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Legal Challenges to Local Communities' Land Rights in the Capital City of Nusantara

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Abstract

This study aims to analyze land policies before and after the establishment of the National Capital City (IKN), including regulations on restrictions or freezes on land rights transfers, as well as regulations on land acquisition, and their impact on local communities, both indigenous and non-indigenous.

The method used is an empirical legal approach or socio-legal studies that focus not only on norms but also on the context of their enforcement in the IKN area, particularly in North Penajam Paser Regency. This is done by analyzing facts in the field related to land regulations in the IKN area, which directly impact local communities.

The novelty of this research lies in the dynamics of regulations issued before and after the establishment of the IKN, particularly in terms of land, ranging from the freezing of transfer of rights to land acquisition for the development of the IKN, which has implications for conflicts over the living space of local communities.

The results of this study found that the land regulations that have been in place since the establishment of the IKN have had an impact on the control and use of community land, where conflicts have been triggered by the lack of transparency in the development process, compensation issues, and the suspension of land rights registration.

The concluded that land regulations related to the development of the IKN have an impact on the control and use of land by local communities. Legal efforts to resolve land tenure issues in the IKN need to be differentiated based on when the issues arose. Problems that occurred before the establishment of the IKN should be resolved through non-litigation efforts such as negotiation and mediation, while post-establishment IKN issues should be addressed by adjusting the implementation of the land acquisition scheme to the existing conditions in the field.

Keywords: Local Communities; Land Rights; IKN Area; Development

Abstrak

Penelitian ini bertujuan untuk menganalisis kebijakan pertanahan sebelum dan setelah penetapan IKN baik berupa regulasi pembatasan atau pembekuan peralihan hak maupun regulasi pengadaan tanah serta dampaknya pada masyarakat lokal baik masyarakat adat maupun non adat.

Metode yang digunakan adalah pendekatan hukum empiris atau socio-legal studies yang tidak hanya berfokus pada norma namun juga konteks penegakannya di wilayah IKN khususnya Kabupaten Penajam Paser Utara. Hal ini dilakukan dengan menganalisis fakta di lapangan terkait regulasi pertanahan di kawasan IKN, yang secara langsung berdampak pada masyarakat lokal.

Kebaruan penelitian ini terletak pada dinamika regulasi yang dikeluarkan sebelum dan

setelah penetapan IKN khususnya aspek pertanahan mulai dari pembekuan peralihan hak hingga pengadaan tanah untuk pembangunan IKN yang berimplikasi pada konflik ruang hidup masyarakat lokal.

Hasil penelitian ini menemukan bahwa regulasi pertanahan yang ada sejak penetapan IKN berdampak pada penguasaan dan pemanfaatan tanah masyarakat, di mana konflik dipicu oleh ketidaktransparan proses pembangunan, masalah ganti rugi, hingga penghentian pendaftaran hak tanah. Selain itu, ditemukan tumpang tindih hak dan penguasaan tanah dalam kawasan hutan yang memperparah konflik agraria yang sudah ada sebelumnya.

Kesimpulan penelitian bahwa regulasi pertanahan terkait Pembangunan IKN berdampak pada pengendalian dan penggunaan tanah oleh masyarakat lokal. upaya hukum untuk mengatasi masalah penguasaan tanah di IKN perlu dibedakan berdasarkan waktu munculnya masalah. Masalah yang terjadi sebelum penetapan IKN sebaiknya diselesaikan melalui upaya non-litigasi seperti negosiasi dan mediasi, sedangkan masalah pasca-penetapan IKN dilakukan dengan menyesuaikan implementasi skema pengadaan tanah terhadap kondisi eksisting di lapangan.

Kata kunci: Masyarakat Lokal; Hak Atas Tanah; Kawasan IKN; Pengembangan

1. INTRODUCTION

The National Capital is a miniature nation that depicts identity for its population and government. Its strategic position can be seen internationally, therefore the National Capital is worthy of being called a "showcase" of civilization where its appointment including its relocation requires holistic considerations. Such is the big decision taken by the Indonesian nation after the issuance of Law concerning the National Capital. Amidst the optimism behind the policy, the relocation of the National Capital provides a lot of problems, one of them is the land aspect in the Nusantara Capital City should not only be seen as inanimate objects. In fact, when it has not yet been legalized, the issue of land speculators has sprung up, therefore a number of regulations have been issued in order to "freeze" the phenomenon of control and transfer of land rights in the prospective IKN area. Penajam Paser Utara Regent Regulation No. 22/2019 on Supervision and Control of Sale and Purchase Transactions and Transfer of Land Rights in the IKN Location was the initial policy to anticipate this, which was then followed by the Governor for a broader policy with East Kalimantan Governor Regulation No. 6/2020 on Controlling the Transfer of Land Use and Licensing in IKN Candidate Areas & Buffer Areas. Both regulations issued to curb the rate of land transfer and control by speculators are still in effect after the National Capital City Law was passed and moved to the Nusantara. To support the efforts of the Land Freezing policy, the Ministry of ATR/BPN issued Circular Letter Number: 3/SE-400.HR.02/II/2022 concerning Restrictions on the Issuance and Transfer of Land Rights in the National Capital Region in February 2022. This means that anticipatory efforts have been made by the Government, but it still causes problems.

That is why community cooperation is very much needed in order to create a mutually supportive attitude towards protecting the rights of indigenous peoples in relation to the development of the IKN, and to ensure that the development of the IKN is sustainable and fair

for all communities in Indonesia.¹ In addition, the existence of customary law communities in the IKN region requires legal protection for all kinds of vulnerabilities that are inherent to them at this time.² The use of land for the development of the Capital City of Nusantara is not only regulated by regulations but must also comply with the principles of land use for urban areas, namely Safety, Order, Smoothness, and Health.³

Evidently, discussions about land still continue to emerge and continue to be discussed by relevant stakeholders. The issue of indications of overlapping IKN land with mines, plantations, settlements, customary territories, and others has the potential to cause agrarian conflicts. Another interesting issue is the IKN land acquisition process which is considered to have the potential to displace indigenous territories. Therefore, it is necessary to involve indigenous peoples in the development of IKN. Furthermore, it is necessary to prepare a policy framework and handling efforts by ministries and local governments.⁴ Local communities whose identity as indigenous peoples in IKN have in fact never been involved in the IKN discussion. In fact, indigenous peoples in Penajam Paser Utara (PPU) are the parties directly affected by the relocation and construction of IKN. They are worried about being evicted from their customary territories or where they currently live. They are also restless if one day they have to be relocated from their place of residence because they do not want to be uprooted from their history and identity as Balik Tribe.⁵ The IKN development process must not conflict with the constitutional rights of indigenous peoples in the region as the rights of indigenous peoples with approximately 20,000 indigenous communities must be protected until the land issues of indigenous peoples have existed before IKN.⁶ The issue of customary law communities in IKN is clearly inseparable from the land aspect. Thus, the problem of land tenure in the IKN area is experienced by local communities with identities outside of adat, including those with the identity of indigenous peoples. If you look at the distribution as data issued by the East Kalimantan BPN regional office, the land area in other use areas (APL) is quite large. Likewise, land controlled by communities with unregistered status (considered state land). The existence of regulations that have been issued to protect communities from land speculators coupled with data on the IKN area based on the function of the area and registration status still puts local communities, especially indigenous peoples, in a weak

¹ Dea Risti Aulia, Herjuno Putro, and Laras Dwi Mufidah, "Masalah Perlindungan Hak Masyarakat Adat Terhadap Pembangunan IKN," *Innovative: Journal Of Social Science Research* 3, no. 2 (2023): 2299–3010.

