

Assessing the Impact of Land Development Regulations on Customary Land Values: A Case Study of Rempang and IKN in Indonesia

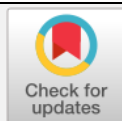
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ABSTRACT

The relocation of Indonesia's capital city from Jakarta to East Kalimantan (IKN Nusantara) is an ambitious project aimed at reducing pressure on Jakarta and promoting more balanced development across the country. However, land development regulations in IKN often conflict with the customary land values held by local communities. Additionally, land rights regulations under the IKN Law contradict the agrarian reform goals intended by the Basic Agrarian Law of 1960. A similar situation occurs in Rempang, where Indigenous communities are burdened with proving ownership of land that is being "seized" under the National Strategic Project (PSN). This is in stark contrast to the constitutional spirit of protecting indigenous rights, which only requires recognition "as long as they still exist." This study aims to assess the impact of land development regulations on customary land values, focusing on case studies in Rempang and IKN Nusantara in Indonesia. A qualitative approach is used in this research, with data collection methods including in-depth interviews with local stakeholders, policy document analysis, and participatory observation. Rempang and IKN were chosen as case studies because they represent conflicts between development regulations and customary land values. The research found that land development regulations often disregard the rights of indigenous communities, leading to conflicts and dissatisfaction among local communities. In Rempang, Indigenous communities face significant challenges in proving their land ownership, which is constitutionally recognized but overlooked in the implementation of PSN policies. In IKN Nusantara, the implementation of national policies shows significant gaps with local practices, exacerbating tensions and

dissatisfaction. Additionally, the study reveals a lack of effective mechanisms to involve indigenous communities in the decision-making process regarding land development, leading to further exclusion and marginalization. To achieve sustainable and inclusive development in IKN Nusantara and Rempang, policymakers must consider and integrate customary land values into development regulations. Policy recommendations include more intensive consultations with indigenous communities, stronger recognition of indigenous land rights, and revising regulations to respond more to local needs. A more participatory and inclusive approach is necessary to reduce conflicts and ensure development benefits all stakeholders. In Rempang, in particular, fair and transparent mechanisms are needed for land rights proof in line with the constitutional spirit.

Keywords: Customary Land Values; Development Policy; IKN Nusantara; Indonesia; Land Conflict; Land Development Regulations; Rempang

1. Introduction

The relocation of Indonesia's capital city from Jakarta to East Kalimantan, known as Ibu Kota Negara (IKN) Nusantara, is one of Indonesia's most ambitious development projects. This decision was announced by President Joko Widodo in 2019, primarily to alleviate the burdens on Jakarta, which is currently overpopulated and vulnerable to flooding, traffic congestion, and land subsidence (Poon, 2019).

Jakarta, Indonesia's current center of government, economy, and culture, faces numerous challenges. With a population exceeding 10 million and a metropolitan area encompassing over 30 million people, Jakarta struggles with infrastructure crises, high levels of air pollution, and significant risks from natural disasters such as flooding (Caljouw et al., 2009; Firman, 2009). Additionally, Jakarta is experiencing considerable land subsidence, causing many parts of the city to lie below sea level, exacerbating the flooding problems (Abidin et al., 2013).

In this context, the capital relocation aims to support several strategic objectives. Firstly, it seeks to promote more balanced economic development across Indonesia through decentralization. East Kalimantan was chosen for its strategic location in the center of the Indonesian archipelago, significant natural resources, and the availability of vast land areas. Secondly, the move is expected to reduce the heavy burdens currently borne by Jakarta by transferring the center of government to IKN Nusantara. This should improve the quality of life for Jakarta's residents by reducing traffic congestion and pollution (Firman, 2009). Thirdly, the project aims to create a modern and sustainable capital city with a smart city concept that integrates technology and green environments. IKN Nusantara is planned to be environmentally friendly, with infrastructure supporting renewable energy and efficient resource management (Ibrahim et al., 2023). Lastly, the capital relocation is seen as a step to strengthen Indonesia's national identity and diversity. IKN Nusantara is expected to become a symbol of unity and a representation of all regions in Indonesia, with cultural diversity reflecting the nation's richness.

However, the project is not without challenges. One major issue is that land development regulations implemented in IKN Nusantara often conflict with the customary land values held by local communities. The conflict between development needs and indigenous rights is a critical focus that must be addressed wisely to ensure that development does not come at the expense of the rights and sustainability of local communities (Lucas & Warren, 2013).

Customary land, or “tanah adat,” refers to the land traditionally owned and managed by indigenous communities based on their customs and traditional laws. These lands are crucial for the economic livelihood of indigenous peoples and hold significant cultural and spiritual value (Bettinger et al., 2014). The regulatory framework for land development in IKN Nusantara is primarily driven by national interests, focusing on rapid development and infrastructure expansion. This often leads to the expropriation of customary lands without adequate consultation or compensation for the affected communities. Such practices can undermine the traditional rights of indigenous peoples, leading to social unrest and legal disputes (A. Davidson & Henley, 2007). Furthermore, proving land ownership under national regulations can be particularly challenging for Indigenous communities, as their land rights are often based on oral traditions and communal stewardship rather than formal land titles (Li, 2014).

The conflict between development regulations and customary land values highlights a critical tension in Indonesia’s land policy. On the one hand, there is a need for national development and economic progress; on the other hand, there is an imperative to respect and protect the rights of indigenous communities. This tension is further complicated by historical injustices and the marginalization of indigenous peoples, making it essential to find a balanced approach that addresses both development goals and the preservation of cultural heritage (Bakker & Moniaga, 2010).

