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Legal Implications of the Job Creation Law on the Protection of Community Land Rights in National Strategic Areas

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Abstract: The Job Creation Law (Law No. 11 of 2020) as a national strategic policy has sparked controversy, particularly concerning the protection of land rights for indigenous peoples and vulnerable groups. This research is grounded in the concern that the law shifts the orientation of agrarian policy from a social justice paradigm toward investment acceleration, potentially neglecting constitutional community rights. This study aims to critically examine the Job Creation Law and assess the relevance of international legal principles—especially Free, Prior, and Informed Consent (FPIC) under the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)—in safeguarding land rights in Indonesia. Using a library research method and a critical-juridical approach, this study analyzes national legal provisions, international norms, and comparative agrarian regulations in other countries. The findings indicate that the Job Creation Law does not sufficiently incorporate the FPIC principle, weakening the bargaining power of indigenous and local communities in land acquisition for national projects. Furthermore, the lack of an independent oversight mechanism and an effective agrarian dispute resolution system undermines legal protection. Comparative analysis highlights the need to recognize collective rights and community participation. In conclusion, the law should be revised and harmonized with international legal standards to strengthen community rights through inclusive mechanisms and independent institutions.

Keyword: Job Creation Law, Land Rights, Indigenous Peoples, Social Justice, Agrarian Law.

INTRODUCTION

Land has a multidimensional dimension in the lives of Indonesian people, covering social, economic, cultural, and spiritual aspects. For indigenous peoples, land is not just an economic asset, but a symbol of existence and continuity of communal identity. The community's bond to land is often based on customary values passed down across generations, not on formal legal documents. Therefore, legal regulations regarding land must be able to accommodate the social realities that exist in society. Unfortunately, the national legal system prioritizes formal proof of ownership over proof of historical control. This has led to the

marginalization of community groups that do not have access to the state land registration system. It is in this context that the Basic Agrarian Law (UUPA) Number 5 of 1960 was present to guarantee justice and equal distribution of land rights (Republic of Indonesia, 1960). However, along the way, the spirit of UUPA was not fully reflected in contemporary land policies.

In recent years, the government has been actively designating certain areas as National Strategic Areas (KSN) which are considered to have strategic value from an economic, defense, and environmental perspective. This designation is in line with the agenda of accelerating development which is realized through major projects such as the development of the Indonesian Capital City, food estate projects, industrial areas, and transportation infrastructure. Although it has positive goals in increasing economic growth and equitable development, this policy has had serious impacts on local communities. Many KSN areas were previously cultivated land, customary areas, or community settlements that were not recorded in the national land system. When these areas are designated as development sites, communities lose their rights because they do not have formal proof of ownership. Evictions, forced takeovers, and agrarian conflicts are inevitable consequences of development policies that do not have a people's rights perspective. This situation reflects the state's failure to integrate social justice into spatial planning and development. Structural inequality in access to land is widening, especially for small community groups.

The enactment of Law Number 11 of 2020 concerning Job Creation (Job Creation Law) marks a new phase in national regulatory reform. Through an omnibus law approach, this law revises various sectoral provisions, including in the land sector, under the pretext of efficiency and ease of investment (Republik Indonesia, 2020). Several important changes include the establishment of a Land Bank, simplification of the land acquisition process, and granting greater authority to the central government in spatial management. On the one hand, these changes are considered a breakthrough to overcome investment barriers and accelerate national development. However, on the other hand, the exclusion of the principles of community participation, recognition of customary rights, and protection of vulnerable communities has drawn serious criticism from academics, civil society, and agrarian justice organizations. These new regulations tend to strengthen the interests of investors, while the position of the community becomes increasingly weak. Moreover, the approach to legal formalization of land does not consider the facts of control and historical relations of the community to the land they occupy. This shows that the orientation of the law has shifted from the principle of justice to capital accumulation.

One of the controversial instruments introduced through the Job Creation Law is the establishment of the Land Bank. The Land Bank functions as an institution that manages state lands and distributes them according to national development priorities. Normatively, the purpose of the Land Bank is to create legal certainty and land availability for investors. However, there is no procedural clarity on how state land is obtained, especially when the land has long been controlled by the community informally. This normative vacuum opens up loopholes for legalistic land grabbing in the name of development (Harsono, 2005). In many cases, formal legality is actually used as an instrument to eliminate the rights of local communities, not to protect them. In fact, the UUPA has emphasized that land has a social function that must be considered in every land policy. This contradiction shows that the concept of law is not enough to be formed only by written norms, but must contain substantive justice values.