² Jessica Armies, Asri Verauli, and Muhammad Iqbal Baiquni, "Urgensi Perlindungan Hak Kepemilikan Atas Tanah Masyarakat Adat Di Wilayah Ibu Kota Negara Nusantara," *Recht Studiosum Law Review* 1, no. 2 (2022): 14–27.

³ dkk Rizki Yudha Bramantyo, "TINJAUAN YURIDIS TERHADAP KESESUAIAN KEPERUNTUKAN TANAH DALAM PEMBANGUNAN IBUKOTA BARU NUSANTARA DITINJAU DARI DAMPAK LINGKUNGAN," *Jurnal Transparansi Hukum* 07, no. 02 (2024): 62.

⁴ <https://www.kaltimprov.go.id/berita/ksp-apresiasi-langkah-gubernur-soal-pengamanan-lahan-ikn>, diakses 8 Juli 2022

⁵ Aliansi Masyarakat Adat Nusantara - AMAN | Suku Balik Tidak Dilibatkan Dalam Rencana Pembangunan IKN," accessed March 22, 2024, <https://www.aman.or.id/news/read/suku-balik-tidak-dilibatkan-dalam-rencana-pembangunan-ikn>.

⁶ Vice Admira Firnahirera and Adi Lazuardi, "Pembangunan Ibu Kota Nusantara: Antisipasi Persoalan Pertanahan Masyarakat Hukum Adat," *Jurnal Studi Kebijakan Publik* 1, no. 1 (2022): 71–84.

position in the context of land tenure. By not recognizing land as a recognized property right, it will cause legality problems and have an impact on legal protection for the community around IKN).

Normatively, this regulation exists to protect the state from speculators, but sociologically, it actually places local communities in a very vulnerable position. A crucial problem arises when land use restrictions clash with the reality of land ownership by local communities, most of whose land is not formally registered and is often considered state land. Thus, the main issue of this study is the tension between IKN land use regulations and their implications for the protection of local communities in the IKN area.

A number of previous studies have highlighted land dynamics in the IKN, but there are still gaps in the analysis that need to be filled.⁷ This study highlights that the development of the new capital city has great potential to trigger structural agrarian conflicts due to the lack of participation of indigenous peoples in spatial planning. Meanwhile,⁸ Nugroho (2022) analyzing the protection of indigenous peoples' rights in the relocation of the national capital using an international legal framework, concluded that the government's initiative still does not fully meet the prerequisites for substantive human rights protection. Another study by⁹ specifically discusses anticipation of land issues, but focuses more on general public policy aspects without exploring the specific impact of regulations restricting the transfer of rights on local communities that do not have land title certificates. In addition¹⁰ found that land development regulations in the IKN often conflict with customary land values, where rapid urbanization prioritizes national interests over communal rights.

Based on this explanation, existing research tends to focus on the potential for agrarian conflict in general or macro public policy reviews. The novelty of this research lies in its specific analysis of the legal implications of land ownership restriction regulations on the protection of local communities' tenure rights. Thus, this research not only discusses agrarian conflicts or IKN land policies in general, but specifically examines the impact of land rights freezing and control policies on the recognition and protection of the constitutional rights of local communities in the IKN region.

Based on the above explanation, through this study, the author intends to analyze land policies before and after the establishment of the IKN, both in the form of regulations restricting or freezing the transfer of rights and regulations on land acquisition, as well as their impact on local communities, both indigenous and non-indigenous.

Thus, this study is expected to contribute academically and practically by filling a gap in

⁷ Rakhmat Hidayat, "Konflik Agraria Masyarakat Adat Dalam Pemindahan Ibu Kota Negara," *Prosiding Konferensi Nasional Sosiologi (PKNS)* 1, no. 1 (2023): 140–51.

⁸ Bhakti Eko Nugroho, "Perlindungan Hak Masyarakat Adat Dalam Pemindahan Ibukota Negara," *JISIP UNJA (Jurnal Ilmu Sosial Ilmu Politik Universitas Jambi)* 6, no. 1 (2022): 83–97.

⁹ Firnahirera and Lazuardi, "Pembangunan Ibu Kota Nusantara: Antisipasi Persoalan Pertanahan Masyarakat Hukum Adat."

¹⁰ Dedy Hernawan, "Assessing the Impact of Land Development Regulations on Customary Land Values: A Case Study of Rempang and IKN in Indonesia," *Society* 11, no. 2 (2023): 644–64.

the literature through an examination of legal instruments designed to deter land speculators but which actually weaken the bargaining position of local communities whose land is not certified, a condition that creates a paradox of legal protection in national strategic projects.

2. METHOD

In this study, the author uses a socio-legal study approach as the research method. The author also uses a normative study approach by considering the context of norms and their enforcement. In addition, the author also analyzed legal sources using a conceptual approach and a legislative approach related to land rights by analyzing policies related to the Capital City of Nusantara, which are closely related to the protection of human rights in accordance with the 1945 Constitution of the Republic of Indonesia. The data for this study was obtained in the area that was the subject of the study, namely the Capital City of Nusantara.

3. DISCUSSION

3.1. Legal Approach to Land Conflicts with Communities

In understanding that society is people who occupy an area either directly or indirectly and there is a relationship of mutual need both in the social scope and history of the community. In the order of society, of course, there are various kinds of societies ranging from modern society to traditional society. Van Vollenhoven first initiated the discussion on customary law communities, which was continued by Ter Haar. Ter Haar gave the following definition, customary law communities are organized groups of people, settled in a certain area, have their own power, and have their own wealth in the form of visible and invisible objects, where the members of the unity each experience life in society as a natural thing according to nature and no one among the members has the thought or tendency to dissolve the bonds that have grown or leave in the sense of breaking away from the bonds forever.

Indigenous peoples residing in the IKN area must receive legal protection as Indonesian citizens. Legal protection for them is intended to prevent conflicts and disputes that may arise as a result of the development of the IKN. The legal protection needed for them includes preserving the customary legal practices or living law inherent in the IKN community, issuing Spatial Plan regulations that do not erode local cultural values or eliminate the public interest of IKN development, as well as implementing a land registration program for communities that do not yet have certificates.¹¹

In some cases, indigenous peoples have successfully fought for their rights through advocacy, litigation, and social activism. Examples include cases where indigenous peoples have succeeded in gaining recognition of their land rights through court decisions or negotiations with the government and companies. However, this process is often time-consuming and resource-intensive, and is often met with significant legal and political challenges from parties with strong economic interests.¹²

¹¹ Armies, Verauli, and Baiquni, "Urgensi Perlindungan Hak Kepemilikan Atas Tanah Masyarakat Adat Di Wilayah Ibu Kota Negara Nusantara."