Historically, land regulations in Indonesia, dating back to the colonial era, were disadvantageous as they were based on colonial government objectives. Additionally, these agrarian laws were characterized by dualism and lacked legal certainty, necessitating national agrarian laws to address these issues. The Basic Agrarian Law of 1960, known as the UUPA (Undang-Undang Pokok Agraria), was introduced to establish the foundations for national agrarian law, simplify land laws, and ensure legal certainty regarding land rights for all Indonesian citizens (Bedner & Huis, 2008).

The UUPA was the basis for formulating and implementing regulations through other legislation. Its formal nature covered only principles and fundamentals. The objectives of the UUPA were to lay the groundwork for national agrarian law, achieve unity and simplicity in land law, and establish legal certainty regarding land rights for all Indonesian citizens (Lucas & Warren, 2013).

The national agrarian law principles mandated in the UUPA, found in its explanatory section, include nationalization principles, non-recognition of domain principle, recognition of customary land rights, social function of land rights, Indonesian citizenship requirement for land ownership, national principles, land reform implementation, planning, unity and simplicity of agrarian law, and legal certainty (Bedner & Huis, 2008). These principles emphasize the nationalization of land, the rejection of the domain principle, the recognition of customary land rights, the social function of land rights, limitations on land ownership by non-Indonesians and legal entities, and the promotion of legal certainty and land reform to ensure equitable land distribution and utilization.

Implementing these principles seeks to address historical injustices, eliminate dualism in agrarian laws, promote the social function of land, ensure legal certainty, and achieve unity and simplicity in land law. By upholding these principles, the UUPA aims to create a

comprehensive legal framework that reflects Indonesian values, fosters social justice, and promotes sustainable land management practices (Bettinger et al., 2014).

In Rempang, the divergence between development regulations and the intrinsic land values of indigenous communities has reached a critical juncture. Indigenous groups governed by customary land laws are at odds with national regulations prioritizing rapid industrialization and infrastructure expansion. Often swayed by overarching national interests, the regulatory framework overlooks the customary land tenure systems that Indigenous communities respect. Consequently, this discrepancy has engendered multifaceted disputes encompassing land ownership, usage rights, and equitable compensation (A. Davidson & Henley, 2007).

This friction is vividly illustrated by the contentious scenario surrounding the industrialization efforts on Pulau Rempang, situated within the Batam City jurisdiction. The ambitious developmental agenda, geared towards enhancing Indonesia's competitive edge vis-à-vis Singapore, has sparked heated land disputes among the local populace, governmental entities, and PT. Makmur Elok Graha is a private entity involved in the development. At the heart of the conflict lies the uncertainty shrouding land ownership status. While the indigenous inhabitants perceive the land as a cherished ancestral legacy predating the nation's independence, granting a Right to Cultivate (HGU) to a private corporation has severed the community's connection to their traditional lands (Li, 2014).

A significant challenge emerges in Indonesia's ambitious endeavor to relocate its capital city to East Kalimantan, known as Ibu Kota Negara (IKN) Nusantara, and the adjacent region of Rempang. This challenge revolves around the intricate interplay between development regulations and the cherished customary land values upheld by Indigenous communities. At the heart of the issue lies the conflict between national development imperatives, prioritizing rapid urbanization and infrastructure expansion, and the traditional land tenure systems deeply ingrained in the fabric of indigenous societies.

As Indonesia embarks on this monumental development project, tensions surface between regulatory frameworks driven by national interests and the customary land rights revered by indigenous peoples. The primary focus of this research is to delve into the multifaceted dynamics of this conflict, particularly within the contexts of IKN Nusantara and Rempang. These regions serve as poignant case studies encapsulating the broader challenges facing Indonesia's land development policy.

At the forefront of the investigation is identifying key issues surrounding the clash between development regulations and customary land values. Central to this inquiry is understanding how the imposition of national development agendas intersects with Indigenous communities' traditional land tenure systems and cultural heritage. By delineating the complexities of this conflict, this research aims to provide insights into the intricate relationship between development aspirations and the preservation of indigenous rights and cultural heritage.

Amidst the fervent development efforts in Rempang, under the National Strategic Projects (PSN) umbrella, Indigenous communities grapple with formidable hurdles in substantiating their land ownership claims. This poses a poignant dilemma as the national development agenda unfolds, intersecting with the intricate web of customary land tenure systems entrenched within the fabric of indigenous societies (Li, 2014).

At the heart of this predicament lies the burden placed upon indigenous communities to provide irrefutable evidence of land ownership within the framework of national development projects. Under the auspices of PSN, which often prioritizes rapid infrastructure development and urbanization, indigenous peoples' traditional land tenure systems face unprecedented scrutiny and contestation (A. Davidson & Henley, 2007).

The complexities surrounding land ownership in Rempang are exacerbated by the intricate legal and bureaucratic processes embedded within the PSN framework. Indigenous communities, governed by customary land laws, find themselves entangled in a labyrinth of administrative hurdles and legal ambiguities, hindering their ability to assert their land rights effectively (Bakker & Moniaga, 2010).

Moreover, the imposition of stringent criteria and documentation requirements further marginalizes Indigenous communities, exacerbating their vulnerability to land expropriation and displacement. As national development initiatives unfold in Rempang, the onus falls disproportionately on indigenous communities to navigate the convoluted terrain of land ownership verification, often at the expense of their cultural heritage and socio-economic well-being.

By shedding light on the formidable challenges indigenous communities face in proving land ownership under the PSN framework, this research underscores the urgent need for a more equitable and inclusive approach to land governance in Indonesia. Through a nuanced examination of the systemic barriers hindering indigenous land rights, this study aims to advocate for policy reforms that uphold the principles of social justice, cultural preservation, and sustainable development.