Agrarian conflicts arising from strategic development policies have shown a systemic pattern that is detrimental to the community. A report from the Indigenous Peoples Alliance of the Archipelago (AMAN) states that indigenous peoples often experience intimidation, forced evictions, and criminalization when defending their land (AMAN, 2023). These cases reflect the state's failure to guarantee legal protection for vulnerable groups. When the state is more

biased towards corporations and investors, the power relationship becomes unequal and contradicts the principles of the rule of law. From a constitutional perspective, every citizen has the right to obtain a decent place to live and a good life (Republic of Indonesia, 1945). When these rights are sacrificed in the name of development, the state has failed to carry out its constitutional mandate. Protection of land rights must be seen as part of the protection of human rights, not just an administrative issue. Therefore, it is important to reconstruct land regulations to be more in favor of the community.

In addition to the national dimension, the issue of land rights is also related to international legal standards. The principle of Free, Prior and Informed Consent (FPIC) in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) emphasizes that indigenous peoples have the right to approve or reject projects that will be carried out on their land, after being given sufficient information and before the activity begins (United Nations General Assembly, 2007). Unfortunately, in the practice of land acquisition in Indonesia, the principle of FPIC has not become a legally binding standard. This places indigenous peoples as objects of development, not as legal subjects who are sovereign over their own land. In many cases, public consultations are formalities without meaningful community involvement. In fact, a participatory development approach is a basic principle in the theory of social justice. When the state ignores these principles, development becomes a new instrument of oppression. Therefore, the integration of the principle of FPIC into national law is an urgency that cannot be postponed.

Land is seen as a means of production for the people that must be managed fairly and sustainably. This view refers to the theory of distributive justice developed by John Rawls, which emphasizes the importance of equal access to resources for the weakest groups (Rawls, 2003). If the state only facilitates the accumulation of assets by the economic elite without regulating their distribution fairly, there will be deeper social inequality. In this context, the law must not be neutral towards power, but must side with those who do not have economic power. Land as a resource must be distributed fairly, not only commercialized through market mechanisms. This is an important basis for evaluating the substance and implementation of the Job Creation Law which tends to be pro-capital. Without correction of the direction of this policy, the state risks betraying the principle of social justice as the ideological foundation of Pancasila. Therefore, criticism of the Job Creation Law is not only technical, but also ethical and philosophical.

Various civil society organizations and academics have voiced the importance of reforming agrarian law that is more in favor of social justice. One relevant approach is progressive law, as stated by Satjipto Rahardjo, who stated that law must be a tool of liberation and justice for the people, not just a formal norm (Rahardjo, 2006). Within this framework, land regulations must embrace social realities and community needs, not just follow administrative and economic logic. When people lose their rights to land without adequate protection, the law loses its function as a means of emancipation. Good land law is law that is able to overcome structural inequality and provide space for community rights to land in a fair and dignified manner. Therefore, revisions to the implementing regulations of the Job Creation Law must be directed at protecting vulnerable groups. The concept of sustainable development can only be achieved if social justice is made the main principle in land policy. So it is time for the state to reorient its policies to side with the people.

This study is based on concerns about the increasing potential for social inequality and agrarian conflicts in strategic development areas due to the implementation of the Job Creation Law. This study aims to critically analyze how these regulatory changes impact legal protection of community rights to land, especially in areas designated as KSN. In addition, this study also examines the suitability of the substance of the Job Creation Law with the principles of social justice as stated in the 1945 Constitution of the Republic of Indonesia (Republik Indonesia, 1960).

METHOD

This study uses a normative legal approach method, namely an approach that focuses on the study of applicable positive legal norms and their relevance to the issues being studied. The normative legal approach was chosen because the object of this research study is a legal product, namely Law Number 11 of 2020 concerning Job Creation and its derivative regulations, especially those related to the land sector and its relationship to community rights to land in the National Strategic Area (KSN) (Republic of Indonesia, 2012).

This study utilizes data derived from legal materials, which are categorized into three types. First, primary legal materials consist of statutory regulations that serve as the main legal foundation, including the 1945 Constitution of the Republic of Indonesia, Law Number 5 of 1960 concerning Basic Agrarian Principles (UUPA), Law Number 11 of 2020 concerning Job Creation, Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Apartment Units, and Land Registration, and Presidential Regulations regarding National Strategic Areas. Second, secondary legal materials include various relevant literature such as books on agrarian law, scientific articles, previous research findings, law journals, and expert opinions from scholars of agrarian and constitutional law discussing land rights and agrarian reform.

Third, tertiary legal materials consist of legal dictionaries, legal encyclopedias, and other supporting documents that assist in clarifying legal terms or concepts used throughout this research. The technique of collecting legal materials is carried out using the library research method, namely by tracing legal documents, academic articles, laws and regulations, and official government documents related to the KSN and the implementation of the Job Creation Law. Secondary data searches are also carried out through national legal databases such as JDIH BPHN, websites of related ministries/institutions (ATR/BPN, Coordinating Ministry for the Economy), and accredited national journal repositories (SINTA and Garuda Ristek-BRIN) (Republik Indonesia, 2012).

