

Beyond Recognition: Constitutional Failure and the Everyday Justice of Indigenous Peoples in Indonesia's Agrarian Conflicts

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Abstract

Constitutional recognition of indigenous peoples has not necessarily translated into effective protection against dispossession, land conflict, and resource exploitation. This article examines the gap between formal recognition and substantive justice in agrarian conflicts involving indigenous communities in Indonesia. The research asks why constitutional and statutory recognition frequently fails to provide effective remedies when indigenous territories overlap with state concessions, infrastructure projects, or corporate activities. Using a normative and socio-legal approach, the study analyzes constitutional provisions, legislation concerning indigenous peoples and natural resources, selected judicial decisions, and documented agrarian conflicts. The article argues that recognition-based approaches are insufficient when legal protection remains conditional upon complex administrative procedures and fragmented institutional authority. In practice, indigenous communities may be required to prove their existence, territorial boundaries, and customary status before accessing rights that should function as substantive guarantees. The analysis further demonstrates that the fragmentation of land, forestry, and local-government regimes creates structural barriers to effective remedies. The article therefore proposes a shift from recognition as a precondition toward recognition as an enforceable constitutional obligation accompanied by accessible remedies. It concludes that meaningful indigenous justice requires institutional coordination, stronger protection against dispossession, and judicial approaches that prioritize substantive equality over formalistic administrative classifications. The study contributes to debates on constitutionalism, indigenous rights, and transformative justice in Indonesia.

[Pengakuan konstitusional terhadap masyarakat adat belum tentu diterjemahkan menjadi perlindungan efektif terhadap pengusuran, konflik lahan, dan eksploitasi sumber daya. Artikel ini mengkaji kesenjangan antara

pengakuan formal dan keadilan substantif dalam konflik agraria yang melibatkan masyarakat adat di Indonesia. Penelitian ini mempertanyakan mengapa pengakuan konstitusional dan undang-undang seringkali gagal memberikan solusi efektif ketika wilayah adat tumpang tindih dengan konsesi negara, proyek infrastruktur, atau kegiatan korporasi. Dengan menggunakan pendekatan normatif dan sosio-legal, studi ini menganalisis ketentuan konstitusional, undang-undang yang berkaitan dengan masyarakat adat dan sumber daya alam, beberapa putusan pengadilan, dan konflik agraria yang terdokumentasi. Artikel ini berpendapat bahwa pendekatan berbasis pengakuan tidak cukup ketika perlindungan hukum tetap bergantung pada prosedur administratif yang kompleks dan otoritas kelembagaan yang terfragmentasi. Dalam praktiknya, masyarakat adat mungkin diharuskan untuk membuktikan keberadaan mereka, batas wilayah, dan status adat sebelum mengakses hak-hak yang seharusnya berfungsi sebagai jaminan substantif. Analisis lebih lanjut menunjukkan bahwa fragmentasi rezim lahan, kehutanan, dan pemerintah daerah menciptakan hambatan struktural terhadap solusi yang efektif. Oleh karena itu, artikel ini mengusulkan pergeseran dari pengakuan sebagai prasyarat menuju pengakuan sebagai kewajiban konstitusional yang dapat ditegakkan disertai dengan solusi yang mudah diakses. Kesimpulannya, keadilan bagi masyarakat adat yang bermakna membutuhkan koordinasi kelembagaan, perlindungan yang lebih kuat terhadap penggusuran, dan pendekatan peradilan yang memprioritaskan kesetaraan substantif daripada klasifikasi administratif formalistik. Studi ini berkontribusi pada perdebatan tentang konstitusionalisme, hak-hak masyarakat adat, dan keadilan transformatif di Indonesia.]

Keywords: indigenous peoples, agrarian conflict, constitutional recognition, land rights, transformative justice

Introduction

The constitutional recognition of indigenous peoples in Indonesia presents a fundamental paradox. On the one hand, the 1945 Constitution expressly recognizes and respects customary law communities and their traditional rights under Article 18B(2), while Article 28I(3) affirms respect for cultural identity and traditional communities. On the other hand, indigenous communities continue to experience land dispossession, overlapping concessions, forest restrictions, infrastructure development, and prolonged agrarian conflicts. The existence of constitutional recognition therefore does not necessarily mean that indigenous rights are effectively protected in everyday governance. The central problem is not simply whether the law recognizes indigenous peoples, but whether recognition produces enforceable rights when indigenous territories encounter competing claims by the state, corporations, or other actors. This distinction between formal recognition and substantive protection provides the starting point for examining constitutional

failure in Indonesia's agrarian order (Arizona and Cahyadi 2013; Anggoro and Negara 2021).

