



## Implementation of the Role of BPN in the Conversion of Cultivated Land of Indigenous Law Communities from the Perspective of Land Law

Implementasi Peran BPN terhadap Alih Fungsi Lahan Garapan Masyarakat Hukum Adat Ditinjau dari Perspektif Hukum Pertanahan

**Winda Hasna Mulya**

Master Of Notarial Law, Padjajaran University, Indonesia

Email: [winda24004@mail.unpad.ac.id](mailto:winda24004@mail.unpad.ac.id)

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### Abstract

The conversion of land cultivated by indigenous legal communities has become an increasingly complex agrarian issue in Indonesia amid the expansion of development and investment. For indigenous communities, land is not merely an economic asset but also carries social, cultural, and spiritual values as part of their collective identity. This study explicitly aims to analyze the implementation of the role of the National Land Agency (Badan Pertanahan Nasional/BPN) in land conversion involving indigenous legal communities and to assess its legal responsibility in providing legal certainty and protection of land rights from a land law perspective. This research is significant because previous studies have mainly focused on agrarian conflicts or normative recognition of customary land rights, while limited attention has been given to examining BPN's institutional role in the practical implementation of land conversion affecting indigenous communities. This study employs a normative juridical method using statutory, conceptual, and case approaches, particularly analyzing Supreme Court Decision No. 3380 K/Pdt/2020, supported by primary and secondary legal materials. The analysis is conducted qualitatively using deductive legal reasoning. The findings reveal that BPN's role remains predominantly administrative and has not yet optimally fulfilled its protective function toward indigenous land rights. Therefore, strengthening BPN's substantive and participatory role is essential to ensure that land conversion policies align with the principles of agrarian justice.

**Keywords:** National Land Agency; indigenous legal communities; land conversion; land law; agrarian justice.

### Abstrak

Penelitian ini mengkaji implementasi peran Badan Pertanahan Nasional (BPN) dalam proses alih fungsi Alih fungsi lahan yang digarap oleh masyarakat hukum adat merupakan persoalan agraria yang semakin kompleks seiring dengan meningkatnya pembangunan dan investasi di Indonesia. Bagi masyarakat hukum adat, tanah tidak hanya bernilai ekonomis, tetapi juga memiliki makna sosial, kultural, dan spiritual sebagai bagian dari identitas kolektif. Penelitian ini bertujuan untuk menganalisis secara eksplisit implementasi peran Badan Pertanahan Nasional (BPN) dalam proses alih fungsi lahan

masyarakat hukum adat serta menilai tanggung jawab hukumnya dalam memberikan kepastian hukum dan perlindungan hak atas tanah berdasarkan perspektif hukum pertanahan. Penelitian ini penting karena studi-studi sebelumnya umumnya menitikberatkan pada konflik agraria atau pengakuan hak ulayat secara normatif, sementara kajian yang secara khusus mengulas peran institusional BPN dalam praktik alih fungsi lahan masyarakat adat masih terbatas. Metode penelitian yang digunakan adalah yuridis normatif dengan pendekatan perundang-undangan, konseptual, dan pendekatan kasus, khususnya Putusan Mahkamah Agung Nomor 3380 K/Pdt/2020, dengan menggunakan bahan hukum primer dan sekunder. Analisis dilakukan secara kualitatif dengan penalaran hukum deduktif. Hasil penelitian menunjukkan bahwa peran BPN masih dominan bersifat administratif dan belum optimal dalam menjalankan fungsi perlindungan hak masyarakat hukum adat, sehingga diperlukan penguatan peran substantif dan partisipatif guna mewujudkan keadilan agraria.

**Kata Kunci:** Badan Pertanahan Nasional (BPN); masyarakat hukum adat; alih fungsi lahan; hukum pertanahan; keadilan agraria.

## 1. INTRODUCTION

Land is a natural resource of significant importance to human life, not only as a means of economic production but also as an integral part of the social, cultural, and spiritual existence of the Indonesian society (Nurwanti, 2024). In the context of customary law communities, land is not merely an economic asset but a symbol of identity, ancestral heritage, and a source of continuity for communal life (Hamid & Suryana, 2024). The relationship between customary law communities and land is of a religio-magical nature, where land ownership reflects the balance between humans, nature, and the Creator. Therefore, the regulation, utilization, and management of land must be carried out in a just manner, with social equity, and in accordance with the values that are alive within the community.

