

# Resolving Disputes Arising from Land Acquisition for Public Purposes Involving Indigenous Peoples in the Nusantara Capital Region

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## Abstract

This research endeavors to investigate the intricate process of dispute resolution pertaining to conflicts that emerge between indigenous communities inhabiting the candidate site for the State Capital (Nusantara Capital City) and the Nusantara Capital Authority, a ministry-level institution endowed with the responsibility of overseeing regional administration within the Nusantara Capital City. Spanning an expansive 256,142 hectares of land, the Nusantara Capital City landscape harbors a mosaic of 17 indigenous communities in North Penajam Paser Regency and 34 indigenous communities in Kutai Kertanegara Regency, collectively comprising over 20,000 members, as documented by the Indigenous Peoples Alliance (Aliansi Masyarakat

Adat). The procurement of land for the Nusantara Capital City's expansion has engendered protracted conflicts, notably pertaining to the resettlement of indigenous communities and the determination of suitable compensation areas. These conflicts persist without the presence of regulatory safeguards that could protect the rights and interests of indigenous communities while satisfying the exigencies of Nusantara Capital City development. The Indigenous Peoples Draft Law, despite its relevance, fails to address the intricacies of resolving disputes arising from land acquisition for public purposes. Similarly, the existing frameworks for land acquisition designed for public interest do not adequately address conflicts involving indigenous communities that lack legal recognition. Consequently, this research endeavors to propose a comprehensive conflict resolution framework rooted in the fundamental human rights of indigenous peoples, while also accommodating the imperatives of developmental investment. This approach seeks to strike a harmonious balance between the preservation of indigenous rights and the fulfillment of Nusantara Capital City's development needs.

## Keywords

*Indigenous Peoples, Land Acquisition, Conflict Resolution, Human Rights, Investment, Nusantara Capital City*

## Introduction

The impending relocation of Indonesia's state capital to Kalimantan Island, referred to as the New Capital City (IKN), marks a pivotal moment in the nation's development trajectory. This strategic shift aims to depart from the longstanding "Java-Centric" development paradigm and foster equitable development throughout the archipelago<sup>1</sup>. The epicenter of this transformative endeavor is the

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<sup>1</sup> D. A. Ristanto, A. Jatayu, and R. Z. F. Sihotang, "Towards a Sustainable New State Capital (IKN): Sustainable Zoning Plan Formulation Based on Quantitative Zoning Approach," *IOP Conference Series: Earth and Environmental Science, The 4th International Conference on Green Energy and Environment 2022 (ICoGEE 2022) 10/10/2022 - 12/10/2022 Online* 1108 (November 2022): 1–6.

Balikpapan-Samarinda corridor, which is poised for extensive urban expansion and conurbation<sup>2</sup>. This monumental transition, while promising various socio-economic benefits, is not devoid of challenges and implications, particularly for the indigenous communities residing within the region.

Nusantara Capital City, as the envisioned hub of governance and commerce, sprawls across an extensive 256,142 hectares of land. This vast expanse is home to a mosaic of indigenous communities, as documented by the Indigenous Peoples Alliance (*Aliansi Masyarakat Adat*), encompassing 17 communities in North Penajam Paser Regency and 34 communities in Kutai Kertanegara Regency, collectively representing over 20,000 members. The development of Nusantara Capital City hinges on the acquisition of land for public purposes, necessitating compensation for areas previously inhabited by indigenous peoples.

However, a fundamental challenge arises from the lack of legal recognition for customary communities and their territorial claims, leaving indigenous populations, including those in the Nusantara Capital region, vulnerable to displacement and marginalization. The process of land procurement for Nusantara Capital City's expansion has engendered protracted conflicts, most notably concerning the resettlement of indigenous communities and the equitable determination of suitable compensation areas. These disputes, persisting without the protective embrace of adequate regulations, pose a substantial hindrance to the harmonious coexistence of indigenous rights and the exigencies of Nusantara Capital City's development.

Crucially, the existing legal framework, notably the Indigenous Peoples Draft Law, does not comprehensively address the intricate web of conflicts that emerge from land acquisition for public purposes. Furthermore, the current land acquisition protocols designed to serve public interest fall short in resolving conflicts involving indigenous communities that lack formal legal recognition. This research endeavors to fill this regulatory void by proposing a robust conflict resolution concept. Rooted in the fundamental human rights of indigenous peoples, this framework seeks to strike a delicate equilibrium between safeguarding indigenous rights and fulfilling the imperatives of

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<sup>2</sup> Ristanto, Jatayu, and Sihotang.

Nusantara Capital City's development. It recognizes the pivotal role of investment and economic progress while ensuring the preservation of indigenous heritage and dignity.

In light of the multidimensional impacts stemming from the relocation of Indonesia's state capital, this study transcends disciplinary boundaries, drawing insights from diverse fields of research. Archaeological investigations<sup>3</sup> have delved into the historical context of the future capital city in Sepaku, East Kalimantan. Simultaneously, studies have examined the ramifications of land cover changes, specifically the conversion of vegetation land to urban land, on temperature parameters within the new capital city<sup>4</sup>. Additionally, the forthcoming urban expansion's potential constraints on road network connectivity in the surrounding areas have been explored<sup>5</sup>.

The impending relocation of Indonesia's state capital to Kalimantan Island signals a paradigm shift in the nation's development strategy, with far-reaching socio-economic, environmental, and cultural implications. Hence, a holistic and well-balanced approach is imperative to ensure the sustainable development of the region and the equitable protection of indigenous rights in the midst of dynamic transformations<sup>6</sup>. In the subsequent sections, this research will delve deeper into the complexities of resolving conflicts arising from land

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<sup>3</sup> Anibal Alviz-Meza et al., "Bibliometric Analysis of Fourth Industrial Revolution Applied to Heritage Studies Based on Web of Science and Scopus Databases from 2016 to 2021," *Heritage Science* 10 (2022): 1–17.

<sup>4</sup> R. A. F. Denryanto and R. H. Virgianto, "The Impact of Land Cover Changes on Temperature Parameters in New Capital of Indonesia (IKN)," *IOP Conference Series: Earth and Environmental Science, 2nd International Conference on Tropical Meteorology and Atmospheric Sciences 23 - 25 March 2021, Jakarta, Indonesia* 893 (2021): 1–8.

<sup>5</sup> Junaidi et al., "Assessment of Road Network Connectivity in Support of New Capital Development," *Civil Engineering Journal* 8, no. 10 (October 2022): 2190–2204.

<sup>6</sup> Ristanto, Jatayu, and Sihotang, "Towards a Sustainable New State Capital (IKN): Sustainable Zoning Plan Formulation Based on Quantitative Zoning Approach"; Alviz-Meza et al., "Bibliometric Analysis of Fourth Industrial Revolution Applied to Heritage Studies Based on Web of Science and Scopus Databases from 2016 to 2021"; Denryanto and Virgianto, "The Impact of Land Cover Changes on Temperature Parameters in New Capital of Indonesia (IKN)"; Junaidi et al., "Assessment of Road Network Connectivity in Support of New Capital Development."

acquisition for public purposes, focusing on indigenous peoples' rights, the imperatives of development investment, and the critical need for a comprehensive conflict resolution framework.

## The Concept of Dispute Resolution

The use of the term "dispute" in this research is based on variations in grammatical interpretation, legal regulations, and the perspectives of legal experts regarding disputes and conflicts. In Indonesian, the term "*sengketa*" (dispute), as defined by the Kamus Besar Bahasa Indonesia, includes disagreements or conflicts along with their underlying reasons. The dictionary equates "*konflik*" (conflict) with "*sengketa*" (dispute), indicating a broad conceptual overlap between these terms<sup>7</sup>. Under Law No. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, a dispute is defined as a disagreement among parties bound by a pre-established legal relationship (Article 2). In the context of land disputes, they are distinguished from conflicts based on their scale and the parties involved. Land disputes typically involve limited parties (individuals, legal entities, and institutions) with impacts limited to those directly involved (Article 1, Number 2 of the Regulation of The Minister of Agrarian and Spatial Planning/Head of The National Land Agency of The Republic of Indonesia Number 21 of 2020 Concerning The Handling and Resolution of Land Cases). In contrast, land conflicts can involve individuals, groups, communities, organizations, legal entities, or institutions, which implies broader societal consequences. The extent of the impact of disputes and conflicts is measured by their socio-political ramifications, including differences that have or tend to have significant socio-political implications<sup>8</sup>.

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<sup>7</sup> Badan Pengembangan dan Pembinaan Bahasa, "Hasil Pencarian - KBBI VI Daring," <https://kbbi.kemdikbud.go.id/entri/sengketa>, September 7, 2023.

<sup>8</sup> Sukayadi, Sarjita, and Rachmad Riyadi, "Penyelesaian Konflik Penguasaan Dan Pemilikan Tanah Di Atas Tanah Hak Pengelolaan (Studi Di Kecamatan Sukarame, Kota Bandar Lampung, Provinsi Lampung)" (Yogyakarta, 2013). *See also* Dzulfikar Ahmad Fauzi, "Extrajudicial Dispute Resolution in Handling Environmental Cases in Indonesia (Case Study: River Water Pollution by PT Sugar Labinta in South Lampung)." *Indonesian Journal of Environmental Law and Sustainable Development* 3, no. 1 (2024).

