

Legal Protection of Indigenous Community in Protected Forest Areas Based Forest City

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ABSTRACT

Indonesia has established regulations regarding the location of the National Capital. However, the important question is whether the Law is effective and whether the transfer of the National Capital has provided legal protection for indigenous peoples in the area designated as the National Capital. This study aims to analyze the protection of customary law communities in urban forest-based protected forest areas. This research is normative legal research, which uses secondary data with primary, secondary, and tertiary legal materials. The study results show that the state must finalize the Law on the State Capital, which also regulates the legal protection of Indigenous Peoples as a *lex specialis* provision. The Law on the State Capital must formulate norms that automatically guarantee the determination of the legal status of indigenous and tribal peoples.



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1. Introduction

President Joko Widodo announced the relocation of the capital from Jakarta to the North Penajam Paser Regency (PPU), which led to the decision that Kalimantan would be used as the proposed location for Indonesia's new capital. As a result, the government can develop the Kalimantan region into a significant metropolis similar to DKI Jakarta. To develop into a new city, the government must make land available to construct government buildings, housing, and other infrastructure required by Kalimantan as a potential candidate for the State's new capital.¹ The president stated that an extensive and intensive three-year study was used to determine East Kalimantan's location for IKN candidates. The government's decision to relocate IKN from Jakarta was motivated by several factors; first, Jakarta is

¹Theresia, Ricky Martin Sihombing, and Florentina Simanungkalit, 'The Impact Of Indonesia Capital Relocation To Kalimantan Peatland Restoration', *Sociae Polites*, 21.2 (2020), 231–41 <https://doi.org/10.33541/sp.v21i3.2262>

currently carrying too much weight. Second, Jakarta is home to Indonesia's largest airport and seaport; third, Java Island bears an increasing burden.²

The relocation of the capital using urban planning concepts designed to promote sustainable development is being developed in several cities around the world, particularly in China. Similarly, the Government of Indonesia intends to construct the National Capital City (IKN) based on the Forest City model. However, the concept's definition and guiding principles have yet to be established.³ Consequently, the Forest City concept as a more sustainable future urban planning model, mainly to ensure that the development of the National Capital City pays attention to the balance between urban development and natural and environmental sustainability, particularly in maintaining and preserving the function of forests, which are the island's most important resource and urban natures are reconstituted to perform particular work that is meant to achieve the infrastructural ideal of sustainable urbanism.⁴

The Forest City concept can be examined in greater depth based on Principles, Criteria, and Indicators. Forest City Principles are the fundamental principles or points of reference in the Forest City Concept that refer to urban development that can maintain the ecological functions of forests and other development objectives in the Forest City concept, such as carbon sequestration, biodiversity conservation, and environmental management to improve environmental quality. In China, a forest city is a city whose ecosystem is dominated by forest vegetation and whose ecological constructions have integrated urban and rural development. The concept of Forest City at IKN differs from that in China.⁵

The unclear magnitude of the urgency of relocating the capital has implications for the issue of relocating the money, which has yet to become a public issue that can be accepted by all parties or by existing stakeholders at both the central government and local government levels. The government has articulated the problem of relocating the capital city as a state institution authorized by government administration. The demand for the significance of the question of relocating the capital city is contingent on the participation of all existing parties.⁶

Though the COVID-19 pandemic slowed the relocation process, Frequently, delays in relocating IKN are attributed to investment requirements. Investments play a crucial role in accelerating the economic development of a country or region, not only boosting economic growth, expanding employment opportunities, and reducing poverty. Investment is, in the most basic sense, the process by which government, private, and household activities spend their money to generate a profit. Investing is crucial, particularly now that all nations, including Indonesia, are afflicted by the Covid-19 pandemic, for which the government has issued a variety of policies, including Alert, Emergency Response, PSBB or Large-Scale

²Jauchar B and others, 'The Impact of IKN on Socio-Economic Development in Penajem Paser Utara (PPU) and Kutai Kartanegara', *Journal of Governance and Public Policy*, 9.2 (2022), LAYOUTING <https://doi.org/10.18196/jgpp.v9i2.14083>

³Dadang Jainal Mutaqin, Muhajah Babny Muslim, and Nur Hygiawati Rahayu, 'Analisis Konsep Forest City Dalam Rencana Pembangunan Ibu Kota Negara', *Bappenas Working Papers*, 4.1 (2021), 13–29 <https://doi.org/10.47266/bwp.v4i1.87>

⁴Jennifer Gabrys, 'Programming Nature as Infrastructure in the Smart Forest City', *Journal of Urban Technology*, 29.1 (2022), 13–19 <https://doi.org/10.1080/10630732.2021.2004067>