Through a comprehensive understanding of the intricate dynamics at play in Rempang, this research seeks to catalyze dialogue and action toward fostering a more inclusive and participatory approach to land development that respects the rights and aspirations of Indigenous communities while advancing the broader goals of national development.

Research on the relationship between land development regulations and customary land values in Indonesia faces several notable gaps. Existing literature often overlooks the perspectives and experiences of indigenous communities affected by land development projects, prioritizing legal and policy analyses instead. There is a pressing need for research that centers on Indigenous voices, narratives, and knowledge systems to provide a more holistic understanding of the impacts of development regulations on customary land values. Moreover, many studies offer only snapshots of specific land development projects or legal reforms. They lack longitudinal analyses to track their long-term impacts on customary land tenure systems and Indigenous communities. Longitudinal studies are crucial for identifying trends, patterns, and emerging challenges.

Additionally, there's insufficient attention to intersectionality, with research often treating land tenure issues in isolation from other social, economic, and environmental factors that shape Indigenous land rights and development outcomes. Comparative studies across diverse contexts within Indonesia and beyond are also lacking, limiting our understanding of the variability in regulatory approaches and community responses. Addressing these gaps necessitates formulating targeted research questions that shed light on the relationship between land development regulations and customary land values, ultimately informing evidence-based policy and practice for more equitable and sustainable land governance.

This study outlines two primary objectives to elucidate the complex interplay between development regulations and customary land values in Ibu Kota Negara (IKN) Nusantara and Rempang.

The first objective involves the assessment of the impact of development regulations on customary land values in both IKN Nusantara and Rempang. Through a comprehensive analysis, we seek to understand how existing regulatory frameworks influence the traditional land tenure systems upheld by Indigenous communities in these regions. By evaluating the implications of development regulations on customary land values, this research provides

valuable insights into the complexities of land governance and its intersection with indigenous rights and cultural heritage preservation.

In addition to the overarching objective, this study encompasses specific research objectives to provide a nuanced understanding of the dynamics at play in IKN Nusantara and Rempang. These objectives include conducting policy analysis to scrutinize the existing regulatory frameworks governing land development in the studied regions. Furthermore, the research gathers firsthand data from local stakeholders, including indigenous communities, governmental authorities, and private entities involved in land development projects. Through stakeholder engagement and data collection, this study seeks to capture diverse perspectives and insights for formulating informed policy recommendations and fostering inclusive land governance practices.

2. Literature Review

2.1. Overview of Land Development Regulations in Indonesia

Land development regulations in Indonesia form a comprehensive framework that governs various aspects of land ownership, usage, and infrastructure development. These regulations are critical in shaping the landscape of urban and rural development, ensuring that land use aligns with national development goals while addressing legal ownership and land rights issues (Lucas & Warren, 2013).

One of the key pieces of legislation governing land in Indonesia is the Basic Agrarian Law (Undang-Undang Pokok Agraria - UUPA) of 1960. This law was enacted to unify and simplify the dualistic agrarian law during the colonial period, which differentiated indigenous and Western land rights (Fitzpatrick, 1997). The UUPA establishes the principle that land, water, and natural resources are controlled by the state and utilized for the greatest benefit of the people (Fahmi & Siddiq Armia, 2022). It also recognizes various land rights, including ownership rights, usage rights, and rights of exploitation (Thorburn, 2004).

The UUPA sets the foundation for subsequent regulations and policies related to land development. It addresses issues such as land tenure security, land redistribution, and the regulation of land transfers (Bedner & Arizona, 2019; McWilliam, 2006). The law aims to create a more equitable land distribution, reduce land disputes, and provide a legal basis for land ownership and usage (Bakker & Moniaga, 2010).

Infrastructure development is governed by regulations that ensure sustainable and strategic planning. The Spatial Planning Law (Undang-Undang Penataan Ruang) provides guidelines for spatial planning at national, provincial, and local levels. This law emphasizes integrating environmental, social, and economic considerations into land use planning. It aims to prevent conflicts arising from land use changes and to promote balanced regional development (Firman, 2004).

Additionally, the Law on Construction Services (Undang-Undang Jasa Konstruksi) regulates the standards and practices for construction activities. This includes ensuring the safety and quality of construction projects and promoting environmentally friendly technologies and materials (Susanti, 2023). The law supports the development of infrastructure projects that are both sustainable and resilient.

In recent years, the Omnibus Law on Job Creation (Undang-Undang Cipta Kerja) has introduced significant changes to various sectors, including land development. This law simplifies regulations and reduces bureaucratic hurdles to stimulate investment and economic growth (Jazuli et al., 2022; Mahy, 2022). It includes provisions that affect land acquisition processes, zoning regulations, and the ease of obtaining business permits for development

projects. However, it has also raised concerns about its impact on environmental protection and Indigenous land rights.

Policy frameworks at both national and local levels play a crucial role in guiding land development. These policies often reflect the government's priorities, such as economic growth, poverty reduction, and environmental sustainability. The National Medium-Term Development Plan (Rencana Pembangunan Jangka Menengah Nasional - RPJMN) outlines the strategic vision and goals for national development, including infrastructure and land use planning.

Indonesia's regulatory landscape for land development is characterized by a robust set of laws and policies designed to manage land ownership, usage, and infrastructure development. While these regulations promote orderly and sustainable development, they also present challenges, particularly in balancing economic growth with protecting indigenous land rights and environmental sustainability (Lucas & Warren, 2013).

2.2. Customary Land Tenure Systems in Indonesia

Customary land tenure systems in Indonesia play a crucial role in many indigenous communities' socio-cultural and economic fabric. These systems, deeply rooted in local traditions and cultural practices, govern land ownership, usage, and transfer within these communities.