Disputes among parties are relevant in legal contexts, both within the public and private spheres. Disputes and claims in public elections, at both the national and local levels, have public aspects. Similarly, land disputes related to public interest, such as land acquisition, also have public dimensions. Disagreements and claims arising in property law, including breach of contract and consumer protection, represent examples of private disputes. Regardless of the nature of the dispute, its occurrence disrupts the execution of legal actions (e.g., agreements) or activities, sometimes even causing their suspension. Parties involved, each with their legal status, are entitled to legal protection. According to Satjipto Rahardjo, legal protection is the safeguarding of the rights of individuals, particularly those who have suffered harm, ensuring that all can enjoy the rights granted by the law<sup>9</sup>. Resolving disputes is crucial in ensuring the fulfillment of individual (private) and societal (public interest) rights. For instance, a seller's right is to receive payment for the goods sold; thus, in the case of a breach of contract, the primary objective is to obtain payment. In the context of public interest, it can be illustrated by the decision of the Central Jakarta District Court No. 001/Pdt/Arb.Int/1999, which rejected the arbitration award by Bankers Trust against PT Mayora Indah Tbk. in 1999. This rejection occurred because there was already a court decision nullifying the arbitration agreement between Bankers Trust and PT. Mayora Indah. In this case, what was restored was the legal force binding the court's decision on the cancellation of the arbitration agreement. Public order is also defined as described in the Explanation of Article 5, paragraph (b) of Government Regulation No. 16 of 2018 regarding Regional Police, signifying that dispute resolution aims to allow the Central Government, Regional Government, and the public to carry out their activities in a peaceful, orderly, and organized manner in accordance with their respective authorities.

Failure to fulfill an individual's or society's rights due to disputes is incongruent with the purpose of the law. Dispute resolution, formally and initially regulated in Law No. 19 of 1948 concerning the Structure and Authority of Judicial Bodies, encompasses civil and criminal disputes resolved through the common judiciary system, namely district courts, high courts, and the supreme court (Article 8, paragraph (1) of

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<sup>9</sup> Satjipto Rahardjo, *Ilmu Hukum* (Bandung: PT Citra Aditya Bakti, 2000).

Law Number 19 of 1948 concerning the Structure and Authority of Judicial Bodies). The prevailing concept in Indonesia to date regarding dispute resolution through judicial bodies separates cases into criminal-civil, labor, administrative, and military categories. Disputes that enter the judicial system become cases in the courts. The common judiciary system acts as an extension of the government, providing protection to anyone who feels aggrieved or has had their rights violated. The government has established procedural rules for litigation through existing legal provisions in the realm of judicial power, along with procedural laws for both criminal and civil cases, dictating the means for upholding and enforcing criminal and civil substantive laws.

Dispute resolution through the common judiciary system, known as litigation, although not explicitly defined in legal regulations, is understood to encompass all aspects related to case resolution, regardless of the specific mechanisms or methods employed. The grammatical interpretation of "*litigasi*" (litigation) in the Kamus Besar Bahasa Indonesia suggests it encompasses everything related to case resolution, irrespective of the method used<sup>10</sup>. The understanding that litigation is a means of dispute resolution through the courts is derived from Article 6, paragraph (1) of Law No. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. This article mentions the possibility of bypassing the resolution of civil cases through the District Court (litigation). This provision serves as the origin of the interpretation that disputes can be resolved outside the court. Other countries, such as the United States, have long recognized dispute resolution outside of courts, known as Alternative Dispute Resolution<sup>11</sup>, indicating that such mechanisms existed prior to the enactment of Law No. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. The scope of disputes that can be resolved outside of the court system includes trade disputes. The scope of trade law includes commerce, banking, finance, investment, industry, and intellectual property rights as specified in the explanation of Article 66 paragraph (b) of Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution.

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<sup>10</sup> Badan Pengembangan dan Pembinaan Bahasa, "Hasil Pencarian - KBBI VI Daring," <https://kbbi.kemdikbud.go.id/entri/litigasi>, September 7, 2023.

<sup>11</sup> Rachmadi Usman, *Mediasi Di Pengadilan: Dalam Teori Dan Praktik* (Jakarta : Sinar Grafika, 2012).

The emergence of alternative dispute resolution is motivated by the issues that arise within the litigation process. These issues encompass slow case handling, the varied decisions issued by courts (condemnatory, declaratory, constitutive), inappropriate use of such decisions by judges<sup>12</sup>, lengthy resolution periods (in comparison to simple claims)<sup>13</sup>, and high costs<sup>14</sup>. Alternative dispute resolution holds advantages over litigation. Notably, it minimizes costs because legal regulations do not stipulate mandatory expenses, allowing parties to determine their own expenditures. A shorter process is another advantage, as legal regulations do not specify procedural laws or time frames (except in arbitration). Another advantage is the absence of judges; instead, third parties assist in the resolution process, making the outcome fully dependent on the parties' will, rather than the judge's discretion. Understanding the nuances of dispute resolution is essential for achieving justice, protecting individual and societal rights, and maintaining public order. Dispute resolution is an intricate area within the legal field that continues to evolve as society's needs and the legal landscape change. Consequently, scholars and legal practitioners must continually explore and adapt to the various facets of dispute resolution to ensure that the legal system remains effective and just.

## Legal Protection for Indigenous Peoples

Indigenous peoples are distinct groups with a historical connection to a particular territory and possess cultural, social, and economic practices<sup>15</sup>. They are recognized as legal subjects with specific rights under international law<sup>16</sup>. The significance of indigenous peoples

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<sup>12</sup> Ralang Hartati and Syafrida, "HAMBATAN DALAM EKSEKUSI PERKARA PERDATA," *ADIL Jurnal Hukum* 12, no. 1 (July 2021): 88–106.

<sup>13</sup> Shifa Adinatira Harviyani, "Penyelesaian Gugatan Sederhana Sebagai Pelaksanaan Asas Peradilan Sederhana, Cepat, Dan Biaya Ringan Untuk Mewujudkan Access to Justice," *Verstek* 9, no. 3 (July 2021): 650–57.

<sup>14</sup> Eman Suparman, *Arbitrase Dan Dilema : Penegakan Keadilan* (Jakarta: PT Fikahati Aneska, 2012).

<sup>15</sup> Elizabeth Macpherson, Julia Torres Ventura, and Felipe Clavijo Ospina, "Constitutional Law, Ecosystems, and Indigenous Peoples in Colombia: Biocultural Rights and Legal Subjects," *Transnational Environmental Law* 9, no. 3 (2020).

<sup>16</sup> Felix Mukwiza Ndahinda, "Victimization of African Indigenous Peoples: Appraisal of Violations of Collective Rights Under Victimological and



lies in their unique cultural heritage, traditional knowledge, and sustainable practices that contribute to biodiversity conservation and environmental protection<sup>17</sup>. Indigenous peoples' rights are protected under various international legal instruments, such as the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)<sup>18</sup>. These rights include self-determination, land and resource rights, cultural rights, and participation in decision-making processes that affect them<sup>19</sup>. However, the implementation and protection of these rights face challenges due to historical and ongoing colonization, discrimination, and marginalization<sup>20</sup>. Efforts are being made to address these challenges and promote recognizing and respecting indigenous peoples' rights through legal frameworks and international cooperation<sup>21</sup>.

Legal protection for indigenous peoples is crucial for safeguarding their rights and well-being. International law and policy frameworks

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International Law Lenses,” *International Journal on Minority and Group Rights* 14 (2007): 1–23.

- <sup>17</sup> Heather A. Northcott, “Realisation of The Right of Indigenous Peoples To Natural Resources Under International Law Through The Emerging Right To Autonomy,” *The International Journal of Human Rights* 16, no. 1 (2012): 73–99.
- <sup>18</sup> Mauro Barelli, “The Role of Soft Law in The International Legal System: The Case of The United Nations Declaration On The Rights Of Indigenous Peoples,” *International & Comparative Law Quarterly* 58, no. 4 (October 2009): 957–83.
- <sup>19</sup> Northcott, “Realisation of The Right of Indigenous Peoples to Natural Resources Under International Law Through The Emerging Right To Autonomy”; Marco Parriciatu and Francesco Sindico, “Contours of an Indigenous Peoples’ Right to Water in Latin America under International Law,” *International Human Rights Law Review* 1, no. 2 (2012): 211–36.
- <sup>20</sup> Joshua Castellino, “The Protection of Minorities and Indigenous Peoples in International Law: A Comparative Temporal Analysis,” *International Journal on Minority and Group Rights* 17, no. 3 (2010): 393–422; Shashi Kumar, “Indigenous People in South Asia and International Law,” *Shifting Horizons of Public International Law*, 2018, 61–83.
- <sup>21</sup> Claire Charters, “The Sweet Spot Between Formalism and Fairness: Indigenous Peoples’ Contribution to International Law,” *AJIL Unbound* 115 (2021): 123–28; Alejandro Fuentes, “Jurisprudential Developments and Adjudication of Indigenous Peoples’ Rights: Culturally Sensitive Systemic Integration of International Human Rights Law in the Americas,” *International Journal on Minority and Group Rights* 30, no. 3 (2023): 510–37.

play a significant role in providing this protection<sup>22</sup>. These legal protections are necessary to address historical injustices, promote self-determination, and preserve their cultural heritage and traditional knowledge<sup>23</sup>. These legal frameworks recognize and protect Indigenous peoples' rights to land, territory, and natural resources<sup>24</sup>. Furthermore, legal frameworks address issues such as access to clean water<sup>25</sup>, religious freedom<sup>26</sup>, and consultation and participation in decision-making processes<sup>27</sup>. The legal protection of indigenous peoples also extends to family law<sup>28</sup>, environmental sustainability<sup>29</sup>, climate change<sup>30</sup>, and

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<sup>22</sup> Claire Charters, "A Self-Determination Approach to Justifying Indigenous Peoples' Participation in International Law and Policy Making," *International Journal on Minority and Group Rights* 17, no. 2 (2010): 215–40.

