

Analysis of Recognition and Protection of Indigenous Peoples ' Rights in Land Policy in Indonesia

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ABSTRACT

This study aims to examine the recognition of Indigenous land rights in Indonesia, the challenges faced in their implementation, and provide policy recommendations to strengthen the protection of Indigenous rights in the land sector. Although Indonesia already has regulations that recognize indigenous peoples ' rights, such as the 1945 Constitution and various sectoral laws, implementation of recognition of Indigenous land rights is often hampered by regulatory overlap and conflicts of interest between the forestry, plantation, and mining sectors. In addition, the role of indigenous peoples in policy making is still limited. This study identifies the gap between regulation and field reality, as well as analyzing the social, economic, and environmental implications of the recognition of Indigenous land rights. The results showed the importance of harmonizing regulations, increasing the participation of indigenous peoples, and accelerating the certification of indigenous lands to increase legal certainty. This study suggests multi-stakeholder collaboration as a strategic step to strengthen the position of indigenous peoples in the management of their lands and Natural Resources.

Keywords: Customary Land Rights, Indigenous Peoples, Regulation, Policy Implementation.

INTRODUCTION

Indigenous peoples have a very close relationship with the land, which is not only physical, but also has a deep spiritual, cultural and economic dimension. Land for them is not just a natural resource, but an integral part of the identity and heritage of ancestors passed down from generation to generation. For Indigenous peoples, land is a symbol of shared life, shelter, and resources that support their survival. Therefore, the recognition and protection of land rights has a very important meaning in maintaining the existence and continuity of Indigenous culture itself. However, while land is of vital value to indigenous peoples, they often face legal uncertainty regarding the status of their land. Many Indigenous peoples are involved in land disputes with companies, governments, or private parties due to the unclear legal status of indigenous lands. This often leads to their marginalization, with land that is their cultural heritage and source of life, being controlled or exchanged without their consent. Some cases show that the lack of legal recognition of Indigenous Peoples ' Rights often leaves them without sufficient legal tools to protect their lands, so these rights are often neglected. On the other hand, although Indonesia has a number of regulations that recognize the rights of indigenous peoples, the implementation of existing land policies is often ineffective on the ground. One of the main challenges is the lack of coordination between the central and local governments in regulating customary rights, which results in a mismatch between policies at the national level and the needs of Indigenous Peoples at the local level. In addition, the complex



administrative procedures and high costs of obtaining recognition of customary land rights are often obstacles for Indigenous peoples to obtain the legal protection they need. The lack of understanding of the rights of indigenous peoples among the government apparatus also aggravates this situation, causing difficulties for Indigenous peoples to fight for their rights in court or in land administration proceedings.

Recognition of Indigenous land rights is critical in the context of sustainable development. Indigenous peoples have a deep understanding of the environment and how to manage natural resources sustainably. By giving legal recognition to their rights to land, the state not only protects the human rights of indigenous peoples, but also promotes better environmental preservation. Indigenous Land Management based on local wisdom is often more environmentally friendly and sustainable than more conventional models of agriculture or natural resource exploitation. In addition, the protection of Indigenous Peoples' Rights can strengthen social stability by creating a sense of justice and preventing agrarian conflicts that often arise due to land disputes between Indigenous peoples and outside parties, such as companies or governments.

The relevance of this research is also linked to an increasingly urgent national and international agenda. Indonesia has ratified numerous international treaties relating to human rights and the rights of indigenous peoples, such as the United Nations Declaration on the rights of Indigenous peoples (UNDRIP), which affirms the importance of recognition and protection of the rights of indigenous peoples throughout the world. Recognition of the rights of indigenous peoples, including land rights, is part of the international obligations that states must fulfill. At the national level, the Indonesian government also has agrarian reform targets that include land redistribution and recognition of the rights of indigenous peoples, in an effort to solve the problem of Agrarian inequality and ensure social justice.