¹² Asnawi Mubarok et al., "Perlindungan Hak Atas Tanah Masyarakat Adat Di Era Otonomi Daerah: Tantangan Dan Peluang," *Almufi Jurnal Sosial Dan Humaniora* 1, no. 2 (2024): 69–77.

Customary law communities are bound and influenced by two factors, territorial and genealogical factors. the legal definition of indigenous peoples in relation to land can be found in Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 10 of 2019 concerning Procedures for Determining Communal Rights to Land of Customary Law Communities and Communities Located in Certain Areas, which states that a customary law community is a group of people bound by their customary legal system as members of a legal community due to their shared place of residence or on the basis of descent. Customary law communities have religious, communal, concrete and contingent values as well as having their own characteristics of the indigenous community. Customary law communities are certainly related to customary law in the environment, as the definition of customary law is a complex of norms that originate in the people's sense of justice that always develops and includes rules of human behavior in everyday life in society, mostly unwritten, always obeyed and respected by the people, because it has legal consequences (sanctions). In this case, customary law communities or local communities that have lived for generations are affected by the acquisition of land for the development of the nusantara capital city. The concept of land acquisition is followed by overlapping tenure claims. The state/government considers lands to be used for development activities for the benefit of the state because cultivators or people who claim to be owners, cannot show proof of ownership, especially in the form of certificates.¹³ Thus, there are issues regarding the protection and certainty of the rights of indigenous peoples and local communities in this land acquisition process.

In essence, in the order of customary law society, it will certainly be determined and provide a process regarding the formation of customary law in that society. In this development, of course, there is a law in a human scope that becomes a continuous habit of both individuals and community groups that make this custom to apply to each of its members. So that the customary law can be accepted by the community and must be implemented in the community order. In essence, the formation of society in the order of customary law through sociological aspects and juridical aspects.

The notion of conflict in the theory put forward by K Merton, which in this case is the theory of structural functionalism as emphasized on order, ignores the conflicts and changes that exist in the elements of society. The theory explains that society is a social system consisting of elements or parts that are interrelated, united in balance. Society is seen as a group relationship that works with each other in a somewhat organized manner following the rules and values adopted by some people.¹⁴ The problem of land ownership arising from overlapping claims is one of the causes of agrarian conflict in Indonesia. This situation will continue and exacerbate conflict when the area becomes the capital of the Nusantara, especially given the lack of recognition of the customary law communities and local

¹³ Rikardo Simarmata, "Tumpang Tindih Penguasaan Tanah Di Wilayah Ibu Kota Negara 'Nusantara,'" *Veritas et Justitia* 9, no. 1 (2023): 1–33.

¹⁴ Abdul Hamid Arribathi, "BAB 1 PENGANTAR SOSIOLOGI ANTROPOLOGI PENDIDIKAN," *SOSIOLOGI ANTROPOLOGI PENDIDIKAN*, n.d., 18.

communities there.¹⁵ The urgency of preventing agrarian conflicts in the development of the National Capital is to create justice in society and for those who need land (government) and preventing agrarian conflicts in the development of the National Capital in an effort to achieve justice, at least in two ways, namely open socialization to the community and adequate compensation and guarantees for the community's livelihood after land acquisition.¹⁶ Thus, the development of the IKN as a future project for the nation must be carried out based on the principles of social justice, authentic public involvement, and support for vulnerable groups. Only in this way can agrarian conflict resolution policies become a state instrument that is not only administratively effective but also socially legitimate.¹⁷

Etymologically, conflict comes from the Latin configere which means hitting each other. Conflict is an action of one party that results in obstructing, hindering, or disturbing the other party, which can occur between groups of people or in relationships between individuals.¹⁸ There are several factors that cause conflict or conflict as stated by Soerjono Soekanto, namely :¹⁹ Differences between individuals whose different stances and feelings are likely to lead to clashes between them, especially differences in stances and feelings between them. Cultural differencesvThe personality differences of individuals also depend on the cultural patterns that are the background for the formation and development of personality, which will more or less affect the personality of a person in that culture. Differences in interests between individuals and groups are another source of conflict, whether economic, political, and so on. Social changes that take place quickly for a while will change the values that exist in society which can cause the emergence of groups with different stances.

The existence of conflict certainly has a bad impact on the environment that directly impacts the conflict so that there are efforts to be able to stop the conflict by approaching both personally and in groups in the environment. There are several phases of the conflict process, namely :²⁰ The Pre-Conflict Phase is the stage where there is a mismatch of goals between two or more parties. The Confrontation Phase is the stage where the conflict becomes more open. Each side can gather resources and strength and seek allies in the hope of increasing confrontation and violence. Relations between the two sides become very tense, leading to polarization between supporters on each side. Crisis Phase i.e. the peak stage of the conflict, tensions and violence occur, in large-scale conflicts, this period constitutes war, communication between the two sides may be cut off and statements from both sides tend to be accusatory and oppositional. The Consequence Phase where the existence of conflict will inevitably leave consequences. Whatever the circumstances, the level of tension, confrontation

¹⁵ Rakhmat Hidayat, "Konflik Agraria Masyarakat Adat Dalam Pemindahan Ibukota Negara," *Konferensi Nasional Sosiologi IX APSSI*, 2022, 140–51.

¹⁶ Aprilia Wahyuningih, "Pencegahan Konflik Agraria Dalam Proses Pembangunan Ibu Kota Negara: Pengadaan Tanah Berkeadilan," *Lex Renaissance* 7, no. 4 (2022): 675–90.

¹⁷ Andi Saiful Haq, Azhari Azis Samudra, and Evi Satispi, "Implementasi Kebijakan Penyelesaian Konflik Agraria Pengadaan Tanah Untuk Pembangunan Ibu Kota Negara Nusantara," *Sospol* 11, no. 2 (2025): 175–91.

¹⁸ Antonius Atoshoki, *Relasi Dengan Sesama* (Elex Media Komputindo, 2002), 175.

¹⁹ Soerjono Soekanto, "Sosiologi: Suatu Pengantar," 2012, 91.

²⁰ "KajianPustaka.Com," accessed April 15, 2025, <https://www.kajianpustaka.com/>.

and violence in this phase has decreased, so there is a possibility of resolution. Post-conflict phase where the phase is resolved by ending various kinds of violent confrontations, tensions are reduced and the relationship leads to a normal situation between the two parties.