⁵Lisha Liao and others, 'Towards Low Carbon Development: The Role of Forest City Constructions in China', *Ecological Indicators*, 131 (2021), 108199 <https://doi.org/10.1016/j.ecolind.2021.108199>

⁶Dian Herdiana, 'Menemukanali Syarat Keberhasilan Pemindehan Ibu Kota Negara [Identifying Conditions for Successful Relocation of the Nation's Capital]', *Jurnal Politika Dinamika Masalah Politik Dalam Negeri Dan Hubungan Internasional*, 11.1 (2020), 1–18 <https://doi.org/10.22212/jp.v11i1.1382>

Social Restrictions, New Normal Era, and the Era of Adaptation to New Habits.⁷ The movement of capital is anticipated to increase economic equality in Indonesia and narrow the gap between Java's islands and the rest of the country. According to multiple studies, relocating the capital city will boost the economy by 0.1% to 0.2% due to the encouragement of new investment.⁸

The formal issuance of Presidential Regulation (*Perpres*) Number 60 of 2020 concerning Spatial Planning for the Urban Areas of Jakarta, Bogor, Depok, Tangerang, Bekasi, Puncak, and Cianjur confirms that Jakarta is still the state capital. The government continues to discuss the relocation plan of the state capital (IKN) to Kalimantan Island, showing that the decision is unquestionable. The project is drafted in the IKN Bill included in the 2019-2024 National Legislation Program (*Prolegnas*), indicating that the new location of the capital will be North Penajam Paser Regency (PPU), East Kalimantan Province.

The study obtained varying responses from respondents. The local government and some individuals welcomed the move, arguing it was good news for the local community. On the other hand, relocation is a significant concern for the indigenous people (MHA). This is associated with their land rights. However, for indigenous peoples, the land is the most critical aspect of their identity. Numerous laws and regulations have been issued since the reformation of 1998 to recognize the existence and rights of indigenous people's lands, natural resources, and other fundamental rights.⁹

The problem of indigenous peoples is reflected in the IKN, where 26 villages or sub-districts and an estimated 20,000 people inhabit the IKN area. Problems arise when the community owns 31% of the 75,968 land parcels in IKN. This indicates that only 31% of communities possess official certificates. At the same time, the community manages the remaining 66% without ownership rights. In the IKN region, some people live and depend on agriculture. There are 162 land concessions, and communities governed by customary law continue to rely on the agricultural lands they cultivate.¹⁰ Another hand, The present problems are reflected in recognition of indigenous people and their traditional rights, which are intended to be completed by regional regulations. Of 2302 entities of indigenous people in Indonesia, only 11 are recognized by local law, and only one is being processed to obtain its determination from the National Land Agency (Badan Pertanahan Nasional) by a communal right.¹¹

These indigenous people are concerned that they will be denied their customary rights and evicted from the place they have called home for generations, with the coming state

⁷Surizki Febrianto and Suparto, 'The State of Indonesia Needs Investment to Accelerate Infrastructure Development After New Normal Policies Due to Covid-19', 499.Icolgas (2020), 447–65 <https://doi.org/10.2991/assehr.k.201209.325>

⁸A. Kodir and others, 'The Dynamics of Community Response to the Development of the New Capital (IKN) of Indonesia', in *Development, Social Change and Environmental Sustainability* (London: Routledge, 2021), pp. 57–61 <https://doi.org/10.1201/9781003178163-13>

⁹Ahmad Ridha Mubarak and Rabiatal Adawiyah, 'The History and Current Development of Indigenous People Movements in Indonesia', *Satya Widya: Jurnal Studi Agama*, 4.1 (2021), 12–24 <https://doi.org/10.33363/swjsa.v4i1.672>

¹⁰Jessica Armies dan Nabil Abdul aqil Muhammad Iqbal Baiquni, Asri Verauli, 'The Urgence of Protection of Ownership Rights To Indigenous Community Land in the Capital', 1.2 (2022), 14–27 <https://doi.org/https://doi.org/10.32734/rslr.v1i2.9670>

¹¹Nur Putri Hidayah, Fifik Wiryani, and Hera Pratita Madyasti, 'The Strengthening Legal Protection of Indigenous People in Facing Investment Climate in Era of Asean Economic Community In', *IOP Conference Series: Earth and Environmental Science*, 175 (2018), 012208 <https://doi.org/10.1088/1755-1315/175/1/012208>

capital intending to be 1.5 million outsiders.¹² Native indigenous people around the relocation areas rejected the plan. The local's fears are also fueled by their experience with timber and palm companies. This community's concern is that relocating the state capital and Customary settlements surrounded by Cultivation Rights (HGU) will erode their customary rights, sites, and regulations.¹³ It is a case of loss of public trust in the government and its ability to promote a stable economy through state institutions. In addition to maintaining the independence of the state's regulatory institutions, the government should also build public trust in state institutions and help ensure the stability, manageability, and prosperity of the state.¹⁴ The central government implements customary law and the tribal community's rights after receiving their consent and consenting to the existing traditional rights. The typical law community's lack of awareness, the lack of a clear commensurate border of ancestral land.¹⁵