In the national legal system, the regulation of land is based on Article 33, paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which asserts that the earth, water, and the natural resources contained therein are controlled by the state and utilized for the greatest prosperity of the people (Krismantoro, 2022). This constitutional mandate is elaborated through Undang-Undang Nomor 5 Tahun 1960 concerning the Peraturan Dasar Pokok-Pokok Agraria (UUPA), which serves as the primary legal foundation for land law in Indonesia. The UUPA stipulates that all land rights have a social function, and land ownership by any party must consider the interests of the broader community. The principle of the social function of land serves as a crucial foundation to prevent monopolies in land ownership by certain parties and to ensure that land is used for the greatest prosperity of the people.

However, in practice, along with the rapid national development and the increasing demand for land for industrial, infrastructure, and housing purposes, the phenomenon of land conversion has become an increasingly complex issue. The conversion of land from agricultural sectors or land cultivated by local communities to non-agricultural sectors often leads to agrarian conflicts, particularly when the land is cultivated by indigenous communities or tenant farmers who do not yet possess property ownership certificates. This situation creates imbalances in land control, violations of the rights of indigenous communities, and even threatens environmental sustainability.

One of the institutions that plays a central role in land governance is the Badan Pertanahan Nasional (BPN). Based on Presidential Regulation Number 20 of 2015 concerning the Badan Pertanahan Nasional, BPN is tasked with carrying out governmental duties in the field of land, including the determination of rights, land registration, land utilization control, as well as the resolution of land disputes and conflicts (Ali et al., 2025). In the context of the conversion of land cultivated by indigenous communities, BPN has a significant responsibility to ensure that the process is carried out in accordance with applicable laws and regulations, guarantees legal certainty for all parties involved, and protects the rights of the affected communities.

The issue that arises is how BPN carries out its role effectively and fairly in the context of land conversion, particularly concerning indigenous communities who have often been marginalized within the formal legal system. Many cases demonstrate that the land rights of indigenous communities are not adequately recognized because they have not been officially registered in the national land registration

system. As a result, when land conversion occurs for development purposes, indigenous communities often lose their rights without receiving proper legal protection.

One example that illustrates this complexity is the Supreme Court Decision Number 3380 K/Pdt/2020, which involved a dispute between tenant farmers and a company that carried out land conversion. In this case, the company claimed to have obtained permission for land control and provided compensation to the tenant farmers. However, the community felt disadvantaged because they believed the process lacked transparency and did not meaningfully involve them in decision-making. The Supreme Court, in its decision, stated that the company's actions were deemed legitimate because compensation had been provided. However, this ruling raises questions about the extent to which BPN fulfills its supervisory role and protects the rights of communities in the land conversion process.

In the perspective of land law, such conflicts highlight the gap between normative regulations and practical implementation (Anastasia et al., 2024). Normatively, Indonesian land law recognizes the existence of indigenous communities and their customary rights as stipulated in Article 3 of the UUPA and reinforced by various Constitutional Court rulings, such as Constitutional Court Decision No. 35/PUU-X/2012, which affirms that customary forests are no longer state forests. However, in practice, this recognition is often overlooked due to the absence of a land administration mechanism that can effectively accommodate the communal rights of indigenous communities within the national land registration system.

This is where BPN's role becomes highly strategic. BPN is not merely an administrative body, but also has juridical and social functions directly related to the fulfillment of citizens' constitutional rights to land. In the context of a welfare state governed by law, BPN is expected to exercise its authority not only based on formal legality but also grounded in *Asas-Asas Umum Pemerintahan yang Baik* (AUPB), such as the principles of justice, transparency, legal certainty, and proportionality. When BPN fails to carry out these functions, the principle of social justice, which serves as the foundation of national agrarian law, is compromised.

The conversion of land cultivated by indigenous communities must also be viewed within the framework of sustainability and intergenerational justice. When customary land is converted without the participation and consent of the indigenous communities, it is not only their economic rights that are lost, but also the cultural heritage and social values that have been preserved across generations (Hamid & Suryana, 2024). Therefore, BPN, as a representation of the state, must serve as a balance between development interests and the protection of indigenous communities. In this context, BPN's function is not only administrative but also normative and social, ensuring that every land policy aligns with the principles of justice and human rights.