<sup>23</sup> Mauro Barelli, *Seeking Justice in International Law the Significance and Implications of the UN Declaration on the Rights of Indigenous Peoples* (Routledge, 2016); Daniel Rietiker, "Indigenous Peoples' Human Right to Water in the Nuclear Age: An Assessment of the Protection Under International Law," *Nuclear Non-Proliferation in International Law* 6 (2021): 155–77.

<sup>24</sup> Digno Montalván and Isabel Wences, "Hacia Una Interpretación Descolonial Del Derecho Al Territorio De Los Pueblos Indígenas En El Derecho Internacional De Los Derechos Humanos: Más Allá De La Propiedad Y La Cartografía," *Ius et Praxis* 28, no. 3 (2022); Lenzerini Federico, *Reparations for Indigenous Peoples in International and Comparative Law: An Introduction*, 2008.

<sup>25</sup> Rietiker, "Indigenous Peoples' Human Right to Water in the Nuclear Age: An Assessment of the Protection Under International Law."

<sup>26</sup> Adrienne Tessier, "Indigenous Religious Freedom in International Law: A Discussion of the Potential of Articles 12 and 25 of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)," in *Research Handbook on the International Law of Indigenous Rights*, 2022.

<sup>27</sup> Sylvanus Gbendazhi Barnabas, "The Legal Status of the United Nations Declaration on the Rights of Indigenous Peoples (2007) in Contemporary International Human Rights Law," *International Human Rights Law Review* 6, no. 2 (2017): 242–61; Giselle Corradi et al., *Critical Indigenous Rights Studies* (London: Routledge, 2018).

<sup>28</sup> Jacinta Ruru, "Indigenous Peoples and Family Law: Issues in Aotearoa/New Zealand," *International Journal of Law, Policy and the Family* 9, no. 3 (December 2005).

<sup>29</sup> Benjamin J. Richardson, "Indigenous Peoples, International Law and Sustainability," *RECIEL: Review of European Community & International Environmental Law* 10, no. 1 (April 2001): 1–12.

<sup>30</sup> Lisa Mardikian and Sofia Galani, "Protecting the Arctic Indigenous Peoples' Livelihoods in the Face of Climate Change: The Potential of Regional Human

cultural heritage<sup>31</sup>. However, implementing and enforcing these legal protections face ongoing challenges, and further efforts are needed to fully realize the rights of indigenous peoples<sup>32</sup>.

Early explorers and scholars made significant contributions to the understanding and recognition of the rights of indigenous peoples under international law. Their observations and studies helped shed light on indigenous communities' unique cultures, customs, and land rights. These contributions played a crucial role in shaping the development of legal frameworks and protections for indigenous peoples. For example, early explorers and scholars documented indigenous peoples' traditional knowledge and practices, highlighting their deep connection to the land and the importance of preserving their cultural heritage<sup>33</sup>. Their research also drew attention to the violations of collective rights suffered by indigenous communities, leading to a greater understanding of the need for legal protection<sup>34</sup>.

Furthermore, the work of early explorers and scholars contributed to recognizing indigenous peoples as legal subjects and acknowledging their rights under international law<sup>35</sup>. Their studies helped challenge the dominant narratives and stereotypes about Indigenous peoples, paving the way for the recognition of their rights to self-determination, cultural

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Rights Law and the Law of the Sea,” *Human Rights Law Review* 23, no. 3 (2023): 1–24.

<sup>31</sup> Athanasios Yupsanis, “Cultural Property Aspects In International Law: The Case of The (Still) Inadequate Safeguarding Of Indigenous Peoples’ (Tangible) Cultural Heritage,” *Netherlands International Law Review* 58, no. 3 (December 2011): 335–61.

<sup>32</sup> Fuentes, “Jurisprudential Developments and Adjudication of Indigenous Peoples’ Rights: Culturally Sensitive Systemic Integration of International Human Rights Law in the Americas”; Shea Esterling, “Looking Forward Looking Back: Customary International Law, Human Rights and Indigenous Peoples,” *International Journal on Minority and Group Rights* 28, no. 2 (2021): 280–305.

<sup>33</sup> Craig Hammer, Juan Carlos Jintiach, and Ricardo Tsakimp, “Practical Developments in Law Science and Policy: Efforts to Protect the Traditional Group Knowledge and Practices of the Shuar, an Indigenous People of the Ecuadorian Amazon,” *Policy Sciences* 46 (2013): 125–41.

<sup>34</sup> Ndahinda, “Victimization of African Indigenous Peoples: Appraisal of Violations of Collective Rights Under Victimological and International Law Lenses.”

<sup>35</sup> Macpherson, Ventura, and Ospina, “Constitutional Law, Ecosystems, and Indigenous Peoples in Colombia: Biocultural Rights and Legal Subjects.”

preservation, and participation in decision-making processes<sup>36</sup>. Overall, the contributions of early explorers and scholars played a crucial role in raising awareness about the rights and needs of indigenous peoples, which in turn influenced the development of international legal frameworks and protections for these communities. Their work continues to inform and shape discussions on indigenous rights in the present day.

The development of international legal frameworks for indigenous peoples has been a topic of significant scholarly research. Scholars have explored various aspects of this issue, including recognizing indigenous peoples' rights, protecting their cultural heritage, and participating in decision-making processes<sup>37</sup>. Recognition of indigenous peoples' right to self-determination is a complex and evolving issue in international law. The right to self-determination is a fundamental principle of international law that applies to all peoples, including indigenous peoples<sup>38</sup>. Indigenous peoples' right to self-determination has been recognized and affirmed in various international instruments, such as the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)<sup>39</sup>.

The right to self-determination includes the right to freely determine their political status, pursue economic, social, and cultural development, and maintain and strengthen their identities<sup>40</sup>. However, implementing this right has been a subject of ongoing debate and

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<sup>36</sup> Agnieszka Szpak, "The Right of Indigenous Peoples to Self-Determination: International Law Perspective," *Athenaeum: Polish Political Science Studies* 59 (2018): 178–204; Charters, "A Self-Determination Approach to Justifying Indigenous Peoples' Participation in International Law and Policy Making."

<sup>37</sup> Macpherson, Ventura, and Ospina, "Constitutional Law, Ecosystems, and Indigenous Peoples in Colombia: Biocultural Rights and Legal Subjects"; Castellino, "The Protection of Minorities and Indigenous Peoples in International Law: A Comparative Temporal Analysis"; Northcott, "Realisation Of The Right Of Indigenous Peoples To Natural Resources Under International Law Through The Emerging Right To Autonomy."

<sup>38</sup> Charters, "A Self-Determination Approach to Justifying Indigenous Peoples' Participation in International Law and Policy Making."

<sup>39</sup> Barnabas, "The Legal Status of the United Nations Declaration on the Rights of Indigenous Peoples (2007) in Contemporary International Human Rights Law."

<sup>40</sup> Prosper Nobirabo Musafiri, "Right to Self-Determination in International Law: Towards Theorisation of the Concept of Indigenous Peoples/National Minority?," *International Journal on Minority and Group Rights* 19, no. 4 (2012): 481–532.

challenges<sup>41</sup>. Indigenous peoples' right to self-determination is closely linked to their rights to land, resources, and cultural heritage<sup>42</sup>. Recognizing and respecting indigenous peoples' right to self-determination is crucial for promoting their well-being, preserving their cultures, and addressing historical injustices<sup>43</sup>. Efforts are being made to ensure the effective implementation of this right through legal frameworks, consultation processes, and the involvement of indigenous peoples in decision-making<sup>44</sup>. However, significant challenges and gaps in protecting indigenous peoples' right to self-determination remain, including land rights, natural resource exploitation, and cultural preservation<sup>45</sup>. Overall, recognizing indigenous peoples' right to self-determination is an ongoing process that requires continued attention and efforts from the international community to realize this right<sup>46</sup>.

## **International Human Rights Law and Indigenous Peoples**

### **A. Protection of indigenous peoples' rights to land and territory**

Protecting indigenous peoples' rights to land and territory is a complex issue involving various aspects of international law. International legal frameworks, such as the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), play a crucial role in safeguarding these rights<sup>47</sup>. Indigenous peoples' rights to land and territory are recognized as fundamental human rights, including the right to self-determination, the right to own, use, develop, and control their lands, territories, and resources, and the right to free, prior, and

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<sup>41</sup> Musafiri.

<sup>42</sup> Musafiri.

<sup>43</sup> Parriciatu and Sindico, "Contours of an Indigenous Peoples' Right to Water in Latin America under International Law."

<sup>44</sup> Corradi et al., *Critical Indigenous Rights Studies*.

<sup>45</sup> Barelli, "The Role of Soft Law in The International Legal System: The Case Of The United Nations Declaration On The Rights Of Indigenous Peoples."

<sup>46</sup> Musafiri, "Right to Self-Determination in International Law: Towards Theorisation of the Concept of Indigenous Peoples/National Minority?"

<sup>47</sup> Barelli, "The Role of Soft Law in The International Legal System: The Case Of The United Nations Declaration On The Rights Of Indigenous Peoples."

informed consent<sup>48</sup>. These rights are protected under international human rights law, including the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR)<sup>49</sup>. Additionally, regional human rights systems, such as the Inter-American Court of Human Rights, have significantly contributed to protecting indigenous peoples' rights<sup>50</sup>.

