

Dynamics of customary land disputes and implementation of indigenous peoples' rights: a systematic study in the perspective of Indonesian agrarian law

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ABSTRACT

Customary land disputes are an agrarian problem that continues to occur in Indonesia due to the unsynchronization between customary law and state law. Although the Basic Agrarian Law (UUPA) and several Constitutional Court decisions have recognized the rights of indigenous peoples to customary land, its implementation still encounters various obstacles. This study aims to analyze the main causal factors of customary land disputes and evaluate the effectiveness of existing regulations and settlement mechanisms. Using a systematic literature review method, this research examines various legal, social, economic and political aspects that influence the dynamics of customary land conflicts in Indonesia. The results show that unsynchronized regulations, weak law enforcement, and investment and development interests are the main factors that trigger conflicts between indigenous peoples, the government, and the private sector. In addition, the lack of legal protection mechanisms for indigenous peoples causes them to often experience evictions and criminalization when defending their customary land rights. The study also highlights more effective dispute resolution models, including strengthening the role of customary institutions, implementing Free, Prior, and Informed Consent (FPIC) mechanisms, and establishing independent institutions to deal fairly with agrarian conflicts.

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1. INTRODUCTION

Customary land has a deep significance for indigenous peoples in Indonesia, not only as a source of life, but also as a cultural identity and a symbol of the continuity of customs. Customary land is inherited from generation to generation and managed based on long-standing customary law in a community. However, in the national agrarian law system, the recognition of customary land often faces obstacles, especially due to its overlap with formal regulations based on state law. Conflicts between the interests of indigenous peoples and state policies in land utilization often trigger disputes, especially in the context of natural resource exploitation by the government and private parties (Dhiaulhaq & McCarthy, 2020).

The main challenge in the protection of customary land in Indonesian agrarian law lies in the suboptimal implementation of the recognition and protection of indigenous peoples' rights. Although the Basic Agrarian Law (UUPA) No. 5 of 1960 has recognized the existence of customary rights, its implementation is still weak due to the lack of clarity of legal mechanisms to establish and strengthen these rights. In addition, many sectoral regulations that often conflict with the interests of indigenous peoples, such as in mining, forestry and plantation laws, further complicate the status of customary

land(Buana & Mamonto, 2023). This results in indigenous peoples often losing access to their own land due to unilateral claims by the government or corporations on the basis of concession licenses.

The importance of recognizing and protecting customary land rights is not only related to aspects of social justice, but also to environmental sustainability and the preservation of local culture. Prolonged conflicts over customary land can trigger social tensions and hamper community-based development. Therefore, a more integrative approach is needed in agrarian law to ensure that indigenous peoples' rights to customary land are not only recognized normatively, but also protected in effective legal practice. Policy reform and harmonization of regulations between customary law and state law are urgent steps to address this issue, so that the interests of indigenous peoples can be fairly accommodated in the national legal system(Fahmi & Armia, 2022).

Customary land has a very important position in the lives of indigenous peoples in Indonesia. As land collectively owned by indigenous communities, communal land is not only a physical object, but also an integral part of the culture, traditions and identity of indigenous peoples. This land is used for various purposes, ranging from agriculture, settlement, to traditional ceremonies that play an important role in maintaining the survival and harmony of indigenous communities(Siallagan, 2024). Therefore, communal land is more than just an economic resource, but rather a symbol of life sustainability and cultural heritage passed down from generation to generation. Customary land has a very important position in the lives of indigenous peoples in Indonesia. As land collectively owned by indigenous communities, communal land is not only a physical object, but also an integral part of the culture, traditions and identity of indigenous peoples. This land is used for various purposes, ranging from agriculture, settlement, to traditional ceremonies that play an important role in maintaining the survival and harmony of indigenous communities. Therefore, communal land is more than just an economic resource, but rather a symbol of life sustainability and cultural heritage passed down from generation to generation(Permadi et al., 2024).