The historical structure of Indonesian land governance helps explain this paradox. Colonial legal arrangements developed systems through which land without formally recognized individual title could be incorporated into state authority. Although the Basic Agrarian Law of 1960 sought to dismantle colonial *domein verklaring* principles, it retained a strong role for state control and subjected customary rights to conditions imposed by national law. Article 3 of the Basic Agrarian Law recognizes *hak ulayat* insofar as such rights remain in existence and their exercise is consistent with national interests and applicable legislation. This conditional structure created a legal architecture in which customary rights were acknowledged but remained vulnerable to administrative qualification. Contemporary scholarship has therefore characterized Indonesian recognition of *ulayat* rights as a form of conditional or “pseudo-recognition,” because communities must often satisfy state-defined requirements before their pre-existing rights become administratively effective (Sukirno and Mahfud 2022; Pradhani 2019).

The constitutional transformation following the Reformasi era nevertheless created important opportunities for indigenous justice. Decentralization, constitutional amendments, civil-society mobilization, and strategic litigation opened new legal spaces for customary communities. The Constitutional Court's Decision No. 35/PUU-X/2012 became particularly significant because it rejected the statutory classification of customary forests as part of state forests and affirmed that customary forests should be distinguished from forests directly controlled by the state. The decision represented a major constitutional correction because it challenged the assumption that customary territories could automatically be absorbed into the state's forest domain. Yet judicial recognition did not immediately translate into territorial security. The subsequent process still required administrative recognition, mapping, local regulations, and coordination among governmental institutions (Tobroni 2016; Bedner 2016).

The experience after Decision No. 35/PUU-X/2012 illustrates the limitations of court-centered constitutionalism. Constitutional judgments can establish legal principles, invalidate discriminatory provisions, and redefine state obligations, but they cannot automatically change bureaucratic practices, concession maps, local political relationships, or institutional incentives. Studies of customary forest recognition demonstrate that recognition often proceeds slowly and may depend heavily upon intermediary organizations, local government support, mapping processes, and community mobilization (Fisher, Prabowo, and Sahide 2022; Sembiring, Sundawati, and Nugroho 2021). Consequently, constitutional rights may remain legally valid while being practically inaccessible. This condition creates a form of constitutional under-enforcement in which the state recognizes a right at the normative level but fails to create sufficiently effective institutional pathways for its realization.

Previous scholarship has examined Indonesian indigenous rights from several perspectives. Legal studies have analyzed the constitutional status of *masyarakat hukum adat*, the relationship between customary law and national law, and the significance of Constitutional Court decisions (Pradhani 2019; Tobroni 2016; Anggoro and Negara 2021). Socio-legal research has examined conflicts involving plantations and forest concessions, demonstrating how indigenous and local communities encounter structural barriers even when political and legal opportunities for recognition have expanded (Dhiaulhaq and McCarthy 2020). Other studies have investigated the role of NGOs, collective action, customary forest recognition, and participatory mechanisms in transforming legal recognition into practical tenure security (Sembiring, Sundawati, and Nugroho 2021; Fisher, Prabowo, and Sahide 2022). These studies collectively demonstrate that recognition is important but cannot alone explain the persistence of agrarian injustice.

However, an important analytical gap remains. Much of the existing literature evaluates whether indigenous communities have obtained recognition, while less attention is given to the quality of justice that follows recognition. Recognition can become an administrative destination rather than a mechanism for restoring substantive rights. Communities may obtain formal acknowledgment but remain unable to recover land already occupied by concessions, contest permits issued before recognition, or obtain timely compensation and restitution. In other circumstances, recognition may require communities to reshape their social organization into categories that are legible to state institutions. Dhiaulhaq and McCarthy (2020) show that indigenous and agrarian-justice framings can provide political leverage, but legal and institutional barriers may still produce incomplete settlements. The problem therefore extends beyond recognition toward remedy, redistribution, participation, and institutional accountability.

