

Harmonization Of Agrarian Law in The Resolution of Land Disputes in Reclamation Projects in Indonesia

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ABSTRACT: This study examines the legal framework of agrarian law concerning reclaimed land in Indonesia, as well as the efforts to harmonize existing regulations in order to achieve legal certainty and justice. Coastal reclamation, as a strategy to meet land demands resulting from population growth and development, raises serious issues due to the absence of clear provisions in the Basic Agrarian Law (UUPA) regarding the ownership status of reclaimed land. The regulatory inconsistency between the central and regional governments, as reflected in the cases of the Jakarta Bay and Benoa Bay reclamations, has triggered disputes involving the government, investors, and local communities, particularly indigenous coastal communities. From a legal perspective, this ambiguity generates legal uncertainty and risks undermining the rights of local communities. This study highlights the importance of regulatory harmonization, institutional restructuring of land governance, and the protection of indigenous peoples' rights to ensure that reclamation projects are carried out in a fair and sustainable manner. In conclusion, the resolution of reclamation disputes must prioritize legal certainty, distributive justice, and ecological protection in accordance with the mandate of the 1945 Constitution.

KEYWORDS - Reclamation, Agrarian Law, Legal Certainty, Justice, Indigenous Communities

I. INTRODUCTION

Indonesia, as a nation that defines itself as an "Agrarian State," places land in a highly significant position. Land is a primary human necessity as a fundamental resource supporting life. It enables people to establish settlements, serve as a place of shelter, and sustain their livelihood. The government acknowledges land as a vital element that requires special attention. Article 33 paragraph (3) of the 1945 Constitution explicitly states that the state has control over the earth, water, and natural resources contained therein, and their utilization must be directed toward achieving the greatest prosperity of the people. Given the crucial role of land in human life, the state must regulate its use in order to realize prosperity for society at large. Accordingly, the state holds the right of control with the authority to: first, regulate and administer the allocation and preservation of the earth, water, and outer space; and second, to determine their legal relationships with individuals and their legal acts.

Land constitutes an essential element in the conduct of social life today. Consequently, the state is closely linked to human development as it progresses with the times. As stipulated in the 1945 Constitution of the Republic of Indonesia, the state—whose primary purpose is to promote public welfare and advance national life—has the right to provide benefits to its citizens through technological advancement and the development of various systems, thereby supporting a life that upholds devotion to the nation and state. Indonesia's population has grown rapidly, creating increasing demands on the state, particularly in regions experiencing significant annual population growth. The changing times compel the state to undertake various measures, thereby making land availability critical for the population, especially in areas unable to adapt to demographic pressures, where the land area does not correspond to the growing population.

In the concept of modern regional and urban planning, coastal area rehabilitation is one of the common strategies employed by land-scarce countries to address population density. In Indonesia, reclamation policies have been implemented in several regions with the objective of meeting national needs related to population density and maritime security. Coastal areas represent transitional zones between land and sea, where nearly 67.3% of Indonesia's population resides in coastal urban areas. As part of the marine environment, ecological aspects are equally important alongside social aspects.

According to Law No. 27 of 2007 concerning the Management of Coastal Areas and Small Islands, Article 1 paragraph 23, reclamation is an activity carried out by individuals in order to enhance human resources from a socio-economic and environmental perspective through landfilling. Wisnu Suharto defines reclamation as the effort to utilize vacant and unused land, transforming it into functional land; thus, reclamation constitutes the conversion of water areas into land.

Nevertheless, the regulation of reclaimed land continues to face legal ambiguities, which in turn generate disputes. The Basic Agrarian Law (UUPA) No. 5 of 1960, as the foundation of national agrarian law, does not explicitly regulate the ownership status of reclaimed land. Meanwhile, Presidential Regulation No. 122 of 2012 on Reclamation in Coastal Areas and Small Islands grants reclamation proponents the opportunity to obtain management rights over reclaimed land but does not clearly stipulate the mechanisms of land transfer. This creates conflicting interests between the government, coastal communities, and investors, particularly regarding the control and utilization of reclaimed land.