2.2.1. Characteristics of Customary Land Tenure Systems

Customary land tenure systems are defined by unwritten rules and practices that have evolved over generations within Indigenous communities. These systems are typically characterized by communal ownership, where land is held collectively by the community rather than by individuals. The rights to use and manage the land are distributed among community members according to established customs and traditions (Fitzpatrick, 2006). This communal ownership fosters a sense of collective responsibility and stewardship over the land, ensuring its sustainable use and preservation for future generations.

Land under customary tenure is often allocated based on social and familial relationships, with the head of the community or elders playing a significant role in decision-making processes. These allocations are guided by principles of fairness, equity, and the community's overall well-being (Galudra et al., 2013). The rules governing land use are flexible, allowing for adjustments based on changing social and environmental conditions, thereby ensuring the resilience and adaptability of these systems.

2.2.2. Legal Recognition of Customary Land Rights

The legal recognition of customary land rights in Indonesia has been a complex and evolving issue. The Indonesian Constitution acknowledges the existence of customary law (*hukum adat*). It recognizes the rights of indigenous communities (*masyarakat hukum adat*) as long as they align with national interests and regulations (Bedner & Huis, 2008). However, implementing these constitutional provisions has been inconsistent, often leading to conflicts between customary land rights and formal state laws (Bakker & Moniaga, 2010).

The Basic Agrarian Law (UUPA) of 1960 marks a significant step towards recognizing customary land rights by acknowledging the existence of communal land (*tanah ulayat*) and providing a framework for its management (Lucas & Warren, 2013). According to the UUPA, customary land rights are valid as long as they do not contradict national interests and the principles of social justice (Fitzpatrick, 1997). Despite this recognition, the practical enforcement

of these rights has been limited, with many indigenous communities facing challenges in securing legal titles for their lands (Thorburn, 2004).

The lack of formal documentation and the complex administrative processes required to register customary land rights further complicate their recognition (Bedner & Arizona, 2019). Additionally, introducing new laws, such as the Omnibus Law on Job Creation, has raised concerns about the erosion of customary land rights in favor of national development priorities. This has led to calls for more robust legal frameworks and mechanisms to protect and formalize customary land tenure systems.

2.2.3. Role in Indigenous Communities

Customary land tenure systems are integral to the identity, culture, and livelihood of indigenous communities in Indonesia. These systems provide a means of sustenance through agriculture, hunting, and gathering and serve as the foundation for social and spiritual life (Li, 2001). Land is seen not merely as a commodity but as a sacred inheritance that embodies the community's heritage and history.

Land management under customary tenure involves intricate rituals, ceremonies, and traditional practices that reinforce communal bonds and cultural values. For instance, the allocation and use of land are often accompanied by rituals that signify respect for ancestors and the natural environment (Galudra et al., 2013). These practices ensure that land use is sustainable and aligned with the community's ethical and spiritual principles (Thorburn, 2004).

Furthermore, customary land tenure systems contribute to social cohesion and stability within indigenous communities. They provide a safety net for community members, ensuring access to land and resources even for the most vulnerable. The communal nature of these systems fosters mutual support and cooperation, which are essential for the community's resilience and adaptability in the face of external pressures and changes.

Customary land tenure systems in Indonesia are vital to indigenous communities' socio-cultural and economic well-being. Despite their recognition in national laws, these systems' practical enforcement and protection remain challenging. Understanding the characteristics, legal recognition, and role of customary land tenure is crucial for addressing land disputes and promoting inclusive and sustainable land development policies in Indonesia (Lucas & Warren, 2013).

2.3. Impact of Development Regulations on Customary Land Values

The intersection of development regulations and customary land values in Indonesia reveals significant implications for indigenous communities. As the country pursues ambitious infrastructure projects and economic development, the effects of these regulations on customary land values must be carefully analyzed to understand their broader socio-cultural and economic impact.

2.3.1. Impact on Indigenous Communities

Development regulations often prioritize national economic growth and infrastructure expansion, sometimes at the expense of indigenous land rights and values. For indigenous communities, land is not merely an economic asset but a cornerstone of cultural identity and heritage. The imposition of development regulations can lead to the displacement of communities, loss of livelihoods, and erosion of cultural practices tied to the land (Li, 2014).

One of the primary impacts of development regulations is the alteration of land ownership and usage rights. National development projects, such as constructing roads, dams,

or industrial zones, often require large tracts of land, which can lead to the expropriation of customary lands (Bakker & Moniaga, 2010). This expropriation disrupts traditional land tenure systems, where land is communally owned and managed according to customary laws (Bedner & Huis, 2008).

The forced acquisition of land under development regulations typically involves compensation mechanisms that may not align with the values and needs of Indigenous communities. Monetary compensation is often inadequate to replace the multifaceted value Indigenous communities place on their land, including spiritual, social, and ecological dimensions (Galudra et al., 2013). As a result, Indigenous people may experience a loss of cultural heritage, social cohesion, and traditional knowledge systems (Thorburn, 2004).

2.3.2. Cultural Heritage Preservation

Development regulations also pose challenges to the preservation of cultural heritage. Customary land tenure systems are deeply intertwined with cultural practices, rituals, and community identity (Li, 2001). Land transformation for development purposes can destroy sacred sites, ancestral graves, and other culturally significant landmarks (Galudra et al., 2013). This erases physical manifestations of cultural heritage and disrupts the transmission of cultural knowledge and traditions to future generations.

Efforts to preserve cultural heritage in the face of development pressures require a nuanced approach that respects the values and rights of indigenous communities. This includes recognizing the intrinsic connection between land and culture and incorporating indigenous perspectives into development planning. Inclusive and participatory decision-making processes ensure that development projects do not undermine indigenous communities' cultural and social fabric (Bedner & Arizona, 2019).