In addition, in the practice of land management, BPN's role cannot be separated from coordination with other ministries and institutions, such as the Ministry of Agrarian Affairs and Spatial Planning (ATR), local governments, and local customary institutions. Cross-sector collaboration is essential to ensure that land conversion policies not only focus on economic aspects but also consider social, environmental, and cultural factors. In several cases, weak coordination between agencies and overlapping authorities have led to the emergence of inconsistent policies, resulting in conflicts on the ground.

One case that illustrates the complexity of the Badan Pertanahan Nasional's role in the conversion of customary land can be seen in the land conversion case in Merauke Regency, Papua, widely known through the Merauke Integrated Food and Energy Estate (MIFEE) program. This national project aims to enhance food security through the development of large-scale agricultural industrial areas. However, in its implementation, the project has raised various legal and social issues, particularly because it involves indigenous lands belonging to the Malind Anim community without adequate consultation processes.

Many reports indicate that the majority of the land allocated for the MIFEE project is customary land that holds historical and spiritual significance for the local indigenous communities (Pecamuya, 2025). The process of relinquishing rights is carried out through location permits and business permits issued by the central and local governments, but often without the active participation of indigenous communities as the holders of customary land rights. In this context, BPN has a legal responsibility to ensure that every land conversion process is carried out in accordance with the principles of recognition and respect for the rights of indigenous communities, as stipulated in Article 3 of the Undang-Undang Pokok Agraria (UUPA) of 1960.

A similar case also occurred in the Pandumaan Sipituhuta area, Humbang Hasundutan Regency, North Sumatra, where the local indigenous community has been involved in a long-standing conflict with PT Toba Pulp Lestari (TPL) regarding the conversion of customary forests into industrial plantation areas for pulp raw materials (Manurung et al., 2022). From the beginning, the indigenous community of Pandumaan Sipituhuta has opposed the plan to convert their frankincense forest, as the forest is not only an economic resource but also holds significant cultural and spiritual value. However, the company obtained a concession permit from the central government, which de facto placed the indigenous community's rights in a vulnerable position.

From the analysis of various cases, it is clear that the main issue lies not only in the weak oversight of BPN but also in the suboptimal land law system's ability to accommodate the communal rights of indigenous communities. Although Article 3 of the UUPA recognizes the existence of customary rights as long as they still exist and do not conflict with national interests, there has yet to be any technical regulation that specifically governs the registration mechanism and protection of customary rights within the national land system (Lubis et al., 2025). As a result, customary rights are often not recorded in the land administration system, making them easily sidelined in land conversion policies.

In addition, various academic studies and reports from independent institutions such as Konsorsium Perbaruan Agraria (KPA) have recorded that throughout 2024, there were 295 agrarian conflicts, a 21% increase from the previous year. These conflicts affected approximately 1.1 million hectares of land, primarily involving masyarakat adat and residents around large plantations, particularly sawit, teh, karet, tebu, cengkeh, and hortikultura. Besides the plantation sector, which dominates, the sektor infrastruktur contributed 79 cases, and the sektor pertambangan contributed 41 cases, indicating that agrarian conflicts in Indonesia are still largely driven by the expansion of large-scale industries that directly intersect with tanah-tanah masyarakat (Maharani & Alexander, 2025). Most of these conflicts are caused by the lack of synchronization in data and policies between the central and local governments, as well as the minimal role of BPN in mediation and restructuring land control. This indicates that BPN is still often perceived as merely an administrative body, rather than an institution that protects the people's land rights.

Through the analysis of the Supreme Court Decision Number 3380 K/Pdt/2020 and various similar cases in Indonesia, this study aims to examine in-depth the implementation of BPN's role in the land conversion process of indigenous communities' cultivated lands. This study is essential to assess the extent to which BPN has fulfilled its legal responsibilities in accordance with land law principles and how the mechanisms for oversight and protection of indigenous communities' rights can be strengthened in the future.

Thus, this issue not only concerns land ownership conflicts but also reflects the relationship between the state and the community in the context of agrarian resource management. The state, through BPN, must be able to balance development interests with the protection of vulnerable communities, so that the constitutional mandate of "the greatest prosperity of the people" can be realized in practice.