One of the main factors contributing to land disputes in reclamation projects is the overlap of regulations and the lack of policy synchronization between the central and regional governments. Law No. 23 of 2014 on Regional Government shifted the authority over coastal area management from regional to central government. However, in practice, many regional governments continued to issue reclamation permits without coordinating with the central government. This has triggered legal uncertainty and prolonged conflicts of interest. Reclamation is often linked with investment activities. While land availability for investment is indeed important, the ultimate purpose of investment must remain the welfare of society.

The case of the Jakarta Bay Reclamation, for instance, illustrates how the division of authority between the central and regional governments resulted in the suspension of the reclamation project due to licensing issues and community opposition. Conversely, the case of the Benoa Bay Reclamation in Bali serves as an example of conflict between investors who had obtained reclamation permits and indigenous communities who opposed the project, arguing that it would damage the environment and threaten their living space.

From the perspective of agrarian law, the ambiguity regarding the legal status of reclaimed land raises critical questions: does reclaimed land automatically become state land, land managed by the reclamation initiator, or land that may be privately owned through mechanisms such as Right to Build (HGB) or Right of Ownership (HM)? The lack of regulatory harmony in this regard creates the potential for land monopolization by investors and threatens community access to coastal areas, which should be preserved as part of the public interest.

Research Questions:

1. How is agrarian law applied to reclaimed land in Indonesia?
2. What efforts of legal harmonization can be undertaken to establish legal certainty and justice in resolving land disputes arising from reclamation projects in Indonesia?

II. HEADING S

1. Characteristics of Reclaimed Land in National Agrarian Law

Land rights constitute one of the forms of land tenure regulated under Law No. 5 of 1960 concerning the Basic Agrarian Principles, hereinafter referred to as the Basic Agrarian Law (UUPA). This law marked the birth of Indonesia's National Land Law, which repealed the colonial land law characterized by dualism and its failure to guarantee legal certainty for the Indonesian people.

The concept of land rights under National Agrarian Law classifies land rights into two types. First, **primary land rights**; and second, **secondary land rights**. Primary land rights are defined as land rights that may be directly held and owned by legal entities or individuals for a long duration and may be transferred to their heirs. The UUPA recognizes several primary land rights, namely: (1) Ownership Rights (Hak Milik), (2) Cultivation Rights (Hak Guna Usaha/HGU), (3) Building Rights (Hak Guna Bangunan/HGB), and (4) Right of Use (Hak Pakai).

In contrast, secondary land rights are temporary in nature. They are considered temporary because they can only be exercised for a short period of time, often under the control of another party. Article 53 of the UUPA regulates these temporary rights, which include:

1. Sharecropping Rights (Hak Usaha Bagi Hasil),
2. Pledge Rights (Hak Gadai),
3. Usufruct Rights (Hak Menumpang), and
4. Lease Rights over Agricultural Land (Hak Menyewa atas Tanah Pertanian).

Based on the provisions of Articles 16 and 53 of the UUPA, land rights are classified into three aspects: 1) Permanent land rights, namely rights that will continue to exist as long as the UUPA remains in effect and has not been replaced by new provisions. These include Ownership Rights, Building Rights, Cultivation Rights, Lease Rights for Buildings, Right of Use, Right to Open Land, and Right to Collect Forest Products. 2) Land rights based on statutory provisions, namely land rights that may be established by law but have not yet taken any concrete form.

Temporary land rights, which are transitional in nature and subject to abolition within a relatively short period, as they embody feudal elements, exploitation, and are inconsistent with the principles of the UUPA. These include Sharecropping Rights, Lease Rights over Agricultural Land, Pledge Rights, and Usufruct Rights.