This article contributes to constitutional and indigenous-rights scholarship by shifting the analytical focus from recognition to everyday justice. It conceptualizes constitutional failure not as the absence of constitutional rights but as the inability of institutions to translate recognized rights into effective protection and remedies. The novelty of the article lies in combining constitutional law with socio-legal theories of agrarian conflict and transformative justice. Rather than treating recognition as the endpoint of indigenous-rights protection, the article asks what must happen after recognition for constitutional rights to become materially effective. It argues that recognition should operate as an enforceable constitutional obligation rather than a preliminary administrative hurdle. The state must bear responsibility for coordinating recognition, preventing dispossession, reviewing conflicting concessions, and providing accessible remedies when indigenous territories are unlawfully appropriated.

The research addresses three questions. First, why does constitutional recognition fail to prevent continuing agrarian conflicts involving indigenous communities? Second, how do fragmented land, forestry, natural-resource, and

local-government regimes reproduce structural barriers to indigenous justice? Third, what institutional and judicial framework could transform recognition into substantive protection? The study employs normative juridical and socio-legal approaches. The normative component examines the 1945 Constitution, Basic Agrarian Law, Forestry Law, Human Rights Law, Village Law, relevant regulations, and Constitutional Court decisions. The socio-legal component draws on documented cases and academic studies concerning customary forests, plantation conflicts, land grabbing, and recognition processes. The analysis uses transformative justice as a normative framework for evaluating whether legal institutions merely acknowledge indigenous claims or actually alter the unequal structures that produce dispossession.

Results and Discussion

1. Conditional Recognition and the Constitutional Paradox

The Indonesian constitutional framework contains two seemingly competing tendencies. The first is recognition: the Constitution acknowledges customary law communities and their traditional rights. The second is conditionality: recognition applies only insofar as communities remain alive, correspond with social development, and conform to principles of the unitary state and national legislation. This conditional structure reflects a longstanding tension between legal pluralism and legal centralism. Indigenous communities possess norms and territorial relationships that predate the modern state, yet their legal validity is ultimately mediated through state institutions. Anggoro and Negara (2021) demonstrate that this tension is deeply rooted in Indonesia's historical trajectory of legal unification. Constitutional recognition therefore provides a legal opening for indigenous rights while simultaneously allowing the state to determine when and how those rights become legally effective.

This paradox becomes particularly visible in land governance. Article 3 of the Basic Agrarian Law recognizes *hak ulayat*, but the recognition is conditioned by the continuing existence of customary communities and compatibility with national interests. The provision can be interpreted as an acknowledgment that customary rights pre-exist state recognition, but administrative practice frequently treats recognition as something that communities must actively obtain. Pradhani (2019) argues that regional recognition of *ulayat* rights is fundamentally declaratory because it confirms an existing right rather than creating it. Yet the practical significance of that distinction is considerable. If state agencies require a local regulation before acknowledging a community's territorial claim, a declaratory right may function as though it were constitutive. The community effectively becomes rights-bearing only after satisfying the state's evidentiary requirements.

This problem creates an asymmetry of proof. Indigenous communities may have to demonstrate historical occupation, customary governance, territorial boundaries, community structure, and continuity of tradition. Meanwhile, state agencies and corporations may rely on administrative permits, concession maps, or

government classifications that were produced without adequately recognizing pre-existing customary claims. The burden therefore falls disproportionately on the community whose rights have historically been under-recorded. Such an arrangement reverses the logic of constitutional protection. Instead of requiring the state to justify interference with an existing right, the system may require indigenous communities to prove why the state should not interfere. The difference is not merely procedural; it determines which actor enjoys the presumption of legitimacy in agrarian conflicts (Sukirno and Mahfud 2022).

The consequence is a form of legal insecurity that can persist even where courts have recognized indigenous rights. The Constitutional Court's Decision No. 35/PUU-X/2012 corrected an important statutory error by distinguishing customary forests from state forests. Yet the decision did not automatically identify every customary territory, resolve every overlapping concession, or establish a universal administrative mechanism for recognizing customary communities. As a result, the constitutional principle remains dependent upon institutional implementation. This demonstrates a broader lesson about transformative constitutionalism: rights become transformative only when constitutional principles restructure the institutions that previously produced exclusion. Without such institutional transformation, recognition risks becoming symbolic rather than remedial (Tobroni 2016; Bedner 2016).