Recognition of the rights of indigenous peoples in the context of land in Indonesia has a strong constitutional foundation, one of which is contained in Article 18b paragraph (2) of the 1945 Constitution, which guarantees recognition and respect for Indigenous peoples and their traditional rights. This article is an important legal basis for the struggle of indigenous peoples to obtain recognition of the lands and territories that they have managed for generations. With this provision, it should provide a basis for the government to recognize Indigenous rights, including customary land rights, in order to protect the social and cultural existence of Indigenous Peoples. Some regulations relevant to the recognition of indigenous peoples' rights to land in Indonesia include Law No. 5 of 1960 (UUPA) which is the basic framework of Agrarian Policy in Indonesia. The UUPA affirms that all land in Indonesia belongs to the state, but also provides space for the regulation of land rights for Indigenous Peoples. In addition, Law No. 41 of 1999 on forestry is also one of the important regulations that recognize the rights of indigenous peoples, especially related to the management of forest areas that have often been a place of residence and livelihood for Indigenous Peoples. In some regions, local regulations (Perda) are also issued to provide protection to the customary lands of Indigenous Peoples residing within certain areas, reflecting local efforts to respect these rights. Although there are a number of regulations governing the rights of indigenous peoples, the reality is that there is still a significant legal gap, especially in terms of overlap between existing regulations. Sectoral policies in the plantation, forestry, and mining sectors are often not aligned with the recognition of Indigenous Peoples' Rights. For example, policies that grant large companies concessions to manage land or forests often conflict with Indigenous Peoples' claims to their customary lands. These overlapping regulations often led to prolonged agrarian conflicts and hampered government efforts to achieve social justice for Indigenous Peoples. Therefore, it is necessary to harmonize

sectoral policies with the recognition of indigenous peoples rights so that land regulation can be more effective in protecting their rights.

The recognition and protection of indigenous peoples' rights in Indonesia's land policy have been addressed in various legal frameworks, including the 1945 Constitution and the Basic Agrarian Law (Ma'aruf, 2020). However, the current regulations are scattered across multiple laws, lacking synchronization and harmonization (Sembiring & Apha, 2020). This has led to conflicts between indigenous communities, the government, and companies with management permits (Pangestu et al., 2023). The normative recognition of indigenous rights lacks legal certainty, necessitating a more comprehensive approach (Ma'aruf, 2020). Sentana & Boang-Manalu (2024) propose applying Seyla Benhabib's interactive universalism to review public policies, emphasizing cultural diversity and local context. To address these challenges, there is a need for a policy model that firmly protects indigenous peoples' rights while preserving the environment, recognizing the inseparable connection between indigenous communities and their lands (Pangestu et al., 2023).

This study focuses on the analysis of the legal framework governing the rights of indigenous peoples in land policy in Indonesia. Researchers will examine various existing regulations, both constitutional, legislation, and sectoral policies relating to indigenous peoples' rights to land. The main focus is to identify how Indonesian law recognizes and protects land rights for Indigenous peoples as well as evaluating the extent to which the implementation of such policies can address the challenges faced by indigenous peoples in defending their lands. The scope of this study includes national, regional, and local regulation-based studies related to the recognition and protection of customary land rights. The research will include an examination of the 1945 Constitution, the UUPA, as well as the Forestry Law and local regulations that provide protection for Indigenous Peoples' customary lands. In addition, the study will also analyze case studies of policy implementation in areas with significant indigenous populations, to see the extent to which existing policies succeed or fail in providing recognition of Indigenous land rights. With this approach, the research will provide a clearer picture of the strengths and weaknesses of land policy in the context of recognition of Indigenous Peoples' Rights.

This study aims to examine and analyze legislation relating to the recognition of indigenous peoples' rights to land, as well as identify legal obstacles that hinder the implementation of effective land policies for Indigenous peoples. In addition, this study also aims to provide policy recommendations that can strengthen the protection of Indigenous Peoples' Rights in the land sector, focusing on harmonization between sectoral land policies and the recognition of Indigenous Peoples' customary rights. It is hoped that the results of this study can contribute to the formulation of more equitable and effective policies in protecting the rights of indigenous peoples to land in Indonesia.