The issue of protecting indigenous peoples has been addressed in article 18 B (2) of the 1945 Constitution and the United Nations (UN) Declaration on the Rights of Indigenous People and Legal Policy Article 28B, paragraph 2 of the 1945 Constitution of the Republic of Indonesia includes the following clauses. The indigenous people are still alive, following the development of society, the principles of the Unitary State of the Republic of Indonesia, and as regulated by law, the indigenous people's rights shall be protected.¹⁶ And Article 67, paragraph 2 of the Forestry Law governs the existence of customary law communities (1).

In actuality, the protection of indigenous peoples in the forest city is regulated by and reflected in consideration of the National Capital City regulation established by Law 3 of 2022. The IKN Authority is authorized to manage the IKN area. It is granted land management rights by the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency to protect indigenous peoples' land rights and enforce their land rights to keep out infrastructure, (illegal) selective logging, agribusiness expansion, and extractive industries.¹⁷

2. Research Method

This study employs normative legal research with a conceptual and case study approach. To comprehend concepts related to bureaucracy and the corruption monitoring system, a conceptual approach is used. The case approach is used to investigate and solve problems in real-world situations. The research proposal is descriptive. The primary data source is secondary data derived from literature reviews. The collected data were analyzed using a

¹²Jaja Ahmad Jayus, 'Urgency of Legal Indigenous Communities' Position in Indonesian Constitutional System', *Jurnal Media Hukum*, 27.1 (2020) <https://doi.org/10.18196/jmh.20200144>

¹³Tengku Imam Syarifuddin, Dian Eka Rahmawati, and Dafid Efendi, 'Political Trust of the Dayak Paser Indigenous Law Community Regarding the Capital City Relocation Policy', *Masyarakat, Kebudayaan Dan Politik*, 33.4 (2020), 393 <https://doi.org/10.20473/mkp.v33i42020.393-404>

¹⁴Kursat Cinar and Meral Ugur-Cinar, 'The Effects of Executive Constraints on Political Trust', *Democratization*, 25.8 (2018), 1519–38 <https://doi.org/10.1080/13510347.2018.1493050>

¹⁵Yohanis Hina Takanjanji, Simon Nahak, and Ni Made Jaya Senastri, 'The Effectiveness of The Regulation on The Use of Tribal Land in Palakahembi Village, Pandawai District, East Sumba Regency, East Nusa Tenggara Province', *Jurnal Hukum Prasada*, 9.1 (2022), 65–72 <https://doi.org/10.22225/jhp.9.1.2022.65-72>

¹⁶Jenny Kristiana Matuankotta and Eric Stenly Holle, 'State Recognition and Respect for the Rights of Customary Law Communities in the Maluku Islands Region in the Exploitation of Forest Resources', *SASI*, 28.1 (2022), 107 <https://doi.org/10.47268/sasi.v28i1.852>

¹⁷Jocelyne S. Sze and others, 'Indigenous Lands in Protected Areas Have High Forest Integrity across the Tropics', *Current Biology*, 32.22 (2022), 4949-4956.e3 <https://doi.org/10.1016/j.cub.2022.09.040>

qualitative descriptive analysis.¹⁸ The research also depended on laws and regulations protecting tribal and indigenous people and mass media news. Other approaches, such as historical and statutory, were also employed in gathering accurate data. The researchers did a qualitative data analysis with interpretation techniques of legal documents during the literature study, thus analytically and critically presenting the results.

3. Results and Discussion

3.1. Legal Policy for the Protection of Indigenous Community

The legalization and recognition of indigenous people need to be well-established in Indonesia. Though Article 18 B paragraph (2) of the 1945 Constitution has guaranteed legal protection and respects indigenous people,¹⁹ this article is yet to be ratified to take effect. Some sectoral laws govern the MHA; however, these laws are not compressive, with some ambiguous and half-hearted in protecting the indigenous groups. The state needs to advocate more robust measures to safeguard and legally recognize the existence of indigenous tribes. Nation Law Considers the MPR Decree No. IX/MPR/2001 of November 2001 and case number 35/PUU-X/2012 of May 16, 2012, are now repealed. In these regulations, it is expressly stated that the continued existence of indigenous people groups, including their individual and customary rights, is acknowledged. One of the problems with standard freedoms is the absence of certainty of traditional territories, in this case, the lack of accurate data on familiar territorial boundaries, causing conflicts over tight territorial boundaries.²⁰