Coastal areas constitute transitional zones between land and sea, influenced by dynamic water conditions on both sides. Their intermediary position endows coastal areas with significant natural resources. However, this abundance also entails high risks of environmental change, such as tidal fluctuations, sea breezes, flooding, and other factors. Coastal zones are also highly vulnerable to natural disasters such as tsunamis and storms. Accordingly, it is crucial for Indonesia to develop a spatial planning framework that prioritizes disaster preparedness, particularly in coastal regions.

According to Law No. 27 of 2007, Article 1 paragraph 23, reclamation is defined as an activity carried out by individuals to improve human resources from socio-economic and environmental perspectives through landfilling. Wisnu Suharto further defines reclamation as the effort to utilize vacant land and transform it into productive land, thus describing reclamation as the conversion of water areas into land. Similarly, Presidential Regulation of the Republic of Indonesia (2014) describes reclamation as an activity undertaken by individuals to enhance land resources, focusing on environmental and socio-economic aspects, through methods such as landfilling, land drainage, or drying. This provision outlines three main points:

1. Reclamation may be carried out through land drainage, drying, or landfilling.
2. The purpose of reclamation is to improve land resources from socio-economic and environmental perspectives.
3. Reclamation may be undertaken by individuals, legal entities, or non-legal entities.

Legal regulations concerning reclamation, serving as guidelines at the regional government level, encompass Indonesia's reclamation policy framework. This has been codified within Indonesian positive law, particularly Article 34 of Law No. 27 of 2007, which was subsequently amended by Law No. 1 of 2014 on the Management of Coastal Areas and Small Islands. This article provides one of the clearest legal bases for ensuring legal certainty in the implementation of coastal reclamation in Indonesia, emphasizing an integrated approach to coastal management and development.

Law No. 27 of 2007 stipulates three key provisions. First, coastal and small island reclamation is carried out as an effort to enhance the utility or added value of coastal and small island areas, viewed from environmental, socio-economic, and technical perspectives. Second, the implementation of reclamation, as provided in paragraph 1, must preserve and take into account: (a) proportionality between the sustainability of coastal and small island functions and their utilization, (b) sustainability of human life and livelihoods, and (c) technical requirements related to extraction, dredging, and filling of materials. Third, reclamation planning and implementation are elaborated further in Presidential Regulation (President of the Republic of Indonesia, 2007).

The legal provisions governing land acquisition through coastal reclamation are set out in several statutes and regulations, including: Law No. 27 of 2007 on the Management of Coastal Areas and Small Islands; Law No. 5 of 1960 on the Basic Agrarian Principles; provincial and municipal regulations; Presidential Decree No. 24 of 2003 on National Land Policy; Law No. 26 of 2007 on Spatial Planning; Law No. 23 of 2014 on Regional Government; Government Regulation No. 40 of 1996 on Cultivation Rights, Building Rights, and Right of Use over Land; Government Regulation No. 24 of 1997 on Land Registration; Government Regulation No. 38 of 2007 on the Division of Governmental Affairs Between the Central Government, Provincial Governments, and District/City Governments; Regulation of the Head of the National Land Agency (BPN) No. 2 of 2013 on Delegation of Authority in the Granting of Land Rights and Land Registration Activities; Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency No. 9 of 1999 on Location Permits; and Government Regulation No. 16 of 2004 on Land Use Management.

Circulars of the Head of BPN No. 410-1293 of May 9, 1996 and No. 440-3725 of November 9, 1999 concerning Procedures for the Provision of Non-Agricultural Land through Coastal Reclamation specify the provisions for reclaimed land. These circulars state that reclaimed land is classified as state land under direct ownership of the state, while the party carrying out reclamation is given priority to apply for the granting of rights over reclaimed land (Ministry of Agrarian Affairs and Spatial Planning/National Land Agency, 1996).