METHODS

The statute approach in this study is used to examine and analyze the various legal regulations that are the basis for the recognition and protection of indigenous peoples' rights to land in Indonesia. This approach focuses on examining the legal provisions in force, both at the national and regional levels, to understand how these regulations provide legal guarantees and certainty for Indigenous Peoples. Some of the regulations that are the object of study include Article 18b paragraph (2) of the 1945 Constitution which recognizes and respects the unity of Indigenous Peoples, Law No. 5 of 1960 on basic agrarian principles regulation (UUPA) which is the main foundation of National Agrarian law, as well as law no. 6 of 2014 on villages strengthening the role of indigenous villages in the management of territories and resources. In addition, this study also

examines various local regulations (Perda) that specifically regulate the recognition of Indigenous Peoples' Rights in various regions, as a form of recognition implementation at the local level. This approach allows researchers to evaluate the consistency, harmonization, and effectiveness of regulations in protecting indigenous peoples' rights to land.

The conceptual approach in this study aims to analyze and explore legal concepts related to indigenous peoples' rights to land. This approach not only addresses written regulations, but also delves into the philosophical meaning and legal principles underlying the recognition and protection of indigenous peoples' rights. Some of the main concepts analyzed include customary rights, which are the collective rights of indigenous peoples to certain territories that are passed down from generation to generation, social justice as a principle that underlies the protection and empowerment of indigenous peoples in agrarian systems, as well as the recognition of collective rights to land that affirm the communal rights of indigenous peoples in managing and utilizing natural resources in their indigenous territories. This approach allows researchers to examine the relationship between legal theory and practice, resulting in a more comprehensive understanding of how the concepts are applied in policies and regulations that protect indigenous peoples.

The historical approach in this study is used to explore the history of land policy formation in Indonesia and the evolution of recognition of indigenous peoples' rights to land over time. This approach traces the development of land policy, from the colonial era, post-independence, to the reform period, to understand how social, political, and economic changes have affected the recognition and protection of Indigenous Peoples' Rights. The focus of the study includes the history of land legislation, such as the agrarian Basic Law (UUPA) which was born in 1960, which reflects the National Agrarian Paradigm after independence, as well as policy changes in response to indigenous peoples' demands for recognition of their customary rights. This approach also includes an analysis of the political dynamics that affect the recognition of Indigenous Peoples' Rights in a broader context, as well as the challenges that arise in the realization of Indigenous land rights in Indonesia. By delving into this history, researchers can understand the fundamentals of current policies and identify challenges and potential changes in land policy that are more in favor of Indigenous Peoples.

Comparative approach in this study is used to compare land policy in Indonesia with other countries that have similar conditions in the recognition of indigenous peoples' rights to land. This approach aims to gain insight into best practices and solutions that have been implemented in other countries in terms of recognition of Indigenous land rights, as well as evaluating their relevance and applicability in Indonesia. Countries that are often compared include Canada, Australia, and Brazil, each of which has significant experience in recognizing and protecting the rights of indigenous peoples through progressive legislation, such as recognition of customary and collective rights to land. Through this comparison, researchers can analyze differences in legal approaches, dispute resolution mechanisms, and policies for the integration of indigenous peoples in the country's land system. In addition, this study also aims to identify the challenges faced by these countries and lessons learned to improve land policy in Indonesia, while taking into account the existing social, political, and cultural context.

In this study, the data used consists of three types of sources of law, namely primary, secondary, and tertiary sources of law. Primary sources of law include laws, government regulations, local regulations, and court decisions related to indigenous peoples' rights to land, such as the 1945 Constitution, Law No. 5 of 1960 on agrarian principles (UUPA), as well as local regulations governing customary land rights in various

regions. Secondary sources of law include books, scholarly journals, and articles discussing land policy and Indigenous Peoples ' Rights, which provide theoretical and practical analysis of challenges in the recognition of Indigenous land rights. Tertiary sources of law, such as legal dictionaries, encyclopedias, and other supporting literature, are used to clarify the legal terms and concepts used in the study. The data collection techniques used are library research to collect and analyze relevant literature, and document analysis to study and interpret various government regulations and policies related to indigenous peoples ' rights to land, in order to assess the effectiveness of the implementation of these policies in providing legal protection for Indigenous peoples.