2.3.3. Economic and Social Disparities

The impact of development regulations on customary land values can also exacerbate economic and social disparities. Indigenous communities often lack formal land titles, making it difficult to assert their land rights within the legal framework (Fitzpatrick, 1997). This vulnerability can lead to land grabbing and exploitation by external actors, further marginalizing indigenous populations.

Moreover, shifting from traditional land use to commercial and industrial purposes can disrupt local economies and livelihoods (Thorburn, 2004). Indigenous communities that rely on subsistence agriculture, hunting, and gathering face significant challenges when their land is converted for large-scale development projects (Bakker & Moniaga, 2010). Losing access to natural resources and traditional land-based activities can increase poverty and food insecurity (Galudra et al., 2013).

To address these disparities, development policies must incorporate measures supporting indigenous communities' socio-economic empowerment. This includes providing fair and just compensation, ensuring access to alternative livelihoods, and promoting sustainable development practices that align with indigenous values and land use traditions.

2.4. Case Studies of Land Development Projects in Indonesia

Case studies of land development projects in Indonesia offer valuable insights into the complexities of managing conflicts between development regulations and customary land values. These studies provide real-world examples of how national development agendas intersect with indigenous communities' land rights and cultural heritage.

2.4.1. Identification of Conflict Areas

Case studies highlight specific regions or projects where conflicts between development regulations and customary land values have arisen. For instance, the construction of the Batang Toru hydropower plant in North Sumatra has been a point of contention due to its impact on indigenous Batak lands (Obidzinski et al., 2012). Similarly, the development of the Mandalika tourism project in Lombok has faced opposition from the local Sasak community, who fear displacement and loss of ancestral lands (Fallon, 2001; Rosa, 2016). These conflicts often stem from the competing interests of economic development, infrastructure expansion, and the preservation of indigenous rights and cultural heritage. By examining these conflict areas, researchers can identify common patterns, root causes, and potential solutions to address land disputes effectively.

2.4.2. Analysis of Regulatory Frameworks

Case studies delve into the regulatory frameworks governing land development projects in Indonesia. They analyze how existing laws, policies, and institutional arrangements shape the implementation of development projects and influence their impact on customary land values. For example, the Basic Agrarian Law of 1960 and the Spatial Planning Law have significant implications for land use and tenure (Bedner & Huis, 2008). Understanding the legal context is essential for assessing the adequacy of existing regulations in safeguarding Indigenous land rights and cultural heritage.

2.4.3. Impacts on Indigenous Communities

Case studies document the impacts of land development projects on indigenous communities, including displacement, loss of livelihoods, and erosion of cultural identity. The construction of the Jatigede Dam in West Java, for instance, led to the displacement of thousands of Sundanese people, disrupting their traditional way of life (Rachman, 2015). These projects often involve large-scale land acquisition and infrastructure construction, which can disrupt traditional land tenure systems and social structures. By examining the socio-economic and cultural impacts on affected communities, researchers can advocate for more inclusive and equitable development policies.

2.4.4. Lessons Learned and Best Practices

Case studies offer valuable lessons learned and best practices for addressing conflicts between development regulations and customary land values. They highlight successful strategies for stakeholder engagement, conflict resolution, and community empowerment. For example, the participatory mapping initiatives in Kalimantan have effectively secured Indigenous land rights by involving communities in documenting and negotiating land boundaries (Sirait et al., 1994). By sharing these experiences, policymakers, practitioners, and researchers can identify opportunities to improve land governance and promote sustainable development outcomes.

2.5. Legal and Policy Frameworks for Indigenous Land Rights Protection

The legal and policy frameworks for indigenous land rights protection in Indonesia play a crucial role in safeguarding the rights and interests of indigenous communities amidst the complexities of land development and natural resource management. Understanding these

frameworks is essential for assessing the adequacy of existing mechanisms in upholding indigenous land rights and addressing the challenges they face.

2.5.1. Recognition of Indigenous Land Rights

Indonesia's legal and policy frameworks have evolved significantly in recognizing and protecting indigenous land rights. Over the years, there have been efforts to acknowledge the customary land tenure systems and traditional land ownership practices of indigenous communities. The Basic Agrarian Law of 1960 and subsequent amendments have been instrumental in formalizing indigenous land rights (Bakker & Moniaga, 2010). Legal reforms, such as acknowledging adat law in national legislation and establishing mechanisms for communal land registration, have been crucial in recognizing indigenous land rights (Li, 2014).

2.5.2. Protection of Indigenous Territories

Protecting indigenous territories is a cornerstone of Indonesia's legal and policy frameworks for indigenous land rights. Various laws and regulations aim to delineate and demarcate Indigenous territories, granting communities exclusive rights to manage and use their lands following customary laws and practices. For instance, the Constitutional Court's decision No. 35/PUU-X/2012 recognized the rights of indigenous peoples over their customary forests (Butt, 2014). Legal provisions for establishing Indigenous land rights institutions and recognizing Indigenous territorial governance structures contribute to protecting Indigenous territories.

2.5.3. Strengthening of Land Governance Institutions

Strengthening land governance institutions is integral to effectively implementing indigenous land rights protections. This includes establishing dedicated agencies or units within government bodies overseeing Indigenous land tenure issues and resolving disputes. Capacity-building initiatives for government officials, indigenous leaders, and local communities enhance the capacity to navigate legal processes and advocate for indigenous land rights (Bettinger et al., 2014).

