



## Legal Challenges in Facing Land Ownership Disputes Due to Gentrification in Indonesia

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**Abstract.** The gentrification in Indonesia, especially in big cities, has created significant challenges related to land ownership disputes. This process not only changed the face of the city but also created conflicts between old residents and developers. In this context, this study aims to explore the various legal challenges faced in resolving land disputes due to gentrification, as well as identify solutions that can protect the rights of marginalized communities. This method of writing the law uses normative analysis to understand the challenges of land disputes due to gentrification in Indonesia, focusing on relevant regulations, legal practices, and case studies. This paper shows that legal uncertainty and legality issues are the main barriers for people to protect their rights. Many undocumented individuals struggle to fight for their rights in court. Recognition of indigenous land rights is often neglected, and limited access to the legal system exacerbates injustices, especially for low-income communities. These findings highlight the need for more inclusive policy reforms to support the rights of local communities. Recommendations for further research include an in-depth analysis of customary land registration practices and stronger law enforcement to ensure the protection of community rights in the face of gentrification.

**Keywords:** Gentrification; land disputes; legal uncertainty; customary land rights

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## 1. Introduction

Gentrification is a phenomenon that is increasingly prevalent in various major cities around the world<sup>1</sup>, including Indonesia. This process refers to the social, economic, and physical changes that occur in urban areas, where residents replace residents with lower economic status with higher purchasing power. Gentrification can bring benefits, such as revitalisation of neglected areas and infrastructure improvements, but it can also lead to significant negative impacts.<sup>2</sup> One of the most worrying impacts is the emergence of land ownership disputes that often involve old residents forced to move due to rising rents and evictions.<sup>3</sup>

In Indonesia, the issue of land ownership disputes in the context of gentrification is very complex, especially because of the existence of various types of land rights regulated in the Basic Agrarian Law (UUPA) and other regulations. The UUPA, enacted in 1960, provides a legal framework for the regulation of land rights, including the recognition of property rights and customary rights. However, many communities that control land under customary law do not have proof of official ownership.<sup>4</sup> This causes legal uncertainty for old residents, who usually come from low-income groups. This uncertainty is further compounded by the fact that customary land rights are often not officially recorded, triggering prolonged disputes between indigenous peoples and parties seeking to invest in the area.

In this context, it is important to understand how the UUPA regulates the recognition of customary land rights. The UUPA provides a legal basis for customary law communities to submit claims to their customary lands through registration procedures. This process involves the issuance of a Land Rights Certificate (SKHAT) by the Village Head or Village Head, which is then ratified by the local Sub-district Head before being submitted for registration.<sup>5</sup> However, despite these mechanisms, many indigenous peoples still experience difficulties in obtaining official recognition of their rights. This is due to a lack of understanding and support from local governments in implementing the provisions of the UUPA effectively. As a result, many indigenous peoples have been forced to fight legally to defend their rights amid the growing tide of gentrification.

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<sup>1</sup> D. J. Hammel, "Gentrification," in *International Encyclopedia of Human Geography*, ed. Rob Kitchin and Nigel Thrift (Oxford: Elsevier, 2009), 360–67, <https://doi.org/10.1016/B978-008044910-4.01051-8>.

<sup>2</sup> Justin Kadi and Walter Matznetter, "The Long History of Gentrification in Vienna, 1890–2020," *City* 26, no. 2–3 (May 4, 2022): 450–72, <https://doi.org/10.1080/13604813.2022.2054221>.

<sup>3</sup> Putri Ayu Az-Zahra, "Studi Literatur: Kajian Fenomena Gentrifikasi Di Wilayah Pinggiran Kota," *Pondasi* 28, no. 2 (January 29, 2024), <https://doi.org/10.30659/pondasi.v28i2.24190>.

