productivity, optimizing resource use, and developing renewable energy sources, thereby aiming to create a more sustainable future through the lens of industrial progress and economic growth.

Conversely, traditional indigenous solutions offer a profound counter-narrative, rooted in centuries of ecological knowledge, cultural heritage, and a symbiotic relationship with the natural environment. Indigenous practices are often characterized by a comprehensive understanding of ecosystems, emphasizing the connection of all creatures and the importance of maintaining balance in these systems. (Naeem, Chazdon, Duffy, Prager, & Worm, 2016). These time-honored approaches prioritize sustainability not merely as a goal but as a way of life, reflecting a deep reverence for nature and a commitment to stewardship that transcends generations. By integrating cultural values, communal practices, and local knowledge, indigenous solutions provide invaluable insights into sustainable living that challenge the dominant paradigms of modernity.

Indigenous legal system plays a crucial role for the Indonesian people, long before the modern legal system was adopted in Indonesia. Indigenous law functions as a guide for the people behavior and as a reference for judges (customary leaders) to resolve disputes. The people of Indonesia are none other than

the indigenous peoples, who possess wisdom and knowledge in environmental management known as indigenous law. Although many modern regulations in Indonesia recognize the existence of Indigenous law and indigenous communities, there are still significant shortcomings in these regulations. These shortcomings result in losses, not only for indigenous communities but for all Indonesian citizens.

In the environmental sector, Indonesia currently has one core legal product, namely Undang-Undang Nomor 32 Tahun 2009 tentang Perlindungan dan Pengelolaan Lingkungan Hidup (UU PPLH). In UU PPLH, indigenous communities were officially defined as: "Indigenous Law Communities as groups of people who have lived for generations in certain areas with ancestral ties and have a value system that determines their economy, politics, social relations, and law." Although this definition has been standardized, the implementation of indigenous peoples' rights in Indonesia is often inconsistent. In fact, indigenous communities, with their local wisdom, have experience in sustainably managing human ecosystems. This is particularly unfortunate because indigenous peoples are a vulnerable group affected by climate change.

For example, indigenous communities are often minimally involved in natural resource management and environmental protection (Pusat Studi Lingkungan Hidup UGM [PSLH UGM], n.d.). In fact, indigenous peoples are closely connected to nature and the environment of Indonesia, therefore indigenous peoples can play a major role in environmental preservation. This leads us to evidenced by higher biomass levels in conservation areas inhabited by indigenous communities compared to areas managed by the state using modern legal systems (Fidler et al., 2022, p. 10). Unfortunately, this potential is hindered by the minimal participation of indigenous peoples. This research was conducted in the Bird's Head Seascape in West Papua with the largest conservation area located in Cenderawasih Bay. In particular, the greater effectiveness of communities in the proactive management of their own resources is probably a result of the habitual structures embedded in formal MPA management regimes.

Also as stated in Undang-undang Nomor 32 Tahun 2024 tentang Konservasi Sumber Daya Alam Hayati dan Ekosistemnya (UU KSDAHE) indigenous peoples are not explicitly recognized as legal subjects and/or conservation actors. This would threaten the rights of indigenous peoples over their customary land, and the traditional conservation practices of indigenous peoples will not be protected (Mongabay Indonesia [Mongabay], 2024). This regulation has also sparked controversy due to its potential to discriminate against and criminalize the life practices of indigenous peoples (Aliansi Masyarakat Adat Nusantara [AMAN], n.d.). This can be seen in the provision of Article 9, paragraph (3), which states that any person who refuses to carry out state-led conservation activities must relinquish their land rights and will receive compensation from the government. The controversy even reached a formal review by the Constitutional Court of the Republic of Indonesia. The Constitutional Court then ruled that this regulation did not meet the principles of transparency and public participation in its formation (Mahkamah Konstitusi Republik Indonesia [MKRI], n.d.).

This comparative analysis aims to elucidate the strengths and limitations inherent in both modern and indigenous approaches to confronting the pressing challenges of our time. It seeks to highlight how these disparate methodologies can complement one another, fostering a more integrated and holistic framework for sustainability that honors the wisdom of traditional practices while harnessing the potential of modern innovation. As we navigate the complexities of environmental degradation and strive for a sustainable future, it becomes imperative to critically assess the interplay between these two paradigms, recognizing that the path forward may lie in a synthesis of technological advancement and indigenous wisdom, ultimately leading to more resilient and equitable solutions for all communities.

The second half of the 20th century brought a new understanding of the relationship between human health and the environmental system. In 1988, the United Nations established the Intergovernmental Council for Climate Change (IPCC), responsible for recording the impacts of climate change and developing practical action strategies. His first report led to the United Nations Convention on Climate Change (UNCCC) in 1992 (Watts, Stott, & Rafferty, 2015). When it comes to overconsumption, indigenous people carry out what they think as a solution, and the key to avoiding a tragic outcome, which is for individuals to exert a form of mutual self-restraint, as Hardin noted, each limiting her consumption so that the resource can be utilized in a sustainable way that is beneficial for everyone in the long run.