The analysis technique used is a qualitative normative analysis technique, namely by examining and interpreting applicable legal norms and examining the relationship between positive legal provisions and developing social realities, especially in the context of implementing national development in the KSN area which has an impact on community rights to land. This study also uses a conceptual approach to analyze the principles of social justice, constitutional rights, and relevant agrarian legal principles in assessing whether the implementation of the Job Creation Law is in accordance with the objectives of the state as mandated in the constitution (Rahardjo, 2006). Through this method, it is hoped that the results of the study can provide a complete and argumentative picture of the normative impact of the Job Creation Law on the protection of community land rights in areas that have been designated as national strategic development priorities.

RESULTS AND DISCUSSION

Changes to Land Regulations in the Job Creation Law in Indonesia

Law Number 11 of 2020 concerning Job Creation (Job Creation Law) was enacted as part of a major regulatory reform agenda to accelerate national economic growth. One of the sectors significantly affected is land, which is a strategic area in the implementation of investment and infrastructure development. In the land cluster, this law changes a number of articles in the Basic Agrarian Law (UUPA) and introduces new concepts, such as the establishment of a Land Bank. The government argues that this change aims to create efficiency, legal certainty, and ease of doing business (Republic of Indonesia, 2020).

However, behind this goal, there are legal consequences that need to be examined critically. This change in the substance of the law is not merely administrative, but touches on the basic paradigm of land ownership. The Job Creation Law creates a shift from the principle

of agrarian justice towards the commercialization of land as an economic commodity. This can lead to structural inequality in the Indonesian land system.

One of the most crucial changes in the Job Creation Law is related to land acquisition procedures for public interest and national strategic projects. In the previous regulation, land acquisition required a process of deliberation with the community, compensation assessment, and meaningful public consultation. However, in the new scheme, these procedures are simplified into a series of administrative mechanisms that give greater authority to the government and investors. This simplification does speed up the process, but also risks reducing legal protection for communities directly affected (Dewi, 2022). Articles 125 to 129 of the Job Creation Law give the government the authority to designate development areas and facilitate investors through the Land Bank.

This opens up space for land acquisition without active community involvement in the decision-making process. The imbalance in relations between the state, investors, and the community is becoming increasingly striking. From an agrarian law perspective, this is contrary to the spirit of the UUPA which places the people as the main subject of land.

The Land Bank is a new instrument in the Indonesian land law system regulated in Articles 125 to 135 of the Job Creation Law. This institution is given broad authority to manage land controlled by the state and distribute it according to national development priorities. In theory, the Land Bank is intended to provide land reserves to support equitable development. However, in practice, the mechanism for land acquisition by the Land Bank is still unclear, especially in terms of the status of customary land or land controlled by the community informally (Harsono, 2005).

This normative vacuum raises concerns that community land can be taken over by the state on the pretext of being controlled for the public interest. Furthermore, the absence of an obligation to consult directly with the community in determining and distributing land increases the potential for conflict. Land is no longer seen as a means of production for the people, but as an economic instrument that can be transferred in the name of efficiency. The legal implications of this need to be further reviewed within the framework of social justice.

The transformation of the substance of land law in the Job Creation Law cannot be separated from the development paradigm that is more oriented towards macroeconomic growth. This regulation changes the state's approach from being a protector of the people to being an investment facilitator. This change can be seen in the preparation of norms that are more in favor of legal certainty for business actors than protecting community rights. For example, provisions regarding land acquisition discuss more about acceleration procedures than mechanisms for protecting the rights of affected communities.

This shows a shift in values in land regulation, from the principles of humanity and sustainability to the principles of efficiency and profitability. In the context of a state based on the rule of law, this is contrary to the state's constitutional obligation to protect the entire nation and all of Indonesia's territory (Republic of Indonesia, 1945). Therefore, this new regulation should not only be assessed based on the speed of implementation, but also on the substantial justice that can be realized. Strengthening legal instruments for community protection must be a priority in the implementation of the Job Creation Law.

The Job Creation Law also has consequences for the structure of land institutions, especially in coordination between agencies. The birth of new institutions such as the Land Bank has shifted some of the functions of the Ministry of Agrarian Affairs and Spatial Planning/BPN in matters of land data collection, management, and redistribution. On the one hand, this creates centralization and integration of land policies in one national system. However, on the other hand, the centralization of authority actually ignores the local context and legal pluralism that exist in society. The one-stop shop (OSS) system for land licensing also minimizes the role of local governments and customary institutions in the decision-making process. The diversity of land ownership and control systems that are sociologically recognized

are not reflected in the legal approach taken by the Job Creation Law. When national norms ignore local diversity, the potential for violations of community rights increases. Harmonization between state law and customary law should be the basis for the formation of fair and inclusive land regulations.