3.2. The Impact of Land-Related Regulations in the Nusantara's Capital City on Land Tenure Conflicts by Local Communities

The research location was conducted in the Nusantara Capital Region consisting of Sepaku sub-district in Panajam Paser Utara (PPU) district and Kutai Kartanegara district. Historically, since 1960 Sepaku has been in the area of Balikpapan Municipality under the name of Balikpapan Seberang sub-district which consists of Sepaku sub-district and Penajam sub-district at present. The indigenous tribe that inhabits Sepaku sub-district is the Paser tribe and there are also immigrant tribes such as the Javanese tribe who initially participated in the transmigration program in 1977, 1991 and 1998. The Sepaku area (along with Penajam) was then handed over by the Balikpapan Municipality to Kabupaten Pasir (now Kabupaten Paser) in 1988 and the name of Balikpapan Seberang sub-district was changed to Penajam sub-district. As a condition for the expansion of North Penajam Paser Regency (which was realized in 2002), Penajam sub-district was divided into Penajam sub-district and Sepaku sub-district. On August 26, 2019, President Joko Widodo designated parts of North Penajam Paser Regency as Indonesia's new capital city and parts of Sepaku sub-district became one of them. The population of Sepaku sub-district as of 2018 is around 31,814 people with a population density of 27.14 people per square kilometer, then in 2021, the population of Sepaku is 38,160 people.

Administratively based on the Nusantara Capital City Master Plan (IKN), there are 6 (six) districts from Kutai Kartanegara Regency (Kukar) which are included in whole or in part in the IKN Authority area. The six sub-districts that are included in the IKN Authority area are Samboja sub-district, and Muara Jawa and West Samboja sub-district (which was newly expanded in 2020 through Regional Regulation Number. 6/2020) are included in the overall Authority area. Then Sangasanga, Loa Janan and Loa Kulu are included as part of the IKN Authority area.

Community cooperation is needed in order to create an attitude of mutual support because the protection of indigenous peoples' rights to the development of IKN requires the contribution of communities throughout Indonesia, not only the government and companies involved in the project as to provide an explanation for the protection of indigenous peoples' rights in a sustainable and fair manner.²¹

The application of these principles emphasizes the importance of regulatory harmonization in the agrarian legal system, particularly in the management of HAT in the IKN. Inconsistencies between lower and higher regulations can create legal uncertainty and exacerbate conflicts of norms, which can ultimately have a negative impact on local communities and hinder the continuity of sustainable development in the region.²²

The impact of the development of IKN as well as regulations that continue to undergo

²¹ Aulia, Putro, and Mufidah, "Masalah Perlindungan Hak Masyarakat Adat Terhadap Pembangunan IKN."

²² Muhammad Asrul Maulana and Radian Salman, "KONFLIK NORMA DALAM PEMBERIAN IZIN JANGKA WAKTU HAK ATAS TANAH WILAYAH IBU KOTA NUSANTARA," *Veritas et Justitia* 11, no. 1 (2025): 152–70.

several changes, of course, there must be anticipation of local communities, as in this case the existence of indigenous peoples, which is an effort to anticipate the land problems of indigenous peoples in IKN which can be done, among others, by: (1) Completion of the Indigenous Peoples Bill at the first stage of IKN development in 2022-2024 2) Establishment of an Association Legal Entity for indigenous peoples. (3) Recognition of Indigenous Peoples through Regional Regulations These three things will certainly have an impact on the IKN development process, indigenous peoples in the IKN area need to be immediately recognized by the government.²³

3.3. A Portrait of Land Tenure by Communities in the Capital City of the Nusantara

Based on the results of field research, information was obtained on how the community historically controls and utilizes land. The findings vary regarding the length of time they have lived in the IKN location, but there are similarities regarding the utilization of existing land. Information from Sibukdin, for example, one of the respondents who is a long-time resident in the IKN area who has settled in 1950, in his statement he was in the village even before Indonesian independence, namely since 1911, which is the third or fourth generation. The beginning of land or land tenure by the respondent was based on generations by the Balik tribe, the land area reached tens of thousands of hectares to the border of Kutai Kartanegara. From the forest, land, water in the land, 2 (two) hectares per person are used for farming. To prove control over the land, the Respondent has a seal letter (Surat Pernyataan Penguasaan Tanah Negara) but this land is still in the KBK or Forestry Cultivation Area so a certificate cannot be made. Respondents also said that almost 50% of their land does not have proof of land tenure.

In the interview, the respondent had experienced conflict with the PT ITCHI Company and conflict with the transmigration community, the conflict occurred due to the status of the respondent's land tenure, in the conflict he said that he could only surrender and mediation efforts had also been made involving the Regent or local government. In resolving the conflict, there was impartiality with the transmigration community and the company. The respondent said that there is still no indigenous community in the village, but there is a Paser Customary Institution (LAP). Meanwhile, according to Jusaen, according to the results of interviews conducted, the respondent is one of the people who has lived in the IKN area since 1965 as the third generation. Related to the beginning of land or land tenure by the respondent is by clearing land or forest and getting an inheritance with a land area of 6 hectares in the IKN area which is used as a garden, 4 hectares are used as rubber plantation land since 2010, and 2 hectares as oil palm plantation land. However, in his statement the respondent did not have evidence related to land control or utilization.

Respondents said that there was a conflict over land tenure or utilization with PT IHM in 2006 to 2008, the conflict occurred because community land was issued HGU to PT IHM.

²³ Wilson Fernando, "Perlindungan Hukum Bagi Masyarakat Adat IKN, Dengan Tinjauan Terhadap Undang-Undang Nomor 5 Tahun 1960 Dan Sistem Publikasi Pendaftaran Tanah Ulayat," *Mandalika Law Journal* 1, no. 1 (2023): 26–39.

Respondents explained that there was no resolution to the conflict and the community land fell to the PT.IHM Company even though there was an official report. Apart from land tenure and utilization, the respondent also explained that in the village he lived in there was an indigenous community, namely LAP, and 35 families. Jikram said that he had lived in the IKN area even before Indonesia's independence and was the third generation. The beginning of land or land tenure by Respondents is by cultivating, managing land according to their wishes for gardening with a land area of 3 hectares which is used to grow mountain rice. In the Respondent's statement regarding proof of land tenure and land utilization, there is no legality from the past until now, and is only based on evidence of a seal letter in 1970. In addition to land tenure and utilization, the respondent said that in the village there is an indigenous community, namely the Balik tribe.

Another opinion was obtained from Harti, the Respondent was one of the residents in the IKN area from 1991 to 2010 and was the first generation to live in the village. Related to the beginning of land or land tenure by Respondents through a seal letter that has been PSTL. The respondent's land area is around 5.5 hectares with proof of land tenure in the form of a PSTL seal letter. In his statement, there have been conflicts over land tenure in the form of conflicts over land boundaries and conflicts between the community and the company. The party involved is of course the company. The conflict was resolved through mediation. Apart from land tenure, the respondent said that there is an indigenous community in the village, namely Adat Paser, as well as according to hj. Hafida, the respondent is one of the residents who has been in Bukit Raya village since 1972 as the first generation. The respondent began to control land or land by buying land with an area of 4 hectares and utilized for oil palm. Proof of land tenure is in the form of a seal and has been upgraded to Property Rights.