However, challenges remain in implementing and enforcing these rights, particularly concerning land tenure, resource extraction, and development projects<sup>51</sup>. Efforts are being made to address these challenges by developing legal frameworks that recognize and respect indigenous peoples' rights and the involvement of indigenous peoples in decision-making processes<sup>52</sup>. Overall, protecting indigenous peoples' rights to land and territory requires a comprehensive and holistic approach that considers these rights' cultural, social, economic, and environmental dimensions<sup>53</sup>.

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<sup>48</sup> Taryn Lee, "The Rights Granted to Indigenous Peoples under International Law: An Effective Means for Redressing Historical Wrongs?," *International Community Law Review* 18, no. 1 (2016): 53–71; Barnabas, "The Legal Status of the United Nations Declaration on the Rights of Indigenous Peoples (2007) in Contemporary International Human Rights Law."

<sup>49</sup> Mardikian and Galani, "Protecting the Arctic Indigenous Peoples' Livelihoods in the Face of Climate Change: The Potential of Regional Human Rights Law and the Law of the Sea."

<sup>50</sup> Núria Reguart-Segarra, "Business, Indigenous Peoples' Rights and Security in the Case Law of the Inter-American Court of Human Rights," *Business and Human Rights Journal* 4, no. 1 (January 2019): 109–30.

<sup>51</sup> William Nikolakis and Ngaio Hotte, "How Law Shapes Collaborative Forest Governance: A Focus on Indigenous Peoples in Canada and India," *Society & Natural Resources* 33, no. 1 (2019): 46–64; Barbara Cosens and Brian C. Chaffin, "Adaptive Governance of Water Resources Shared with Indigenous Peoples: The Role of Law," *Water* 8, no. 3 (2016): 1–15.

<sup>52</sup> A Fleischhauer and H. Detlef Kammeier, "International Environmental Law And The Role Of Indigenous Peoples In Protected Areas: Hope For Creative Solutions In A Setting Of Established Incompatibility," *WIT Press* 2, no. 3 (2007): 332–52; Dwight G. Newman, "Norms of Consultation with Indigenous Peoples: Decentralization of International Law Formation or Reinforcement of States' Roles?," *International Law in the New Age of Globalization*, 2013, 267–86.

<sup>53</sup> Karolina Sikora, "The Right to Cultural Heritage in International Law, with Special Reference to Indigenous Peoples' Rights," *Santander Art and Culture Law Review* 7, no. 2 (December 2021): 149–72; Ronald Tinnevelt and Gert Verschraegen, *Between Cosmopolitan Ideals and State Sovereignty*, 2006.

## B. Indigenous peoples' right to water and natural resources

Indigenous peoples have the right to water and natural resources, recognized in international law. The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) affirms the right of indigenous peoples to maintain and strengthen their institutions, cultures, and traditions, including their rights to their lands, territories, and resources<sup>54</sup>. This right is also protected under various international legal instruments, such as the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR)<sup>55</sup>. Indigenous peoples' right to water is also recognized, and they have the right to participate in decision-making processes that affect their water resources<sup>56</sup>. However, implementing these rights faces challenges, including the lack of recognition and protection of indigenous peoples' rights in national laws and policies<sup>57</sup>. Efforts are being made to address these challenges and fully realize indigenous peoples' rights to water and natural resources<sup>58</sup>.

## C. Reparations for historical injustices

Reparations for historical injustices are a complex and multifaceted issue that intersects with various areas of international law. The rights of indigenous peoples, in particular, have been a focus of

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<sup>54</sup> Barnabas, "The Legal Status of the United Nations Declaration on the Rights of Indigenous Peoples (2007) in Contemporary International Human Rights Law."

<sup>55</sup> Mardikian and Galani, "Protecting the Arctic Indigenous Peoples' Livelihoods in the Face of Climate Change: The Potential of Regional Human Rights Law and the Law of the Sea."

<sup>56</sup> Joyeeta Gupta, Antoinette Hilderling, and Daphina Misiedjan, "Indigenous People's Right To Water Under International Law: A Legal Pluralism Perspective," *Current Opinion in Environmental Sustainability* 11 (December 2014): 26–33.

<sup>57</sup> Luciano Hiriart-Bertrand et al., *From Customary Law to the Implementation of Safeguard Measures The Case of "Marine and Coastal Areas for Indigenous Peoples" in Chile* (London: Routledge, 2019).

<sup>58</sup> María Julia Ochoa Jiménez, "Conflict of Laws and the Return of Indigenous Peoples' Cultural Property: A Latin American Perspective," *International Journal of Cultural Property* 26, no. 4 (November 2019): 437–56.

attention in the discourse on reparations. International legal instruments, such as the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), provide a framework for addressing historical injustices and ensuring the rights of indigenous peoples are protected<sup>59</sup>. The concept of reparations for indigenous peoples is grounded in principles of justice, self-determination, and the right to land and resources<sup>60</sup>. It involves acknowledging and redressing indigenous peoples' historical and ongoing harms, including land dispossession, forced assimilation, and cultural genocide<sup>61</sup>. Reparations can take various forms, including restitution of land and resources, compensation, and guarantees of non-repetition<sup>62</sup>. However, implementing reparations for historical injustices remains challenging, as it requires political will, legal mechanisms, and the involvement of indigenous communities in decision-making processes<sup>63</sup>. Overall, the issue of reparations for historical injustices is an ongoing and evolving area of international law that requires further attention and action to ensure justice for indigenous peoples.

## The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)

### A. Overview of the UNDRIP

The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) is a significant international instrument that recognizes and protects the rights of Indigenous peoples<sup>64</sup>. It addresses

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<sup>59</sup> Barnabas, "The Legal Status of the United Nations Declaration on the Rights of Indigenous Peoples (2007) in Contemporary International Human Rights Law."

<sup>60</sup> Federico, *Reparations for Indigenous Peoples in International and Comparative Law: An Introduction*.

<sup>61</sup> Endalew Lijalem Enyew and Nigel Bankes, *Interaction Between The Law Of The Sea And The Rights Of Indigenous Peoples* (London: Routledge, 2022).

<sup>62</sup> Francioni Francesco, "Reparation for Indigenous Peoples: Is International Law Ready to Ensure Redress for Historical Injustices?," in *Reparations for Indigenous Peoples: International and Comparative Perspectives* (Oxford: Oxford University Press, 2008).

<sup>63</sup> Stephan Marquardt, "International Law and Indigenous Peoples," *International Journal on Minority and Group Rights* 3, no. 1 (1995): 47–76.

<sup>64</sup> Macpherson, Ventura, and Ospina, "Constitutional Law, Ecosystems, and Indigenous Peoples in Colombia: Biocultural Rights and Legal Subjects."



indigenous peoples' rights, including self-determination, land and resources, culture, language, and participation in decision-making processes<sup>65</sup>. It is a comprehensive framework that addresses historical injustices and promotes the well-being and rights of indigenous peoples worldwide. The UNDRIP has been influential in shaping national legislation and policies and guiding the work of international organizations and human rights bodies about indigenous peoples.

## B. Implementation and challenges in protecting indigenous rights

Protecting indigenous rights is an important and complex task that involves various challenges. International law and policy play a crucial role in justifying and safeguarding the rights of indigenous peoples<sup>66</sup>. The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) is a significant instrument, providing a framework for protecting indigenous rights<sup>67</sup>. However, the implementation of these rights faces obstacles such as the lack of recognition and respect for indigenous customary laws and practices<sup>68</sup>, the tension between indigenous rights and state sovereignty<sup>69</sup>, and the need for effective mechanisms for consultation and participation of indigenous peoples in decision-making processes<sup>70</sup>. Additionally, issues related to land rights, natural resource exploitation, and environmental protection are central

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<sup>65</sup> Ndahinda, "Victimization of African Indigenous Peoples: Appraisal of Violations of Collective Rights Under Victimological and International Law Lenses"; Castellino, "The Protection of Minorities and Indigenous Peoples in International Law: A Comparative Temporal Analysis"; Elena E. Gulyaeva, "Legal Regime for the Protection of Genetic Information of Indigenous Peoples and Local Communities in International Law," *Kutafin Law Review* 9, no. 1 (2022).

<sup>66</sup> Charters, "A Self-Determination Approach to Justifying Indigenous Peoples' Participation in International Law and Policy Making."

<sup>67</sup> Barnabas, "The Legal Status of the United Nations Declaration on the Rights of Indigenous Peoples (2007) in Contemporary International Human Rights Law."

<sup>68</sup> Leena Heinämäki and Alexandra Xanthaki, "Indigenous Peoples' Customary Laws, Sámi People and Sacred Sites," in *Experiencing and Protecting Sacred Natural Sites of Sámi and Other Indigenous Peoples*, 2017, 65–82.

<sup>69</sup> Tinnevelt and Verschraegen, *Between Cosmopolitan Ideals and State Sovereignty*.

<sup>70</sup> Cosens and Chaffin, "Adaptive Governance of Water Resources Shared with Indigenous Peoples: The Role of Law."

to protecting indigenous rights<sup>71</sup>. Overcoming these challenges requires a comprehensive and holistic approach that considers indigenous peoples' rights' cultural, social, economic, and political dimensions<sup>72</sup>—ensuring that indigenous peoples are actively involved in developing and implementing laws and policies that affect them<sup>73</sup>. Furthermore, recognizing and protecting indigenous peoples' rights should be based on a decolonial and self-determination approach<sup>74</sup>. Addressing the challenges in protecting indigenous rights requires a commitment to human rights principles, cultural diversity, and social justice<sup>75</sup>.