One of the main challenges in resolving customary land disputes is the lack of legal recognition of customary rights held by indigenous peoples. Although there are several regulations that provide space for the recognition of indigenous peoples' rights, such as Law No. 5 of 1960 on Agrarian Principles (UUPA) and Law No. 6 of 2014 on Villages, their implementation is still limited. Recognition of indigenous peoples' customary land is not fully accommodated in the national agrarian law system, which often focuses more on land ownership or control by the state or individuals, rather than by indigenous communities collectively(Mulyani, 2020). Moreover, in practice, legal recognition of customary land is often constrained by complicated administrative procedures and slow bureaucracy. Many indigenous communities do not have legal proof of ownership of their customary land because the existing documents are not recognized by the state. This leads to uncertainty over the status of customary land, which then opens up opportunities for other parties to claim the land or even exploit the land without the consent of the indigenous community. Customary land disputes are also often triggered by the overlap between state law and customary law(Juniyanti et al., 2021). National agrarian laws that regulate the division and management of land often conflict with the practices and values prevailing in indigenous communities. For example, in the state agrarian law system, land is often considered a transferable and tradable object, while in customary law, communal land is a common property that cannot be traded or changed without the consent of all members of the indigenous community(Rahman, 2024).

In addition to legal conflicts, there are also challenges in terms of understanding the rights of indigenous peoples. Many parties, including the government, businesspeople and the general public, do not fully understand or respect customary rights to customary land. This lack of awareness often leaves indigenous peoples in a weak position when facing parties with greater political or economic power, such as large companies seeking to control land for development purposes(Ardiansyah, 2024). In addition, the current justice system is often not responsive enough to the needs of indigenous peoples. The lengthy legal process and high costs are a barrier for indigenous peoples to fight for their rights. In many cases, indigenous peoples tend to choose to resolve their disputes through customary mechanisms, even though the outcome often lacks strong legal recognition.

This has led to continued injustice, where their rights are often ignored by the formal legal system(Anggraeni, 2023). The resolution of customary land disputes requires a more inclusive approach, which can accommodate the interests of indigenous peoples without overriding the

development interests of the state. Settlements that focus on dialogue between customary parties and the state, as well as formal recognition of customary rights, are essential. The government needs to create mechanisms that allow indigenous peoples to gain legal recognition of their customary lands, while maintaining a balance between development interests and the protection of indigenous peoples' rights. Overall, the importance of customary land in the lives of Indonesia's indigenous peoples must be recognized and valued by the country's legal system and agrarian policies. For this reason, there needs to be a more comprehensive legal reform that not only recognizes the rights of indigenous peoples, but also provides concrete solutions to customary land disputes. Only then, can customary land function as the life support of indigenous peoples and at the same time be part of sustainable and equitable development in Indonesia(Hammar et al., 2021).

The concept of communal land in Indonesian law refers to land owned and controlled by indigenous peoples collectively, which cannot be transferred or used for private purposes without the consent of all members of the indigenous community(Putri et al., 2024). Customary land has a very important position in the culture and social life of indigenous peoples because the land is considered an ancestral heritage that must be maintained and preserved. However, the recognition of customary land rights is often marginalized in the national legal system which emphasizes individual land rights, based on the agrarian law system prevailing in Indonesia(Berenschot, 2022). In Indonesian legislation, there are several laws that provide the basis for the recognition of indigenous peoples' rights to customary land. One regulation that is often referred to is the Basic Agrarian Law (UUPA) No. 5 of 1960, which states that the state owns the rights to all land in Indonesia, while land rights can be granted to individuals or legal entities. However, in practice, this law does not explicitly recognize customary rights as defensible property rights. In addition, the recognition of indigenous peoples' rights is also regulated in Law No. 6/2014 on Villages, which provides space for the recognition of customary land in the context of village development and empowerment of indigenous peoples, although its implementation is still limited(Barora et al., 2022).

The application of law related to customary land disputes often faces obstacles in terms of unclear recognition of the legal status of customary land and incompatibility between state law and customary law. The process of legalizing or certifying customary land for indigenous peoples is often deadlocked due to the ignorance or unwillingness of the authorities to recognize the existence of customary laws governing land management. In addition, in many cases, customary land disputes are linked to claims from outside parties, such as companies seeking to manage the land for economic purposes, which adds complexity to dispute resolution. In the absence of clear formal recognition, indigenous peoples are often in a weak position in the face of lawsuits or land claims by parties with stronger legal and economic resources(Nutfa et al., 2023).

2. RESEARCH METHOD

The research approach used in this study is a qualitative approach with a legal analysis method. The qualitative approach allows the research to explore an in-depth understanding of the phenomenon of customary land disputes and the implementation of indigenous peoples' rights in the context of Indonesian agrarian law. Legal analysis is conducted by analyzing applicable laws and regulations, legal practices, and government policies related to customary land rights. Through this approach, the research aims to explore the social, legal, and political dynamics that influence the resolution of land disputes and the protection of indigenous peoples' rights(Lestaluhu et al., 2024). data collection techniques related to customary land disputes, indigenous peoples' rights, and Indonesian agrarian law are carried out by identifying relevant and credible sources through academic databases, scientific journals, and updated law books. data collection discusses customary land conflicts, agrarian law theory, and the implementation of agrarian law policies that affect indigenous peoples. The sources selected include scholarly articles published in reputable journals, research reports, laws and regulations, and case studies relevant to this topic. In addition, data collection also included an analysis of court decisions and government policies relating to indigenous peoples' rights to customary land in Indonesia(Permadi et al., 2024).