## 2. METHOD

This study uses a normative juridical method, which is a legal research method focused on the examination of positive legal norms governing the management, control, and transfer of land rights, particularly those related to the conversion of land cultivated by indigenous communities. The normative juridical approach is used to analyze how the Badan Pertanahan Nasional (BPN) performs its role based on applicable regulations, such as the Undang-Undang Pokok Agraria of 1960, Government Regulations on Land Registration, and other provisions related to the recognition and protection of indigenous communities' rights. To provide a comprehensive understanding, this study also uses a conceptual approach and a case approach. The conceptual approach is employed to analyze relevant legal theories, such as the theory of legal certainty, the theory of social justice, and the concept of customary land rights within the Indonesian land law system.

### 3. RESULT AND DISCUSSION

#### a. The Implementation of the Role of the Badan Pertanahan Nasional (BPN) in the Land Conversion Process Involving Indigenous Communities as Reflected in Supreme Court Decision No. 3380 K/Pdt/2020 and Similar Cases in Indonesia

The Badan Pertanahan Nasional (BPN) is a government institution with strategic authority in the field of land, as regulated in Presidential Regulation No. 20 of 2015 concerning the Badan Pertanahan Nasional, which emphasizes BPN's role in formulating and implementing national land policies. BPN is responsible for ensuring land administration order, guaranteeing legal certainty of land rights, and maintaining the social function of land in accordance with the mandate of Article 6 of the Undang-Undang Pokok Agraria (UUPA) No. 5 of 1960 (Heriyanti et al., 2023). In the context of land conversion, BPN plays a role as the institution that ensures every change in land designation and use is carried out in accordance with regional spatial planning (RTRW), land use permits, and the principle of social justice. BPN's role is not only administrative, through the issuance of certificates or Hak Guna Usaha (HGU), but also substantive in ensuring that the rights of the community, including the customary land rights of indigenous communities, are not overlooked in the process of economic development.

However, in practice, the implementation of BPN's role often faces challenges, particularly when there is overlap between the claims of indigenous communities' rights and investment interests. This phenomenon reflects the tension between the concept of state control over land and the recognition of customary rights as regulated in Article 3 of the UUPA, which acknowledges the existence of customary land rights as long as they still exist and their implementation aligns with national interests (Junita et al., 2021). The case in Supreme Court Decision No. 3380 K/Pdt/2020 began with a conflict between a group of tenant farmers and a company that converted their cultivated land into commercial land. The farmers claimed that they had been occupying and utilizing the land for years, even for generations, despite not having a property ownership certificate. On the other hand, the company claimed to have obtained valid land control rights and permits from the government, including through land administration processes involving BPN.

In the ruling, the Supreme Court rejected the farmers' lawsuit on the grounds that the company had provided compensation to the farmers, thereby deeming the land control actions lawful and not in violation of the law. This ruling highlights that administrative aspects and the formalities of land ownership were the primary considerations, while the social and historical dimensions of land control by the farmers (who possess customary rights) have not yet received strong legal recognition.

From BPN's role perspective, this case shows a tendency for passive involvement. BPN is seen as merely performing an administrative function issuing or certifying land rights for the company without a thorough verification of the social and historical status of the land. Ideally, before issuing permits or new land rights, BPN should conduct a land control inventory, including identifying whether the land is cultivated by indigenous communities or state land that is free for allocation. When this function is neglected, the potential for agrarian injustice arises, where local communities lose access to the land that has been their source of livelihood (Firdaus & Bashit, 2023). To understand the implementation of BPN's role more generally, it is necessary to compare it with other cases, one of which is the indigenous community of Pandumaan-Sipituhuta in Humbang Hasundutan Regency, North Sumatra. In this case, the indigenous community faced a conflict with PT Toba Pulp Lestari regarding the conversion of hutan kemenyan adat into industrial timber plantations. Initially, the conflict arose due to the company's claim of having obtained forest management permits from the government, while the community opposed the conversion because the land had been managed traditionally for generations.