The Constitution of 1945, Article 18.B.(2) and 28.I.(3), Decree of MPR XVII/MPR/1998, Article 41, Act 5/1960, Articles 2. (4) and 3, Act 39/1999, Articles 6. (1) and (2), Act 41/1999, Articles 4. (3) and 5. (4), Act 2/2002, Article 35. (6); Act 24/2003, Article 51. (1) and Act 7/2004, Article 6. (2) and (3), govern the restrictions on the recognition and protection (3). The provisions on the recognition and protection of UR of IP in various laws and regulations vary, i.e., there is a regulation of the recognition and protection of the Ultimate Rights of IP as a whole; recognition and protection provided after several conditions are met, and denial of the existence of UR 18B paragraph (2) of the Constitution of 1945 specifies the requirements that must be met to protect the status of the indigenous law community and the layout's right.²¹

The indigenous peoples' protection includes, respected, and recognized, they are still alive and following the development of society and the principles of the Unitary Republic of Indonesia; obligatory for the government to take steps to ensure their survival, Indigenous land rights are safeguarded by current development, indigenous communities whose land is required for growth are entitled to compensation. Indigenous land rights are compensated with replacement land, resettlement, or other means as agreed upon by the Indigenous law

¹⁸Abdul Kadir Jaelani and Resti Dian Luthviati, 'The Crime Of Damage After the Constitutional Court's Decision Number 76/PUU-XV/2017', *Journal of Human Rights, Culture and Legal System*, 1.1 (2021) <https://doi.org/10.53955/jhcls.v1i1.5>

¹⁹Sarip Sarip, Hanif Nurcholish Adiantika, and Abdul Muaz, 'Political Law of Sidawangi Society towards Customary Rights Over Oro-Oro Land', *FIAT JUSTISIA: Jurnal Ilmu Hukum*, 13.4 (2019), 361 <https://doi.org/10.25041/fiatjustisia.v13no4.1703>

²⁰Yulianto Syahyu, 'The Problematic of Ulayat Rights for Indigenous Peoples in Terms Of', *Lambung Mangkurat Law Journal*, 7.2 (2022), 108–17 <https://doi.org/10.32801/lamlaj.v7i2.324>

²¹Fifik Wiryani and Mokhammad Najih, 'Regulations of Recognition and Protection on Ulayat Rights of Indigenous Peoples in Indonesia', in *Proceedings of the 5th International Conference on Community Development (AMCA 2018)* (Paris, France: Atlantis Press, 2018) <https://doi.org/10.2991/amca-18.2018.197>

community and the indigenous peoples' participation in all spatial planning organization processes.²²

The state, as the highest authority, and regional government, as the state's representative, are responsible for the protection and regulation of Traditional Cultural Properties.²³ The crucial legislative powers exercised in parliament. They were entailing special norms about indigenous people's recognition, existence, and empowerment. These provisions must be included in the Law of the State Capital as a particular norm (*lex specialis*) so that the community can benefit from the special status given to the state capital in Indonesia.²⁴ Relocating a state capital is complex and necessitates exhaustive and holistic research. Parliament must also debate the new state capital law to ensure it complies with the constitution. Despite the benefits that the government of Indonesia has emphasized in every national dialogue and mass media, there is still strong opposition from some individuals and experts, who argue that the relocation of the capital city of Indonesia will be unnecessary, as a large sum of money will be spent on building a new capital city and applying all the technology for the smart city concept, while Jakarta 1 will be abandoned. Some environmentalists are also concerned that the rate of deforestation in Kalimantan will increase due to the accelerated construction of infrastructure shortly.²⁵

In the material sense, legal certainty emphasizes protecting citizens' rights and fulfilling government organs' expectations for indigenous people in the PPU Regency area by providing guarantees and confidence in the community's automatic legal recognition as a distinct entity. The hasty relocation of the state capital to the PPU Regency is legally unconstitutional as it precedes the law, which should form its legal base. The process did bypass the crucial legislative powers exercised in parliament. It entailed special norms about indigenous people's recognition, existence, and empowerment. This strategy will guarantee legal recognition, rights, presence, and obligations in capital development.