1) 2. Procedures for the Granting of Rights over Reclaimed Land

One of the activities that may alter the physical condition and function of coastal areas and small islands is coastal reclamation (Abrar Saleng, *Kapita Selecta Hukum Sumber Daya Alam*, 2013, p. 191). In districts and municipalities experiencing rapid economic growth and commercial development, reclamation is expected to generate substantial economic benefits. The assumption is that the more commercial areas are developed, the greater the increase in Regional Original Revenue (Pendapatan Asli Daerah/PAD). Reclamation, understood as an effort to expand land by utilizing previously unused areas, also supports the provision of land for various needs, coastal area management, the development of marine tourism, and other purposes.

However, reclamation represents human intervention in the natural balance of coastal ecosystems, which are inherently dynamic. Such interventions inevitably lead to ecosystem changes, including alterations in current patterns, coastal erosion, and sedimentation, and carry potential environmental risks (Abrar Saleng, *Hukum Sumber Daya Alam*, 2013, p. 192). Reclamation may only be undertaken if it complies with government and regional regulations, and if proper attention is given to location as well as technical, environmental, and socio-economic considerations. Coastal reclamation activities directly affect land area, the environment, and legal aspects related to ownership, thereby generating new rights and obligations, while simultaneously eliminating community usage rights in the affected areas.

With regard to the legal status of land rights, it must be understood within the framework of the 1945 Constitution and Law No. 5 of 1960 on the Basic Agrarian Principles (UUPA), particularly Article 16. Discussion of the UUPA cannot be separated from the broader development of national agrarian law. The legal status of land rights essentially confers authority upon entitled individuals to use and benefit from land. This right is characterized by the fact that the holder possesses the legal entitlement to utilize and manage the land in question. Land status is defined as ownership rights (*hak milik*) granted to individuals or legal entities.

Land status itself may be distinguished based on the manner of acquisition, such as:

1. Land acquired directly from the state, where land under direct state control is granted to individuals and/or legal entities.
2. Land derived from previously existing rights, where land was already subject to rights as set forth in Law No. 5 of 1960.

2) *Methods of Land Acquisition :*

- A. Revocation of land rights is carried out when an individual or a rights holder no longer fulfills the requirements to maintain such rights. This revocation entails the annulment of the legal provisions attached to the holder concerning the land that they own or control.
- B. Release of land rights is one method to liberate oneself from the legal bondage between the rights holder and another party that provides compensation for land control. The concept of releasing land rights and surrendering land rights is often considered similar. However, upon closer examination, there is little substantive difference between the two. The relinquishment of land rights is viewed in terms of ownership, particularly when the state requires the land for public purposes. As stipulated in Article 27 of Law No. 5 of 1960 of the Republic of Indonesia, all ownership rights over land may be voluntarily surrendered to the state when needed for national interest.
- C. Transfer of land rights is a legal act by which ownership of land is transferred to another person. Such transfers may occur through sale and purchase, exchange, donation, or other legal mechanisms. The party acquiring the land must fulfill the requirements as a lawful land rights holder.
- D. Revocation of land rights is regulated in Article 18 of the Basic Agrarian Law (UUPA), which states that "the revocation of land rights is for the public interest." Accordingly, land rights may only be revoked based on this legal foundation, and such revocation must not be conducted arbitrarily. Furthermore, Article 20 of Law No. 20 of 1961 of the Republic of Indonesia, concerning the "revocation of land rights and everything attached thereto," and Presidential Decree No. 9 of 1973, which provides guidelines on revocation of land ownership rights, establish that land ownership must be designated for specific purposes.
- E. The granting of land rights is based on legal provisions and is demonstrated through decrees issued by the Government of the Republic of Indonesia on Agrarian Affairs or by the Head of the National Land Agency (BPN). The procedures for granting and revoking land rights are set forth in Law No. 3 of 2002 of the Republic of Indonesia. The concept of granting land rights entails assigning a parcel of land to an individual or a collective (such as a joint court ruling) as rights holders, and this granting is carried out solely for legal recognition.