BPN's role became significant after the government's intervention through participatory mapping between BPN, KLHK, and the indigenous community. This process resulted in the recognition of part of the land as tanah ulayat, while also encouraging the restriction of the company's hak guna usaha. In this case, BPN demonstrated active and collaborative implementation, in line with Permen ATR/BPN No. 18 Tahun 2019 on the Procedures for the Administration of Customary Land. This regulation provides the legal basis for BPN to carry out the identification, verification, and registration of tanah ulayat as a form of legal protection for indigenous communities.

Through this case, it is evident that BPN can play a positive role as a facilitator in conflict resolution, rather than merely serving as an administrative body (Putra & Tohari, 2025). Collaboration between agencies and a participatory approach are key to the successful implementation of the role of



BPN in realizing the principle of agrarian justice. Another case occurred in the Seko Indigenous Community area in North Luwu Regency, South Sulawesi. The construction of a Pembangkit Listrik Tenaga Air (PLTA) in the region triggered conflict because the land used is ancestral land that has not been formally registered. The government considers this land as state land that can be allocated for national strategic projects. However, for the indigenous community, the land holds significant cultural and spiritual value.

In resolving this case, BPN was considered insufficient in identifying and protecting the rights of the indigenous people before granting location permits and land use changes. As a result, violations occurred against the principles of accuracy and administrative justice within the Asas-Asas Umum Pemerintahan yang Baik (AUPB). In fact, Articles 3 and 9 of UUPA emphasize that the rights of indigenous legal communities must be recognized as long as they still exist and their implementation aligns with national interests. This weakness illustrates that the implementation of BPN's role on the ground still faces obstacles in terms of inter-agency coordination and strengthening accurate land data.

From a legal standpoint, BPN's role in land use change processes involving indigenous legal communities is based on Article 2 paragraph (2) of UUPA, which grants the state the authority to regulate the allocation, use, and control of land. However, the exercise of this authority must take into account the social function of land and the recognition of customary land rights. Within the framework of positive law, BPN has three main dimensions of role:

- 1) Administrative Role, which includes registration, certification, and granting land rights in accordance with legal procedures.
- 2) Regulatory Role, which involves the establishment of technical policies and supervision of land use to ensure compliance with spatial planning.
- 3) Protective Role, which entails the protection of community rights, particularly those of indigenous groups and land cultivators.

In the context of the Supreme Court Decision No. 3380 K/Pdt/2020, BPN's administrative role has been implemented, but its protective role has not been maximized. The absence of verification regarding the land ownership history has led to the neglect of the rights of land cultivators. On the other hand, in the Pandumaan–Sipituhuta case, BPN's protective role was well executed through participatory mapping and the recognition of customary land. This indicates that the implementation of BPN's role is highly dependent on local policies, inter-agency synergy, and a commitment to social justice. Furthermore, the Asas-Asas Umum Pemerintahan yang Baik (AUPB), such as the principles of legal certainty, accuracy, justice, and transparency, must guide every policy of BPN. Violations of these principles can lead to maladministration and worsen agrarian conflicts. Therefore, BPN needs to strengthen a substantive legal approach, not only an administrative one, so that the land use change process reflects the principles of good governance and justice.

Some of the main challenges in implementing BPN's role in land use changes involving indigenous legal communities include:

- 1) The incomplete registration of all indigenous territories, which makes it difficult for BPN to recognize the status of customary land before any land use change.
- 2) Limited coordination between agencies, especially between BPN, local governments, and KLHK, in managing land located in forest areas or administrative borders.
- 3) The dominance of economic and investment interests in land policy, which often disregards social and cultural aspects.
- 4) Limited access for indigenous communities to information and legal protection mechanisms.

To improve this implementation, some strategic steps that BPN could take include:

- 1) Increasing participatory mapping and digital registration of indigenous legal community land rights through a participatory-based land registration system.
- 2) Cross-sector coordination to ensure that every land use change process is accompanied by a social analysis and recognition of customary land use.
- 3) Enhancing the legal capacity of BPN officers to understand customary law and agrarian justice principles.
- 4) Reforming land policy based on social welfare, not just administrative legality.

The implementation of BPN's role in the land use change process for the land cultivated by indigenous legal communities, as reflected in the Supreme Court Decision No. 3380 K/Pdt/2020, shows a gap between normative roles and field practices. Normatively, BPN has full authority to ensure legal certainty and the protection of community rights. However, empirically, BPN tends to play an administrative role and is less proactive in protecting the rights of indigenous communities.