2.5.4. Community Empowerment and Participation

Indonesia's legal and policy frameworks increasingly emphasize community empowerment and participation in decision-making processes related to land management and natural resource exploitation. This shift towards participatory governance recognizes the role of indigenous communities as key stakeholders in land development projects and resource management initiatives (Lucas & Warren, 2013). By involving communities in planning, implementation, and monitoring, these frameworks aim to ensure that development initiatives align with the needs and aspirations of indigenous peoples.

2.5.5. Challenges and Gaps

Despite progress in legal and policy reforms, challenges and gaps persist in protecting indigenous land rights in Indonesia. Limited recognition of customary land tenure systems, overlapping land claims, weak enforcement mechanisms, and inadequate consultation processes remain significant barriers to effective land rights protection (A. Davidson & Henley, 2007). Moreover, the unequal power dynamics between indigenous communities and external actors, such as government agencies and private corporations, often exacerbate land conflicts and undermine indigenous land rights (Li, 2014).

3. Research Methodology

This research employed a qualitative approach to comprehensively understand the conflict between land development regulations and customary land values in Indonesia, particularly within the contexts of the National Capital (IKN) Nusantara and the Rempang region. The qualitative approach was chosen because it allowed the researcher to explore the nuances, complexities, and social contexts surrounding this issue, facilitating an in-depth understanding of the perspectives and experiences of the Indigenous communities involved (Creswell, 2014).

3.1. Research Design

A case study research design was utilized, enabling the researcher to delve into this issue in a specific and in-depth context. This case study focused on the IKN Nusantara and Rempang Island as real-life cases reflecting the challenges faced in integrating development policies with customary land values (Yin, 2014).

3.2. Research Subjects

Research subjects included various stakeholders in this conflict, including local indigenous communities, government representatives, development companies, and non-governmental organizations concerned with indigenous land rights issues (Bryman, 2016).

3.3. Data Collection Procedures

Data were collected through several methods, including:

1) In-depth Interviews

In-depth interviews were conducted with members of indigenous communities, local government representatives, and other stakeholders to understand their perspectives, experiences, and views on this conflict (Kvale & Brinkmann, 2015).

2) Policy Document Analysis

Policy documents, regulations, and other relevant documents were analyzed to understand the legal and policy context influencing this conflict (Bowen, 2009).

3) Participatory Observation

Participatory observation was conducted to understand the social dynamics and interactions in the field and gain additional insights into situations that may not have been formally documented (DeWalt & DeWalt, 2011).

3.4. Research Instruments

The main research instrument was interview guides to ensure consistency in the questions asked to respondents. A document analysis guide was also used to identify and evaluate relevant regulations and policies (Guest et al., 2013).

3.5. Data Analysis

Qualitative data were analyzed using a thematic analysis approach, where major themes and patterns emerging from the data were identified and analyzed to gain a deeper understanding of the conflict between land development regulations and customary land values (Braun & Clarke, 2006).

3.6. Conclusion Drawing Process

The conclusion-drawing process involved synthesizing the findings from interviews, document analysis, and participatory observations to develop comprehensive insights into the

conflict dynamics. This process entailed identifying key patterns, themes, and contradictions within the data and drawing conclusions that addressed the research objectives. The conclusions drawn were critically evaluated to ensure they were grounded in the empirical evidence collected during the study (Miles et al., 2014).

4. Results

Land development regulations have a significant impact on customary land values in Indonesia. Under pressure to achieve economic and infrastructural development goals, national interests often conflict with the rights and values held by indigenous communities. Firstly, implementing development regulations overlooks or even contradicts the customary land rights guaranteed by national and international laws. Government-driven development policies often result in the forced eviction of indigenous communities from their lands without adequate consultation or fair compensation. These actions not only violate human rights but also damage the social and cultural relationships upheld by indigenous communities for centuries.

Secondly, conflicts between development regulations and customary land values lead to detrimental legal uncertainties for indigenous communities. Delays in resolving land disputes, lack of clarity in natural resource management policies, and the inability to protect indigenous peoples' traditional rights further exacerbate inequalities and tensions at the local level.

Additionally, development policies disregard local knowledge and the value systems of indigenous communities, which have proven to have significant ecological and social benefits. The dominant top-down approach to development often fails to accommodate local perspectives, resulting in mismatches between development policies and the real needs of indigenous communities.

4.1. Impact of Development Regulations on Customary Land Values

One of the most profound impacts of land development regulations is the displacement of indigenous communities from their ancestral lands. In regions such as IKN Nusantara and Rempang, the push for rapid infrastructural and economic development has led to the expropriation of lands traditionally held by indigenous peoples. These displacements are often carried out without adequate consultation or fair compensation, disregarding the customary land tenure systems recognized by these communities. Such actions lead to the erosion of social structures and cultural practices deeply tied to the land.

Another significant impact observed is the rise in legal uncertainties and disputes over land ownership. Under the pressure of national development agendas, Indigenous communities find it challenging to substantiate their land ownership claims due to the complex and often inaccessible legal and bureaucratic processes. This has resulted in prolonged legal battles, creating an environment of insecurity and tension. The lack of clear legal recognition for customary land rights further exacerbates these conflicts, leaving Indigenous communities vulnerable to land grabs and exploitation.

There is a pattern of marginalization of indigenous knowledge and values in development planning. Development policies prioritize economic gains and infrastructure expansion over the ecological and social benefits inherent in traditional land use practices. Indigenous land management systems, which are often sustainable and environmentally friendly, are overlooked. This undermines indigenous communities' role as stewards of the environment and threatens the biodiversity and ecological balance maintained through their traditional practices.

The implications are profound for indigenous communities and the preservation of cultural heritage. These communities' displacement and marginalization result in the loss of cultural practices, languages, and traditional knowledge systems integral to their identity. The erosion of customary land values disrupts the transmission of cultural heritage to future generations, weakening the social fabric of indigenous societies.