Table 1. Comparison of Land Regulations Before and After the Job Creation Law and Its Implications

Aspect	Before the Job Creation Law (UUPA and Land Acquisition Law)	After the Job Creation Law (UU No. 11/2020)	Implications for Social Justice
Main legal basis	UUPA 1960, Law No. 2/2012 concerning Land Acquisition	UU no. 11/2020 concerning Job Creation	Shifting orientation from agrarian justice to investment efficiency
Land acquisition	Deliberation, public consultation, fair compensation	Simplification of procedures, dominance of central government	Lack of community participation, risk of forced eviction
Land bank	There isn't any	Formed as a strategic land management institution	Potential land monopoly by the state/investors
Customary rights of indigenous peoples	Limitedly recognized in the UUPA and MK Decision 35/2012	Not explicitly reinforced	Indigenous peoples lose formal legal recognition
The role of local/traditional government	Have authority in RTRW and local deliberations	Marginalized in OSS and strategic land acquisition	Neglect of local contextuality in policy making
Legal approach	Based on social justice and the benefit of the people	Based on efficiency, economic growth and investment	Substantive justice is replaced by formalistic procedures

From the perspective of agrarian justice, the Job Creation Law is considered to have deviated from the basic principles contained in the 1960 UUPA. The UUPA guarantees that land ownership must pay attention to the principles of benefit, justice, and sustainability. In addition, the UUPA also recognizes the existence of customary rights of indigenous peoples that arise from customary laws that exist in society.

Unfortunately, the Job Creation Law does not provide reinforcement for the recognition of customary rights, and instead tends to weaken the position of indigenous peoples in land legal relations. This condition creates inequality in access to agrarian resources, because indigenous peoples find it difficult to obtain formal legality for the land they have controlled for years. Meanwhile, investors who come from outside can easily obtain land through a process facilitated by the state. This inequality is not only a legal problem, but also a violation of the principle of social justice as stated in Pancasila. Therefore, efforts are needed to balance the interests of development and the protection of the rights of indigenous and local communities.

A further implication of the Job Creation Law is the erosion of the principle of community participation in the management of natural resources, especially land. Communities affected by national strategic projects are often not involved in the planning and decision-making process. Public consultation procedures are merely administrative formalities that do not reflect meaningful participation. In fact, participation is one of the basic principles of democracy and the rule of law.

When the community is not given space to voice their opinions, their constitutional rights have been violated. In the context of land acquisition, participation is not only about approval, but also about protecting living space and livelihoods that have been passed down across generations. The Job Creation Law fails to provide an inclusive, transparent, and fair mechanism for land decision-making. This further strengthens the state's position as a development agent that ignores the basic rights of its people.

Changes in the Job Creation Law also have an impact on the relationship between society and the state in managing space and land. Previously, the state was positioned as a regulator and protector of public interests in land ownership. However, with the Job Creation Law, the state appears to function more as an investment facilitator that places capital interests above the interests of the community.

This can be seen from various national strategic projects that are running without regard to the existence of local communities, especially those who do not have formal certificates. In fact, informal ownership that has been going on for a long time should be legally recognized based on the principles of justice and social reality. If the state continues to impose legal-formal logic in land relations, then the community will continue to be in a weak position. Substantive justice can only be achieved if the state is able to see beyond the administrative aspects of land ownership. Therefore, the relationship between the state and society must be built on the principles of recognition and protection, not domination and subordination.

Land Bank, although claimed as a solution to the problem of land distribution, has the potential to become a new instrument for monopoly and concentration of land ownership. In practice, land collected by the state through the Land Bank can be transferred to large investors without a redistribution process to the community.

This is contrary to the ideals of agrarian reform which requires land as a tool for equality and empowerment of the people. In a fair agrarian legal framework, land must function socially and must not be a mere market commodity. When the Land Bank is used more for the interests of industry and infrastructure without considering the rights of the people, the goal of agrarian justice becomes an illusion. The Job Creation Law does not provide clear limits on the priority of land distribution by the Land Bank. Therefore, there needs to be further regulations that guarantee that land is managed for the greatest prosperity of the people. Otherwise, the state will perpetuate the inequality that has long been a national agrarian problem.

The transformation of land law in the Job Creation Law also raises big questions about the direction of Indonesia's agrarian legal policy. Does the state still make the people the main subject in land control, or has it changed to become an agent of land liberalization? This question is important to ask because it shows a shift in legal ideology from social justice to investment certainty. In a democratic state based on the rule of law, development must not sacrifice the basic rights of citizens. Every change in law must be tested based on the principles of justice, equality, and respect for constitutional rights. Therefore, strengthening legal protection for the community over land must be a priority in future land policies. The Job Creation Law must be reviewed with a more humane and just approach. The state must not only be present for development, but also for protection.