The Pandumaan–Sipituhuta case demonstrates the positive potential of BPN's role when implemented with a collaborative and participatory principle. In contrast, the Seko case shows the need for stronger regulations and BPN's commitment to applying the principles of justice, transparency, and legal certainty in every land use change policy. Therefore, the implementation of BPN's role should not only be directed towards ensuring legal certainty for investors but also towards guaranteeing agrarian justice and the protection of the rights of indigenous legal communities as the main pillar of national land law.

### **b. Legal Analysis of BPN's Responsibility in Providing Legal Certainty and Protection of Land Rights for Indigenous Legal Communities in the Context of Land Use Change Based on a Land Law Perspective**

For indigenous legal communities, land holds significant meaning as it is a source of livelihood, social identity, and the foundation of cultural and spiritual relationships between humans and nature. In the context of a rule-of-law state like Indonesia, land is also a legal object regulated within the national land law system based on Law No. 5 of 1960 on the Basic Agrarian Law (UUPA) (Mahesa et al., 2023). However, the relationship between indigenous legal communities and land often faces conflicts with the national legal system, which is formal and administrative in nature. One of the issues that arise is the conversion of land cultivated by indigenous legal communities into land designated for other purposes, such as plantations, mining, or infrastructure development, which often leads to land rights conflicts.

In such situations, the Badan Pertanahan Nasional (BPN), as the authority in land affairs, has a strategic responsibility in ensuring legal certainty and protection of rights for all parties, including indigenous legal communities. However, the implementation of this responsibility often encounters obstacles, both from normative, administrative, and social perspectives. Therefore, legal analysis of BPN's role and responsibility is crucial to evaluate the extent to which land law has protected the rights of indigenous communities in the face of land use changes.

Institutionally, BPN is a non-ministerial government agency with the authority to carry out governmental duties in the field of land affairs. According to Peraturan Presiden Nomor 20 Tahun 2015 tentang Badan Pertanahan Nasional, BPN is tasked with administering land affairs at the national, regional, and sectoral levels. BPN also plays a role in regulating, determining, and registering land rights, including resolving land disputes and conflicts.

In the context of agrarian law, BPN is the primary implementer of the principles of UUPA, which mandates that all land in Indonesia belongs to the Indonesian people (Article 1 UUPA) and is controlled by the state to be used for the greatest benefit of the people (Article 2 UUPA). Through this principle, the state holds public authority to regulate the allocation, use, supply, and maintenance of land. However, this authority must be exercised with regard to the rights of indigenous legal communities as stipulated in Article 3 UUPA, which states that the implementation of customary land rights and similar rights must align with national and state interests. Thus, BPN occupies a central position in balancing two interests:

- 1) The national development interest, which requires land as an economic resource, and
- 2) The interest of indigenous legal communities, which requires recognition and protection of ancestral land as part of their social and cultural identity.

Legal certainty in land law means the guarantee that the status, subjects, and objects of land rights are recognized and protected by the state. UUPA, through Article 19, emphasizes the importance of land registration to ensure legal certainty for the rights holders (Avivah et al., 2022). This registration process is realized in the form of land certificates, which serve as a strong proof of rights. However, in the context of indigenous legal communities, legal certainty is often not achieved because customary land is generally not registered in the national land registration system. As a result, customary land is vulnerable to being converted without the consent of the indigenous land rights holders.

Meanwhile, the protection of land rights means that every citizen, including indigenous communities, has the right to defend and reclaim their land rights when violations occur. This protection includes administrative protection (through registration and recognition of rights), legal protection (through legal and judicial mechanisms), and social protection (through land redistribution policies or agrarian reform). In the case of land use change on land cultivated by indigenous legal communities, BPN's responsibility is to ensure that the change of land use is carried out in accordance with the principles of justice, does not harm indigenous legal communities, and complies with regulations such as Regulation of the Minister of ATR/BPN No. 18 of 2019 on the Procedures for the Administration of Customary Land of Indigenous Legal Communities.