The status of land rights that may be granted to parties undertaking coastal reclamation is as follows:

1. Private Companies in the form of Limited Liability Companies (*Perseroan Terbatas/PT*):
If reclamation is conducted by a private company, the land rights that may be obtained include the Right to Build (*Hak Guna Bangunan*) and the Right of Use (*Hak Pakai*). The Basic Agrarian Law and Government Regulation No. 40 of 1996 affirm that Limited Liability Companies established under Indonesian law may hold land rights in the form of the Right to Build and the Right of Use.
2. Regency/Municipal Governments:
If reclamation is undertaken by a regency or municipal government, the land rights granted may include the Right of Use or the Right of Management (*Hak Pengelolaan*).
3. State-Owned Enterprises (*BUMN*):
If reclamation is carried out by a State-Owned Enterprise, the land rights that may be obtained are the Right of Use or the Right of Management.

4. Partnerships between Limited Liability Companies and Regency/Municipal Governments:
If reclamation is conducted as a collaboration between a Limited Liability Company and a regency/municipal government, the Right of Management is granted in the name of the regency/municipal government. Subsequently, a Land Use Agreement (Perjanjian Penggunaan Tanah, PPT) is drawn up between the Limited Liability Company and the regency/municipal government, formalized through a notarial deed. This agreement stipulates that the Limited Liability Company will receive the Right to Build, derived from the Right of Management held by the regency/municipal government.

3) 3. General Description of Land Disputes in Reclamation Projects in Indonesia

The primary objective of reclamation is to transform degraded or unutilized water areas into functional and beneficial land. Such newly created areas are typically used for residential settlements, industrial zones, commercial and retail spaces, agriculture, and tourism development. In urban planning, coastal reclamation serves as a strategy for city expansion, particularly in metropolitan areas experiencing rapid population growth and increasing land demand, while facing limitations of available land. When inland expansion is no longer feasible, reclamation provides an alternative by creating new land.

Land reclamation involves creating new land by filling and/or draining a coastal area, offshore waters, wetlands, or rivers. Reclamation is not limited to coastal filling but may also include the rehabilitation of former mining areas. Fundamentally, reclamation arises from the growing scarcity of land for developmental purposes, such as housing, offices, entertainment facilities, and others.

According to existing regulations, reclamation is defined in Article 1 Paragraph 23 of Law No. 27 of 2007 of the Republic of Indonesia as an activity that may be carried out by any party to enhance the utility of land resources from environmental, social, and economic perspectives, through filling or drying processes. Furthermore, Article 34 of the same law specifies that reclamation of coastal areas and small islands must be conducted to enhance the benefits or added value of coastal zones. Effective monitoring is required both prior to and during reclamation, given that the areas subject to reclamation are under state authority and must be utilized for the welfare of the people.

Nevertheless, the state does not always act consistently when handling disputes arising from reclamation. In practice, the government often collaborates with private entities in reclamation projects. The Minister of Agriculture/National Land Agency's Circular Letter No. 410-1293 No. 2 acknowledges private sector involvement by stating that reclaimed land falls under state control, but private entities participating in reclamation may be prioritized in applying for land rights based on their claims.

4) 4. Institutional Arrangement and Land Governance

Institutional arrangement and land governance constitute fundamental aspects in the effort to realize legal certainty, justice, and sustainability in land utilization in Indonesia. The land sector has long faced various issues, including overlapping institutional authorities, convoluted bureaucracy, weak coordination between central and regional governments, and widespread misuse of authority. These problems have led to legal uncertainty, hindered investment, and prevented optimal land utilization for the public interest.

Normatively, the foundation for institutional arrangements in land matters is stipulated in Law No. 5 of 1960 concerning the Basic Agrarian Principles (UUPA). Article 2(2) of the UUPA states that the state's authority over land includes regulation, administration, allocation, provision, and maintenance. This provision demonstrates that land institutions encompass not only administrative functions but also regulatory and supervisory dimensions to ensure that land can be utilized to the greatest benefit of the people.