2. Forest Governance, State Concessions, and the Production of Dispossession

Forest governance is one of the clearest areas in which constitutional recognition has collided with administrative power. Indonesia's forestry regime historically classified extensive territories as state forests, often without adequate differentiation between land that was legally controlled by the state and territories inhabited and managed by indigenous communities. The result was a structural overlap between state authority and customary territorial claims. Constitutional Court Decision No. 35/PUU-X/2012 challenged this structure by holding that customary forests should not simply be treated as state forests. Nevertheless, the practical process of transferring forests from state classification to recognized customary control remains administratively demanding. The gap between judicial doctrine and administrative implementation consequently becomes a central site of indigenous vulnerability (Tobroni 2016; Fisher, Prabowo, and Sahide 2022).

Research on customary forest recognition demonstrates that the process is influenced by institutional capacity, political relationships, community organization, and intermediary organizations. Fisher, Prabowo, and Sahide (2022), examining customary forest recognition in Kerinci, show that NGOs played a significant role in supporting communities, developing formal recognition systems, and connecting local institutions with governmental structures. Sembiring, Sundawati, and Nugroho (2021), however, identify collective-action barriers in the recognition process. These findings reveal an important structural problem: constitutional rights may become dependent upon a community's capacity to

mobilize organizations, produce maps, navigate administrative procedures, and obtain political support. Communities with limited resources may therefore face greater difficulty transforming constitutional recognition into effective territorial security.

The issue becomes more serious when customary territories overlap with corporate concessions. Agrarian conflicts involving plantations frequently arise from disputes over land acquisition, concession boundaries, compensation, plasma arrangements, and corporate commitments. Balai Penelitian dan Pengembangan Lingkungan Hidup dan Kehutanan (2021) identifies several recurring patterns of conflict between palm-oil companies and indigenous or forest-dependent communities, including conflicts over land acquisition and plantation permits. Dhiaulhaq and McCarthy (2020) similarly demonstrate that conflicts involving forest plantations cannot be explained solely as technical disputes over title. They involve competing political narratives, unequal institutional power, and different conceptions of justice. Consequently, the mere existence of a government-issued concession cannot automatically resolve the legitimacy of the underlying land claim.

The legal problem is particularly acute where concessions were granted before customary recognition. If a community receives formal recognition after a corporation has already obtained a permit, should recognition merely protect the community from future dispossession, or should it trigger a review of the existing concession? A recognition-centered approach often focuses on prospective protection. A transformative approach asks a more difficult question: what remedy is owed when the state has already authorized interference with an indigenous territory? This requires consideration of restitution, compensation, cancellation or modification of permits, benefit-sharing, and restoration of land or ecological resources. Without such mechanisms, recognition may protect the community only from tomorrow's dispossession while leaving yesterday's dispossession legally intact.

3. The Fragmentation of Agrarian Governance

Indigenous agrarian conflicts rarely fit within a single legal sector. A single territory may simultaneously be governed through land law, forestry law, plantation regulation, mining regulation, spatial planning, environmental law, village administration, and regional government law. Each regime possesses its own definitions, permits, databases, and institutional authorities. This fragmentation can produce contradictory classifications of the same territory. Land may be understood as customary territory by the community, state forest by a forestry agency, concession land by a corporation, and village land by a local government. The resulting conflict is not simply a dispute over ownership; it is a conflict between multiple legal and administrative representations of the same space.

Sukirno and Mahfud (2022) demonstrate that the historical relationship between state law and customary law has repeatedly produced conditional

recognition. The problem has become more complicated as decentralization created additional layers of government authority. Local governments may have the power to recognize customary communities, while central institutions retain substantial authority over forests, plantations, mining, or other natural resources. Two institutions can therefore acknowledge the same community in principle while exercising different approaches to the community's territory. This institutional fragmentation creates what may be called "jurisdictional displacement": the community must repeatedly establish its rights before different government agencies because recognition in one administrative domain does not automatically bind another.

The consequences are particularly severe for communities with limited legal and financial resources. Corporate actors generally possess specialized legal counsel, technical consultants, mapping capacity, and institutional access. Indigenous communities may rely on customary knowledge, oral histories, community maps, and civil-society organizations. When administrative systems privilege documents generated by formal institutions, these differences in capacity become legally significant. A technically neutral procedure may therefore reproduce substantive inequality. The problem is not that documentary evidence should be abandoned, but that evidentiary rules must account for the distinctive nature of indigenous territorial relationships. International indigenous-rights principles similarly recognize the importance of traditional occupation, customary tenure, and collective relationships to land (United Nations 2007; International Labour Organization 1989).