In the respondent's statement, there has never been a conflict over land tenure or utilization. As for transmigration residents, Mr. Edi Suapto is one of the residents who has lived in the IKN area, precisely in the Bumi Harapan village since 1977, he is a transmigration and the first generation to live in the village. From his information, the beginning of land / land tenure was carried out through the sale and purchase of land from the Paser community with a land area of 2400m² which was used for housing, and 5 hectares to be used as rubber plantations and rice fields. Evidence of land tenure or utilization is in the form of a seal on more than 2 hectares of IKN land and a certificate on transmigration land. In addition to land tenure and ownership, Respondents also stated that Bukit Raya village has a Paser Indigenous Community.

Based on several interviews with respondents, some information explains that related to the beginning of land or land tenure there are several levels, if in residential areas and in residential areas the status of control is by having correspondence or a sale and purchase transaction if both parties need a legality process then legality is made, if the forest is loose, Forests within the company's area or non-area status are called freehold forests, protected forests, cultural heritage forests, and customary forests, from some of these forests there are clashes, namely the area because this forest area has two lands, one is a forestry maintenance

area and the second is a forest area owned by HGU and HPA. However, the indigenous people there feel that they have owned it for generations.

Respondents explained that the land area is relatively in the range of 1000 hectares which is utilized for maintenance to keep it protected from damage and remain sustainable. Evidence of land tenure owned by respondents is in the form of documents, namely letters of cultivation or PPAT. Respondents acknowledged that conflicts often occur regarding the control of this land by the community and the company. One of the forms of conflict is that in the process of cultivation there is overlap. Efforts made in resolving these conflicts are in the form of mediation carried out on both sides. The parties involved in the mediation are the owner's boundary session, authorized officials, and customary parties. In addition to land tenure or utilization, the respondent also explained that there are indigenous communities in the village, namely Dayak Pasak and Dayak Benuak.

Land is one of the natural resources that cannot be separated from human existence in everyday life. This means that land has an important meaning for human life, human needs for land not only when humans are still alive such as for facilities / places to build houses, fields and so on but also until humans die, land is still needed as a final resting place (burial place). Because the need for land for every human being is very important, the state through the constitution is given the authority to regulate the allocation, use and utilization of land so that the fulfillment of the needs of every person/citizen in the Unitary Territory of the Republic of Indonesia can be fulfilled and well protected. Article 33 paragraph (3) as the basis for regulating agrarian objects in Indonesia states that "The land and water and the natural resources contained therein shall be controlled by the state and utilized for the greatest prosperity of the people".

In implementing policies, consistency with the hierarchy of laws and regulations must also be maintained. Presidential Regulation No. 75 of 2024 must be in line with the provisions of Law No. 5 of 1960 concerning Basic Agrarian Principles to avoid legal uncertainty in the future. By considering these various recommendations, the government can ensure that the policy changes made not only support the development of IKN infrastructure, but also create justice, prosperity, and sustainability for all levels of society.²⁴²⁵ Customary law communities are an integral part of Indonesia, and have existed since before Indonesia gained independence. Indonesia ratified Law No. 11 of 2005 on the Ratification of the Covenant on Economic and Cultural Rights, which explains that the state has an obligation to respect, protect, and fulfill the rights of customary law communities.²⁶ The development of the National Capital City (IKN) in East Kalimantan, despite bringing a vision of green and inclusive civilization

²⁴ Maulana Arba'Satryadin and Ikhlasul Akmal Aulawi, "Perubahan Kebijakan Pemberian Hak Atas Tanah Di Ibu Kota Negara Dalam Perspektif Peraturan Presiden Nomor 75 Tahun 2024," *Jurnal Pertanahan* 15, no. 1 (2025): 30–43.

²⁵ Rasheesa Ryash Raynee et al., "ANALISIS KEBIJAKAN HAK GUNA BANGUNAN DALAM PENGEMBANGAN IBU KOTA NUSANTARA: DAMPAK DAN TANTANGAN BAGI MASYARAKAT LOKAL," *Van Java Law Journal* 1, no. 03 (2024): 178–87.

²⁶ Dashilfa Afifah et al., "Kepastian Hukum Terkait Hak-Hak Masyarakat Konservatif Dalam Pembangunan Ibu Kota Nusantara," *Socius: Jurnal Penelitian Ilmu-Ilmu Sosial* 1, no. 11 (2024).

transformation, fundamentally faces serious challenges in protecting the constitutional rights of indigenous peoples, particularly in relation to customary land ownership. A legal-normative analysis shows that there is a substantial gap between the recognition of rights at the level of the 1945 Constitution and the Constitutional Court's ruling, with weak implementation in the operational regulations of the IKN Law. The focus of development oriented towards accelerating investment has created conditions in which customary rights are effectively marginalized.²⁷ Community cooperation is essential to foster mutual support, as protecting the rights of indigenous peoples in relation to the development of the new capital city requires the contribution of communities throughout Indonesia, not just the government and companies involved in the project.²⁸

Various policies and regulations have been made in the context of control in the land sector in order to prevent and eradicate speculators and land mafia in the Nusantara's Capital City, starting from the policy of limiting the transfer of land rights (land freezing), Thematic Mapping of Land and Space (PTPR), accelerating land registration in East Kalimantan to the application of the Land Value Zone (ZNT), this certainly requires a study of several alternative policy strengthening to minimize land tenure problems in the IKN area. In the context of moving the National Capital of the Nusantara, which has been planned and determined by the Central Government through Law Number 3 of 2020 concerning the National Capital. This law was passed on February 15. The consequence of the relocation of the State Capital, which was previously located in DKI Jakarta, is certainly on the land aspect, at least as stated in Article paragraph (2) that the Nusantara Capital includes a land area of approximately 256,142 ha (two hundred fifty-six thousand one hundred forty-two hectares) and a sea water area of approximately 68,189 ha (sixty-eight thousand eighty-nine hectares). Of course the need for land for the benefit of moving the National Capital is not a small amount. Therefore, it is necessary to have clear legal rules and provide certainty in the land acquisition process. The following are some of the policies in the form of regulations issued by the government in the context of moving the capital city of the Nusantara related to land :

3.3.1. Law Number 3 of 2022 concerning the National Capital

The regulation of land in this Law is regulated in Chapter V of the second part which regulates Land and Transfer of Land Rights (HAT) precisely in Article 16. This article at least explains that the acquisition of land by the Nusantara Capital Authority and/or ministries/institutions in the Nusantara Capital through a forest area release mechanism and a land procurement mechanism which of course is based on existing regulatory provisions. The intended land acquisition is carried out with the mechanism in the legislation in the land sector for development in the public interest or direct land acquisition. The mechanism of land acquisition for the development of these interests in the preparation stage is carried out by the Nusantara Capital City Authority.

²⁷ Abu Bakar Rosyid Basalamah and Sri Wahyuni Handayani, "Tanah Ulayat Dan Pembangunan Ibu Kota Negara (IKN) Baru: Harmonisasi Regulasi Dan Perlindungan Hak Masyarakat Adat," *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 3, no. 5 (2025): 7147–54.

²⁸ Aulia, Putro, and Mufidah, "Masalah Perlindungan Hak Masyarakat Adat Terhadap Pembangunan IKN."