Impact of Implementation of the Job Creation Law on Communities in National Strategic Areas

Law Number 11 of 2020 concerning Job Creation (Job Creation Law) brings significant changes to the land law system in Indonesia, including in the arrangement of National Strategic Areas (KSN). KSN is defined as an area that has nationally important value in terms of economy, environment, socio-culture, or defense and security. The government has established KSN to accelerate development through strategic projects such as infrastructure, industrial areas, and the relocation of the capital city.

However, the implementation of this law has serious implications for communities living in areas that have been designated as KSN. Without strengthening legal protection, local and indigenous communities are at risk of losing access to land, resources, and living space. Many of them do not have formal legal documents, but have occupied and managed the land for generations. The Job Creation Law does not adequately accommodate recognition of customary-based land tenure. As a result, the legal position of the community in the land acquisition process is weak and vulnerable.

The social impact of the implementation of the Job Creation Law in the National Strategic Project is very real in the lives of indigenous and local communities. When their land is claimed as part of a national project, communities are forced to face forced relocation without adequate consent. This has an impact on the destruction of social structures, the loss of communal spaces, and the severance of kinship relations that have been built on customary land ties. In addition, communities lose cultural sites and traditional places of worship that have been an important part of their collective identity.

Without recognition of these social and cultural values, development becomes an instrument of homogenization and the elimination of local character. The Job Creation Law only accommodates formal administrative aspects, it does not guarantee protection of the social realities that live in society. When land is only viewed as a commodity, all social dimensions inherent in land are neglected. This gives rise to tensions between modernization and social sustainability.

The economic aspect is one of the most obvious impacts of the implementation of the Job Creation Law on communities in the KSN. Local communities that previously lived from agriculture, fisheries, or customary forests have lost access to sources of livelihood. The development of industrial areas and infrastructure has replaced productive land that has supported the economic life of the community. In many cases, they are not given training or decent alternative jobs after losing their land. The compensation promised is often not commensurate with the long-term economic value lost. Even when jobs are offered, the positions tend to be marginal and do not guarantee the economic sustainability of the family. The transformation of living space into capital space does not guarantee an increase in the welfare of local communities. Instead, it strengthens the economic inequality between investors and affected communities.

Legally, the Job Creation Law does not strengthen the legal position of the community in the land acquisition process in strategic areas. Communities that do not have land title certificates are not legally recognized as legitimate rights holders. In fact, in many cases, the community has occupied and managed the land for decades based on customary law. The Job Creation Law and its derivative regulations do not explicitly accommodate the principle of recognizing customary land. This makes the community have no legal bargaining power in facing land acquisitions for national strategic projects. In Article 18B paragraph (2) of the 1945 Constitution, the state is actually obliged to recognize and respect the rights of indigenous peoples. However, in practice, this constitutional obligation is not seriously implemented in the sectoral legal framework. This absence of recognition causes structural injustice in the land system.

The case study of the development of the Indonesian Capital City (IKN) in East Kalimantan is a concrete example of the impact of the Job Creation Law on indigenous communities. The government has designated an area of more than 250,000 hectares as the location for the development of the new capital city. Most of the area is the customary land of the Dayak, Paser, and Kutai communities who have long managed the land without certificates. The land acquisition process for the IKN project did not fully involve the community in a participatory and inclusive manner.

The report by the Indigenous Peoples Alliance of the Archipelago (AMAN, 2023) shows that many residents feel pressured to give up their land without meaningful consultation. There is no FPIC (Free, Prior and Informed Consent) mechanism implemented according to international standards. The existence of indigenous communities is ignored in the determination of spatial plans and infrastructure development. This reflects the absence of protection of community rights in national-scale development projects.

The Job Creation Law creates a legal system that favors investment interests over community protection. Land acquisition procedures are accelerated through administrative mechanisms that reduce the role of communities in decision-making. The public consultation

process mandated by law is often carried out as a mere formality. Without the right to legally approve or reject, communities become passive objects of development. In fact, within the framework of international law, indigenous peoples have collective rights to determine the future of their territories (United Nations General Assembly, 2007). When legal mechanisms do not provide equal deliberative space, the law becomes not a tool of justice, but an instrument of domination. The state should ensure that every development policy respects the basic rights of the community. Without it, development will continue to create social resistance.

Another impact is the increase in agrarian conflicts between communities and the state and between communities and investors. When communities defend their land, they are often considered obstacles to development and can be criminalized. In a number of cases, residents are charged with criminal articles such as destruction, encroachment, or defamation. This phenomenon is known as SLAPP (Strategic Lawsuit Against Public Participation) which aims to silence community resistance.