RESULTS

The recognition of Indigenous Peoples ' Rights in Indonesian legislation has been regulated in several important legal provisions. One of them is Article 18b paragraph (2) of the 1945 Constitution, which recognizes the existence of indigenous peoples and their traditional rights, including the right to land and customary territories. Nevertheless, in law No. 5 of 1960 (UUPA) which is the basis of land law in Indonesia, the recognition of customary rights of Indigenous Peoples has not been explicitly listed, although the basic principles of land ownership are regulated in it. Furthermore, law No. 41 of 1999 on forestry provides for recognition of indigenous forests, but implementation of such recognition is often constrained by claims of state ownership of forest areas, which leads to overlap between Indigenous Peoples ' Rights and state rights to natural resources. On the other hand, UU No. 6 of 2014 on villages strengthens the position of indigenous villages as legal subjects in the management of indigenous territories, providing a stronger legal basis for Indigenous peoples in managing their lands and territories. Although there are some regulations that recognize the rights of Indigenous Peoples, effective implementation still requires adjustment and harmonization between various existing policies and regulations.

Several regions in Indonesia, such as West Sumatra, Kalimantan, and Papua, have issued regional regulations (Perda) governing the recognition of customary land rights, as a measure to provide legal protection for Indigenous Peoples at the local level. These bylaws usually include recognition of customary rights, management of customary lands, and dispute resolution mechanisms related to land rights. However, there are differences in substance between the regional regulations implemented in each region, which leads to discrepancies in the implementation of policies at the national level. The differences include such things as the procedure for recognition of customary land rights, the criteria for customary territories, as well as the role of local governments in the implementation of customary rights. As a result, there is no uniform national standard in the recognition and protection of Indigenous land rights, leading to legal uncertainty and potential injustice in the treatment of indigenous peoples in various regions. Therefore, efforts are needed to align and harmonize local regulations with national policies, so that the recognition of customary land rights can be implemented more consistently and fairly throughout Indonesia.

Several regions in Indonesia have shown success in recognizing customary land rights, such as in Kalimantan and Sumatra, where there is a legal designation of customary forests. This recognition gives indigenous peoples the right to manage and protect their indigenous forests from the threat of exploitation by outsiders. In addition, agrarian reform programs launched by the government have provided land redistribution to Indigenous Peoples, although their numbers are still limited. This Program aims to reduce land distribution inequality and strengthen the sustainability of indigenous peoples ' lives, although challenges in its implementation still exist on the

ground. However, in the implementation of land policy for Indigenous peoples, there are several challenges and obstacles. One of the biggest barriers is regulatory overlap, which often leads to conflicts between Forestry, Mining, and plantation policies and the rights of Indigenous Peoples. These sectoral policies often ignore the customary rights of Indigenous Peoples, which ultimately exacerbates tensions and disputes. In addition, the lack of legal certainty is also a major obstacle, as many indigenous territories do not yet have land certificates, making them vulnerable to claims from other parties who consider the land to belong to the state or companies.

The lack of participation of indigenous peoples in the policy-making process is also a problem, because often the policies produced are not in accordance with the needs and expectations of Indigenous Peoples. Indigenous peoples are rarely directly involved in the formulation of policies that affect their land rights, leading to a lack of a sense of ownership of those policies. Land conflicts involving Indigenous peoples are common, especially with plantation or mining companies that claim Indigenous lands for their commercial activities. One case in point is the dispute between Indigenous peoples and oil palm plantation companies in Kalimantan and Sumatra, where these companies are expanding without consulting or negotiating with Indigenous peoples who have customary rights to the land. National strategic projects, such as infrastructure development or land transfer, often trigger these conflicts, as government decisions to change the status of indigenous lands often do not involve Indigenous peoples in the planning or implementation process. This leads to the appropriation of the land on which they live. To resolve land disputes, indigenous peoples often seek legal recourse, taking their cases to courts or dispute resolution agencies. However, they face considerable difficulties in dealing with a complex and lengthy legal system. Many Indigenous peoples do not have the knowledge or access to the legal system, making the process very difficult and time-consuming. In addition, the high cost and impartiality of the legal process also often causes indigenous peoples to lose their rights to lands they have managed for centuries. Therefore, efforts to resolve disputes through legal channels are still a big challenge for Indigenous peoples who are trying to defend their land rights.