In this case, the National Capital Authority is given the right to use and / or management rights to land, of course based on the provisions of laws and regulations, besides that the National Capital Authority also has the authority in terms of binding itself with any individual or legal entity for HAT agreements in the National Capital. The National Capital Authority can also provide guarantees for the extension and renewal of HAT on management rights in accordance with the requirements in the agreement, the term of this agreement is adjusted to the needs. HAT in the IKN Region must be utilized for the purpose of granting rights, if it is not utilized in accordance with its purpose, it can be canceled. Article 17 explains that the Nusantara Capital Authority has the right to be prioritized in purchasing land in the Nusantara Capital City.

3.3.2. Presidential Regulation Number 65 of 2022 concerning Land Acquisition and Land Management in the Capital City of the Nusantara

This presidential regulation is a technical regulation of Law Number 3 of 2022 concerning the National Capital. In its consideration, it is explained that this regulation was issued for the implementation of the preparation and development process of the Nusantara capital city, including its relocation, as well as the implementation of the Special Regional Government of the Capital City of the Nusantara, it is necessary to regulate land acquisition and land management, Second, that the process of land acquisition and land management needs to take into account the land rights of communities in the Nusantara Capital region, third that the provisions regarding land acquisition and land management in the Capital City of the Nusantara as referred to in Law concerning the National Capital City need to be regulated in more detail so that they can be implemented effectively, efficiently and accountably. From several considerations presented above, the important point of this Presidential Regulation is that the process of land acquisition in various forms needs to pay attention to the land rights of the community, so that the land rights that have been owned are guaranteed protection.

In Presidential Regulation No. 65 of 2022, the acquisition of land in the Capital City of the Nusantara is carried out through two mechanisms, namely the release of forest areas and/or land acquisition. The provisions of Article 3 explain that the release of forest areas is carried out in the National Strategic Area (KSN) of the Capital City of the Nusantara so that it can be used both for the preparation, construction, and relocation of the National Capital City, as well as the implementation of the Special Regional Government of the Capital City of the Nusantara, The release of the area in question is certainly carried out by paying attention to and providing protection for community land tenure, individual rights, or community communal rights. Meanwhile, the provisions in Article 4 paragraph (1) state that land acquisition is carried out through the mechanism of; a. land acquisition for development in the public interest or, b. direct land acquisition. This land acquisition is held to support the preparation, construction, and relocation of the Capital City of the Nusantara, as well as the implementation of the Special Regional Government of the Capital City of the Nusantara. Of course, land acquisition is carried out by taking into account the HAT of the community and the HAT of indigenous peoples. Land acquisition for development for the Public Interest as

referred to in Article 4 paragraph (1) letter a is organized through the stages of; a. planning, preparation, implementation, and submission of results. Meanwhile, Article 10 explains that in the context of efficiency and effectiveness, Land Acquisition in the Nusantara Capital can be carried out through direct land acquisition as referred to in Article 4 paragraph (1) letter b by the Nusantara Capital Authority with the entitled party by means of sale and purchase, grants, voluntary relinquishment, ruislag, or other agreed methods. However, if direct land acquisition is not achieved, the mechanism for land acquisition for development in the public interest will be used.

Land in the Capital City of the Nusantara obtained from the release of forest areas and/or land acquisition is designated as State Property and/or ADP. Land in the Capital City of the Nusantara that is designated as State Property is land with government administration and is given usage rights to the Authority of the Capital City of the Nusantara and/or ministries/institutions. This right of use is a right that is used for an unspecified time and is utilized in accordance with its designation. While the land in the Nusantara Capital is designated as ADP, it is managed in accordance with the provisions of laws and regulations regarding ADP, the management rights are given to the Nusantara Capital Authority.

In order to prevent excessive transfer of HAT and speculative indications, control of HAT transfer is carried out, HAT control is carried out on registered and unregistered land located in the KSN Ibu Kota Nusantara area, this transfer control is carried out by the Head of the Nusantara Capital Authority. Control of HAT Transfer is carried out on legal actions with a sale and purchase mechanism through; a. deed of a land deed maker official, b. deed of sale and purchase binding agreement, c. sale and purchase letter under the hand legalized or waaarmerking by a notary and/or d. other underhand sale and purchase letters. Any Transfer of HAT through sale and purchase as referred to in Article 19 must obtain approval from the Head of the Nusantara Capital Authority.

3.3.3. Circular Letter of the Minister of Agrarian and Spatial Planning/National Land Agency Number: 3/SE-400. HR.02/II/2022 concerning Restrictions on the Issuance and Transfer of Land Rights in the National Capital Area.

This circular letter, which was stipulated in Jakarta on February 14, 2022, is one of the bases used by the government to provide restrictions on the issuance and transfer of land rights in the National Capital Region. That in order to prevent the potential existence of land mafia, land speculators and occupation from unauthorized parties, until the establishment of the National Capital Authority. Therefore, a policy of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency is needed as a guideline in the context of limiting the issuance and transfer of land rights in the National Capital Region. The purpose and objective of this Circular Letter is to provide legal certainty and guidelines in the policy of limiting the issuance and transfer of land rights in villages/sub-districts included in the delineation of the National Capital Region that has been determined.

In accordance with point 3 of this circular letter, the scope of what is regulated includes restrictions in the form of; a. Issuance of land rights, b. legal actions intended to transfer land

rights: and/or, issuance of land certificates and other similar documents intended as information on land control and ownership, in villages/sub-districts included in the delineation of the National Capital Region that has been determined. The purpose of the restriction is explained in point 5 letter b, in brief, as a preparation for the development of the National Capital City and to prevent the potential for land mafia, land speculators and occupation by unauthorized parties in areas included in the delineation of the National Capital City.

Point 5 letter c contains instructions to, among others; Head of the Land Office of Penajam Paser Utara Regency and Head of the Land Office of Kutai Kartanegara Regency not to issue land rights and/or record the registration of deeds/agreements in the context of transferring land rights located in the delineation of the National Capital City, including deeds/agreements that have been made before the enactment of this circular letter, except for the transfer of rights due to inheritance, and before processing an application for the issuance of land rights and/or transfer of land rights, it is necessary to ensure that the location of the land plot is not in the area included in the delineation of the National Capital Region. In addition, orders to PPATs, Notaries, Sub-District Heads or other authorized officials are prohibited from making deeds/agreements intended to transfer land rights in areas included in the delineation of the National Capital Region. And an order to the Head of Village in accordance with the attachment to the list of areas of restrictions on the issuance and transfer of Land Rights in the National Capital Region.

First, it is prohibited to issue Land Certificates and other similar documents intended as information on the control and ownership of land in the area included in the delineation of the National Capital City, second, in issuing Land Certificates must obtain a recommendation from the land office to ensure that the location of the land plot is not in the area included in the delineation of the National Capital Region, or in short, the officials mentioned are prohibited from issuing land certificates and other similar documents intended for the control and ownership of land in the area within the delineation of the National Capital City. That the restrictions referred to in number 5 letter c shall apply until the establishment of the State Capital Authority.