Numerous ethnographic studies have demonstrated that local resource users can create their own organisations or regulations to achieve this by banding together. They would not necessarily profit from having the resource privatised so that markets could distribute it in a more self-serving and competitive manner, nor would they absolutely need to be forced to do so by an authoritarian state, which is one of Hardin's suggested remedies. People have been doing this on their own for a very long time, on a relatively modest scale, and locally without the assistance of outside institutional environment. Human societies can use limited common resources sustainably, claim Trawick and Hornborg. This ecological consciousness, while not easy to measure empirically in contemporary indigenous communities, is present (Trawick & Hornborg, 2015).

3.3 Challenges of Integrating Indigenous Legal Systems into National and International Frameworks.

In order for indigenous legal systems to engage with contemporary legal and policy, the idea that indigenous peoples' unique cultures may serve as the foundation for environmental rights compromises the generalisability of the related holistic approach to the environment.. Based on principle 22 of Rio Declaration about indigenous people, *'indigenous people and their communities and other local communities have a vital role in environmental management and development because of their knowledge and traditional practices. States should recognize and duly support their identity, culture and interests and enable their effective participation in the achievement of sustainable development'* (United Nations, 1992, Principle 22). This provision clearly explains why the government should support the rights of indigenous people. It assumes that protecting their culture will help achieve long-term development. It also suggests that the culture, knowledge, and traditions that deserve government protection are those that align with environmental policies that ensure sustainability. (Metcalf, 2003, p. 15).

A direct connection between traditional lifestyles of indigenous communities and the objective of promoting the conservation and sustainable use of biodiversity is the basis for extending protection to indigenous peoples under the biodiversity convention.

Furthermore, the idea of integrating indigenous legal systems into national and international frameworks would face several challenges like balancing act required between indigenous systems with national and international frameworks itself. There are many advantages and disadvantages to the relationship between indigenous rights and biodiversity conservation. Because of their ingrained knowledge and cultural ties to the land, indigenous populations are essential to preserving and advancing biodiversity. Nevertheless, the legal systems that oversee these regions frequently fail to adequately acknowledge and incorporate indigenous rights. Although international agreements such as the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and the Convention on Biological Diversity (CBD) offer crucial principles, state implementation varies. (Anyachebelu, 2024, p. 5).

National legal guidelines range extensively of their effectiveness, and enforcement stays a sizeable hurdle.. National legal systems have increasingly aligned with international standards, incorporating Indigenous rights into domestic legislation. Countries such as Canada and New Zealand have made significant strides in recognizing land rights and self-determination, actively engaging Indigenous communities in the legal processes that affect their lives (LAWS LEARNED, 2024). In Canada, the recognition of Indigenous land rights through landmark court rulings has exemplified successful integration. The Supreme Court's decision in the Delgamuukw case reinforced land title claims for the Gitksan and Wet'suwet'en nations, establishing a legal precedent that acknowledges Indigenous sovereignty (International Law Editorial, 2024, p. 3).

Various legal and conceptual frameworks form the foundation for the relationship between biodiversity preservation and the rights of indigenous communities.. Human rights law, as articulated in instruments like the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), provides a foundational basis for recognizing and protecting indigenous peoples' rights (UN General Assembly, 2007). UNDRIP emphasizes the rights of indigenous peoples to maintain their cultural traditions, manage their lands and resources, and participate in decision-making processes affecting their lives. Article 29 of

UNDRIP serves indirectly as a vessel which encourages the argument that indigenous traditions are capable of providing the highly demanded biodiversity conservation (United Nations, 1992, Principle 22).

4 Conclusions

The Kenyah Leppo' Ke tribe of Apau Ping Village illustrates how indigenous culture, law, and environmental stewardship can provide solutions to modern global challenges. Their traditions, deeply connected to their communal life and natural surroundings, demonstrate unique governance systems that preserve cultural identity while ensuring ecological sustainability. Through practices such as Tana' Ulen, a customary forest management system, the tribe effectively safeguards biodiversity, regulates resource use, and prevents overconsumption. These laws, rooted in ancestral wisdom, maintain ecological balance and cultural continuity while accommodating modern advancements.

In the context of today's urgent issues—climate change, biodiversity loss, and overconsumption—the Kenyah Leppo' Ke tribe exemplifies how indigenous knowledge and local wisdom can contribute to sustainable living. Their approach aligns with the necessity of integrating traditional and modern methods to address these crises. Empowering indigenous communities to actively participate in environmental conservation could bridge gaps in contemporary legal systems and foster long-term harmony between humanity and nature. By revisiting and applying indigenous laws like those of the Kenyah Leppo' Ke, modern societies can address legal and behavioral shortcomings, promoting sustainable development and ensuring the preservation of the planet for future generations.

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