### C. Jurisprudential Developments and Adjudication of Indigenous Rights

The adjudication of indigenous rights has seen significant developments in recent years. Scholars have explored various aspects of indigenous rights in international law, including the protection of biocultural rights and legal subjects in Colombia<sup>76</sup>, the appraisal of violations of collective rights under victimological and international law lenses in Africa<sup>77</sup>, and the comparative temporal analysis of the

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<sup>71</sup> Rickson Rios Figueira, “Indigenous Refugees, Vulnerability And Cultural Erosion: International Law Of Indigenous Peoples’ And International Refugee Law’s Possibilities And Limits In The Protection Of Indigenous Cultural Expressions Related To Traditional Land And The Native Language,” *Revista de Direito Internacional* 17, no. 3 (2020); Anatoly N. Sleptsov et al., “Arctic Indigenous Peoples and Intellectual Property Law,” *Sibirica* 21, no. 3 (December 2022).

<sup>72</sup> César Rodríguez-Garavito, “Remapping Law and Society in Latin America,” in *Law and Society in Latin America A New Map* (London: Routledge, 2014).

<sup>73</sup> Hideaki Uemura, “The Colonial Annexation Of Okinawa And The Logic Of International Law: The Formation Of An ‘Indigenous People’ In East Asia,” *Japanese Studies* 23, no. 2 (2003): 213–22.

<sup>74</sup> Montalván and Wences, “Hacia Una Interpretación Descolonial Del Derecho Al Territorio De Los Pueblos Indígenas En El Derecho Internacional De Los Derechos Humanos: Más Allá De La Propiedad Y La Cartografía.”

<sup>75</sup> Marisol Anglés Hernández, “Jurisprudencia Interamericana: Acicate Contra La Discriminación Y Exclusión De Pueblos Originarios De México En Relación Con Sus Recursos Naturales,” *Anuario Mexicano de Derecho Internacional* 14 (2014): 261–99.

<sup>76</sup> Macpherson, Ventura, and Ospina, “Constitutional Law, Ecosystems, and Indigenous Peoples in Colombia: Biocultural Rights and Legal Subjects.”

<sup>77</sup> Ndahinda, “Victimization of African Indigenous Peoples: Appraisal of Violations of Collective Rights Under Victimological and International Law Lenses.”

protection of minorities and indigenous peoples in international law<sup>78</sup>. Other studies have focused on specific issues, such as the protection of genetic information of indigenous peoples and local communities<sup>79</sup>, the realization of the right of indigenous peoples to natural resources through the emerging right to autonomy<sup>80</sup>, and the recognition of indigenous peoples as subjects of international law<sup>81</sup>. Additionally, research has examined the role of indigenous peoples in international environmental law and the challenges they face in protected areas<sup>82</sup>, as well as their contribution to international law and the need for a balance between formalism and fairness<sup>83</sup>. These studies highlight the importance of indigenous rights in international law and the ongoing efforts to protect and promote these rights.

## **Regional Approaches to Indigenous Peoples' Rights**

### **A. Arctic indigenous peoples and regional human rights law**

Regional human rights law protects Arctic indigenous peoples, recognizing their rights and addressing their needs. Protecting indigenous peoples' rights is grounded in international law, including the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)<sup>84</sup>. The rights of indigenous peoples in the Arctic include the

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<sup>78</sup> Castellino, "The Protection of Minorities and Indigenous Peoples in International Law: A Comparative Temporal Analysis."

<sup>79</sup> Gulyaeva, "Legal Regime for the Protection of Genetic Information of Indigenous Peoples and Local Communities in International Law."

<sup>80</sup> Northcott, "Realisation of The Right Of Indigenous Peoples To Natural Resources Under International Law Through The Emerging Right To Autonomy."

<sup>81</sup> Kumar, "Indigenous People in South Asia and International Law."

<sup>82</sup> Fleischhauer and Kammeier, "International Environmental Law And The Role Of Indigenous Peoples In Protected Areas: Hope For Creative Solutions In A Setting Of Established Incompatibility."

<sup>83</sup> Charters, "The Sweet Spot Between Formalism and Fairness: Indigenous Peoples' Contribution to International Law."

<sup>84</sup> Barnabas, "The Legal Status of the United Nations Declaration on the Rights of Indigenous Peoples (2007) in Contemporary International Human Rights Law."

right to self-determination<sup>85</sup>, the right to water<sup>86</sup>, the right to land and territory<sup>87</sup>, and the right to cultural heritage<sup>88</sup>. These rights are essential for the well-being and survival of indigenous communities in the Arctic region. However, there are challenges in implementing and enforcing these rights, including issues related to consultation and participation<sup>89</sup>, resource exploitation<sup>90</sup>, and the impact of climate change<sup>91</sup>. Efforts are being made to address these challenges and protect the rights of Arctic indigenous peoples through regional human rights mechanisms and international cooperation<sup>92</sup>.

## B. Cross-border forms of animal use by indigenous peoples

Cross-border forms of animal use by indigenous peoples have been the subject of academic research and analysis. Scholars have explored various aspects of this topic, including the legal rights of indigenous peoples in international law<sup>93</sup>. These studies have examined

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<sup>85</sup> Charters, “A Self-Determination Approach to Justifying Indigenous Peoples’ Participation in International Law and Policy Making.”

<sup>86</sup> Rietiker, “Indigenous Peoples’ Human Right to Water in the Nuclear Age: An Assessment of the Protection Under International Law.”

<sup>87</sup> Montalván and Wences, “Hacia Una Interpretación Descolonial Del Derecho Al Territorio De Los Pueblos Indígenas En El Derecho Internacional De Los Derechos Humanos: Más Allá De La Propiedad Y La Cartografía.”

<sup>88</sup> Mylène Valenzuela Reyes, “Patrimonio Cultural Indígena: Algunos Lineamientos Y Principios Para Su Reconocimiento Legal A La Luz Del Derecho Internacional De Los Derechos De Los Pueblos Indígenas,” *Jurídicas* 19, no. 1 (2022): 149–70.

<sup>89</sup> Newman, “Norms of Consultation with Indigenous Peoples: Decentralization of International Law Formation or Reinforcement of States’ Roles?”

<sup>90</sup> M.Y. Aiyub Kadir and Alexander Murray, “Resource Nationalism in the Law and Policies of Indonesia: A Contest of State, Foreign Investors, and Indigenous Peoples,” *Asian Journal of International Law* 9, no. 2 (July 2019): 298–333.

<sup>91</sup> Mardikian and Galani, “Protecting the Arctic Indigenous Peoples’ Livelihoods in the Face of Climate Change: The Potential of Regional Human Rights Law and the Law of the Sea.”

<sup>92</sup> Mardikian and Galani.

<sup>93</sup> Stefan Kirchner, “Cross-Border Forms of Animal Use by Indigenous Peoples,” *AJIL Unbound* 111 (2017): 402–7; Fuentes, “Jurisprudential Developments and Adjudication of Indigenous Peoples’ Rights: Culturally Sensitive Systemic Integration of International Human Rights Law in the Americas”; Shlomit Stein,

issues such as the protection of indigenous peoples' rights, the role of customary law, the impact of international law on indigenous communities, and the challenges indigenous peoples face in asserting their rights. The research in this area contributes to a better understanding of the legal framework surrounding cross-border forms of animal use by indigenous peoples and the rights and protections afforded to them.

### C. Legal pluralism and indigenous peoples' right to water

Legal pluralism refers to the coexistence of multiple legal systems within a jurisdiction. Indigenous peoples' right to water is an essential issue within the context of legal pluralism. The recognition and protection of indigenous peoples' rights to water have been addressed in international law<sup>94</sup>. International legal instruments, such as the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), recognize the rights of indigenous peoples to water and other natural resources<sup>95</sup>. However, implementing these rights varies across jurisdictions and legal systems<sup>96</sup>. Indigenous peoples' right to water is also closely linked to their right to self-determination and their cultural and spiritual practices<sup>97</sup>. The role of indigenous peoples in decision-making processes related to water management and the need for accessible, prior, and informed consent are essential considerations in ensuring the protection of indigenous peoples' rights to water<sup>98</sup>. Legal pluralism and recognizing indigenous peoples' rights to water require a

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“Reflections on Indigenous Peoples’ Rights Vis-À-Vis The Law Of Occupation,” *The International Journal of Human Rights* 23, no. 1–2 (2019): 297–312.

<sup>94</sup> Gupta, Hilderling, and Misiedjan, “Indigenous People’s Right To Water Under International Law: A Legal Pluralism Perspective.”

<sup>95</sup> Barelli, “The Role of Soft Law in The International Legal System: The Case of The United Nations Declaration On The Rights Of Indigenous Peoples.”

<sup>96</sup> Gupta, Hilderling, and Misiedjan, “Indigenous People’s Right to Water Under International Law: A Legal Pluralism Perspective.”

<sup>97</sup> Northcott, “Realisation of The Right of Indigenous Peoples To Natural Resources Under International Law Through The Emerging Right To Autonomy.”

<sup>98</sup> Cosens and Chaffin, “Adaptive Governance of Water Resources Shared with Indigenous Peoples: The Role of Law.”

comprehensive and inclusive approach that considers indigenous communities' specific cultural, social, and historical contexts<sup>99</sup>.

## Development Strategies for IKN

### A. Replacement of the old "Java-Centric" development approach

The outdated "Java-Centric" development approach in Indonesia is being replaced with a new approach in the development of the country's new capital city in East Kalimantan. This shift is driven by the need to address issues related to transportation infrastructure and economic growth in the region<sup>100</sup>. The establishment of a road network architecture is crucial for the development of the new capital city, considering its location in East Kalimantan<sup>101</sup>. Additionally, the development of the new capital city aims to promote inclusive economic growth, competitive workers, and solid infrastructure facilities, which have been concentrated in Java<sup>102</sup>. The reconstruction of ethnic identity and access to city resources are also important considerations in the development process<sup>103</sup>. Overall, the replacement of the old "Java-

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<sup>99</sup> Gupta, Hilderling, and Misiedjan, "Indigenous People's Right to Water Under International Law: A Legal Pluralism Perspective."