State institutions play an important role in supporting the recognition and protection of Indigenous land rights. The Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR / BPN) has responsibility in the process of land redistribution and customary land certification, which is the first step in ensuring indigenous peoples' rights to their land are legally recognized. In addition, the Ministry of Environment and Forestry (MoEF) plays a role in the establishment of customary forests, which provide legal recognition of forest areas managed by Indigenous Peoples. Even so, the implementation of this policy often faces obstacles related to coordination between ministries and the settlement of regulatory overlaps involving the Forestry, Mining, and plantation sectors. In addition to state institutions, Non-Governmental Organizations (NGOs) and civil society organizations also have a very important role in fighting for the rights of Indigenous Peoples. One of them is AMAN (Alliance of Indigenous peoples of the archipelago), an NGO that focuses on advocacy and assistance of indigenous peoples to obtain rights to their land. AMAN works by educating Indigenous Peoples about their rights, assisting them in legal struggles and negotiations with governments and the private sector, and championing policies that support the sustainability of Indigenous rights at the national and international levels. Through this role, NGOs and civil society organizations are at the forefront of fighting for Indigenous land rights in Indonesia.

Recognition of Indigenous land rights has a significant impact on the economic empowerment of Indigenous Peoples. By having legal rights to land, indigenous peoples

can manage natural resources more optimally and sustainably. They can develop agriculture, fisheries, or other sectors that are in accordance with local wisdom without threat from outside parties. In addition, recognition of land rights provides a sense of security that supports indigenous peoples in accessing assistance or credit from financial institutions, which in turn improves quality of life and reduces poverty. Indigenous peoples who manage their lands for generations have a deep knowledge and practice of Nature Conservation. Recognition of Indigenous land rights encourages communities to safeguard their ecosystems and forests in more effective ways than outsiders, often focusing only on short-term economic gains. For example, many Indigenous peoples are implementing environmentally friendly farming and hunting systems, as well as maintaining indigenous forests to ensure the sustainability of natural resources for future generations. With land rights recognized, they have the power to fight exploitative practices that damage the environment.

Recognition of Indigenous land rights not only has an impact on economic and environmental aspects, but also on strengthening the identity and culture of Indigenous Peoples. Land has a very deep meaning for them, not only as a place to live or a resource, but also as part of cultural heritage and spirituality. With the recognition of land rights, indigenous peoples can continue to preserve their cultural traditions and values, strengthen social bonds between community members, and pass on cultural practices that have been passed down from generation to generation. This is an important step in maintaining the sustainability of the existence of culture and Indigenous communities themselves. The frequent regulatory overlap between agricultural, forestry, and mining sector policies and Indigenous Peoples' customary rights policies needs to be addressed. The government must ensure that local regulations governing customary land rights do not conflict with national regulations, and vice versa. This harmonization will provide legal certainty and reduce conflicts that can arise due to differences in legal interpretation at various levels of government. An important step in strengthening the recognition of Indigenous land rights is to encourage the involvement of indigenous peoples in every stage of land policy formulation. Indigenous peoples should be involved in discussions about regulations and policies affecting their customary lands. By actively participating in the policy-making process, Indigenous peoples can voice their needs, challenges, and expectations, and avoid unilateral policies that harm them. This participatory approach will also help create more equitable and inclusive policies.

Many indigenous territories have not received official recognition, because they have not been registered or do not have land certificates. Accelerating the process of legalization and certification of indigenous lands will give Indigenous Peoples clear rights to their lands, as well as reduce the potential for conflict or claims from outside parties. The government can facilitate the procedure of customary land certification through special programs that target Indigenous territories that do not have certificates. To support the effective and sustainable management of indigenous territories, strengthening the capacity of indigenous institutions is very important. Indigenous peoples need training and assistance in managing their land and natural resources, both in legal, economic, and environmental aspects. Strong indigenous institutions will be able to maintain their customary rights, manage land sustainably, and play a role in conflict resolution with external parties. Government and non-government agencies can work together in providing training and technical assistance to strengthen the capacity of indigenous institutions throughout Indonesia.