Furthermore, the legal uncertainties and conflicts over land rights hinder the ability of Indigenous communities to engage in sustainable development practices that align with their cultural values. This creates a dichotomy between national development goals and the preservation of indigenous cultural heritage, posing a significant challenge to policymakers and stakeholders.

4.2. Case Studies of Land Development Projects

4.2.1. Case Study: IKN Nusantara

In IKN Nusantara, the conflict between national development objectives and indigenous land rights has been particularly pronounced. The Indonesian government's ambitious plan to relocate the capital to East Kalimantan has led to significant land acquisition activities, often infringing on territories traditionally held by indigenous communities. Despite legal frameworks intended to protect customary land rights, the rapid pace of development and the emphasis on national interests have led to numerous disputes.

The impact on indigenous communities in IKN Nusantara has been profound. Many communities have faced displacement without adequate consultation or compensation, eroding their traditional land tenure systems. This has disrupted their social and economic structures and led to the loss of cultural heritage and traditional knowledge linked to their ancestral lands.

4.2.2. Case Study: Rempang

In Rempang, developing an industrial zone to enhance Indonesia's competitiveness with Singapore has similarly sparked conflicts. The allocation of land for industrial purposes is supported by Hak Guna Usaha (HGU) rights given to PT. Makmur Elok Graha has clashed with the claims of indigenous communities who view the land as their ancestral heritage. The legal framework supporting the development projects often disregards the customary land rights of these communities, leading to heightened tensions and legal disputes.

The Indigenous communities in Rempang have encountered significant challenges in substantiating their land ownership claims under the National Strategic Projects (PSN) framework. The stringent legal and bureaucratic requirements have marginalized these communities, complicating their efforts to assert their rights. The resultant displacement and loss of land have severely impacted their socio-economic well-being and cultural preservation.

4.2.3. Comparative Analysis

Both case studies highlight several common themes. In both IKN Nusantara and Rempang, the push for national development has led to the marginalization of indigenous communities and the erosion of customary land values. Legal uncertainties and inadequate recognition of customary land rights have been central to the conflicts in both regions. Additionally, the displacement of indigenous communities and the subsequent loss of cultural heritage have been significant consequences of the development projects.

Despite these similarities, there are notable differences in the dynamics and impacts of the conflicts in IKN Nusantara and Rempang. In IKN Nusantara, the conflict is driven by the large-scale relocation of the capital and the rapid urbanization accompanying it. The project's sheer

scale has resulted in widespread displacement and a more pronounced erosion of traditional land tenure systems.

In contrast, the conflict in Rempang focuses more on industrial development and land allocation for specific commercial purposes. The presence of HGU rights granted to corporations has created a distinct layer of legal complexity, making it particularly challenging for indigenous communities to assert their land claims. The industrial focus of the development in Rempang has also led to environmental degradation, further exacerbating the impact on indigenous communities.

4.3. Legal and Policy Frameworks for Indigenous Land Rights Protection

Indonesia has established various legal and policy frameworks to protect indigenous land rights. Central to these efforts is the Basic Agrarian Law of 1960 (UUPA), which provides a foundational legal structure for land rights, including recognizing customary land tenure systems. Additionally, Constitutional Court Decision No. 35/PUU-X/2012 explicitly acknowledges the existence of customary forests and rights, reinforcing the legal recognition of indigenous land claims.

Furthermore, various regulations, such as Law No. 6 of 2014 on Villages and Law No. 41 of 1999 on Forestry, provide additional layers of protection for indigenous communities. These laws mandate the recognition of village-based land management systems and protect customary forest areas. The Indonesian government has also launched the One Map Policy to resolve overlapping land claims by creating a single, unified map of land use and ownership across the country.

Despite the existence of these legal frameworks, their effectiveness in practice remains questionable. Research findings indicate several significant shortcomings:

1) Inconsistent Implementation

One of the primary issues is the inconsistent implementation of laws and policies at various administrative levels. While national laws recognize indigenous land rights, local governments and agencies often fail to enforce these rights effectively. This inconsistency is partly due to bureaucratic inertia, lack of awareness, and competing interests at the local level.

2) Legal Ambiguities

The legal framework contains ambiguities that hinder the effective protection of indigenous land rights. Terms such as “customary land” and “indigenous community” are often unclear, leading to varied interpretations and applications. This legal uncertainty complicates the land registration process and the formal recognition of customary land claims.

3) Bureaucratic Hurdles

Indigenous communities frequently encounter bureaucratic hurdles when attempting to assert their land rights. Land registration is often complex, time-consuming, and costly, creating barriers for communities with limited resources. Additionally, the requirement for extensive documentation, which many indigenous groups may not possess, further complicates their ability to secure formal recognition of their land rights.

4) Conflict with Development Goals

The prioritization of national development projects often conflicts with protecting indigenous land rights. Projects classified under the National Strategic Projects (PSN) framework are given precedence, frequently resulting in the expropriation of land traditionally

held by indigenous communities. This conflict underscores a critical gap between policy intentions and on-the-ground realities.

5) Strengths of the Existing Framework

Despite these challenges, the existing legal and policy frameworks do have notable strengths:

a) Legal Recognition

The formal recognition of customary land rights in national law represents a significant step forward. The Constitutional Court's decisions and various legislative acts provide a legal basis for indigenous communities to claim and defend their land rights.

b) Policy Initiatives

Initiatives like the One Map Policy aim to address land tenure issues comprehensively by creating a unified, transparent mapping system. Such policies can reduce conflicts and clarify land ownership and usage.