<sup>100</sup> Junaidi et al., "Assessment of Road Network Connectivity in Support of New Capital Development"; Rosyadi, Zamruddin Hasid, and Purwadi, "Energy Operations for Resident and Its Implications for Economic Growth: Indonesia's New Capital City as a Case Study," *International Journal of Energy Economics and Policy* 13, no. 4 (2023): 1–8.

<sup>101</sup> Junaidi et al., "Assessment of Road Network Connectivity in Support of New Capital Development."

<sup>102</sup> Rosyadi, Hasid, and Purwadi, "Energy Operations for Resident and Its Implications for Economic Growth: Indonesia's New Capital City as a Case Study."

<sup>103</sup> Henny Warsilah, "Reconstruction of Ethnic Identity in the Development of a New Capital City in East Kalimantan: Participation and Access to City Resources," in *Assembling Nusantara*, 2023, 81–97.

Centric" development approach reflects a broader vision for the future of Indonesia's capital city and its potential for growth and prosperity.<sup>104</sup>

The development of the new state capital in the Balikpapan-Samarinda corridor in East Kalimantan, Indonesia, requires careful consideration of various factors, including road network connectivity, energy operations, economic growth, and ethnic identity reconstruction. Assessing the road network connectivity is crucial to ensure efficient transportation infrastructure<sup>105</sup>. Additionally, the new capital city's development should focus on inclusive economic growth, competitive workers, and solid infrastructure facilities to promote regional development and overcome prosperity conflicts<sup>106</sup>. The reconstruction of ethnic identity is also important to ensure participation and access to city resources<sup>107</sup>. Furthermore, energy operations play a significant role in supporting resident needs and driving economic growth<sup>108</sup>. By considering these aspects, the development of the new state capital can be planned effectively, taking into account the region's unique characteristics and potential for growth.

The development of a new capital city in East Kalimantan, Indonesia, is currently underway. This migration of the capital from Jakarta to East Kalimantan raises various issues, including the need for improved transportation infrastructure<sup>109</sup>. The establishment of a road network is crucial for the new capital city, considering its location in the midst of a jungle<sup>110</sup>. Understanding the direction of future growth in

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<sup>104</sup> Mohammed Ali Berawi, "City of tomorrow: The new capital city of Indonesia." *International Journal of Technology* 13, no. 4 (2022): 690-694.

<sup>105</sup> Junaidi et al., "Assessment of Road Network Connectivity in Support of New Capital Development."

<sup>106</sup> Rosyadi, Hasid, and Purwadi, "Energy Operations for Resident and Its Implications for Economic Growth: Indonesia's New Capital City as a Case Study."

<sup>107</sup> Warsilah, "Reconstruction of Ethnic Identity in the Development of a New Capital City in East Kalimantan: Participation and Access to City Resources."

<sup>108</sup> Rosyadi, Hasid, and Purwadi, "Energy Operations for Resident and Its Implications for Economic Growth: Indonesia's New Capital City as a Case Study."

<sup>109</sup> Junaidi et al., "Assessment of Road Network Connectivity in Support of New Capital Development."

<sup>110</sup> Junaidi et al.

the region is essential for developing an effective road network architecture<sup>111</sup>. Additionally, the development of the new capital city has implications for economic growth and the distribution of resources in Indonesia<sup>112</sup>. The transformation of consumption and purchasing power in regions like Kalimantan is a significant factor in their economic prospects<sup>113</sup>. Overall, the development of the new capital city in East Kalimantan requires careful planning and consideration of various factors, including transportation infrastructure, economic growth, and resource distribution.

## **B. Socio-economic Impacts of IKN**

The relocation of Indonesia's state capital to Kalimantan Island, known as the New Capital City (IKN), is expected to bring significant changes to the economic structure of the region<sup>114</sup>. The development of the new capital city will lead to urban expansion and conurbation, which will have various impacts on the socio-economic-environmental conditions, including changing the economic structure<sup>115</sup>. The development of IKN will attract people to the region, creating the need for road network development in the surrounding areas to ensure connectivity<sup>116</sup>. Additionally, the change in land cover from vegetation land to urban land in the new capital city will contribute to temperature changes<sup>117</sup>. Overall, the relocation of the state capital will have wide-ranging effects on the socio-economic-environmental aspects of the region, necessitating careful planning and sustainable development strategies<sup>118</sup>.

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<sup>111</sup> Junaidi et al.

<sup>112</sup> Rosyadi, Hasid, and Purwadi, "Energy Operations for Resident and Its Implications for Economic Growth: Indonesia's New Capital City as a Case Study."

<sup>113</sup> Rosyadi, Hasid, and Purwadi.

<sup>114</sup> Ristanto, Jatayu, and Sihotang, "Towards a Sustainable New State Capital (IKN): Sustainable Zoning Plan Formulation Based on Quantitative Zoning Approach."

<sup>115</sup> Ristanto, Jatayu, and Sihotang.

<sup>116</sup> Junaidi et al., "Assessment of Road Network Connectivity in Support of New Capital Development."

<sup>117</sup> Denryanto and Virgianto, "The Impact of Land Cover Changes on Temperature Parameters in New Capital of Indonesia (IKN)."

<sup>118</sup> Ristanto, Jatayu, and Sihotang, "Towards a Sustainable New State Capital (IKN): Sustainable Zoning Plan Formulation Based on Quantitative Zoning Approach."



Besides, environmental degradation is a significant concern in the development of Indonesia's new capital city in East Kalimantan. The construction of the new capital city requires the establishment of a road network<sup>119</sup>. The development of infrastructure facilities, including electricity and water production, is crucial for the economic growth of the region<sup>120</sup>. Additionally, the reconstruction of ethnic identity and access to city resources should be considered to ensure equitable development<sup>121</sup>. It is important to monitor and assess the impact of the development on the environment, including trends in rainfall and hydrometeorological disasters.<sup>122</sup> By addressing these issues and implementing sustainable practices, the new capital city can mitigate environmental degradation and promote sustainable development.

The relocation of Indonesia's state capital to Kalimantan Island, known as the New Capital City (IKN), will have significant impacts on the socio-economic-environmental conditions of the region, particularly in the Balikpapan-Samarinda corridor. The urban expansion and conurbation in this corridor will lead to changes in the economic structure, environmental degradation, and social imbalance and exclusion of local/traditional tribes<sup>123</sup>. The development of the IKN will attract people to the region, creating challenges for road network connectivity in the surrounding areas<sup>124</sup>. Additionally, the change in land cover from vegetation land to urban land in the new capital city will contribute to temperature changes<sup>125</sup>. Archaeological investigations

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<sup>119</sup> Junaidi et al., "Assessment of Road Network Connectivity in Support of New Capital Development."

<sup>120</sup> Rosyadi, Hasid, and Purwadi, "Energy Operations for Resident and Its Implications for Economic Growth: Indonesia's New Capital City as a Case Study."

<sup>121</sup> Warsilah, "Reconstruction of Ethnic Identity in the Development of a New Capital City in East Kalimantan: Participation and Access to City Resources."

<sup>122</sup> Ravidho Ramadhan, et al. "Trends in rainfall and hydrometeorological disasters in new capital city of Indonesia from long-term satellite-based precipitation products." *Remote Sensing Applications: Society and Environment* 28 (2022): 100827.

<sup>123</sup> Ristanto, Jatayu, and Sihotang, "Towards a Sustainable New State Capital (IKN): Sustainable Zoning Plan Formulation Based on Quantitative Zoning Approach."

<sup>124</sup> Junaidi et al., "Assessment of Road Network Connectivity in Support of New Capital Development."

<sup>125</sup> Denryanto and Virgianto, "The Impact of Land Cover Changes on Temperature Parameters in New Capital of Indonesia (IKN)."

have also been conducted in the future capital city of Indonesia at Sepaku, East Kalimantan<sup>126</sup>. These references provide insights into the various aspects and impacts of the IKN development, including social imbalance and exclusion, road network development, environmental changes, and archaeological investigations.

### C. Road Network Development in IKN's Surrounding Areas

The development of a road network in the new capital city of Indonesia in East Kalimantan is crucial for supporting the migration and future growth in the region<sup>127</sup>. The establishment of a solid infrastructure, including roads, is necessary to ensure connectivity and accessibility in the new capital city<sup>128</sup>. Additionally, the development of the road network should be prioritized alongside the construction of the new capital city<sup>129</sup>. Understanding the direction of future growth in the region is essential for designing an effective road network architecture<sup>130</sup>. The road network will not only facilitate transportation within the new capital city but also benefit potential partner locations and contribute to economic growth in the region<sup>131</sup>. Therefore, careful planning and assessment of road network connectivity are necessary for the successful development of the new capital city in East Kalimantan<sup>132</sup>.

The development of the new capital city of Indonesia (IKN) will have significant impacts on the surrounding areas, particularly the Balikpapan-Samarinda corridor. These impacts include changes in the economic structure, environmental degradation, and social imbalances.

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<sup>126</sup> Mohammad Ruly Fauzi et al., "Archaeological Investigation in the Future Capital City of Indonesia (IKN) at Sepaku, East Kalimantan," *L'Anthropologie* 127, no. 3 (July 1, 2023): 103151, <https://doi.org/10.1016/J.ANTHRO.2023.103151>.