The fragmentation problem also affects remedies. A court may recognize a customary right while another institution continues to rely on an existing concession map. A local government may issue a recognition regulation while a forestry agency delays the corresponding territorial designation. A land agency may register individual claims without addressing collective customary ownership. The result is an institutional chain in which each agency performs its own legal function but no institution assumes responsibility for resolving the entire conflict. Effective justice therefore requires more than harmonizing legal texts. It requires institutional mechanisms capable of coordinating decisions across sectors and ensuring that a constitutional judgment or recognition decision has consequences throughout the administrative system.

4. Agrarian Conflict as a Problem of Structural Inequality

Agrarian conflict involving indigenous peoples should not be understood simply as a disagreement between two private parties. In many cases, the state itself has played a constitutive role by classifying land, issuing concessions, approving spatial plans, or establishing forest boundaries. The legal dispute therefore involves a triangular relationship among indigenous communities, state institutions, and economic actors. Treating such conflicts as ordinary private disputes can obscure the structural conditions that created them. A transformative justice approach

instead asks how historical patterns of state authority, economic development, and legal classification have produced unequal control over land and resources (Fraser 2009; Young 2011).

Nancy Fraser's theory of justice is useful because it distinguishes redistribution, recognition, and representation. Indigenous agrarian conflicts involve all three dimensions. Redistribution concerns access to land and natural resources. Recognition concerns the legal and social status of indigenous communities and their customary institutions. Representation concerns whether communities possess meaningful participation in decisions affecting their territories. A legal system that recognizes indigenous identity but leaves land distribution unchanged addresses only one dimension of injustice. Similarly, a redistribution program that ignores indigenous identity and governance may reproduce cultural marginalization. Transformative justice therefore requires simultaneous attention to material resources, status equality, and political participation.

The Indonesian experience demonstrates why recognition alone can be insufficient. Dhiaulhaq and McCarthy (2020) find that agrarian-justice framing can sometimes mobilize broader coalitions than narrowly indigenous-rights claims, especially in socially heterogeneous communities. This insight challenges the assumption that every land conflict should be resolved solely through the language of indigeneity. Some communities may have mixed histories, migration patterns, or internal inequalities that make a rigid indigenous classification problematic. A justice-oriented legal framework should therefore protect legitimate land and livelihood interests without forcing communities to fit an idealized model of cultural homogeneity. Indigenous rights remain essential, but they should operate alongside broader principles of agrarian justice, equality, participation, and environmental protection.

The danger of formalistic indigeneity is illustrated by research on the Kajang community. The recognition of communal territory does not automatically eliminate internal contestation or guarantee equal access to cultivation rights. Recognition may even obscure the diverse interests operating within a community if the community is represented as a homogeneous collective (Li 2020). This finding is important for transformative justice because protection of indigenous rights must not reproduce internal exclusion. Women, younger generations, poorer households, migrants integrated into customary communities, and other less powerful members may have distinct interests. A constitutional approach should therefore recognize collective rights while maintaining safeguards for individual equality and meaningful internal participation.

5. Participation, Consent, and the Prevention of Dispossession

The most effective form of agrarian justice is preventive rather than merely remedial. Once a concession has been issued, land cleared, forest converted, or community displaced, legal restoration becomes significantly more difficult.

Prevention therefore requires meaningful participation before decisions affecting indigenous territories are finalized. The principle of Free, Prior and Informed Consent (FPIC) is particularly relevant because it reframes indigenous communities from passive objects of development into participants with decision-making authority. Budiono et al. (2023) argue that internalizing FPIC principles can strengthen indigenous resistance against alienation in structural agrarian conflicts. The principle is consistent with international indigenous-rights standards and can provide a bridge between constitutional recognition and participatory governance.

FPIC should not be reduced to obtaining signatures or holding a single consultation meeting. “Free” requires absence of coercion; “prior” requires participation before the decision becomes irreversible; “informed” requires access to adequate information; and “consent” requires that participation have meaningful influence over the proposed project. This standard is especially important where communities face significant differences in bargaining power. A consultation conducted after a concession has been granted cannot meaningfully prevent dispossession. Similarly, a community may formally agree to a project without genuine consent if the alternatives are presented in a coercive or misleading manner. Indonesian licensing systems should therefore incorporate stronger social-sensitivity requirements and meaningful community participation (Aditya and Al-Fatih 2021).