<sup>4</sup> Ni Komang Putri Sari Sunari Wangi, Komang Febrinayanti Dantes, and Ketut Sudiarmaka, "Analisis Yuridis Hak Ulayat Terhadap Kepemilikan Tanah Adat Berdasarkan Undang-Undang Nomor 5 Tahun 1960 Tentang Peraturan Dasar Pokok-Pokok Agraria," *Jurnal Ilmu Hukum Sui Generis* 3, no. 3 (July 1, 2023): 112–21, <https://ejournal2.undiksha.ac.id/index.php/JIH/article/view/2606>.

<sup>5</sup> Sigar Aji Poerana, "Prosedur Pengakuan Tanah Ulayat | Klinik Hukumonline," June 12, 2020, <https://www.hukumonline.com/klinik/a/prosedur-pengakuan-tanah-ulayat-lt4f1654e73aad1/>.

Land ownership disputes in the context of gentrification also reflect wider social inequality in Indonesia. Often, natives who have occupied the land for years are forced to face pressure from developers who want to remodel the area for new projects. In many cases, they do not have access to legal resources or support to defend their rights. Therefore, it is important for the government to evaluate and strengthen regulations related to the protection of customary land rights in order to protect low-income communities from the negative impacts of gentrification. In addition, efforts to raise awareness of the importance of customary land registration and provide legal education to the community also need to be carried out so that they can better understand and fight for their rights effectively.

Based on legal analysis, the challenges in resolving land ownership disputes due to gentrification in Indonesia are very complex. *First*, legal uncertainty is the main problem for people who control land. Many of them do not have official documents proving their rights to the land they occupy, so when developers or the government try to evict, they find it difficult to defend themselves before the law.<sup>6</sup> This is exacerbated by Law No. 5 of 1960 on Basic Regulations on Agrarian Principles, which emphasizes the importance of land registration as proof of ownership. However, many indigenous peoples are not registered and do not have official certificates, so their rights are often ignored in the legal process. This ambiguity creates a situation where physical control over the land is not legally recognized, leaving communities vulnerable to eviction.

*Second*, legality and documentation issues are often a stumbling block in the land dispute settlement process. Land that is customarily controlled or without official documents is sometimes not recognized in the legal process, so residents are forced to lose their homes.<sup>7</sup> Government Regulation Number 24 of 1997 concerning Land Registration states that only land rights certificates are legally recognized as proof of ownership that guarantees legal certainty. However, for indigenous peoples who rely on the Customary Land Certificate (SKTA), this legality is often questioned. Although the decree can provide certain recognition, its legal force is still weak compared to official certificates, so indigenous peoples face difficulties in defending their land rights.

*Third*, recognition of the rights of indigenous peoples is also a crucial issue in the context of gentrification. Customary law communities are often marginalized by development policies that prioritize investment interests over the protection of their rights. The Constitutional Court's Decision No. 35/PUU-X/2012 emphasizes the importance of recognizing the customary rights of indigenous peoples, but its

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<sup>6</sup> Fuji Kadriah Zulaika, "Rekonstruksi Regulasi Hak Atas Tanah Pemilik Rumah Hunian Di Kawasan Perdagangan Bebas Kota Batam Berbasis Nilai Keadilan" (doctoral, Semarang, Universitas Islam Sultan Agung Semarang, 2024), <https://repository.unissula.ac.id/35221/>.

<sup>7</sup> Umiyati Umiyati, "Penyelesaian Sengketa Batas Tanah Yang Didasarkan Pada Alat Bukti Sertipikat Melalui Alternative Dispute Resolution," *Spektrum Hukum* 16, no. 2 (October 25, 2019), <https://doi.org/10.35973/sh.v16i2.1181>.

implementation still faces various obstacles.<sup>8</sup> In many cases, despite regulations supporting the recognition of these rights, complicated registration and legalization procedures make it difficult for people to obtain legal recognition of their land.<sup>9</sup> Therefore, further efforts are needed to ensure that existing policies and regulations can protect the rights of local communities and prevent the negative impacts of gentrification that often harm them.