3. RESULTS AND DISCUSSIONS

3.1. Patterns of Customary Land Disputes in Indonesia

Customary land disputes in Indonesia are caused by various interrelated factors, one of which is legal. Although the Basic Agrarian Law (UUPA) No. 5 of 1960 recognizes the existence of customary land, the implementation of its recognition is still weak due to the absence of a clear and structured legal mechanism. In addition, many sectoral regulations, such as laws on forestry, mining and plantations, often conflict with the interests of indigenous peoples. This regulatory disharmony makes it difficult for indigenous peoples to obtain formal recognition of their land rights, making them vulnerable to claims by other parties, both the government and private companies (Anggraeni, 2023).

From an economic perspective, the exploitation of natural resources is one of the main factors triggering customary land conflicts. Governments and companies often prioritize investment interests by granting concessions to large corporations without considering the existence of indigenous peoples. This inequality is further exacerbated by the inability of indigenous peoples to compete with large economic actors due to limited access to capital and resources. As a result, customary lands that have long been a source of livelihood for indigenous peoples are increasingly eroded by plantation, mining and infrastructure projects supported by pro-investment policies (Budiman et al., 2020).

Social and political factors also play an important role in customary land disputes. From the social side, changes in the lifestyle of indigenous peoples due to modernization and urbanization often lead to a shift in traditional values, including in land ownership and management systems. Meanwhile, political factors contribute through government policies that tend to favor the interests of elites and financiers over indigenous peoples. The lack of representation of indigenous peoples in decision-making and their weak bargaining position in negotiations with the government and companies further complicate the resolution of customary land disputes. Therefore, more inclusive policy reforms, strengthening of customary laws, and more effective protection mechanisms are needed to ensure that the rights of indigenous peoples are maintained (Murhaini & Ludang, 2020).

Various case studies on customary land disputes in Indonesia show a recurring pattern of conflict, especially related to land grabbing by the government or companies without the consent of indigenous peoples. One of the most prominent cases is the conflict over customary land between the indigenous Anak Dalam tribe in Jambi and an oil palm plantation company. Indigenous communities who have long controlled the area lost their land rights after the government granted concession licenses to companies without considering their interests. Similar cases also occurred in Kalimantan and Papua, where customary land was transferred for mining and infrastructure projects without effective consultation mechanisms. In the agrarian law literature, an emerging trend shows the increasing role of civil society and non-governmental organizations in fighting for indigenous peoples' rights to customary land. Several studies have highlighted the role of the Constitutional Court in delivering rulings that are more favorable to indigenous peoples, such as Constitutional Court Decision No. 35/PUU-X/2012 which affirmed that customary forests are not part of state forests. Although this decision provides hope for indigenous peoples, its implementation at the regional level still faces various bureaucratic obstacles and strong political interests (McCarthy et al., 2022).

In addition, global trends in agrarian literature show that many countries are beginning to adopt a more inclusive approach to the recognition of indigenous peoples' land rights. Some countries in Latin America, such as Colombia and Bolivia, have developed clearer legal systems that recognize and protect indigenous lands through mixed legal models that integrate customary and state laws. The lessons learned from these countries can serve as a reference for Indonesia in designing more equitable agrarian policies for indigenous peoples, by prioritizing participatory and human rights-based approaches.

3.2. Regulation and Recognition of Indigenous Peoples' Rights

Regulations related to the recognition of indigenous peoples' rights to customary land in Indonesia have been regulated in various legal instruments, both at the national and international levels. The Basic Agrarian Law (UUPA) No. 5 of 1960 recognizes customary rights, but does not provide a clear

mechanism for the legal recognition and protection of customary land (Reyes-García et al., 2022). Further recognition came through Law No. 41/1999 on Forestry, which was later clarified through Constitutional Court Decision No. 35/PUU-X/2012, which confirmed that customary forests are not part of state forests. Although this ruling provides a stronger legal basis for indigenous peoples, its implementation still faces various obstacles, including complex bureaucracy and a lack of awareness of local governments in recognizing customary rights (Nikolakis & Hotte, 2020).