In addition, Article 28 I of the Constitution of 1945 and Law No. 39 of 1999 require the state to automatically determine the legal status of indigenous groups as a human right. Article 6 emphasizes that the state should recognize the differences and needs of indigenous people and protect them through law, society, and government. Without local government-established legal recognitions, indigenous people may find it difficult, if not impossible, to fulfill their obligations, rights, responsibilities, and development roles. Therefore, adherence to these regulations is crucial.²⁶

The legislative arm of government has yet to formulate a specific law governing the state capital, except Law No. 29 of 2007, the Provincial Government of the Special Capital Region of Jakarta as the Capital of Indonesia. These laws only stipulated specific duties,

²²Umar Ma'Ruf, 'Legal Protection of Indigenous Rights in Land Regulation in Indonesia', *Journal of Critical Reviews*, 7.8 (2020), 1646–52 <https://doi.org/10.31838/jcr.07.08.322>

²³Rohaini Rohaini, Kingkin Wahyuningdiah, and Nenny Dwi Ariani, 'The Challenges of Legal Protection on Traditional Cultural Expressions of Lampung', *Fiat Justisia: Jurnal Ilmu Hukum*, 14.3 (2020), 221–32 <https://doi.org/10.25041/fiatjustisia.v14no3.1853>

²⁴Fikri Hadi and Rosa Ristawati, 'Pemindahan Ibu Kota Indonesia Dan Kekuasaan Presiden Dalam Perspektif Konstitusi', *Jurnal Konstitusi*, 17.3 (2020), 530–57 <https://doi.org/10.31078/jk1734>

²⁵Hanif Nur Azhar, Helmya Hilda Putri Fatima, and Isna Nufussilma Tamas, 'Preliminary Study of Indonesia Capital City Relocation Based on Disaster Mitigation Principle with Mental Model Approach', ed. by A. Soleh Setiyawan and others, *E3S Web of Conferences*, 148 (2020), 06002 <https://doi.org/10.1051/e3sconf/202014806002>

²⁶Irfan Nur Rahman and others, 'Dasar Pertimbangan Yuridis Kedudukan Hukum (Legal Standing) Kesatuan Masyarakat Hukum Adat Dalam Proses Pengujian Undang-Undang Di Mahkamah Konstitusi', *Jurnal Konstitusi*, 8.5 (2016), 767 <https://doi.org/10.31078/jk856>

obligations, rights, and responsibilities of the state capital as an administration of the Provincial Government. The drafted bill regulating the new state of money should consider the views of the indigenous people in the PPU Regency area because they are the primary stakeholders most affected by the relocation. The drafted bill regulating the new state of capital should consider the views of the indigenous people in the PPU Regency area because they are the primary stakeholders most affected by the relocation. The conversion of these forests into protected, conservation, and production forest areas, followed by classification as rights, plantation, and customary forests, is a result.²⁷

The regulations include sectoral laws that govern the existence of Indigenous people and provide a legal framework by the local government detailing the recognition of indigenous people as legal subjects. This top-down approach to land management is contrary to the national goals of law reform and decentralization, taking power away from regional and local governance.²⁸ However, such recognition will be accorded upon meeting specific requirements that are often heavy and complicated. A perfect illustration is Law no. 32 of 2019 concerning Environmental Conservation and Management (UUPPLH), which recognized the right of indigenous people to manage the environment and natural resources existing in their geographical areas due to ties to central origin.

The Law Number 41 of 1999 governing forestry has also hindered the indigenous people from acquiring full recognition and rights. Moreover, Law Number 11 of 2020 concerning Job Creation did not correct this situation as it renewed the Forestry Law and retained Article 67 (2) of the Forestry Law that suggests the inauguration of Indigenous People through Regional Regulations. This provision has derailed the implementation of the constitutional mandate, requiring fulfilling the original or customary rights of the Indigenous people.²⁹ The regulation of Job Creation did not correct this situation as it renewed the forestry law and retained Article 67 (2) of the forestry law that suggests the inauguration of indigenous people through Regional Regulations. This provision has derailed the implementation of the constitutional mandate, requiring fulfilling the original or customary rights of the Indigenous people. Consequently, this has propagated a perception within local governments that they have the power to determine the future of indigenous people.³⁰

The regulation of Job Creation, also called the omnibus law, governing job creation, was subdivided into four paragraphs and paragraph 2 affects customary land and forests of indigenous people. The 'doctrine of national economic development' provides the State with the legal justification to expropriate unregistered collective indigenous land rights³¹.