DISCUSSION

Compliance of regulations with the principles of Social Justice

Regulations such as the agrarian Basic Law (UUPA) and the Forestry Law aim to regulate land ownership and management in Indonesia, but need to be tested to what extent they reflect the principles of social justice for Indigenous Peoples. Although the UUPA provides a basic framework for land, recognition of Indigenous Peoples' customary rights remains limited. This creates ambiguity in the protection of indigenous peoples' rights to their lands. Similarly, the forestry law, although it gives recognition to customary forests, its implementation is often contrary to the interests of development or exploitation of Natural Resources. Therefore, in-depth analysis is needed to evaluate whether these regulations are able to effectively protect the rights of indigenous peoples and meet the principles of social justice that should be the basis of land policy in Indonesia.

Weaknesses in regulation

Although there are several regulations governing the rights of indigenous peoples, legal loopholes still exist that cause uncertainty about the status of indigenous lands and often lead to land conflicts. One of the main problems is the regulatory overlap between the Forestry, Mining and plantation sectors and the rights of Indigenous Peoples, which is often not harmonious. Indigenous peoples face difficulties in defending their land rights when economic interests from outside parties, such as large corporations, are often more dominant. Therefore, it is necessary to carry out an evaluation to identify this legal loophole and seek appropriate solutions. In this context, it is also important to assess whether harmonization between regulations related to agrarian, Forestry, and mining is sufficient, or if there are still conflicts of interest that hinder the recognition of the rights of indigenous peoples as a whole.

Inhibiting factors in the field

Although there has been a legal basis governing the recognition of indigenous peoples' rights to land, the implementation of this policy has often been hampered on the ground. One of the main factors is the complicated bureaucracy and local politics that tend to hinder the process of recognition of the rights of indigenous peoples. The slow licensing process, overlapping regulations between Central and local governments, and the intervention of local political interests often slow down dispute resolution and recognition of customary land rights. In addition, many policies are not prioritized or hampered due to lack of coordination between relevant institutions, as well as the unwillingness to face conflicts of interest with companies or private parties that have more political and economic influence.

Case studies as learning

Looking at Case Studies in several regions, there are variations in the success and failure of the implementation of indigenous peoples' rights recognition policies. For example, in areas such as Papua and Kalimantan, some Indigenous peoples have succeeded in gaining recognition of their customary rights through legally sound customary forest policies. However, in other regions, such as Sumatra, bureaucratic obstacles and agrarian conflicts predominate. Certain patterns can be seen from more progressive regions in the recognition of Indigenous rights, which tend to have more active involvement of indigenous peoples in the policy formulation process, as well as the presence of support from civil society organizations that help fight for their rights. On the other hand, regions with greater conflict often show a lack of Indigenous participation in decision-making processes, and limited capacity of government agencies at the local level that slows down the implementation of such policies.

International Comparative Studies

Several other countries, such as Canada, Brazil, and Australia, have a more structured approach to recognizing and protecting indigenous peoples' land rights which could be an important lesson for Indonesia. In Canada, recognition of indigenous peoples' rights to land is done through land agreements made between the government and Indigenous Peoples, which clearly regulate their collective rights to land and Natural Resources. The country also has a special court to resolve customary land disputes, allowing Indigenous peoples to assert their rights in court with a fairer and more structured process. In Brazil, the 1988 Brazilian Constitution recognizes the rights of indigenous peoples to their lands by granting inviolable customary rights, as well as emphasizing the importance of ecological protection of indigenous territories. Brazil also has a very clear policy of establishing Indigenous lands and granting full rights to indigenous lands, as well as a land redistribution mechanism for Indigenous peoples who have not yet obtained land rights. Meanwhile, in Australia, recognition of Indigenous Peoples' Rights is regulated through the Native Title Act 1993, which provides legal recognition of Indigenous land rights based on recognition of indigenous peoples' traditional rights to their land. One of the important aspects of this policy is the recognition of collective customary rights, as well as the role of the government in facilitating negotiations between Indigenous peoples and companies or other parties who want to access indigenous lands.