Good land governance is a concept that emphasizes transparency, accountability, public participation, effectiveness, efficiency, and legal certainty in all land administration processes. This principle aligns with international policy frameworks, particularly the *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries, and Forests* (VGGT) issued by the FAO in 2012. In Indonesia, the implementation of land governance based on good governance has been pursued through bureaucratic reforms in the National Land Agency (BPN) and the adoption of electronic land services, as stipulated in Government Regulation No. 18 of 2021 on Land Registration. Digitalization of land certificates, cadastral maps, and online service systems are forms of modernization in land governance, expected to reduce illegal brokerage practices, overlapping land certificates, and improve public access to services.

Land institutions play a vital role in ensuring legal certainty, justice, and sustainability in land utilization in Indonesia. Their function is to regulate relationships between the state, society, and individuals in the control, ownership, use, and management of land. However, in practice, the land sector continues to face numerous challenges, ranging from overlapping institutional mandates and weak central–local government coordination to limited human resource capacity in managing digital land administration. Such conditions often generate legal uncertainty and serve as a catalyst for agrarian conflicts.

Several institutions play critical roles in land governance. The Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) is the central institution responsible for land registration, dispute resolution, and agrarian reform implementation. Regional governments also play an important role, particularly in spatial planning and land-use permits. Unfortunately, coordination between local governments and the BPN remains weak, often resulting in overlapping policies.

The judiciary has the function of resolving land disputes, whether through the Administrative Court for administrative disputes or general courts for civil disputes. The Supreme Court and the Constitutional Court also play roles in reviewing norms and adjudicating cassation cases related to land disputes. Beyond formal institutions, customary institutions still play a significant role, particularly in regions where customary law remains strong. The UUPA explicitly recognizes the existence of *hak ulayat* (customary land rights) as long as they do not conflict with national interests. This reflects the pluralistic nature of land governance in Indonesia, accommodating both state law and customary law.

On the other hand, the judiciary plays a crucial role in resolving land disputes, whether through the Administrative Court (Pengadilan Tata Usaha Negara) for administrative disputes or the general courts for civil disputes. The Supreme Court and the Constitutional Court also play significant roles in the judicial review of norms and in issuing cassation decisions related to land cases. In addition to formal institutions, customary institutions continue to hold an important role, particularly in regions where customary law remains strongly practiced. The Basic Agrarian Law (UUPA) explicitly recognizes the existence of *ulayat* rights as long as they do not conflict with national interests. This demonstrates that land governance in Indonesia is pluralistic, accommodating both state law and customary law.

The institutional functions of land administration can be mapped into several domains. First, the regulatory and policy function, which relates to the formulation of equitable land policies. Second, the administrative and land registration function, aimed at ensuring legal certainty through certification and mapping. Third, the supervisory and law enforcement function, to ensure that land use aligns with its intended purposes. Fourth, the mediation function, which facilitates dispute resolution. Fifth, the redistribution and agrarian reform function, which seeks to achieve equitable land distribution through the management of state land and abandoned land.

Institutional arrangement in the land sector also forms an integral part of agrarian reform implementation. Agrarian reform does not only emphasize land redistribution but also institutional restructuring and improving community access to land utilization. Presidential Regulation No. 86 of 2018 on Agrarian Reform stresses the importance of synergy among ministries/agencies and regional governments in asset and access management. Thus, land institutions must be capable of integrating legal, administrative, and public policy aspects to achieve the goals of agrarian reform.

Nonetheless, several challenges persist, including overlapping land-use permits, weak institutional coordination, limited human resource capacity in digital system management, and insufficient public participation. To address these challenges, several recommendations can be proposed: first, strengthening regulations to ensure the integration of land, spatial, and environmental governance; second, accelerating the comprehensive digitalization of land administration systems; third, enhancing transparency in the granting of rights, registration, and dispute resolution processes; and fourth, empowering communities in overseeing land governance.