3.3.4. East Kalimantan Governor Regulation Number 6 of 2020 concerning Control of Land Use Transfer and Licensing in the IKN Candidate Area & Buffer Zone

This Governor Regulation is stipulated as a manifestation of the commitment of the East Kalimantan Regional Government, which is an area designated by the President as a candidate area for the National Capital City. This Governor Regulation is also an implementation of the mandate given by Law Number 2 of 2012 concerning Land Acquisition for Public Interest, which authorizes the Regional Government to control the transfer, control, ownership and use of land for the public interest.

Article 3 paragraph (1) states that the local government controls the transfer and use of land in the IKN candidate and buffer areas. The implementation of the control referred to is carried out in accordance with the duties and authorities by the officials mentioned in Article 3 paragraph (2), namely: Regent of Kutai Kartanegara, Regent of Penajam Paser Utara, Mayor

of Balikpapan, Camat/PPATS, Lurah/Village Head in the IKN candidate area and its buffer, PPAT in the working area of the 3 (three) Districts/Cities mentioned above, Notary and Regional Apparatus organizing Provincial licensing affairs.

Article 4 paragraph (1) letter a Implementation of control in accordance with the duties and authorities of officials in Article 3 paragraph (2) letters a to c above, namely the Regent of Kutai Kartanegara, the Regent of Penajam Paser Utara and the Mayor of Balikpapan impose restrictions in the form of: First, do not issue new licenses, extensions and recommendations in the IKN candidate area and buffer zone according to their authority except for government interests, second, supervise, prevent, and prohibit cultivation, control of land in forest areas that do not have permits, third, increase the role of regional apparatus in preventing and handling land issues, and fourth, provide protection and respect for the land rights of local communities from discrimination, exploitation, and all forms of human rights violations in accordance with statutory provisions. Furthermore, in Article 4 paragraph (1) letters b, c and d, the officials mentioned also carry out control in accordance with their duties and authorities, which are further explained in the article. In order to control, the sub-district head seeks and maximizes the role of the village head, Babinsa, Babinkamtibmas as part of the early handling of the activities of the mafia and land speculators. In controlling the transfer and use of land, socialization can certainly be done to the community, and in maximizing efforts to prevent and handle land issues, the Governor of East Kalimantan has formed an Integrated Team, whose membership is stipulated in a Governor Decree. Specifically regarding the safeguarding of forest areas, the agency that organizes affairs in the forestry sector of East Kalimantan Province should take preventive measures to protect and supervise forest areas and in its implementation the Forestry Service can coordinate with the ministry that organizes environmental and forest affairs. This provision is as stated in Article 6 paragraph (1) and paragraph (2) of the Governor Regulation referred to above.

3.3.5. Penajam Paser Utara Regent Regulation Number 22 of 2019 concerning Supervision and Control of Sale and Purchase Transactions and Transfer of Land Rights.

Several months before the various regulations described above related to the supervision and control of land sale/purchase transactions/transfer of land rights in the IKN candidate area. The Government of Penajam Paser Utara Regency has first issued a policy in the form of a Regent Regulation regarding this matter, precisely on September 2 (two), 2019. This regulation regulates the supervision and control of sale and purchase transactions and the transfer of land rights, in accordance with Article 2 of this Regulation that the supervision of transactions and control of land rights is carried out by the regional government in accordance with their respective working areas, which means that the regional government is the Regent, Camat, Lurah, Village Head.

What is done by the Camat, Lurah, and Village Head as stated in Article 3 letters a and b, among others, is to monitor the development of their area in terms of land ownership and/or control, especially every land sale and purchase transaction/transfer of land rights. In addition,

conducting socialization with the aim that the community can be careful in the event of a claim from anyone to the control of land located in an area with the status of a Forestry Cultivation Area (KBK) and on the concession of another party, then socializing to the community so as not to conduct land sale and purchase transactions / transfer of land rights in areas that are not in accordance with applicable land administration procedures and without being supported by a right base in accordance with the provisions. In Article 3 letter b of the regulation, the government also socializes the public to report every sale and purchase transaction/transfer of land rights. This is done of course so that the community is protected from land transactions that are not in accordance with the applicable provisions. Article 3 paragraph (3) also emphasizes that every land transaction must be known by the Regent and get approval or not get approval because the State Capital Region is moved to the Penajam Paser Utara area. It is clear that every land sale and purchase transaction that is included in the new National Capital Region must be approved by the Regent of Penajam Paser Utara.

3.4 Land Tenure Conflicts in the Nusantara's Capital Region

The existence of various regulations issued by the government, both the Central Government and the Regional Government related to land or land does not seem to provide a solution to the land problems that occur in the field (social life of the community), especially in the community in the Capital City of the Nusantara (IKN) area, both before the establishment of IKN and after. This is illustrated by the emergence of various kinds of land/land conflicts that occur. According to the findings of the Agrarian Reform Consortium (KPA), there are many cases of overlapping land tenure in the East Kalimantan region that will be built into the National Capital City (IKN). In Penajam Paser Utara Regency, for example, it is recorded that it has around 322 thousand hectares of land. However, around 218 thousand hectares or 67% of them are considered to have overlapping issues, with details of , Overlapping Provincial RTRW with District RTRW in Non-Forest Areas: 6,46%; Overlapping of RTRW (Provincial and/or District) with Forest Area: 3,99%; Overlapping Land Permits/Tit Rights on Aligned Landscapes (RTRW and Forest Area): 45,64%; Combination of overlaps involving Permits/Land Rights on Non-aligned Sites: 11,81%.

The application of these principles emphasizes the importance of regulatory harmonization in the agrarian legal system, particularly in the management of HAT in the IKN. Inconsistencies between lower and higher regulations can create legal uncertainty and exacerbate conflicts of norms, which can ultimately have a negative impact on local communities and hinder the continuity of sustainable development in the region.²⁹

Thus, the interpretation of 'state land' by government officials will be oriented towards strengthening the legitimacy of the formal control system. The implication is that the legitimacy of the informal land tenure system will diminish or disappear. Ultimately, this will affect the implementation of provisions in IKN regulations regarding respect for the land rights

²⁹ Muhammad Asrul Maulana, Sukardi, and Radian Salman, "Konflik Norma Dalam Pemberian Izin Jangka Waktu Hak Atas Tanah Wilayah Ibu Kota Nusantara," *Veritas et Justitia* 11, no. 1 (2025): 152–70, <https://doi.org/10.25123/g032eq74>.

of communities and customary law communities.³⁰ In addition, regarding the state's right to control land in the forests of East Kalimantan, there are also disparities between regulations and the rights of the community, which continue to cause unresolved agrarian conflicts in the East Kalimantan region.³¹ Changes in forest function and land acquisition for the development of the new capital city are often carried out without a participatory and transparent process, which can lead to potential agrarian conflicts and injustice in land distribution.³² The relocation of the national capital must take into account agrarian aspects, particularly the communal rights of indigenous peoples in the IKN area, including customary forests. As the administrator of agrarian reform, the state does have the authority to use land for public interests. However, this authority can also lead to agrarian conflicts within the community.³³ Therefore, the development of the new capital city requires a holistic approach to land acquisition, which not only considers economic value but also the social and cultural functions of land for local communities. Fair compensation is not limited to monetary compensation but must be designed as a transition scheme that supports economic sustainability, social recovery, and respect for local wisdom.³⁴