The Job Creation Law does not provide a strong legal mechanism to protect citizens from such criminalization. The absence of legal protection makes people increasingly afraid to fight for their rights. This creates an atmosphere of legal repression that is contrary to the principles of a democratic state of law. On the contrary, the law must be a safe space for citizens to express their rights freely and with dignity.

In addition to direct conflict, the long-term impact of the Job Creation Law is the economic dependence of communities on an exploitative system. After losing their land, communities become casual workers in development projects on land they once owned. This dependence makes them vulnerable to exploitation and has no bargaining power in the labor market. Development that promises prosperity actually creates a structure of dependency and powerlessness.

Without recognition and protection of land, communities have no control over resources and their results. In the long term, this exacerbates structural poverty and weakens the independence of local communities. Therefore, development in national strategic areas must prioritize the sustainability of the community's economy, not just infrastructure growth. Economic justice must be part of the design of development law.

Public participation is a key pillar in a democratic system, but the Job Creation Law fails to guarantee meaningful participation in land management in the KSN. This law does regulate public consultation, but its implementation does not pay attention to the principles of equal deliberation. Consultation is only a procedural complement without changing the substance of the decision.

In many cases, public input is not considered a primary consideration in the project planning process. This shows that participation in the Job Creation Law is more symbolic than substantive. The state is actually strengthening its administrative position to simplify the process, not to balance the relationship between the people and the government. The absence of true participation widens the gap between citizens and the state. If this continues, public trust in law and development will decline drastically.

Weak legal protection for indigenous peoples shows that formal law is still biased towards groups that have access to legality and power. Local communities that do not have land title certificates are often considered illegitimate by law, even though they have managed the land for generations. The law should not only be based on documents, but also on social realities and the history of control.

A rigid and formalistic legal approach will only increase social inequality. Therefore, there needs to be a progressive legal approach that recognizes legal pluralism, including the existence of customary law. Satjipto Rahardjo (2006) stated that the law must side with weak groups and function as a tool of emancipation. In this context, land law must provide legal space for forms of control that are socially legitimate, even if not formal. Without it, the law only becomes a tool for legitimizing oppression.

It is also important to highlight how ignoring the principle of Free, Prior and Informed Consent (FPIC) perpetuates the exclusion of communities from the development process. FPIC is an international principle recognized in UNDRIP as a form of protection of indigenous peoples' rights to their territories. However, in the implementation of the Job Creation Law, this principle has not been adopted normatively.

As a result, there is no obligation for the state or investors to obtain valid consent from the community before starting a project on customary land. This is contrary to the spirit of respect for human rights and the principle of the rule of law. Without FPIC, the land acquisition process tends to be top-down and exploitative. The government must immediately integrate this principle into land regulations to ensure that development is carried out ethically and fairly. FPIC is not just a procedure, but a principle of respect for the dignity of the community.

The impact of the implementation of the Job Creation Law also concerns the imbalance of power in decision-making regarding people's living space. The state has full control over the determination of national strategic projects and the use of space without involving the community as collective rights holders. When the state becomes an investor facilitator, the space for public negotiation becomes narrow.

The absence of this deliberative space distances the community from its position as a legal subject. In conditions like this, the community not only loses land physically, but also loses political control over their living space. A state based on law should guarantee that every citizen has an equal opportunity to be involved in policy-making. Therefore, the restoration of participatory space must be part of development regulation reform. Without it, development will only be a structured process of marginalization.

Based on the above description, it is clear that the implementation of the Job Creation Law in the National Strategic Area has caused various negative impacts on local and indigenous communities. These impacts are not only material, but also touch on social, cultural, economic, and legal aspects. The state should be present to protect, not ignore, the communities most affected by development.

The Job Creation Law must be reviewed to be in line with constitutional values, social justice, and human rights principles. The community is not an obstacle to development, but rather the main actor that must be involved. If development is to be sustainable, then it must be built on a foundation of justice, participation, and recognition of community rights. Development that humanizes humans will be stronger than development that sacrifices the people. Therefore, agrarian justice and strong legal protection must be a priority in every development regulation.

Legal-Critical Review and Relevance of International Legal Principles to the Protection of Community Land Rights as an Implication of the Job Creation Law

The Job Creation Law has sparked significant legal discourse on the direction of Indonesia's land policy. One of the main criticisms comes from the progressive legal approach which emphasizes that the law should not be neutral towards social inequality. In a progressive legal framework, the law must be a means of social transformation that sides with vulnerable groups and does not merely serve the interests of capital (Rahardjo, 2006). The Job Creation Law is considered to have shifted the paradigm of agrarian law from the principle of social justice to merely an instrument of investment legalization.

Strengthening the role of the state as a facilitator of development risks reducing its function as a protector of people's rights to land. When legal relations do not position the community as the main subject, then the substantive justice that was the initial spirit of the UUPA has been ignored. In this case, a critical legal approach is needed to read the inequality caused by new norms that are exclusive to the common people. Criticism of the Job Creation Law does not only come from the legal-formal aspect, but also from the moral and sociological aspects.