²⁷Daniel Jesayanto Jaya and others, 'The Categorization of Solutions for Indigenous People in Customary Land-Use Conflicts in Indonesia', *Journal Sampurasun : Interdisciplinary Studies for Cultural Heritage*, 7.1 (2021), 1–16 <https://doi.org/10.23969/sampurasun.v7i1.3943>

²⁸Carly Boag, 'A Comparative Study of the Legal Frameworks Facilitating Indigenous Land Management in Postcolonial Societies: Indigenous Australia and Indonesian Adat Law', *Brawijaya Law Journal*, 3.2 (2016), 125–50 <https://doi.org/10.21776/ub.blj.2016.003.02.03>

²⁹Sukri Tamma and Timo Duile, 'Indigeneity and the State in Indonesia: The Local Turn in the Dialectic of Recognition', *Journal of Current Southeast Asian Affairs*, 39.2 (2020), 270–89 <https://doi.org/10.1177/1868103420905967>

³⁰Zunnuraeni Zunnuraeni and Ahmad Zuhairi, 'Kewenangan Desa Dalam Pengelolaan Hutan Untuk Mitigasi Perubahan Iklim', *Jurnal IUS Kajian Hukum Dan Keadilan*, 6.1 (2018), 34 <https://doi.org/10.29303/ius.v6i1.524>

³¹Chairul Fahmi and Muhammad Siddiq Armia, 'Protecting Indigenous Collective Land Property in Indonesia under International Human Rights Norms', *Journal of Southeast Asian Human Rights*, 6.1 (2022), 1 <https://doi.org/10.19184/jseahr.v6i1.30242>

The legal protection of indigenous peoples in the National Capital Law should include provisions guaranteeing the recognition of origin rights. These rights should be permanently enshrined in the constitution so that no one can change or diminish them, allowing indigenous peoples to be recognized as legal subjects. In addition, under international law, any state cannot alter the rights of origin.³² The United Nations Declaration on the Rights of Indigenous Peoples is the same instrument that ensures Indigenous peoples' human rights worldwide. Without discrimination, indigenous peoples should have access to all of these rights. In addition to these fundamental human rights, Van Vollenhoven also proposed a theory of autonomous unitary Indigenous Peoples, which can be used to study and guide the protection and legal recognition of Indonesian indigenous people. This suggestion is accurate because indigenous Indonesians have governed themselves for decades before state law intervention³³. The autonomous government operated well by forming and establishing legal regulations and implementing them. The community had customary courts that deliberated to resolve issues within its jurisdictions.

3.2. Indigenous Community Perspectives On Protected Areas Based Forest City

The protection of indigenous peoples is present in the forest city perspective as a form of protection against the effects of the relocation of the capital city. The current primary outcome is that the tribe will be economically marginalized as they cannot compete for resources with the capitalists coming into their area with unlimited power and finance. With its industry and services brought by state capital relocation, the modern economy will overshadow, if not uprooted, the existing underdeveloped economic system based on kinship and mutual assistance in the community. There will be a collision between the agrarian life economy of the tribe and the economy of Mondial and mega political cities.³⁴

Indigenous peoples, the state, and the economy in Indonesia in national debates and local recognition processes. The palace designated to house the center of the new government is home to four villages of Dayak Paser. Additionally, the government has also eyed 13 customary areas around the capital to act as centered in the Sepaku sub-district of PPU Regency and the Samboja sub-district of Kutai Kertanegara Regency. However, the government continues to deny that it is planning evicting people from their homes, with the Head of the National Planning Agency (BAPENAS) promising to take into account the interests of Indigenous peoples in the grand plan of the capital relocation.³⁵

The coming of the state capital will adversely affect the environment as several trees will be cleared to pave the way for skyscrapers, and the customary land will be ruined by pollution. The urban infrastructure projects accompanying the new state capital pose a substantial environmental threat to the indigenous people. Expressed concern that the construction of the new money in the area will add to the forest damage as lots of trees will

³² John Minode'e Petosky, 'International Traditional Knowledge Protection and Indigenous Self Determination', *The Indigenous Peoples' Journal of Law, Culture & Resistance*, 6.1 (2020) <https://doi.org/10.5070/P661051241>

³³ Amanda Cats-Baril, *Indigenous Peoples' Rights in Constitutions Assessment Tool* (International Institute for Democracy and Electoral Assistance (International IDEA), 2020) <https://doi.org/10.31752/idea.2020.37>

³⁴ Timo Duile, 'Indigenous Peoples, the State, and the Economy in Indonesia: National Debates and Local Processes of Recognition', *Austrian Journal of South-East Asian Studies*, 13.1 (2020), 155–60 <https://doi.org/10.14764/10.ASEAS-0034>

³⁵ Sartika Intaning Pradhani, 'Traditional Rights of Indigenous People in Indonesia: Legal Recognition and Court Interpretation', *Jambe Law Journal*, 1.2 (2019), 177–205 <https://doi.org/10.22437/jlj.1.2.177-205>

be cleared for monumental buildings. He reasoned that forest fires would worsen with the construction of the new capital due to increased warming caused by logging.³⁶

Relocating the state capital will significantly affect the livelihood of the Indigenous peoples, with the potential loss of jobs as many may lose their farms and homes. For example, several residents rely on Lush tropical forests, which will be cleared according to the state plan to give room for the new state capital. It means that tens of thousands of local indigenous people are sure to be displaced from their ancestral homeland, their source of livelihood will also be gone, and the region's security may be given a damaging blow with the emergence of potential social conflict. The potential social problems and conflict is echoed by the General Secretary of AMAN (Indigenous People Alliance of the Archipelago) and Rukka Sombolinggi. In an interview, he stated that AMAN had never been consulted on the capital relocation to Kalimantan Island. The move could cause social unrest among the indigenous people in East Kalimantan.