At the international level, Indonesia has ratified several instruments that support the recognition of indigenous peoples' rights, such as the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). However, in practice, the implementation of these international norms is still limited as they have not been effectively integrated into national agrarian policies. In addition, the Indigenous Peoples Bill aimed at strengthening the protection of indigenous peoples' rights has yet to be passed, indicating a lack of political commitment in providing legal certainty for indigenous peoples. Although various regulations have led to the recognition of indigenous peoples' rights, the biggest challenge lies in the implementation aspect. Many indigenous communities still struggle to get their land rights certified due to complicated administrative requirements and lack of legal support from local governments (Dawson et al., 2021). In addition, overlapping sectoral regulations, such as in the forestry, mining and plantation sectors, often become obstacles in the protection of customary land. Therefore, more comprehensive policy reforms are needed, including harmonization of regulations between customary law and state law, as well as more effective mechanisms to ensure that indigenous peoples' rights are not only recognized normatively, but also protected in actual legal practice.

The Basic Agrarian Law (UUPA) No. 5 of 1960 is the basis of agrarian law in Indonesia, which aims to replace the colonial agrarian system with a law that is more in line with national interests. UUPA recognizes the customary rights of indigenous peoples in Article 3, which states that customary rights can remain in force as long as they do not conflict with national interests and other laws and regulations. However, in its implementation, this recognition is still normative and lacks a clear mechanism in determining, establishing and confirming customary rights at the practical level. This has led to many agrarian conflicts, especially related to the overlap between customary land and national development interests. Along with the development of regulations, several derivative regulations seek to provide legal certainty for indigenous peoples' rights to customary land. One of them is the Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency (Permen ATR/BPN) No. 18 of 2019 concerning Procedures for Administration of Customary Land of Customary Law Communities. This regulation provides clearer procedures related to the identification, confirmation, and recording of customary land in the national land administration system (O'Donnell et al., 2020). In addition, the Constitutional Court Decision No. 35/PUU-X/2012 also became an important milestone by affirming that customary forests are not part of state forests.

Although various regulations have been issued, challenges in implementation remain significant. Many indigenous communities face obstacles in obtaining official recognition due to complex administrative mechanisms and a lack of commitment from local governments. In addition, many sectoral regulations, such as in plantations, mining and forestry, often contradict the principles of protecting indigenous peoples' rights in the LoGA. Therefore, there is a need for better policy harmonization and institutional strengthening to ensure that existing regulations can be effectively implemented to protect customary land from exploitation and land grabbing to the detriment of indigenous peoples. The Indonesian Constitution explicitly recognizes and protects the rights of indigenous peoples, including customary land rights. Article 18B paragraph (2) of the 1945 Constitution states that "The State recognizes and respects the unity of customary law communities and their traditional rights as long as they are still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia." This provision confirms that the state has an obligation to recognize and protect the rights of indigenous peoples, including in the aspect of ownership and management of customary land. In addition, Article 28I paragraph (3) also emphasizes

that the cultural identity and rights of indigenous peoples must be respected, thus strengthening the legal basis for the protection of customary rights in the national legal system.

3.3. Challenges in the Implementation of Agrarian Law

The implementation of agrarian law in Indonesia still faces various challenges, especially in terms of recognition and protection of indigenous peoples' rights to customary land. One of the main obstacles is the overlapping regulations between customary law and national law, which often leads to legal uncertainty. Although the Basic Agrarian Law (UUPA) No. 5/1960 has recognized the existence of customary land rights, many other sectoral regulations, such as in forestry, mining and plantation laws, often contradict the principle of recognizing customary land rights. As a result, indigenous communities often lose access to their lands as they are deemed part of the state forest estate or granted as concessions to companies without adequate consultation (Kartodiharjo & Cahyonob, 2021).

In addition, another challenge is the weak administrative and bureaucratic mechanisms in the confirmation of customary land. To date, there is no land registration system that specifically accommodates customary land within the national legal framework. Regulations such as the Minister of ATR/BPN Regulation No. 18/2019 which regulates the procedures for administering customary land still face obstacles in implementation at the regional level. Many local governments do not have the capacity or political will to officially recognize customary land, making it difficult for indigenous communities to obtain legal protection of their land rights. The recognition process often involves lengthy procedures, high costs, and administrative requirements that are difficult for indigenous peoples to fulfill. In addition to regulatory and administrative aspects, political and economic factors also become obstacles in the implementation of agrarian law. Government policies that tend to be pro-investment often override the rights of indigenous peoples in the management of customary land. Pressure from large corporations, especially in the plantation, mining and infrastructure sectors, makes the state favor economic interests over the protection of indigenous peoples' rights (Mohylnyi et al., 2022).