<sup>127</sup> Junaidi et al., "Assessment of Road Network Connectivity in Support of New Capital Development."

<sup>128</sup> Junaidi et al.

<sup>129</sup> Junaidi et al.

<sup>130</sup> Junaidi et al.

<sup>131</sup> Rosyadi, Hasid, and Purwadi, "Energy Operations for Resident and Its Implications for Economic Growth: Indonesia's New Capital City as a Case Study."

<sup>132</sup> Junaidi et al., "Assessment of Road Network Connectivity in Support of New Capital Development."

The urban expansion and conurbation in this corridor will also affect road network connectivity in the surrounding areas of IKN. The restrictions on mobility within the IKN area will likely create challenges for road connectivity, as mentioned in a study by<sup>133</sup>. To address these challenges, it is important to investigate local resources and wisdom in the partner regions surrounding the nation's capital for road network development<sup>134</sup>. Additionally, sustainable zoning plans based on a quantitative zoning approach can be formulated to ensure the long-term sustainability of the new state capital<sup>135</sup>.

## Land Acquisition, National Development and the Role of the Community

In light of Indonesia's adherence to the principles of a welfare state, national development must inherently align with the principles of social justice and the welfare of the entire populace. This applies to both physical and non-physical (mental) development, with physical development closely intertwined with infrastructure development. On November 5, 2014, Vice President Jusuf Kalla inaugurated the Indonesia Infrastructure Week 2014, emphasizing the critical importance of infrastructure development. The presence of roads, electricity, ports, airports, and other infrastructure significantly impacts a nation's economic vitality<sup>136</sup>.

Within the realm of development activities, two essential undertakings must be addressed: land acquisition and the development projects themselves. Land acquisition involves the provision of land through fair and just compensation to rightful parties, as stipulated in Article 2, Paragraph 1 of Law No. 2 of 2012 concerning Land Acquisition for Public Purposes. It should be emphasized that land acquisition, in this context, is inherently specific, directed exclusively towards public interests. Article 6, Paragraph 1 of the same law elucidates that Public Interest encompasses the interests of the nation,

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<sup>133</sup> Junaidi et al.

<sup>134</sup> Junaidi et al.

<sup>135</sup> Ristanto, Jatayu, and Sihotang, "Towards a Sustainable New State Capital (IKN): Sustainable Zoning Plan Formulation Based on Quantitative Zoning Approach."

<sup>136</sup> Sudjarwo Marsoem, Wahyono Adi, and Pieter George Manoppo, *Pedoman Lengkap Ganti Untung Pengadaan Tanah* (Jakarta: Rene Book, 2015), 11.

state, and society, which must be realized by the government and utilized to the greatest extent for the welfare of the people. Article 10 further delineates specific types of public interests, including, but not limited to, national defense and security, public roads, toll roads, tunnels, railways, railway stations, water reservoirs, dams, irrigation, water supply channels, sewage and sanitation channels, and irrigation facilities, among others.

In every development endeavor, land invariably serves as the foundation. Challenges arise when land availability diminishes, as land, being a finite natural resource, cannot expand autonomously, and state-owned land is scarce. The increased demand for land for various development purposes exacerbates this scarcity. Sudaryo Soimin, in his work titled "Status of Rights and Land Acquisition," aptly states that "state-owned land available to meet these needs is exceedingly limited or non-existent"<sup>137</sup>. Consequently, land acquisition for development purposes necessitates the appropriation of private lands, often at the expense of the landowners. This recurrent issue is rooted in the inadequate realization of principles of justice, utility, and certainty in land acquisition for development, particularly in the land acquisition process.

Justice is the paramount objective in the creation of legal systems. Therefore, the formulation of legal norms must adhere to principles of justice. Delving into the realm of law implies an exploration of human relationships, and this exploration inherently delves into justice. The presence of justice facilitates the attainment of legal objectives, namely, the creation of an equitable and prosperous society, marked by prosperity in economic terms and justice in its truest sense. According to Aristotle, in a concept of a rule of law state, the rulers are not individuals but rather just ideas. The true rulers are the custodians of the law and balance itself. In general, in every nation subscribing to the rule of law, three fundamental principles apply: the supremacy of law, equality before the law, and the enforcement of law based on legal principles<sup>138</sup>. When effectively executed, these principles empower a

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<sup>137</sup> Soedharyo Soimin, *Status Hak Dan Pembebasan Tanah*, 2nd ed. (Jakarta: Sinar Grafika, 2004), 79.

<sup>138</sup> Jarot Widya Muliawan, *Pemberian Hak Milik Untuk Rumah Tinggal* (Yogyakarta: Buku Litera, 2015), 92.

state to foster justice among its citizens and ensure the proper observance of human rights.

Furthermore, the principle of legal certainty is paramount—as asserted by Mochtar Kusumaatmadja, establishing legal certainty in human interactions within society is crucial for maintaining order, as it is impossible for individuals to optimally develop their talents and abilities without the framework of legal certainty and order<sup>139</sup>. According to Gustav Radbruch, two interpretations of legal certainty exist: legal certainty by law and legal certainty in law. The former implies that law must serve additional purposes, such as legal justice, and law must remain useful. The latter, legal certainty in law, is achieved when legal provisions are codified extensively within legislation. These provisions must be logically and practically structured, based on the actual legal state, and should not contain terms subject to varying interpretations<sup>140</sup>.

The last principle is utility—Jeremy Bentham, a utilitarian philosopher, posited that law could only be recognized as such if it maximizes utility for the greatest number. Law aims to achieve "*the greatest happiness of the greatest number*." The merit or demerit of law is measured by the consequences of its application. A legal provision can only be deemed good if its application results in benefit, maximum happiness, and the reduction of suffering. Conversely, it is considered bad if its implementation leads to injustice, loss, and increased suffering. Thus, it is not surprising that scholars consider utilitarian theory as the economic foundation of legal thought. The primary tenet of this theory is related to the purpose and evaluation of law, where the purpose is the maximization of the state's welfare and well-being, evaluated based on the consequences of legal application<sup>141</sup>.

The government's duty is to engage in development for the common good, guided by the three aforementioned legal principles: justice, legal certainty, and utility. However, achieving these legal principles in land acquisition for development is a formidable challenge due to the absence of comprehensive guidelines facilitating stakeholders'

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<sup>139</sup> Carl Joachim Friedrich, *Filsafat Hukum: Perspektif Historis* (Bandung: NUSA MEDIA, 2004), 239.

<sup>140</sup> Friedrich, *Filsafat Hukum: Perspektif Historis*.

<sup>141</sup> Lili Rasjidi and Ida Bagus Wyasa Putra, *Dasar-Dasar Filsafat Dan Teori Hukum* (Bandung: Citra Aditya Bakti, 2001), 79–80.

understanding of land acquisition mechanisms and principles. These guidelines are essential because the implementing regulations of Law No. 2 of 2012 concerning Land Acquisition for Public Purposes are dispersed throughout various legal instruments, including Presidential Regulations, Ministerial Regulations, and Regional Regulations. This fragmentation hinders the comprehensive comprehension of land acquisition procedures and principles, particularly in the land acquisition process.

Furthermore, article 18 of the aforementioned Land Acquisition Law stipulates, "For public purposes, including the interests of the nation and state, as well as the collective interests of the people, rights to land can be revoked, with fair compensation provided in accordance with the law." This provision underscores the legislature's alignment with the rights of the landholding populace. The community serves as both the subject and object of development. Consequently, the community must actively participate in development, including infrastructure development. Active community participation extends to their willingness to contribute their land for the common good. While the sacrifice of land by the community is not a mere gift to the government, it is imperative that the government, when utilizing community-owned land, provides fair compensation to prevent the populace from suffering due to the government's land utilization for public purposes.

To strike a balance between the government's use of land and the community's ownership of land, which they may be willing to sacrifice, both parties must converge their interests. The government must offer fair compensation when using community-owned land, while the community, when their land is to be utilized by the government, should be willing to contribute without demanding exorbitant compensation. The convergence of these two interests is essential, and, as such, nurturing a sense of community responsibility is paramount. Community willingness to sacrifice land is not only legally mandated but also plays a vital role in development. Moreover, the government must recognize that without active community participation, development will not thrive. Community involvement extends from

their willingness to sacrifice land for public development to their active role in safeguarding and securing the outcomes of development<sup>142</sup>.

Often, land acquisition for development purposes places landholding citizens at a disadvantage. In numerous cases, communities adversely impacted by land acquisition find their living standards deteriorating, leading to poverty and inadequate living conditions. This outcome is contrary to the overarching goal of national development, which should harness natural resources, including land, to maximize the prosperity of the entire population rather than benefiting a select few<sup>143</sup>. A Welfare State underscores a democratic form of governance that emphasizes the minimal responsibility of the state towards the welfare of its citizens. In this context, the government must regulate the distribution of national wealth to ensure that no citizen goes hungry or faces their demise due to an inability to afford healthcare expenses. The Welfare State is characterized by elements of socialism that prioritize both political and economic welfare. It is also marked by the principles of liberty, equality, fraternity, or solidarity<sup>144</sup>. As a logical consequence of the Welfare State concept, national development must be anchored in principles of social justice and the welfare of the entire population, encompassing both physical and non-physical aspects.

## Challenges and Future Directions

### *Overcoming obstacles to legal protection for indigenous peoples*

Overcoming obstacles to legal protection for indigenous peoples requires a comprehensive understanding of international law and its application to indigenous rights. Indigenous peoples face numerous challenges in accessing legal protection, including self-determination, land rights, natural resource exploitation, cultural heritage, and participation in decision-making processes. The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) is a crucial

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<sup>142</sup> Mudakir Iskandar Syah, *Dasar-Dasar Pembebasan Tanah Untuk Kepentingan Umum* (Jakarta: Jala Permata, 2007), 20–24.