As concerns about the global effects of climate change grow, the private sector and civil society have become more involved in environmental policymaking, as has the global sharing of policy ideas.³⁷ The importance of Nature-based Solutions (NbS) for adaptation and mitigation has grown in response to climate change. Forest and landscape restoration, in particular, offers opportunities to boost resilience, support food and water security, conserve biodiversity, and promote livelihood development. As the United Nations Decade on Ecosystem Restoration began in 2021, it highlighted the importance of preparing for success and understanding what public economic and financial incentives exist to support sustainable forest and landscape restoration. Regulations must be written to operationalize legal mandates for laws to become effective. These regulations usually depend on ministries and government agencies, which have some leeway to change them if necessary without changing the direction.³⁸ Under the broad social forestry policy, the Indonesian government continues to promote programs that support local people's livelihoods, rights, and access to the country's forests.³⁹ This bureaucratic distinction gave social forestry more authority, a broader scope of tasks, a more extensive personnel base, and larger budgets, even though the budgets were considered relatively small compared to its targets, duties, and responsibilities.⁴⁰

Even though the core social forestry bureaucracy expanded significantly, several other bureaucracies channeled their interests into social forestry policy. These other bureaucracies sometimes align with the goals of social forestry policy. Indeed, several bureaucracies continue to use other forestry mandates to hold social forestry policy implementation hostage, resulting in an institutional chokehold on fundamental social forestry interests. These other bureaucracies even developed models for re-directing social forestry initiatives by retrofitting mandates into their policy priorities. To address the growing barriers to

³⁶Reni Ria Armayani Hasibuan and Siti Aisa, 'Dampak dan Resiko Perpindahan Ibu Kota Terhadap Ekonomi Di Indonesia', *At-Tawassuth: Jurnal Ekonomi Islam*, 5.1 (2020), 183 <https://doi.org/10.30829/ajei.v5i1.7947>

³⁷Natasha Affolder, 'Contagious Environmental Lawmaking', *Journal of Environmental Law*, 31.2 (2019), 187–212 <https://doi.org/10.1093/jel/eqz011>

³⁸Daniel Firebanks-Quevedo and others, 'Using Machine Learning to Identify Incentives in Forestry Policy: Towards a New Paradigm in Policy Analysis', *Forest Policy and Economics*, 134 (2022), 102624 <https://doi.org/10.1016/j.forpol.2021.102624>

³⁹Budi Budi and others, 'Implementation of Social Forestry Policy: A Review of Community Access', *Forest and Society*, 2021, 60–74 <https://doi.org/10.24259/fs.v5i1.9859>

⁴⁰Ida Aju Pradnja Resosudarmo and others, 'Indonesia's Land Reform: Implications for Local Livelihoods and Climate Change', *Forest Policy and Economics*, 108.April (2019), 101903 <https://doi.org/10.1016/j.forpol.2019.04.007>

implementing social forestry policy designs, this paper outlines and proposes a more simplified bureaucratic structure to aid in enforcing a social forestry policy that aligns with its intended goals. Tasks and responsibilities could be transferred to a single bureaucracy with more closely linked mechanisms to local people, such as those already envisioned and established in the form of forest management units.⁴¹

In Indonesia, such policy formulations are categorized as social forestry,' which refers to a broad set of programs that express populist policy ideals for rural land rights and forest protection.⁴² Over the last 15 years, Indonesian forests have attracted significant international attention for two reasons. The first is because of abundant carbon stocks and biodiversity.⁴³ The policy approaches of the science-bureaucracy discourse are generally command-and-control, regulatory measures that are transparent because they are backed by state enforcement: "It is critical to avoid uncertainty and confusion in the enforcement and implementation of such laws and regulations, as well as in the planning and implementation of operations on forestlands".⁴⁴ Not only is social forestry supported by its bureaucracies, but the government also encourages non-governmental organizations and other stakeholders closer to local communities to support initiatives such as the Working Group for Social Forestry, which aims to facilitate the timely delivery of permits⁴⁵ and assist in helping assemblies after passes are formalized.⁴⁶ These trends in Indonesia correspond to the growing popularity of social and community forestry mechanisms elsewhere, where non-state actors are increasingly involved in policymaking and implementation.⁴⁷ Populist policies, such as social forestry in Indonesia, provide an exciting arena for analysis because they attract a diverse range of actors with varying interests aimed at decentralizing authority and promoting social and environmental justice; this provides a strategic area of observation through the lens of bureaucratic politics.⁴⁸