In the constitutional framework, land rights are directly related to human rights and the economic rights of citizens. Article 28H paragraph (4) of the 1945 Constitution states that everyone has the right to own property and receive legal protection for their property. Meanwhile, Article 33 paragraph (3) states that the earth and the natural resources contained therein are controlled by the state and used as much as possible for the prosperity of the people (Republic of Indonesia, 1945).

In this context, land is not only an economic object, but a means of prosperity and sustainability of people's lives. The Job Creation Law, which simplifies the land acquisition process for national strategic projects, has the potential to eliminate people's rights to land, especially if it is not balanced with protection instruments. When national projects are prioritized over the constitutional rights of the people, the state has failed to carry out the social mandate of the constitution. Actions such as evictions without participation and fair compensation can be categorized as a form of violation of constitutional rights. Therefore, it is important for national land policies to be consistent with constitutional principles, not just the principles of economic growth.

In addition to the national legal approach, it is important to review the relevance of international legal principles to the protection of community land rights. One of the main principles in relevant international law is Free, Prior and Informed Consent (FPIC), which is regulated in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). FPIC is the collective right of indigenous peoples to give or withhold consent to projects that impact the lands, territories, or resources that they traditionally own or use (United Nations General Assembly, 2007).

This principle requires the state and development actors to prioritize free, prior, and informed consent. In the Indonesian context, this principle has not been explicitly adopted in the Job Creation Law or its derivative regulations. Public consultations conducted in land acquisition do not reflect the principle of FPIC because they are not binding and are formal. As a result, local and indigenous communities do not have an equal bargaining position in the development decision-making process. This shows a mismatch between national legal practices and international norms.

UNDRIP as an international declaration that has been universally accepted emphasizes the importance of recognizing the rights of indigenous peoples to land and natural resources. Article 26 states that indigenous peoples have the right to own, use, develop, and control the land and resources that they have traditionally controlled. This declaration is not merely a symbolic document, but reflects ethical and normative standards in modern international law. Indonesia, although it has not formally ratified UNDRIP in the form of a convention, remains morally bound as a member of the United Nations.

Unfortunately, the Job Creation Law does not use the principles of UNDRIP as a normative reference in regulating land acquisition. This is ironic, considering that many national strategic project areas are located on customary land and areas managed by local communities. When national laws ignore international principles that protect vulnerable groups, Indonesia's position in the global legal system becomes contradictory. Therefore, harmonization between international and national norms is an urgent need.

Comparative studies with other countries also show the importance of recognizing indigenous peoples' land rights as part of legal protection. In the Philippines, for example, there is the Indigenous Peoples' Rights Act (IPRA) 1997 which explicitly regulates customary land rights and FPIC mechanisms in all development projects.

In Peru, the government established an agrarian ombudsman institution that functions to resolve land conflicts independently and responsively. Both countries face agrarian issues that are not much different from Indonesia, but have been more progressive in integrating the principles of social justice and community participation in positive law. Indonesia can learn important lessons from this approach, especially in terms of formal recognition of collective

rights. The Job Creation Law does not yet provide an equivalent mechanism such as IPRA or an agrarian ombudsman institution. In fact, the existence of an independent institution is very important to guarantee the protection of the community from potential abuse of power. This shows that agrarian law reform is not only normative, but also institutional.

Table 2. Comparison of Principles of Land Rights Protection in the Job Creation Law, the 1945 Constitution, and UNDRIP

Aspect	Job Creation Law (UU No. 11/2020)	UUD 1945 (Indonesian Constitution)	UNDRIP and the FPIC Principle
Indigenous peoples' land rights	Not explicitly stated and not guaranteed to be strong	Recognized in Article 18B paragraph (2)	Recognized in Articles 26–32 of UNDRIP as a fully protected collective right
Public consultation/participation	Formally regulated, non-binding, and does not provide veto rights	Guaranteed in the principles of democracy and the right to express opinions (Article 28E of the 1945 Constitution)	FPIC: Free, prior and informed consent with the right to refuse a project
Land acquisition	Focused on efficiency and acceleration of strategic projects	Must guarantee the prosperity of the people (Article 33 paragraph (3))	Only permitted if there is legal and equal consent of the affected community.
Protector of community rights	The state as a facilitator of development, not the main protector	The state is obliged to protect all citizens (Article 28I and Article 33 of the 1945 Constitution)	The state is obliged to guarantee non-discrimination and full protection of the rights of indigenous peoples.
Objection mechanism	Administrative objections are limited, do not delay the project	The right to legal protection is guaranteed (Article 28D paragraph (1))	The right to access protection institutions, mediation, arbitration and collective justice systems

From the perspective of the theory of social justice developed by John Rawls, inequality can only be justified if it benefits the least fortunate. In the context of the Job Creation Law, policies that sacrifice indigenous peoples for the sake of accelerating investment and development do not meet this principle of justice.