To respond to these challenges, institutional arrangements in the land sector must be directed toward institutional integration that harmonizes the roles of the BPN, local governments, and technical ministries. The modernization of land administration through certificate digitalization and the development of a unified database should be accelerated to enhance transparency and accountability. The role of customary institutions must also be strengthened to safeguard *hak ulayat*, consistent with the recognition mandated by the UUPA and the Constitution. Moreover, public participation in land policy formulation must be broadened to ensure that societal aspirations are properly accommodated.

In conclusion, institutional arrangement and land governance are not merely technical-administrative matters but rather a fundamental strategy to achieve the constitutional mandate of maximizing public welfare, as articulated in Article 33 of the 1945 Constitution and the UUPA.

5. Protection of Indigenous Peoples' Rights

The protection of indigenous peoples' rights constitutes a fundamental issue within the framework of a modern rule-of-law state. Indigenous peoples occupy a special position, as their existence has been recognized since long before the establishment of the modern state. The Indonesian Constitution explicitly regulates the recognition and respect of customary law communities. Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia states: "*The state recognizes and respects units of customary law communities along with their traditional rights, insofar as they remain in existence and are in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia, as regulated by law.*" Thus, the protection of indigenous peoples' rights is not merely a moral obligation but also a constitutional mandate.

According to Boedi Harsono, the recognition of indigenous peoples' rights in the field of agrarian law is regulated through the concept of *hak ulayat*, namely the right of customary law communities over a specific territory that they have controlled for generations and which forms the basis of their economic, social, and cultural life. However, in practice, such recognition often encounters challenges, particularly when confronted with the interests of investment, development, and the exploitation of natural resources.

International law also affirms the importance of protecting indigenous peoples' rights. The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) 2007 underscores that indigenous peoples have the right to preserve their culture, identity, language, and traditional territories. In this context, the state has an obligation to respect, protect, and fulfill these rights.

Several Constitutional Court decisions in Indonesia have reinforced the protection of indigenous peoples' rights. For instance, Constitutional Court Decision No. 35/PUU-X/2012 declared that customary forests are no longer considered part of state forests but rather belong to the customary law communities within whose territories they are located. This ruling marked a significant milestone in the recognition and protection of indigenous peoples' rights, particularly in the management of natural resources.

Nevertheless, various obstacles persist in the implementation of such protection. First, there are differing perceptions between the state and indigenous peoples regarding concepts of land ownership and control. Second, the weakness of derivative regulations governing the technical aspects of indigenous rights protection often leads to agrarian conflicts. Third, political and economic interests frequently overshadow the existence of indigenous peoples.

From a legal perspective, Article 18B paragraph (2) of the 1945 Constitution and Constitutional Court Decision No. 35/PUU-X/2012 affirm the recognition of indigenous peoples' existence. Yet in practice, particularly in coastal reclamation projects, such recognition is often diminished by economic interests. Coastal indigenous communities, who for generations have relied on the sea and coastal areas, are forced to lose access to their natural resources.

A concrete example can be observed in the Benoa Bay reclamation case in Bali, which sparked widespread opposition from indigenous communities and environmental organizations. For Balinese indigenous communities, the Benoa Bay area is not only of economic value but also holds spiritual significance as part of their cosmology and customary rituals. Reclamation in this area is perceived as a threat to cultural sustainability, ecological balance, and indigenous rights over their living space.

A similar issue emerged in the Jakarta Bay reclamation, where coastal communities—most of whom are traditional fisherfolk—lost their livelihoods due to the reduction of fishing grounds. These cases clearly illustrate the conflict between the paradigm of economic development and the protection of indigenous/local rights.

To strengthen the protection of indigenous peoples' rights, three strategic steps are necessary: 1) Harmonizing national regulations with customary law and international instruments. 2) Empowering indigenous peoples to advocate for their rights both legally and politically; and. 3) Strengthening state institutions in enforcing the law against violation so find igenous rights.

Thus, the protection of indigenous peoples' rights should not only be seen as a matter of positive law but also as part of efforts to uphold social justice, cultural identity, and environmental sustainability.