According to reports, state projects are frequently said to have failed when they only pursue populist goals. As previously stated, the bureaucratic structures in the country have evolved over the various social forestry generations.⁴⁹ As a result, the formalization of

⁴¹ Ahmad Maryudi and others, 'Holding Social Forestry Hostage in Indonesia: Contested Bureaucracy Mandates and Potential Escape Pathways', *Environmental Science & Policy*, 128 (2022), 142–53 <https://doi.org/https://doi.org/10.1016/j.envsci.2021.11.013>

⁴² Ice Anugrah Sari and others, 'Social Contracts: Pillars of Community Conservation Partnerships in Lore Lindu National Park, Indonesia', *Forest and Society*, 4.1 (2020), 115 <https://doi.org/10.24259/fs.v4i1.8682>

⁴³ Ronald C. Estoque and others, 'The Future of Southeast Asia's Forests', *Nature Communications*, 10.1 (2019), 1829 <https://doi.org/10.1038/s41467-019-09646-4>

⁴⁴ Erin Clover Kelly and Mindy S. Crandall, 'State-Level Forestry Policies across the US: Discourses Reflecting the Tension between Private Property Rights and Public Trust Resources', *Forest Policy and Economics*, 141 (2022), 102757 <https://doi.org/10.1016/j.forpol.2022.102757>

⁴⁵ M.R. Fisher and others, 'Assessing the New Social Forestry Project in Indonesia: Recognition, Livelihood and Conservation?', *International Forestry Review*, 20.3 (2018), 346–61 <https://doi.org/10.1505/146554818824063014>

⁴⁶ Sari Rahayu and others, 'Bureaucratizing Non-Government Organizations as Governmental Forest Extension Services in Social Forestry Policy in Indonesia', *Forests, Trees and Livelihoods*, 29.2 (2020), 119–29 <https://doi.org/10.1080/14728028.2020.1753585>

⁴⁷ Divya Gupta and Tomas M. Koontz, 'Working Together? Synergies in Government and NGO Roles for Community Forestry in the Indian Himalayas', *World Development*, 114 (2019), 326–40 <https://doi.org/10.1016/j.worlddev.2018.09.016>

⁴⁸ Tajuddin Tajuddin and others, 'Bridging Social Forestry and Forest Management Units: Juxtaposing Policy Imaginaries with Implementation Practices in a Case from Sulawesi', *Forest and Society*, 3.1 (2019), 97 <https://doi.org/10.24259/fs.v3i1.6049>

⁴⁹ Micah R. Fisher, Ahmad Dhialhaq, and Muhammad Alif K. Sahide, 'The Politics, Economics, and Ecologies of Indonesia's Third Generation of Social Forestry: An Introduction to the Special Section', *Forest and Society*, 3.1 (2019), 152 <https://doi.org/10.24259/fs.v3i1.6348>

social forestry policy represents many concomitant objectives, such as agrarian reform, addressing land degradation and forest fires, poverty reduction, and reducing violent land conflict. These threats highlight the critical need to restore and manage land and forests sustainably. Studies are increasingly emphasizing the crucial role of land and forest tenure reforms, particularly strengthening collective forest tenure, in reducing deforestation, mitigating climate change, preserving biodiversity, and restoring ecosystem services.⁵⁰

4. Conclusion

This study demonstrates that the state can strengthen the legal protection for Indigenous People in the PPU Regency area and mitigate the potential negative consequences of relocating the state capital by employing three techniques. First, the state should conclude the drafting of the Law on the State Capital, which as a *lex specialis* provision also governs the legal protection of Indigenous People. Second, the Law on the State Capital should establish rules that automatically guarantee the determination of the Indigenous people's legal status. Thirdly, the State Capital Law shall permanently protect the origin rights of Indigenous People. Social forestry is bolstered by its violations. The government encourages non-governmental organizations and other local stakeholders to support projects such as the Working Group for Social Forestry, which strives to expedite the issuance of permits. Based on the forest city perspective, it is hoped that this research will serve as the basis for subsequent policy review involving indigenous peoples' rights protection and other regulatory arrangements.

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⁵⁰Stephen T. Garnett and others, 'A Spatial Overview of the Global Importance of Indigenous Lands for Conservation', *Nature Sustainability*, 1.7 (2018), 369–74 <https://doi.org/10.1038/s41893-018-0100-6>

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