Indigenous peoples are not only disadvantaged, but are actually the most impacted group and lose their basic rights to land and living space. Rawls stated that justice must be measured by how a system treats marginalized groups, not by the accumulation of benefits in aggregate (Rawls, 2003). Therefore, the Job Creation Law needs to be reviewed from the perspective of legal morality and distributive justice. If the law does not side with the weak, then the social function of the law itself becomes blunt.

The principles of progressive law and the theory of social justice must be used as a basis for evaluating every legal policy that has a broad impact on society. This includes assessing the validity and legitimacy of the Job Creation Law in the context of protecting land rights.

Criticism of the Job Creation Law also comes from a critical legal approach that sees that law is often used as a tool to perpetuate the dominance of economic power. In this context, land law regulations that are too biased towards efficiency and acceleration of development actually reflect the hegemonic power of the state and capital.

Communities that do not have access to formal legal tools are often excluded from the legal arena. A critical legal approach emphasizes the need to dismantle exclusive and elitist legal structures. Good law is law that opens up space for substantive justice and accommodates social diversity. In this case, the absence of a legal mechanism that protects the rights of local communities in the Job Creation Law shows that the law does not side with the people. The

rule of law is not only determined by the existence of laws, but also by the law's bias towards vulnerable groups. Therefore, a critical study of the Job Creation Law is not a form of opposition, but a reflection on the social function of law.

Institutionally, the weakness of the Job Creation Law is also seen in the absence of an independent supervisory institution that is able to guarantee the implementation of land acquisition fairly. Currently, there is no mediation or arbitration mechanism that can be used by the community as an alternative to the courts.

In fact, the litigation route is often expensive, slow, and favors parties who have formal legal documents. This imbalance puts local communities in an inferior legal position. In many cases, communities suing for eviction or land acquisition fail to obtain justice because formal evidence is valued more than social and historical evidence. The state should create a system for resolving agrarian conflicts that is fast, cheap, and oriented towards substantive justice. Institutions such as land ombudsmen or special agrarian courts could be institutional options going forward. Without institutional reform, legal protection for indigenous peoples will remain weak even though there are written legal regulations.

Therefore, it is important to encourage the integration of international legal principles into the national legal system, especially in agrarian issues. The principles of FPIC and UNDRIP can be used as moral and legal foundations in drafting implementing regulations for the Job Creation Law.

The government also needs to impose a moratorium on national strategic projects located on indigenous peoples' land until there is fair and equal legal certainty. Revisions to derivative regulations such as Presidential Regulations and Ministerial Regulations must prioritize protection for the community, not merely development efficiency. Land is not just an inanimate object, but a living space and part of the socio-cultural identity of the community.

National laws that are not sensitive to this will fail to carry out their function as a means of justice. Therefore, synchronization between international and national norms is a strategic and ethical step. The ultimate goal is to create a fair, inclusive, and sustainable land law system.

CONCLUSION

The implementation of Law Number 11 of 2020 concerning Job Creation (Job Creation Law) in the land sector has significant legal implications, especially for communities in the National Strategic Area (KSN). In terms of regulation, the Job Creation Law has changed various basic norms in the Indonesian land law system.

These changes include the establishment of a Land Bank, simplification of land acquisition procedures, and centralization of land management authority, which in practice prioritizes efficiency and investment certainty over the principle of social justice. The impact of the implementation of this law is very much felt by local and indigenous communities living in the KSN area.

They experience loss of land, living space, cultural identity, and access to economic resources. The legal status of indigenous peoples is increasingly marginalized due to the lack of explicit recognition of customary rights and weak legal protection in the land acquisition process. The case study of the development of the Indonesian Capital City (IKN) is concrete evidence that indigenous peoples are the most vulnerable group in national-scale development projects.

From a legal-critical review, the Job Creation Law shows a tendency to make law an instrument of legalization of development, not as a means of protecting the people. The progressive legal approach, the principle of social justice, and the theory of collective rights in international law such as Free, Prior and Informed Consent (FPIC) and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) have not been fully integrated into the national legal framework. Inequality of access to justice and state domination over control of space weaken the position of the community as a legal subject.

Therefore, a reformulation of the implementing regulations of the Job Creation Law is needed so that they are in line with the mandate of the constitution and the principle of agrarian justice. The state is obliged to ensure that every development project respects the rights of the community in a fair, participatory, and dignified manner.

Strengthening the recognition of customary land, the establishment of an independent dispute resolution institution, and the integration of international legal principles must be on the national legal agenda. The law should not only be a tool for development, but must be an instrument of justice that protects the basic rights of all citizens without exception.

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