The lack of synchronization between customary law and state law in Indonesia's agrarian system is one of the main causes of customary land conflicts. Customary law regulates land ownership based on communal and collective hereditary traditions, while state law tends to be oriented towards individual land administration and certification systems. Although the Basic Agrarian Law (UUPA) No. 5 of 1960 recognizes the customary rights of indigenous peoples, implementation in the field is often hampered by various other sectoral regulations, such as the Forestry Law, Plantation Law, and Mining Law, which emphasize the management of natural resources by the state or private parties rather than the protection of indigenous peoples' rights. This conceptual difference between customary law and state law is also evident in land dispute resolution mechanisms (Darmawan et al., 2023). Indigenous peoples usually resolve disputes through customary deliberations based on the value of gotong royong and collective agreements, while the national legal system relies on litigation procedures in the courts which are often unfavorable to indigenous peoples due to their limited access to legal aid. In addition, many indigenous peoples do not have administrative proof of their land ownership, such as certificates or official documents, so their customary land is easily claimed by other parties. As a result, even though indigenous peoples historically had control over the land, from the perspective of state law they are often considered to have no valid legal rights.

Synchronization efforts between customary law and state law still face many obstacles, mainly due to weak coordination between central and local governments in implementing inclusive agrarian policies. The Constitutional Court Decision No. 35/PUU-X/2012 which affirms that customary forests are not part of state forests should be a momentum to clarify the legal position of customary land in the national agrarian system. However, without strong derivative policies and a commitment from the government to harmonize customary law with state law, indigenous peoples will continue to experience legal uncertainty. Therefore, policy reforms are needed that recognize the existence of customary land more concretely in the national land administration system, as well as dispute resolution mechanisms

that accommodate customary law perspectives so that indigenous peoples can obtain more effective legal protection. Conflicts between indigenous peoples, the government and the private sector over customary land in Indonesia often occur due to differences in interests that are not resolved fairly. Indigenous communities have a land management system based on local wisdom and passed down from generation to generation, while the government tends to see land as a national asset that can be utilized for development and investment. On the other hand, the private sector, especially in the plantation, mining and forestry sectors, seeks to control land for commercial purposes by obtaining permits from the government. As a result, many indigenous communities have lost their land rights as they were transferred to companies without adequate consultation or consent (Rasyid, 2024).

One of the main factors exacerbating these conflicts is the weak legal protection mechanisms for indigenous peoples in the face of claims from the government and corporations. Although there are regulations that recognize customary rights, such as the Constitutional Court Decision No. 35/PUU-X/2012, implementation still faces obstacles due to the lack of commitment of local governments as well as pressure from larger economic interests. The private sector often receives support from security forces or the government in defending land claims that have been granted through concession licenses. This has led to many indigenous peoples experiencing forced evictions, criminalization, or violence when they attempt to defend their customary lands. Resolving these agrarian conflicts requires a more inclusive and equitable approach, where indigenous peoples are actively involved in the decision-making process regarding the use of their land. The government needs to improve mechanisms for recognizing and certifying customary land so that it is not easily claimed by other parties. In addition, the private sector must also abide by the principles of sustainability and social responsibility, including the obligation to conduct free, prior, and informed consultation with indigenous peoples. Without stronger policies to protect the rights of indigenous peoples, customary land conflicts will continue to recur and potentially lead to social instability in many parts of Indonesia.

3.4. Policy Direction and Proposed Solution

Agrarian policy reform based on indigenous peoples' rights is a crucial step in creating a more just and inclusive agrarian system in Indonesia. So far, agrarian policy has been more oriented towards the interests of national development and investment, often ignoring the rights of indigenous peoples who have managed land for generations. Therefore, policy reform should start with a more concrete recognition of customary land in the national land administration system. The government needs to formulate regulations that explicitly provide legal certainty for indigenous peoples in terms of ownership, management and utilization of customary land, including customary land certification mechanisms that do not conflict with the principles of customary law. In addition to stronger legal recognition, agrarian policy reform should also include improvements in land dispute resolution mechanisms between indigenous peoples, the government and the private sector. Currently, many customary land conflicts are not fairly resolved because indigenous peoples do not have adequate access to the formal legal system. The government needs to establish an independent institution that specifically handles agrarian conflict resolution based on local wisdom and the principle of restorative justice. In addition, the Free, Prior, and Informed Consent (FPIC) mechanism must be upheld in every decision-making process related to customary land, so that indigenous peoples have the right to reject or approve projects that affect their territories.