Lessons Indonesia can adopt

From the experience of these countries, Indonesia can adopt some best practices, such as the drafting of clear legal agreements between governments and indigenous peoples, as well as the creation of more specific and detailed regulations related to the recognition of customary rights. In addition, dispute resolution through legal channels involving special courts or other alternative mechanisms can be a model for Indonesia to accelerate the process of recognition and resolution of Indigenous land conflicts. Strengthening the capacity of government agencies dealing with these issues, as well as the active participation of indigenous peoples in every stage of policy-making, can also improve the implementation of customary land policy in Indonesia.

Indigenous Perspectives

The Voice and participation of Indigenous peoples in policy

Indigenous peoples often feel that they do not have enough space to be involved in the policy-making process relating to their lands. Although some regions have tried to involve Indigenous institutions and local communities in policy formulation, their participation is often limited by various factors, such as lack of understanding of legal procedures, inability to access policy forums, or lack of effective communication between government and Indigenous Peoples. Indigenous institutions, as representatives of Indigenous Peoples, play an important role in safeguarding and fighting for their land rights, but are often beset by bureaucratic challenges, as well as a lack of legal recognition of their existence and role in natural resource management.

Lack of access to justice

Inequality of access to justice is also a major issue facing Indigenous Peoples. Although there are formal legal mechanisms that can be used to resolve land disputes, many Indigenous peoples do not have adequate access to the justice system. These barriers include limited resources, both in terms of economy and knowledge of legal processes, as well as being far from access to courts that are often centralized in large cities. In addition, the uncertainty of the legal status of indigenous lands often makes Indigenous peoples feel marginalized in the dispute resolution process, because the more politically and economically powerful parties tend to benefit in legal decisions taken. This limitation has

caused many land disputes to not be resolved fairly, affecting the sustainability of the lives of indigenous peoples who rely heavily on the management of their customary lands.

Social Impact Of Recognition Of Indigenous Land Rights

Recognition of Indigenous land rights has a significant impact on the social and economic well-being of Indigenous Peoples. By acquiring rights to their land, indigenous peoples have the certainty of managing existing natural resources, which can improve living standards and reduce social inequality. The recognition also strengthens local culture and identity, allowing them to continue to maintain traditions that have existed for generations. Conversely, the uncertainty of land rights can lead to damage to social structures and the loss of deep cultural ties between Indigenous peoples and their lands.

Environmental Aspects

Recognition of Indigenous land rights contributes to the preservation of the environment and the preservation of forests. Indigenous peoples, who have a spiritual and cultural connection with their lands, tend to have a sustainable way of managing natural resources. Research shows that Indigenous peoples are often more effective at preserving nature than conservation projects run by governments or large corporations. Land management systems based on local wisdom are often more successful in preserving biodiversity and protecting forests from overexploitation.

Regulatory Improvements

Regulatory revisions and adjustments are needed to clarify the status and rights of indigenous lands that are still ambiguous. One of the main recommendations was the drafting of a special law that provides for the recognition of the rights of indigenous peoples to their lands. This law can accommodate the needs of indigenous peoples who are often marginalized in existing land policies, as well as provide a clear legal basis for the recognition of customary rights and the resolution of land disputes.

Capacity Building Of Local Institutions

Strengthening the capacity of local institutions or customary institutions is essential so that they can effectively manage and defend their land rights. Adat institutions need to be equipped with legal knowledge, negotiation skills, and technical support to strengthen their position in the process of policy formulation and land dispute resolution. Increasing the capacity of indigenous institutions will enable them to be more independent in defending their land rights and managing indigenous territories more effectively.