Agrarian conflicts arising from the overlap between forest concessions and customary lands have long been a problem in Indonesia. This issue will become even more problematic as it has the potential to occur in the IKN region, which is the heart of Indonesia. The lack of recognition of rights to customary territories will lead to inequality in the control of resources and means of production. The root of the problem is the lack of protection for customary lands and guarantees of the rights of indigenous peoples to communal lands. The source of conflict is generally related to the rights of communities to land. These rights need to be fulfilled so that the development process will gain support in the future.³⁵

KPA assesses that this overlap occurs because there are agrarian conflict cases that have not been resolved for a long time. KPA also said that this case involved land tenure conflicts between the government and local communities. "The IKN location is not empty land, land that according to the government is directly controlled by the government. Based on our findings, the IKN location has long been controlled by farmers, customary locations," said KPA Head of Policy Advocacy Roni Septian in a virtual press conference on Monday. (14/3).³⁶

³⁰ Rikardo Simarmata, "Tumpang Tindih Penguasaan Tanah Di Wilayah Ibu Kota Negara 'Nusantara,'" *Veritas et Justitia* 9, no. 1 (2023): 1–33, <https://doi.org/10.25123/vej.v9i1.6504>.

³¹ Yoshinta; Hazin Mufarrihul Putri Ariyanti, "Hak Menguasai Negara Atas Tanah Di Kawasan Hutan : Studi Kasus Pembangunan Infrastruktur Di Kalimantan Timur," *Evaluasi Kebijakan Kurikulum Merdeka* 1, no. 2 (2024).

³² Noer Gita Safira Zaini et al., "Polemik Pengelolaan Tanah Dan Kepastian Regulasi Di IKN: Sengketa Lahan, Potensi Korupsi, Dan Menilik Kembali Investasi," *Media Hukum Indonesia (MHI)* 3, no. 3 (2025).

³³ Indah Anggraini Novitasari, Farina Gandryani, and Fikri Hadi, "Legalitas Hak Komunal Atas Kelestarian Hutan Adat Di Wilayah Ibu Kota Nusantara," *Mimbar Keadilan* 16, no. 1 (2023): 78–91.

³⁴ Yana Ulfah, Alan Smith Purba, and Emayanti Christina Hutabarat, "Ganti Rugi Atas Tanah Dalam Pembangunan Ibu Kota Nusantara: Tinjauan Ekonomi Dan Sosial," in *FORUM EKONOMI: Jurnal Ekonomi, Manajemen Dan Akuntansi*, vol. 27, 2025, 210–15.

³⁵ Hidayat, "Konflik Agraria Masyarakat Adat Dalam Pemindahan Ibu Kota Negara."

³⁶ "KPA: Banyak Tumpang Tindih Kekuasaan Di Tanah IKN," accessed April 15, 2025, <https://databoks.katadata.co.id/demografi/statistik/55626b96d90e507/kpa-banyak-tumpang-tindih-kekuasaan-di-tanah-ikn>.

Another condition as quoted from one of the online media that the Penajam Paser Utara Resort Police (Polres PPU) is exploring a number of complaints related to overlapping or land disputes involving communities and companies in the jurisdiction of Polres PPU. In the news published on January 21, 2016 the Police Chief said that "We have received many complaints related to overlapping land, both reported by the company and the community".³⁷

In 2019, for example, based on data obtained from the PPU District Court website, there was a case number 14/Pdt.G/2019/PN Pnj with a case classification of land disputes involving fellow community members. For the case of the object of land dispute itself, there are 124 cases recorded on the website, 51 of which are cases of land sale and purchase, 69 cases of land dispute objects, 1 case of default, 1 case of compensation and 1 case of land grabbing. These cases are generally lawsuits between the community and the community, only a few of which are lawsuits against the Regent of Penajam Paser Utara and against the President of the Republic of Indonesia or the Government. Based on this data, it shows that land conflicts in the IKN area have occurred since before the area was designated as the National Capital City. The results of research in the field (Sepaku Village, Penajam Paser Utara Regency) reveal the same thing, that land conflicts are still rife as stated by one of the respondents met, in his statement he said that he had occupied the area that is now Sepaku Village for a very long time, namely since 1950. The beginning of land or land tenure by the respondent was based on generations by the Balik Tribe, the land area reached tens of thousands of hectares to the border of Kutai Kartanegara. From the forest, land, water in the land, 2 (two) hectares per person are used for farming. To prove control over the land, the Respondent has a seal letter (Surat Pernyataan Penguasaan Tanah Negara) but this land is still a KBK area or Forestry Cultivation Area so that land certificates cannot be made. Respondents also said that almost 50% of their land did not have proof of land tenure.

The government is expected to continue to consider the existence, territory, rights and cultural traditions of indigenous peoples in the management of land, water and forests. The government through the IKN Authority can provide a proper place or land for indigenous peoples in the IKN area to be able to carry out their activities without abandoning their traditional customs. This provision should also be carried out by involving representatives from each indigenous community that has been identified as occupying the IKN area. The involvement of IKN communities should use self-mobilization and connectedness type participation, where indigenous peoples can express their aspirations independently. With these various efforts, it is hoped that the land problems of indigenous peoples in IKN at the first stage of development can be minimized. In the interview, the respondent had experienced conflict with the company, namely PT ITCI and conflict with the transmigration community, the conflict occurred due to the status of the respondent's land tenure, in the conflict he said that he could only surrender and mediation efforts had also been made

³⁷ "Polres Penajam Dalam Sengketa Lahan Libatkan Perusahaan - ANTARA News Kalimantan Timur," accessed April 15, 2025, <https://kaltim.antaranews.com/berita/30241/polres-penajam-dalam-sengketa-lahan-libatkan-perusahaan>.

involving the Regent or local government. In resolving the conflict, according to the respondent, there was partiality towards the transmigration community and the company

4. CONCLUSION

Land-related regulations since the establishment of IKN have an impact on community land tenure and utilization in the IKN area, this conflict starts from the non-transparency of the IKN development process on community land, the amount of compensation to the cessation of registration of community land rights. This adds to the problems of land tenure and utilization by the community that existed before the establishment of the new IKN in the form of overlapping rights, land grabbing to land tenure in forest areas. Legal efforts that can be made to overcome the problems of land tenure and utilization in IKN are carried out with different efforts between problems that arise before and after the establishment of the New IKN. Problems that occurred before there was an IKN were carried out by optimizing non-litigation efforts in the form of negotiations, mediation and conciliation. The problems that occur after the establishment of IKN are carried out by adjusting the implementation of the land acquisition scheme to the conditions that exist in the IKN area.

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