Case studies of gentrification in Indonesia often focus on evictions experienced by people in urban areas, especially in Jakarta. Two prominent examples are Kampung Aquarium and Kampung Pulo. In Kampung Aquarium, the eviction was carried out in 2016 by the DKI Jakarta government led by Governor Basuki Tjahaja Purnama (Ahok).<sup>10</sup> These evictions are claimed to be carried out for infrastructure development, such as embankments and inspection lines, but many residents feel forced to leave their homes without adequate compensation. Although they have long settled and considered the land as their own, the lack of valid legal documents makes their position vulnerable in the face of government action.<sup>11</sup> This reflects the legal challenges faced by the community in fighting for land rights amid intensifying development pressures.<sup>12</sup>

A similar case also occurred in Kampung Pulo, where around 396 families were evicted to support the *National Capital Integrated Coastal Development project*.<sup>13</sup> Local communities feel that the evictions are not only financially harmful, but also destroy the social and cultural bonds that have been established for many years. In the legal context, these evictions are often carried out on public interest grounds, but many parties question the fairness of the process. Regional Regulations on Regional Spatial Plans (RTRW) are supposed to provide protection for local communities, but in practice they are often ignored. This creates injustice for the indigenous people who are forced to leave their homes without a clear solution.

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<sup>8</sup> Paulus Pora Putra Fajar, Sukardan Aloysius, and Husni Kusuma Dinata, "Implikasi Putusan Mahkamah Konstitusi Nomor 35/PUU-X/2012 Terhadap Pengaturan Hutan Adat Dan Dampaknya Terhadap Hak Masyarakat Adat," *Perkara : Jurnal Ilmu Hukum Dan Politik* 2, no. 2 (April 7, 2024): 39–61, <https://doi.org/10.51903/perkara.v2i2.1844>.

<sup>9</sup> Ahmad, Fence M. Wantu, and Novendri M. Nggilu, *HUKUM KONSTITUSI (Menyongsong Fajar Perubahan Konstitusi Indonesia Melalui Pelibatan Mahkamah Konstitusi)* (Yogyakarta: UII Press, 2020).

<sup>10</sup> S. Dian Andryanto, "Kisah Kampung Susun Akuarium, Mengapa Ahok Dulu Menggusur Kampung Akuarium?," *Tempo*, January 12, 2024, <https://metro.tempo.co/read/1820556/kisah-kampung-susun-akuarium-mengapa-ahok-dulu-menggusur-kampung-akuarium>.

<sup>11</sup> Dian Ekawaty Ismail et al., "Collocation of Restorative Justice with Human Rights in Indonesia," *Legality: Jurnal Ilmiah Hukum* 32, no. 2 (September 20, 2024): 394–417, <https://doi.org/10.22219/ljih.v32i2.35374>.

<sup>12</sup> Indah Amanah Poetri Soedarno Oei Pantouw and Ahmad Ahmad, "Perlindungan Hukum Terhadap Masyarakat Akibat Penambangan Emas Di Sungai Tulabolo Yang Tercemar Merkuri," *Borneo Law Review* 6, no. 2 (2022): 187–204, <https://doi.org/10.35334/bolrev.v6i2.3242>.

<sup>13</sup> Jay Fajar, "Apakah Pembangunan Tanggul Laut Di Teluk Jakarta Sudah Tepat?," *Mongabay.co.id*, February 13, 2024, <https://www.mongabay.co.id/2024/02/13/apakah-pembangunan-tanggul-laut-di-teluk-jakarta-sudah-tepat/>.

In Batam, the Rempang case also shows how gentrification can have an impact on local communities. Planned development projects in the area threaten the existence of local communities that have lived there for a long time.<sup>14</sup> The community faces the threat of eviction on the grounds of industrial and tourism development. In this case, regulations related to the protection of land rights and community participation in the planning process are very important. However, many residents feel that their voices are not heard in the decision-making process. These cases highlight the need for better policy reforms and law enforcement to protect people's rights in the face of gentrification and ensure that urban development can be carried out in a sustainable and inclusive manner.