<sup>143</sup> Marsoem, Adi, and Manoppo, *Pedoman Lengkap Ganti Untung Pengadaan Tanah*, 96.

<sup>144</sup> Marsoem, Adi, and Manoppo, *Pedoman Lengkap Ganti Untung Pengadaan Tanah*.

instrument that provides a framework for addressing these challenges<sup>145</sup>. It recognizes the rights of indigenous peoples to self-determination<sup>146</sup>, land and resource ownership<sup>147</sup>, cultural preservation<sup>148</sup>, and participation in decision-making<sup>149</sup>. However, implementing these rights remains challenging, as states often fail to recognize and respect indigenous rights fully<sup>150</sup>. Efforts to overcome these obstacles require a combination of legal advocacy, policy reform, and international cooperation<sup>151</sup>. By promoting the recognition and implementation of indigenous rights, legal protection for indigenous peoples can be strengthened, and their well-being and cultural integrity can be safeguarded.

### ***Strengthening Indigenous participation in law and policy-making***

Indigenous participation in law and policy-making is crucial to promoting their rights and ensuring their voices are heard. International law recognizes the importance of indigenous peoples' participation and provides frameworks for their inclusion in decision-making processes<sup>152</sup>.

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<sup>145</sup> Barnabas, "The Legal Status of the United Nations Declaration on the Rights of Indigenous Peoples (2007) in Contemporary International Human Rights Law."

<sup>146</sup> Charters, "A Self-Determination Approach to Justifying Indigenous Peoples' Participation in International Law and Policy Making."

<sup>147</sup> Barelli, *Seeking Justice in International Law The Significance and Implications of the UN Declaration on the Rights of Indigenous Peoples*.

<sup>148</sup> Reyes, "Patrimonio Cultural Indígena: Algunos Lineamientos Y Principios Para Su Reconocimiento Legal A La Luz Del Derecho Internacional De Los Derechos De Los Pueblos Indígenas."

<sup>149</sup> Benedict Kingsbury, "Reconciling Five Competing Conceptual Structures of Indigenous Peoples' Claims in International and Comparative Law," *New York University: Journal of International Law and Politics* 34, no. 1 (2001).

<sup>150</sup> Barnabas, "The Legal Status of the United Nations Declaration on the Rights of Indigenous Peoples (2007) in Contemporary International Human Rights Law."

<sup>151</sup> Guy C. Charlton, Xiang Gao, and Da-Wei Kuan, "The Law Relating to Hunting and Gathering Rights in the Traditional Territories of Taiwan's Indigenous Peoples," *Asia Pacific Law Review* 25, no. 2 (2017): 125–48.

<sup>152</sup> Northcott, "Realisation Of The Right Of Indigenous Peoples To Natural Resources Under International Law Through The Emerging Right To Autonomy"; Fleischhauer and Kammeier, "International Environmental Law And The Role Of Indigenous Peoples In Protected Areas: Hope For Creative Solutions In A Setting Of Established Incompatibility"; Jérémie Gilbert, "Historical



The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) explicitly emphasizes the right of Indigenous peoples to participate in matters that affect them<sup>153</sup>. Indigenous participation can take various forms, including consultation, consent, and representation<sup>154</sup>. However, there are challenges in implementing and ensuring effective indigenous participation, such as power imbalances, lack of recognition, and limited resources<sup>155</sup>. Efforts should be made to strengthen indigenous participation through legal mechanisms, capacity-building, and recognizing indigenous knowledge and practices<sup>156</sup>. By actively involving indigenous peoples in law and policy-making processes, their rights and interests can be better protected and promoted.

### *Addressing the impact of climate change on indigenous livelihoods*

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Indigenous Peoples' Land Claims: A Comparative and International Approach to the Common Law Doctrine on Indigenous Title," *International and Comparative Law Quarterly* 56, no. 3 (2007): 583–611.

<sup>153</sup> Mardikian and Galani, "Protecting the Arctic Indigenous Peoples' Livelihoods in the Face of Climate Change: The Potential of Regional Human Rights Law and the Law of the Sea."

<sup>154</sup> Andrés Martínez Moscoso and Víctor G. Aguilar Feijó, "La Consulta Prelegislativa Y La Participación De Los Titulares De Derechos Colectivos: ¿mito O Realidad? Análisis Del Caso De La Ley De Aguas," *OBETS. Revista de Ciencias Sociales* 10, no. 2 (2015); Montalván and Wences, "Hacia Una Interpretación Descolonial Del Derecho Al Territorio De Los Pueblos Indígenas En El Derecho Internacional De Los Derechos Humanos: Más Allá De La Propiedad Y La Cartografía."

<sup>155</sup> Charters, "A Self-Determination Approach to Justifying Indigenous Peoples' Participation in International Law and Policy Making"; Tinnevelt and Verschraegen, *Between Cosmopolitan Ideals and State Sovereignty*.

<sup>156</sup> Hammer, Jintiach, and Tsakimp, "Practical Developments in Law Science and Policy: Efforts to Protect the Traditional Group Knowledge and Practices of the Shuar, an Indigenous People of the Ecuadorian Amazon"; Charlotte Renglet, "The Recognition of the Special Relationship of Indigenous Peoples with Their Environment under International Law: A Potential Advantage in Climate Litigation?," *International Journal on Minority and Group Rights* 29, no. 4 (2022): 720–46; Taymoor M. Pilehvar, "The Global Impact of Nuclear Activity on Indigenous Peoples and How International Law Falls Short in Protecting Them," in *Nuclear Non-Proliferation in International Law - Volume VI*, 2021.

Climate change has significant impacts on indigenous livelihoods. Indigenous peoples are often disproportionately affected by the adverse effects of climate change due to their close relationship with the environment and their reliance on natural resources for their livelihoods<sup>157</sup>. Climate change can lead to the loss of traditional lands, disruption of ecosystems, and changes in weather patterns, negatively impacting indigenous communities' ability to engage in traditional practices such as hunting, fishing, and agriculture<sup>158</sup>. Additionally, climate change can exacerbate existing social and economic inequalities that indigenous peoples face, further marginalizing them<sup>159</sup>. Recognizing and addressing indigenous peoples' specific vulnerabilities and rights in climate change adaptation and mitigation efforts is crucial to ensure their sustainable livelihoods and well-being<sup>160</sup>. This requires incorporating indigenous knowledge, participation, and rights in climate change policies and decision-making processes<sup>161</sup>. International legal frameworks, such as the United Nations Declaration on the Rights of Indigenous Peoples, provide a basis for protecting Indigenous peoples' rights in climate change<sup>162</sup>.

## Conclusion

The discourse surrounding the development of Indonesia's New Capital City (IKN) and the imperative of legal protection for indigenous peoples highlights the intricate relationship between modern governance and societal progress. The ambitious endeavor to relocate Indonesia's capital from Jakarta to East Kalimantan under the

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<sup>157</sup> Macpherson, Ventura, and Ospina, "Constitutional Law, Ecosystems, and Indigenous Peoples in Colombia: Biocultural Rights and Legal Subjects."

<sup>158</sup> Northcott, "Realisation of The Right of Indigenous Peoples To Natural Resources Under International Law Through The Emerging Right To Autonomy."

<sup>159</sup> Richardson, "Indigenous Peoples, International Law and Sustainability."

<sup>160</sup> Edson Dorneles de Andrade, "O INDÍGENA COMO USUÁRIO DA LEI: UM ESTUDO ETNOGRÁFICO DE COMO O MOVIMENTO DA LITERATURA INDÍGENA ENTENDE E USA A LEI No 11.645/2008," *Cadernos CEDES* 39, no. 109 (2019): 321–56.

<sup>161</sup> Fleischhauer and Kammeier, "International Environmental Law And The Role Of Indigenous Peoples In Protected Areas: Hope For Creative Solutions In A Setting Of Established Incompatibility."

<sup>162</sup> Barnabas, "The Legal Status of the United Nations Declaration on the Rights of Indigenous Peoples (2007) in Contemporary International Human Rights Law."

Indonesia's New Capital City (IKN) project necessitates a multifaceted approach for its realization. Critical to its success is the development of essential infrastructure, particularly an extensive road network. This infrastructure serves not only as an immediate requirement but as a fundamental pillar for the long-term growth and prosperity of IKN. The project also confronts a range of complex challenges, including economic resource distribution and conflicts related to prosperity, particularly in regions like Kalimantan. Integral to this grand undertaking is the reconstruction of ethnic identities and the pursuit of equitable access to urban resources.

The development of Indonesia's New Capital City and the legal protection of indigenous peoples, while distinct in their focus, share common themes centered on rectifying historical injustices, promoting equity, and fostering sustainable development. These two spheres underscore the adaptability and dynamism inherent in modern governance paradigms as they strive to achieve justice, preserve cultural diversity, and protect the environment. Legal protection for indigenous peoples is deeply embedded within the fabric of international law and policy. This dynamic field is rooted in various international instruments, prominently the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). These rights encompass self-determination, land rights, cultural preservation, and participation in decision-making processes. Additionally, these rights extend to safeguarding indigenous traditional knowledge and ensuring access to vital resources such as water. However, the journey toward the full realization and enforcement of these rights is fraught with challenges, encompassing issues of land dispossession, resource extraction, and cultural preservation. Addressing these challenges requires a multifaceted approach, including the development of legal precedents, recognition of indigenous legal systems, and increased indigenous participation in international law-making.

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