Participation also has constitutional significance. Article 28D of the Constitution guarantees legal certainty and equality before the law, while Article 28F protects the right to obtain and communicate information. These provisions support a broader understanding of participatory governance. Communities cannot meaningfully participate if they lack access to information concerning permits, maps, environmental assessments, or land classifications. Transparency is therefore not an administrative courtesy but a prerequisite for rights protection. Indigenous communities should have access to relevant spatial and concession data in forms that are understandable and usable. Without information, participation becomes procedural theater rather than democratic decision-making.

Prevention must also include independent review of proposed projects affecting customary territories. Environmental and social assessments should identify customary land relationships before permits are issued. Government agencies should be required to determine whether indigenous communities exist in the relevant area and whether customary claims overlap with the proposed activity. Where uncertainty exists, the appropriate response should not automatically be to proceed until the community proves its rights. Instead, the precautionary principle should operate in favor of preventing irreversible dispossession while competing claims are investigated. This approach would shift the burden from reactive litigation toward preventive constitutional governance.

6. Courts, Remedies, and Transformative Constitutionalism

Courts play a crucial role because constitutional recognition becomes meaningful only when rights can be enforced. The Constitutional Court's Decision No. 35/PUU-X/2012 demonstrates the transformative potential of judicial review. By separating customary forests from state forests, the Court altered the legal architecture through which indigenous territories had been classified. Yet judicial transformation must be accompanied by remedial transformation. A judgment that recognizes a right but leaves affected communities without practical mechanisms for restitution, territorial registration, or permit review may remain incomplete. The challenge for courts is therefore to move beyond declaratory constitutionalism toward remedies capable of correcting institutional causes of injustice.

Judicial review should also recognize the difference between prospective and retrospective justice. Prospective protection prevents future violations, while retrospective justice addresses existing dispossession. Indigenous agrarian conflicts frequently require both. If a community's territory has already been incorporated into a plantation concession, simply recognizing the community's customary status may not restore the lost land. Courts and administrative institutions must consider whether the concession was lawfully issued, whether the community participated in the decision, whether compensation was adequate, and whether restoration remains possible. Remedies should be proportionate to the harm and should not automatically prioritize administrative convenience over constitutional rights.

Administrative courts are particularly important in this regard. Many agrarian conflicts arise through administrative decisions: permits, concessions, spatial plans, environmental approvals, or land classifications. Judicial review of these decisions can provide a mechanism for testing whether government action respected indigenous rights. However, effective administrative litigation requires accessible standing rules, timely procedures, sufficient access to evidence, and remedies capable of addressing continuing harm. If litigation takes years while a plantation or infrastructure project proceeds, a successful judgment may arrive after irreversible environmental and social transformation. Procedural justice must therefore be understood as part of substantive justice.

Transformative constitutionalism further requires courts to interpret legal uncertainty in light of constitutional equality and indigenous rights. Where sectoral legislation contains conflicting classifications, courts should avoid interpretations that perpetuate historical dispossession. This does not mean automatically invalidating every concession or treating every indigenous claim as conclusive. Rather, courts should assess the legitimacy of state action through proportionality, participation, non-discrimination, legal certainty, and protection of constitutional rights. The objective should be to prevent administrative categories from becoming instruments through which constitutional rights are neutralized.

7. From Recognition to an Enforceable Indigenous Justice Framework

The first institutional reform required is a shift from recognition as a prerequisite to recognition as an enforceable obligation. Indigenous communities should not have to repeatedly prove their existence to different government institutions. A standardized national framework should establish procedures for identifying customary communities and territories while allowing sufficient flexibility for local diversity. Recognition decisions should be legally binding across relevant administrative sectors. Once a community and territory are recognized, other institutions should be required to adjust spatial plans, forest classifications, concessions, and land administration accordingly. This would reduce the possibility that one government agency recognizes a community while another continues to treat its territory as unoccupied state land.