Recognition of indigenous legal communities and their customary land rights has been affirmed in various regulations. In addition to Article 3 of UUPA, there is also a constitutional basis, namely Article 18B paragraph (2) of the Undang-Undang Dasar Negara Republik Indonesia 1945, which states that the state recognizes and respects the unity of indigenous legal communities along with their traditional rights as long as they are still in existence and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia (Bramantyo & Setiono, 2022). In sectoral law, several other regulations also provide the foundation, such as Undang-Undang Nomor 39 of 1999 on Human Rights, Article 6 paragraph (1), which affirms that the protection of indigenous peoples' rights is part of human rights. The Constitutional Court Decision No. 35/PUU-X/2012, which affirms that customary forests are no longer state forests, but are forests within the territory of indigenous legal communities. And Minister of ATR/BPN Regulation No. 18 of 2019, which regulates the mechanisms for the recognition, determination, and administration of customary land.

With these legal foundations, it is clear that BPN's responsibility is not only administrative but also constitutional, as it directly relates to the human rights of indigenous legal communities. In the Supreme Court Decision No. 3380 K/Pdt/2020, a dispute arose regarding land cultivated by indigenous legal communities that was converted without the consent of the customary land rights holders. In this decision, the Supreme Court emphasized the importance of the principle of substantive justice, where BPN, as the authorized institution, should conduct thorough verification of the land's status before issuing new rights or granting land use change permits. From this decision, it can be analyzed that BPN has both preventive and corrective legal responsibilities:

- 1) Preventive, which involves preventing the violation of rights through the examination of physical and juridical data before issuing new land rights.
- 2) Corrective, which involves reviewing the issuance of land rights if procedural violations or neglect of the indigenous legal community's customary rights are found.

The Supreme Court also emphasized that the issuance of land rights that does not take into account the rights of indigenous communities is a violation of the principles of legal certainty and justice. Thus, BPN can be held accountable if its negligence results in the loss of indigenous legal communities' land rights. BPN's legal responsibility in the context of the conversion of customary land can be viewed from three main dimensions:

- 1) Administrative Responsibility; BPN is responsible for ensuring that every land rights issuance follows legal procedures. This procedure includes verifying the subject and object of land rights, checking the existence of customary rights or claims from indigenous communities, involving indigenous legal communities in spatial planning and licensing processes, and supervising the implementation of land use change permits. If BPN neglects these steps, it may be considered administrative malpractice, as regulated in Undang-Undang Nomor 37 Tahun 2008 on the Ombudsman Republik Indonesia.
- 2) Juridical Responsibility; From a juridical perspective, BPN is responsible if its actions or policies result in legal harm to indigenous legal communities. This is in line with the principle of liability of the state in government administration. BPN, as a state organ, can be held accountable if its policies or administrative decisions are proven to violate the law or cause harm to indigenous communities. In this context, indigenous communities have the right to file an administrative lawsuit (*gugatan tata usaha negara*) against BPN's decisions that disadvantage them.
- 3) Moral and Social Responsibility; In addition to legal responsibilities, BPN also has a moral responsibility to realize the principle of social justice in land management. This principle is reflected in UUPA, which emphasizes that state control over land must be used to



achieve the people's welfare fairly and equitably. This means that BPN must act as a fair mediator between development interests and the rights of indigenous legal communities.

In practice, the implementation of BPN's responsibilities faces several obstacles, including:

- 1) The lack of comprehensive data on legally recognized indigenous territories, making it difficult for BPN to verify customary land rights with certainty.
- 2) Overlapping regulations and authorities between BPN, the Ministry of Environment and Forestry (KLHK), and local governments, often causing policy inconsistencies.
- 3) The lack of participation from indigenous legal communities in the spatial planning and land use change permitting processes.
- 4) The limited capacity and internal oversight in the process of issuing land rights, opening opportunities for abuse of authority or procedural violations.
- 5) Political and economic challenges, where pressure from investors or national development projects often dominate local land policy.

These obstacles indicate that the protection of indigenous legal communities' rights has not yet been fully integrated into the modern land law system. To strengthen BPN's legal and moral responsibilities, several strategic steps can be taken, including:

- 1) Participatory mapping of indigenous territories in collaboration with customary institutions and local governments so that indigenous land data is included in the national land database.
- 2) The development of regulations derived from Regulation of the Minister of ATR/BPN No. 18 of 2019 to clarify the mechanism for determining and registering customary land.
- 3) Increasing transparency in land use change processes by involving indigenous legal communities from the planning stage.
- 4) Encouraging dispute resolution through mediation, with BPN actively facilitating rather than merely being an administrative body.
- 5) Building internal and external oversight systems to ensure that every land decision adheres to the principles of justice, transparency, and accountability.