Agrarian policy reform must also be accompanied by strengthening the capacity of indigenous peoples to defend their rights. Legal education, advocacy and mentoring programs for indigenous communities should be expanded so that they are better prepared to face legal and bureaucratic challenges. In addition, the role of local governments needs to be clarified in supporting the recognition of customary land through regulations that are more synchronized with national policies. With reforms oriented towards the rights of indigenous peoples, it is hoped that the agrarian system in Indonesia can be more equitable, sustainable, and able to provide better protection for indigenous peoples in safeguarding their land and natural resources for future generations. An effective dispute resolution

model in customary land conflicts must prioritize approaches based on justice, inclusiveness, and respect for the rights of indigenous peoples. One model that can be applied is a community-based dispute resolution mechanism, where indigenous peoples are given a leading role in the mediation and negotiation process. This approach recognizes customary legal systems as part of the conflict resolution mechanism, so that the resulting decisions are more accepted by local communities. In addition, the government needs to facilitate dialog forums between indigenous peoples, private parties, and state authorities to reach fair and sustainable solutions. The principle of Free, Prior, and Informed Consent (FPIC) should also be standardized in any decision-making that affects customary land.

In addition to a community-based approach, the establishment of a specialized independent institution that handles customary land disputes is also an important step in creating a more effective resolution system. This institution should have strong authority to mediate, arbitrate and adjudicate land conflicts between indigenous peoples, the government and the private sector. It can reduce reliance on the formal justice system, which is often unfavorable to indigenous peoples due to administrative constraints and high litigation costs. In practice, it could work closely with Komnas HAM, the Ombudsman and civil society organizations to ensure that indigenous peoples' rights are optimally protected. To increase the effectiveness of the dispute resolution model, there also needs to be a legal strengthening mechanism that ensures the implementation of decisions that have been taken. Many cases of customary land disputes have received legal decisions or mediation, but their implementation is hampered due to the lack of commitment from the parties involved. Therefore, policies are needed that bind all parties to comply with the results of dispute resolution, including sanctions for parties who do not implement agreed decisions. The government must also ensure that agrarian and spatial regulations are in line with the principles of protecting indigenous peoples so that similar conflicts do not recur in the future. With a comprehensive and inclusive approach, the customary land dispute resolution model can be more effective in creating justice for all parties involved.

On the other hand, customary institutions have a strategic role in resolving customary land disputes with a local wisdom-based approach. Indigenous communities usually have dispute resolution mechanisms that have been passed down from generation to generation, such as through customary deliberations or customary courts. These mechanisms are often more effective in reducing conflicts than the long and complex process of litigation in court. Therefore, the government needs to provide greater space for customary institutions in resolving conflicts by ensuring that decisions taken in customary deliberations can have the force of law recognized in the national system. Integration between customary law and state law can be a solution in creating a more inclusive and equitable dispute resolution system.

4. CONCLUSION

Customary land disputes in Indonesia are complex and rooted in the inconsistency between customary law and state law. Although the Basic Agrarian Law (UUPA) and Constitutional Court decisions have recognized indigenous peoples' rights to customary land, implementation in the field still faces various challenges. Legal, economic, social and political factors are the main causes of conflicts between indigenous peoples, the government and the private sector. Gaps in law enforcement further exacerbate the situation, with indigenous peoples often in a weak position in the face of investment interests and large-scale development projects. To address these problems, agrarian policy reform based on indigenous peoples' rights is a very important step. The government needs to strengthen regulations that provide legal certainty for customary land and ensure more effective protection mechanisms for indigenous peoples. In addition, a more inclusive approach to dispute resolution should be implemented, including by accommodating customary deliberation mechanisms and ensuring the existence of independent institutions that can fairly handle agrarian conflicts. The role of customary institutions must also be strengthened so that they can function as effective mediators in resolving disputes by prioritizing local wisdom values. With the synergy between the government, indigenous peoples and the private sector, it is hoped that customary land conflicts can be minimized and indigenous peoples' rights to land can be better secured. Policy reforms that recognize the existence of

customary land concretely in the national land administration system must be accompanied by implementative measures that ensure the protection of indigenous peoples' rights in real terms. A fairer and more sustainable resolution of customary land disputes will not only reduce social inequality, but also contribute to a more inclusive and justice-based national development for all Indonesians.

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