Another challenge faced is the difference in the recognition of rights between modern property rights and customary land rights. In Indonesia, the prevailing land laws often favor formal state-recognized ownership, while many indigenous peoples do not have official certificates of the land they inhabit. This often leads to conflicts when developers seek to take over the land under the pretext of legal ownership, while indigenous peoples feel their rights are being ignored.<sup>15</sup> This injustice not only impacts individuals, but also the wider community, who are deprived of their homes and cultural identities.

By understanding the legal challenges faced in land tenure disputes due to gentrification, we can find ways to protect the rights of communities and ensure that the development process can proceed without neglecting the needs and rights of the old residents. This research aims to provide a clearer picture of this problem and develop recommendations for more equitable policies.

## 2. Problems

In the context of increasingly widespread gentrification in Indonesia, the legal challenges faced in resolving land ownership disputes have become a very important and complex issue. This question arises given the many cases where old residents are forced to face eviction and homelessness due to rising property prices and policy changes that are more supportive of regional development by large developers. Legal uncertainty regarding land ownership, especially related to incomplete documentation or the absence of official recognition of customary land rights, is a major obstacle for communities to defend their rights. In addition, inequalities in access to the legal system, where low-income residents often do not have the resources to fight for their rights in court, exacerbate this situation. Therefore, it is important to identify and analyze these various legal challenges so that effective and equitable

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<sup>14</sup> BBC Indonesia, "Rempang Eco City: Bentrokan aparat dan warga kampung adat yang terancam tergusur proyek strategis nasional, 'kalau direlokasi hilang sejarah kami,'" *BBC News Indonesia*, 2023, <https://www.bbc.com/indonesia/indonesia-66711532>.

<sup>15</sup> Pusat Studi Hukum Agraria Fakultas Hukum Universitas Islam Indonesia, "Reforma Agraria, Jaminan Perlindungan Hak Atas Tanah," *Universitas Islam Indonesia* (blog), October 21, 2021, <https://www.uui.ac.id/reforma-agraria-jaminan-perlindungan-hak-atas-tanah/>.

solutions can be found in dealing with land ownership disputes arising from gentrification.

### **3. Research Method**

The legal writing method that will be used in this study is the normative analysis method,<sup>16</sup> which aims to explore and understand legal challenges related to land ownership disputes due to gentrification in Indonesia. In this approach, the author will analyze various relevant laws and regulations, including the Basic Agrarian Law and policies governing land rights, as well as examine the prevailing legal practices in the field. In addition, this research will also involve case studies on disputes that occur in gentrification areas, focusing on the legal impact on existing residents and the dynamics between communities, developers, and the government. Through the collection of qualitative data, legal documents, and existing literature, it is hoped that a comprehensive picture of the challenges faced and alternative solutions that can be proposed to deal with land ownership disputes in the context of gentrification can be obtained.

### **4. Analysis and Discussion**

#### **4.1 Legal Challenges Related to Land Ownership Disputes Due to Gentrification in Indonesia**

Gentrification, as a social and economic phenomenon that occurs in many major cities, has significantly altered the urban landscape in Indonesia, but often leaves a trail of deep conflict, especially when it comes to land ownership. The process of revitalizing the area, which is accompanied by an increase in property value, often leads to disputes involving old residents, developers, and the government. These disputes not only concern economic aspects, but also include complex and diverse legal rights, such as the legality of ownership, recognition of customary land rights, and access to the judicial system. It is in this context that emerging legal challenges become important issues that need to be identified and analyzed, so that appropriate solutions can be found to protect the rights of marginalized communities and ensure justice in the ongoing development process. The following discussion will explore the various legal challenges faced in resolving land ownership disputes due to gentrification in Indonesia.