6. *Implications for Legal Certainty and Justice*

The protection of indigenous peoples' rights often faces serious challenges when confronted with large-scale development projects, such as coastal reclamation. Although reclamation is generally aimed at expanding land for economic, tourism, or investment purposes, it frequently neglects the traditional rights of indigenous peoples whose livelihoods depend on coastal areas.

From a legal perspective, Article 18B paragraph (2) of the 1945 Constitution and Constitutional Court Decision No. 35/PUU-X/2012 affirm the recognition of customary law communities. However, in coastal reclamation practices, such recognition is often diminished by economic interests. Coastal indigenous communities, who for generations have depended on the sea and coastal areas, are compelled to lose access to their natural resources.

In the context of coastal reclamation, regulatory disharmony frequently arises. For example, government regulations granting reclamation permits often conflict with the Basic Agrarian Law (UUPA), the Environmental Law, and even the 1945 Constitution itself, which recognizes the rights of indigenous peoples. Such inconsistencies create legal uncertainty, both for indigenous communities whose *hak ulayat* are threatened and for investors, who face social resistance and legal disputes.

A concrete example is the Benoa Bay reclamation in Bali, which triggered widespread opposition from indigenous communities and environmental groups. For the Balinese indigenous people, Benoa Bay is not only economically valuable but also spiritually significant, forming part of their cosmology and customary rituals. Reclamation in this area is perceived as a threat to cultural preservation, ecology, and the indigenous right to living space.

A similar situation occurred in the Jakarta Bay reclamation, where coastal communities—largely traditional fisherfolk lost their livelihoods due to the decline in fishing areas. This clearly illustrates the tension between economic development and the protection of indigenous/local rights.

From the perspective of international law, coastal reclamation that disregards indigenous rights violates the principle of Free, Prior and Informed Consent (FPIC), as articulated in UNDRIP 2007. The state is therefore obliged to ensure that indigenous peoples are actively involved in decision-making processes regarding reclamation projects that directly affect their living space.

Maria S.W. Sumardjono asserts that development policies should not be viewed solely from an economic standpoint but must also consider the social, cultural, and environmental dimensions inherent to indigenous communities. This emphasizes that the protection of indigenous peoples' rights in the context of coastal reclamation cannot be separated from the principles of social justice and environmental sustainability.

In addition to legal certainty, the aspect of justice is also significantly affected. Coastal reclamation often sacrifices indigenous peoples and traditional fisherfolk who depend on coastal resources for their survival. They lose access to the sea, which has served as their hereditary source of livelihood. In this regard, distributive justice as articulated by Aristotle, namely giving each individual what is rightfully theirs fails to be realized.

III. CONCLUSION

Reclaimed land essentially falls under the category of state land, the regulation of which is subject to the Basic Agrarian Law (UUPA) and its derivative regulations. However, in practice, there exists a disharmony of norms with sectoral regulations, such as Law No. 27 of 2007 in conjunction with Law No. 1 of 2014 concerning the Management of Coastal Areas and Small Islands, Law No. 32 of 2009 on Environmental Protection and Management, as well as regional regulations. This condition creates legal uncertainty regarding the status, designation, and rights over reclaimed land, thereby opening the possibility of disputes between the state, investors, and coastal communities.

The Harmonization of Agrarian Law Can be Achieved Through The Synchronization Of Cross-Sectoral Legislation Governing Land, Environment, And Coastal Areas. Such Efforts Must Be Grounded in The Principles Of Legal Certainty, Social Justice, And Environmental Sustainability. The Resolution Of Reclamation Disputes Should Not Rely Solely On Litigation but should also maximize non-litigation mechanisms (mediation, conciliation, arbitration) that accommodate the interest of local and indigenous communities. In this way legal certainty and substantive justice can be realized, while simultaneously ensuring that reclamation projects remain aligned with the principles of sustainable development.

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