Second, Indonesia requires stronger mechanisms for resolving overlapping claims. Existing sectoral procedures often address only one aspect of a conflict. An integrated agrarian conflict mechanism should be capable of examining land history, customary claims, permits, environmental impacts, and community participation in a single process. The mechanism should include indigenous representatives, independent experts, government agencies, and where appropriate corporate actors. Heryanti and Sihotang (2022) emphasize the importance of participatory approaches to resolving *ulayat* disputes. Participation should therefore be institutionalized rather than dependent upon informal negotiations or civil-society intervention.

Third, remedies should include restitution and restoration where appropriate. Compensation is not always an adequate response to dispossession of customary territory because land may have cultural, spiritual, ecological, and intergenerational significance that cannot easily be monetized. The United Nations Declaration on the Rights of Indigenous Peoples recognizes indigenous peoples' rights to redress, including restitution or, where this is not possible, fair compensation for lands and resources taken without free, prior, and informed consent (United Nations 2007). Indonesian courts and administrative bodies should therefore consider restoration of land, cancellation or modification of unlawful permits, ecological rehabilitation, and community participation in determining remedies.

Fourth, institutional accountability should be strengthened. Officials who issue permits without adequate consideration of indigenous rights should be subject to administrative review and, where legally justified, sanctions. Corporate actors should also face meaningful consequences when their operations violate legally protected community rights. Aditya and Al-Fatih (2021) emphasize the need to strengthen licensing principles through social sensitivity because natural-resource exploitation can produce serious human-rights consequences. Licensing should consequently be treated as a constitutional governance function rather than merely an economic authorization. The state's obligation is not only to promote investment

but also to ensure that development does not externalize its costs onto constitutionally vulnerable communities.

Finally, indigenous justice requires continuous monitoring after recognition. Recognition should not be regarded as the conclusion of a legal process. Communities need continuing protection against new concessions, boundary changes, illegal occupation, environmental degradation, and internal exclusion. Government databases should be updated, territorial maps should be interoperable, and communities should have accessible mechanisms for reporting violations. The ultimate measure of constitutional success should therefore be practical: whether indigenous communities can maintain meaningful control over their territories, participate in decisions affecting them, obtain effective remedies, and live without the continuing threat of dispossession. This is the point at which constitutional recognition becomes everyday justice.

Conclusion

This article has demonstrated that the principal weakness of Indonesia's indigenous-rights framework is not the complete absence of constitutional recognition but the distance between recognition and enforceable justice. Articles 18B(2) and 28I(3) of the 1945 Constitution, the Basic Agrarian Law, and Constitutional Court Decision No. 35/PUU-X/2012 provide significant normative foundations for protecting customary communities and their territorial rights. Nevertheless, recognition remains constrained by administrative conditionality, fragmented sectoral governance, unequal evidentiary burdens, and weak remedial mechanisms. Indigenous communities may therefore possess rights in constitutional language while remaining vulnerable to dispossession in everyday governance. This contradiction demonstrates that constitutional recognition without institutional implementation can reproduce rather than resolve structural injustice.

The analysis further shows that agrarian conflict should not be reduced to disputes over formal ownership. Indigenous territories are simultaneously legal, social, cultural, ecological, and political spaces. Their dispossession can therefore involve failures of redistribution, recognition, and representation. A transformative approach requires the state to prevent dispossession before it occurs, ensure meaningful participation in decisions affecting customary territories, and provide restitution or other effective remedies when rights have already been violated. Recognition should operate as an enforceable constitutional obligation rather than as a bureaucratic privilege granted only after communities satisfy complex administrative requirements. Courts, administrative agencies, and local governments must consequently treat indigenous rights as constraints on public power rather than as exceptions to ordinary land governance.

Future research should move beyond doctrinal analysis toward systematic empirical investigation of the implementation of indigenous-rights judgments and recognition policies. Comparative research across provinces could identify why some customary communities obtain effective territorial recognition while others

remain trapped in prolonged administrative procedures. Further research should also examine the experiences of women, youth, and economically marginalized members within indigenous communities so that collective recognition does not obscure internal inequalities. Finally, future scholarship should investigate whether integrated spatial databases, FPIC mechanisms, participatory dispute resolution, and specialized judicial remedies can reduce recurring agrarian conflicts. The broader constitutional question remains whether Indonesia can transform indigenous recognition from a formal statement of respect into an institutional practice of equality. Meaningful constitutionalism will ultimately be measured not by the number of laws recognizing indigenous peoples, but by whether those communities can exercise their rights securely in the places they call home.

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