##### **4.1.1 Legal Uncertainty**

Legal uncertainty in the context of land ownership in Indonesia is a complex and multi-layered issue, which often results in disputes between individuals or groups.<sup>17</sup> The definition of legal uncertainty refers to a situation where the status of land ownership is unclear, either due to the lack of valid legal documents or due to the

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<sup>16</sup> Irwansyah Irwansyah, *Penelitian Hukum ; Pilihan Metode & Praktik Penulisan Artikel* (Yogyakarta: Mirra Buana Media, 2020).

<sup>17</sup> Tahta Faradhiba and Subekti, "Penyelesaian Sengketa Kepemilikan Atas Tanah Antara Para Pemegang Hak," *Jurnal Hukum & Pembangunan Masyarakat* 14, no. 3 (September 1, 2023), <https://jurnalhost.com/index.php/jhpm/article/view/104>.

existence of overlapping land rights.<sup>18</sup> In many cases, people who have long controlled and cultivated the land feel that they have rights to the land, even though they do not have any official certificates or documents to support their claims. This is often exacerbated by weak land registration and land administration systems, which leave many people operating in uncertainty regarding their rights. This uncertainty not only impacts individuals, but can also affect social and economic stability in society.

One of the main causes of legal uncertainty is the overlapping of land certificates, where more than one party claims rights to the same piece of land. This case often occurs due to weak supervision and administration by the National Land Agency (BPN), as well as a lack of public understanding of the importance of certificates as proof of legal ownership. For example, in some cases, the party holding the Certificate of Property Rights (SHM) loses a legal dispute against the party who only has a Land Certificate (SKT).<sup>19</sup> This shows that there is ambiguity in law enforcement and protection of land rights, where judges sometimes consider other evidence that is not always under the applicable laws and regulations. This legal uncertainty creates an environment where conflicts can arise, and people feel unprotected.

To overcome legal uncertainty related to land ownership, reforms in the land registration system and increased legal awareness among the community are needed. Socialization on the importance of land rights certificates must be carried out on an ongoing basis by BPN to ensure that the community understands their rights and the correct registration procedures. In addition, the government needs to strengthen regulations and law enforcement related to land disputes so that every claim can be handled fairly and transparently. Thus, legal certainty can be created, so that the community feels safer in managing and using their land. This will not only reduce disputes, but will also increase public trust in the legal system and land administration in Indonesia.

Legal uncertainty in the context of land ownership in Indonesia has a significant impact, both for the community and developers. For the community, this uncertainty often leads to economic and social losses. Many residents living in gentrified areas do not have legal documents for the land they inhabit. As a result, they are in a vulnerable position when the government or developers decide to evict. Without a strong certificate or proof of ownership, it is difficult for people to fight for their rights in court. This creates prolonged uncertainty, where residents feel threatened with losing their homes without fair compensation. In addition, the loss of housing also has an

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<sup>18</sup> Aulia Andary Weydhani Putri, Shenti Agustini, and Febri Jaya, "Perlindungan Hukum Pemegang Sertifikat Hak Guna Bangunan Yang Tumpang Tindih Dengan Kawasan Hutan Lindung," *Jurnal Bedah Hukum* 8, no. 1 (April 30, 2024): 323–37, <https://doi.org/10.36596/jbh.v8i1.1254>.

<sup>19</sup> Aldila Hijrianita et al., "Dinamika Hukum Agraria Di Indonesia Tantangan Dan Solusi Dalam Penyelesaian Konflik Pertanahan Yang Bersertifikat," *Jurnal Dunia Ilmu Hukum (JURDIKUM)* 2, no. 2 (December 31, 2024): 37–42, <https://doi.org/10.59435/jurdikum.v1i2.376>.

impact on the social and cultural identity of the community, which has been intertwined for many years in the region.

On the other hand, legal uncertainty also affects developers in executing their projects. When the status of land ownership is unclear, developers face great risks in their investments. They may incur large costs to plan and build infrastructure, but in the event of a legal dispute over land ownership, the project could be hampered or even canceled. This creates an atmosphere of uncertainty that can reduce investors' interest in investing in certain areas. Developers should also consider the additional costs of resolving legal disputes, which can ultimately increase the price of the project and reduce profitability. This uncertainty has led many developers to prefer to invest in locations with clearer legal status, thus hindering economic growth in the region in need of revitalization.