5. Discussion

The findings revealed that development regulations significantly impact customary land values, often in ways that are detrimental to indigenous communities – in IKN Nusantara, rapid urbanization and infrastructure expansion prioritized national interests over preserving traditional land tenure systems. Similarly, in Rempang, the implementation of the National Strategic Projects (PSN) led to land expropriation, disregarding the historical and cultural significance of the land to the local indigenous people.

The evidence collected from in-depth interviews, policy document analyses, and participatory observation supported this conclusion. Stakeholders consistently highlighted the marginalization of customary land values in favor of national development goals. This alignment of qualitative data with the research question underscores the pervasive influence of development regulations on indigenous land rights.

Indigenous communities face several challenges in asserting their land rights. These include bureaucratic hurdles, legal ambiguities, and prioritizing national development projects over indigenous claims (Dhiaulhaq & McCarthy, 2020; Rye & Kurniawan, 2017; van der Muur, 2018). The study found that the complex and often inaccessible land registration processes, coupled with inconsistent implementation of legal protections, significantly hindered the ability of indigenous people to secure their land rights.

The study found that while Indonesia has established a legal and policy framework to protect indigenous land rights, these measures are often inadequately enforced. Legal ambiguities, lack of clear guidelines, and insufficient local implementation capacity compromise the effectiveness of these frameworks. For example, the Basic Agrarian Law of 1960 and subsequent regulations provide a legal basis for recognizing customary land rights, yet their practical application remains inconsistent (Lucas & Warren, 2013).

The evaluation of the legal frameworks through document analysis and stakeholder feedback highlighted significant gaps between policy and practice. Although the legal structures are theoretically sound, their practical enforcement is lacking, and they do not align with the challenges Indigenous communities have identified. Both qualitative evidence and the analysis of policy documents support this evaluation (Fahmi & Siddiq Armia, 2022; Fitzpatrick, 2005; Fitzpatrick et al., 2013).

The implications of these findings are profound for indigenous communities. The continued marginalization and displacement due to development projects threaten their cultural heritage and socio-economic stability. The findings suggest an urgent need for policy reforms that better integrate and protect customary land values within national development plans (Hall et al., 2011; Li, 2014).

The findings of this research align with existing literature that emphasizes the conflict between national development agendas and indigenous land rights. Numerous studies have documented the adverse effects of development projects on customary land tenure systems and indigenous communities. For instance, prior research has shown that rapid development often disregards traditional land claims, leading to displacement and loss of cultural heritage (Hall et al., 2011; Li, 2014). Our study confirms these trends, highlighting similar IKN Nusantara and Rempang issues.

The findings support the theoretical framework proposed by researchers like Peluso and Lund, who argue that state-driven land development policies often marginalize indigenous land tenure systems (Peluso & Lund, 2011). This study's evidence aligns with this theory, showing that national development priorities in Indonesia frequently override customary land rights, leading to conflict and displacement.

However, this research also challenges some assumptions in the literature. For instance, while many studies suggest a uniform impact of development regulations on Indigenous communities (Hall et al., 2011; Li, 2014), our findings reveal variations based on regional and local contexts. In Rempang, National Strategic Projects (PSN) exacerbated the conflict, highlighting the need for more context-specific analyses rather than generalized conclusions.

This study complements previous work by integrating a policy analysis perspective, examining the gaps and inconsistencies within the legal frameworks designed to protect Indigenous land rights. Studies have explored legal protections (Fitzpatrick, 2005; Ito, 2011; Peluso et al., 2008). Still, this research provides an updated and localized examination of these frameworks in practice, particularly under the new pressures of IKN Nusantara and Rempang's development projects.

6. Conclusion

This research has comprehensively examined the intricate relationship between land development regulations and customary land values in Indonesia, specifically focusing on the IKN Nusantara and Rempang cases. The findings reveal a significant conflict between national development imperatives and indigenous land rights, highlighting the adverse impacts of rapid urbanization and infrastructure expansion on traditional land tenure systems.

The primary findings of this research underscore the profound impact of land development regulations on customary land values. The imposition of national development agendas often leads to the marginalization of indigenous communities, as their traditional land rights are frequently overlooked or inadequately protected. In the case of Rempang, the presence of National Strategic Projects (PSN) exacerbated land conflicts, resulting in significant challenges for indigenous communities in substantiating their land ownership claims.

This study contributes uniquely to understanding land development dynamics in Indonesia by providing detailed case studies of IKN Nusantara and Rempang. Through qualitative methods, including in-depth interviews and participatory observation, the research offers nuanced insights into the lived experiences of Indigenous peoples affected by development projects. These contributions fill gaps in existing literature, offering a more localized and

context-specific analysis of the conflict between development regulations and customary land values.

The findings of this research have significant implications for policy and practice. They highlight the need for more inclusive and equitable land development policies that respect and integrate customary land tenure systems. The study advocates for policy reforms that enhance the legal and institutional frameworks protecting Indigenous land rights, ensuring that development projects do not come at the expense of indigenous communities' cultural heritage and socio-economic well-being.

The study also sets the stage for future research aimed at better understanding and addressing the challenges faced by Indigenous communities in the context of national development agendas. Longitudinal studies tracking the long-term impacts of development regulations and comparative analyses across different regions and countries would provide deeper insights into effective policy interventions and best practices for safeguarding Indigenous land rights.

In conclusion, this research underscores the need to balance development goals with preserving indigenous land rights and cultural values. By shedding light on the complex interplay between national development regulations and customary land tenure systems, this study contributes to the ongoing dialogue on sustainable and inclusive development in Indonesia. It calls for a more participatory approach to land governance that recognizes and respects the rights and aspirations of indigenous communities while advancing broader national development objectives.

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