Multi-Stakeholder Collaboration

It is important to encourage collaboration between various parties, such as governments, NGOs, the private sector, and indigenous peoples themselves, in safeguarding Indigenous land rights. This collaboration can create more effective synergies in supporting policies that favor indigenous peoples, as well as help overcome barriers that arise due to regulatory overlap or sectoral interests. Through a multi-stakeholder approach, more inclusive and sustainable solutions can be created for Indigenous peoples and their lands.

Theoretical and practical implications

This research provides a significant theoretical contribution in the literature of agrarian law and Indigenous Peoples ' Rights. By analyzing land policies relating to the rights of Indigenous Peoples, this study broadens the understanding of the complexity of the recognition of Indigenous land rights in a positive legal context in Indonesia. The findings in this study can be an important reference for subsequent legal studies that address the application of social justice principles and the recognition of traditional rights in agrarian legal systems. From the perspective of practical implications, the results of this study can be a reference for policy makers to design policies that are more inclusive and responsive to the needs of indigenous peoples. The findings on the challenges and obstacles in policy implementation can provide valuable insights in the formulation of more effective and

harmonious regulation. Thus, the results of this study can accelerate the achievement of recognition of Indigenous land rights more equitable and adequate, as well as improve social, economic, and environmental welfare for Indigenous peoples in Indonesia.

CONCLUSIONS

Indonesia has a legal framework that recognizes the rights of indigenous peoples to land, through various regulations such as the 1945 Constitution, UUPA, as well as sectoral laws such as the Forestry Law. However, although this recognition already exists constitutionally and legislatively, its implementation still faces various obstacles, such as overlapping regulations that cause difficulties in the recognition of customary land rights as a whole. This leads to a gap between legal recognition and reality on the ground. Land conflicts and customary land disputes are increasingly prevalent, often triggered by the lack of legal certainty and the dominance of other sectors such as plantations and mining are preferred. The involvement of indigenous peoples in the policy-making process is also still limited, so many policies do not fully accommodate the aspirations of Indigenous Peoples, exacerbating existing inequalities in the management of their lands and Natural Resources. There is a significant discrepancy between the policies established at the national level and their implementation at the regional level. Although there are local regulations (Perda) that support Indigenous peoples, they do not yet have enough power to effectively resolve frequent agrarian conflicts. Recognition of customary land rights is often hindered by local policies that are less supportive or even contrary to national policies. Indigenous institutions in many regions still have limitations in fighting for their rights in the realm of formal law. Indigenous peoples need support from governments and NGOs to strengthen their capacity, both in terms of legal education and resources to defend their customary rights before stronger parties, such as corporations or governments. Recognition of Indigenous land rights has great potential in strengthening the economies of Indigenous Peoples. By sustainably managing land and Natural Resources, indigenous peoples can improve their well-being, create better economic opportunities, and reduce dependence on other sectors that often harm them. Indigenous peoples have strong knowledge and skills in preserving their forests and ecosystems. Recognition of Indigenous land rights directly contributes to environmental conservation, as Indigenous peoples tend to be more responsible in safeguarding nature compared to natural resource managers from outside their communities. The government needs to harmonize sectoral policies, such as agrarian, Forestry, and mining, to reduce conflicts that harm Indigenous Peoples. This harmonization is important to create a more coherent regulation, which can accommodate the rights of indigenous peoples without clashing with the interests of other sectors. The participation of indigenous peoples in the formulation and implementation of land policy must be increased. A more inclusive and transparent consultation mechanism needs to be put in place, where indigenous peoples can play an active role in making decisions concerning their lands and Natural Resources. The process of Indigenous land certification must be accelerated to provide legal certainty and protect the customary rights of Indigenous Peoples. In addition, strengthening the capacity of indigenous institutions in terms of Land Management and their rights is also very necessary so that Indigenous people can fight for their rights independently. Recognition of indigenous peoples' rights to land is a crucial step in realizing social justice and inclusive development in Indonesia. To ensure more effective and sustainable protection of Indigenous rights, closer collaboration between governments, Indigenous peoples, and civil society organizations is needed, so that land policy can be more responsive to the needs and interests of indigenous peoples.

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