Examples of cases of legal uncertainty related to gentrification in Indonesia can be seen through various situations that occur in urban areas, where local communities are often trapped in land ownership conflicts. One striking example is the situation in Tanjung Tengah Village, Pematangsiantar. In this area, the community has been cultivating land for many years without having valid legal documents.<sup>20</sup> Although they claim rights to the land, their ownership status is not recognized by the state, so they are in a vulnerable position. When the government decided to transfer land for housing and infrastructure development, the community faced the threat of eviction. In this context, legal uncertainty becomes the seed of a new conflict, in which communities struggle to defend their rights to the land they have cultivated so far, while the government uses the pretext of development to evict them.

Another case that illustrates legal uncertainty due to gentrification is the one that occurred in Yogyakarta, especially related to the gentrification phenomenon triggered by high investment interest from outside the region.<sup>21</sup> In Yogyakarta, many locals are threatened with losing their homes due to rising property prices and evictions made room for commercial projects.<sup>22</sup> People often do not have land certificates or other official documents that can strengthen their claims to land ownership. When the construction project began, they found that their rights were not legally protected. This creates uncertainty and concern among local communities, who feel that their voices and rights are being ignored in the urban planning process. In a situation like

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<sup>20</sup> Dwi Anggraeni, Teuku Kemal Fasya, and Abdullah Akhyar Nasution, "Gentrifikasi Dan Pergolakan Lahan Di Kelurahan Tanjung Tengah Kecamatan Siantar Martoba Kota Pematangsiantar," *Aceh Anthropological Journal* 3, no. 2 (October 30, 2019): 144–56, <https://doi.org/10.29103/aaj.v3i2.2778>.

<sup>21</sup> muhammad.irfan.azhar, "Yogyakarta Undercover: Realitas Gentrifikasi Di Balik Keistimewaan – Gamapi," April 12, 2021, <https://gamapi.fisipol.ugm.ac.id/yogyakarta-undercover-realitas-gentrifikasi-di-balik-keistimewaan/>.

<sup>22</sup> Imron Amrozi et al., "Kelompok Milenial dan Tantangan Pembangunan Kota: Gentrifikasi dan Komersialisasi Ruang di Kota Yogyakarta," *Jurnal Studi Pemuda* 10, no. 2 (February 17, 2022): 115–30, <https://doi.org/10.22146/studipemudaugm.69230>.



this, the importance of law enforcement and the protection of land rights becomes very clear.

In Batam, the Rempang case shows a similar challenge where local communities face the threat of eviction due to plans to develop industrial and tourism estates.<sup>23</sup> People who have lived there for years are now forced to fight to defend their land rights as the government and developers plan to take over the land. The legal uncertainty here arises from the lack of recognition of the rights of local communities and the lack of clarity regarding the status of land ownership.<sup>24</sup> The negotiation process between the government and the community is often not transparent and does not involve the active participation of the local population. As a result, people feel marginalized and threatened with losing their homes without getting compensation or a fair solution. These cases highlight the need for better policy reforms and law enforcement to protect people's rights in the face of Indonesia's growing phenomenon of gentrification.

#### 4.1.2 Legality and Documentation Issues

Land ownership documents have a very important role in resolving land disputes, especially amid the phenomenon of gentrification that is increasingly rampant in Indonesia. Legal ownership of land, which is usually proven through a certificate or other legal document, gives the owner legitimacy over their rights.<sup>25</sup> In many cases, people living in gentrified areas often do not have official documents supporting their claims to the land. This makes their position vulnerable when dealing with developers or the government who plan to evict for infrastructure development. In the absence of clear proof of ownership, it is difficult for people to fight for their rights and are often forced to accept unilateral decisions from the authorities.