From the perspective of land law, the protection of indigenous legal communities' rights cannot be separated from the principle of the social function of land (Pasal 6 UUPA). This means that land is not merely viewed as an economic commodity but also holds social, cultural, and ecological dimensions. The state, through BPN, must ensure that every land policy takes these dimensions into account.

Moreover, the principle of substantive justice should serve as the basis for every land decision. Formal legal certainty through certification must not neglect the substantive social justice for indigenous legal communities. In this regard, national land law must be more responsive to legal pluralism, which is the recognition of customary law alongside state law. From the discussion above, it can be concluded that BPN's responsibility in providing legal certainty and protecting land rights for indigenous legal communities includes administrative, juridical, and moral responsibilities. In the context of land use change, BPN is obligated to ensure that the land conversion process respects the customary land rights, the principle of justice, and complies with regulations.

The Supreme Court Decision No. 3380 K/Pdt/2020 emphasizes that BPN's negligence in verifying the status of customary land can violate the principles of legal certainty and justice. Therefore, BPN must strengthen the verification mechanism, expand the recognition of customary land through clear regulations, and actively involve indigenous legal communities in every land process. Thus, the protection of indigenous legal communities' rights in the context of land use change can only be realized if BPN fulfills its role not just as an administrative executor but also as a guardian of agrarian justice that upholds constitutional values, human rights, and the principle of social justice.

## 4. CONCLUSION

This study concludes that the implementation of the role of the Badan Pertanahan Nasional (BPN) in the conversion of land cultivated by indigenous legal communities has not yet been carried out optimally in accordance with the principles of land law and agrarian justice. Based on the analysis of Supreme Court Decision No. 3380 K/Pdt/2020 and comparative cases such as Pandumaan Sipituhuta

and the Seko Indigenous Community, it is evident that BPN tends to emphasize its administrative function particularly in land registration and the issuance of land rights while its protective and substantive roles in safeguarding indigenous communities' customary land rights remain weak. This condition demonstrates a clear gap between normative regulations and practical implementation. Normatively, Indonesian land law through the UUPA, the 1945 Constitution, Constitutional Court decisions, and Minister of ATR/BPN Regulation No. 18 of 2019 recognizes and protects the existence of indigenous legal communities and their customary land rights. However, empirically, the absence of comprehensive verification mechanisms, incomplete registration of customary land, weak inter-agency coordination, and the dominance of development and investment interests have resulted in the marginalization of indigenous communities in land use change processes.

In relation to the research objectives, this study explicitly shows that BPN has not fully fulfilled its responsibility to provide legal certainty and protection for indigenous legal communities in land conversion practices. Legal certainty has been interpreted narrowly as formal legality through certification, without adequate consideration of the historical, social, and cultural relationships between indigenous communities and their land. Consequently, land conversion policies often fail to meet the principles of justice, transparency, and proportionality as required by the Asas-Asas Umum Pemerintahan yang Baik (AUPB). The scientific contribution of this research lies in its integrative analysis of BPN's role by positioning it not merely as an administrative authority, but as a constitutional and social institution responsible for realizing substantive agrarian justice. This study enriches land law scholarship by emphasizing that the protection of indigenous land rights must be embedded within the land administration system through participatory mapping, substantive verification of land status, and recognition of legal pluralism between state law and customary law. Furthermore, this research contributes to the development of normative legal discourse by highlighting the need to reinterpret legal certainty in land law as a balance between formal legality and substantive social justice.

Therefore, strengthening BPN's role requires a shift from an administrative-oriented approach toward a substantive and participatory governance model. BPN must actively ensure the recognition and protection of customary land rights before approving any land use change, enhance coordination with relevant institutions, and involve indigenous legal communities as rights holders in decision-making processes. Only through such an approach can land conversion policies align with the constitutional mandate of achieving the greatest prosperity of the people while upholding justice and human rights for indigenous legal communities.

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