In addition, land ownership documents also function as a legal protection tool for the community. In the context of a dispute, this document not only serves as physical evidence of property rights, but also provides access to the owner to file a lawsuit in the event of a violation.<sup>26</sup> For example, if an eviction is carried out without fair compensation, the landowner who has official documents can use the evidence to demand justice in court. In contrast, people who do not have official documents are

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<sup>23</sup> Mohammad Ghuffran, Dinda Adistya Nugraha, and Nita Nilan Sry Rezki Pulungan, "Analisis Kasus Pulau Rempang Di Batam Ditinjau Dari Conflict Theory," *Iuris Studia: Jurnal Kajian Hukum* 5, no. 2 (August 13, 2024): 392–403, <https://doi.org/10.55357/is.v5i2.626>.

<sup>24</sup> satria.ardhi.n, "Menilik Konflik Rempang dan Pengakuan Pemerintah Atas Hak-Hak Masyarakat Adat," *Universitas Gadjah Mada* (blog), September 25, 2023, <https://ugm.ac.id/id/berita/menilik-konflik-rempang-dan-pengakuan-pemerintah-atas-hak-hak-masyarakat-adat/>.

<sup>25</sup> Ratu Nur Chairani and Titiek Suliyati, "Pemanfaatan arsip Tanah dalam Penyelesaian Kasus Sengketa Tanah oleh Kantor Pertanahan Kota Semarang," *Jurnal Ilmu Perpustakaan* 6, no. 3 (February 7, 2019): 691–700, <https://ejournal3.undip.ac.id/index.php/jip/article/view/23201>.

<sup>26</sup> Sri Wahyuni Siagian, "Kedudukan Surat Keterangan Tanah Sebagai Syarat Kepemilikan Tanah Pascaterbitnya Undang-Undang Nomor 5 Tahun 1960 Tentang Pokok-Pokok Agraria Dan Peraturan Pemerintah Nomor 24 Tahun 1997," *Jurnal Notarius* 1, no. 2 (2022), <https://jurnal.umsu.ac.id/index.php/notarius/article/view/17073>.

often caught up in legal uncertainty and have difficulty obtaining justice. Therefore, the government needs to facilitate the land certification process for the community, especially in areas prone to disputes due to gentrification.

The challenges faced by the community in obtaining legal documents related to land ownership in Indonesia are very complex and rooted in various factors. First, many people living in urban areas, especially in gentrified areas, do not have access or knowledge of the legal process required to obtain land certificates. Most of them are natives who have lived in the site for many years but do not have formal documents proving their ownership. This is often due to a lack of socialization regarding the importance of soil certification and the procedures that must be passed. Society tends to rely on oral traditions and informal agreements, which are not legally recognized.<sup>27</sup> As a result, when there is a dispute or eviction, their position becomes very weak and vulnerable to the actions of the government or developers who want to take over the land.

In addition, the process of handling legal documents is often hampered by complicated and non-transparent bureaucracy. People often face difficulties in understanding the administrative procedures required to obtain land certificates. This process can involve many steps, including land measurement, data verification, and payment of sometimes unclear administrative fees. In some areas, corrupt practices can also exacerbate this situation, where government officials ask for rewards to speed up the paperwork process.<sup>28</sup> This creates injustice for people who cannot afford to pay these additional costs. In addition, legal uncertainty regarding land boundaries and overlapping ownership is also a major problem. In the absence of clear maps and official measurements, communities are often caught up in disputes with neighbours or other parties claiming the same land rights.

On the other hand, the challenge in obtaining legal documents is also related to the lack of support from the government in providing access to the community to carry out land certification. Although there are government programs to help the community in this regard, their implementation is often uneven and does not reach all groups.<sup>29</sup> Many people living in remote or marginalized areas feel neglected and do not get information about these programs. In addition, existing policies are often more in favour of investors or developers than in favor of local communities. This injustice creates a sense of dissatisfaction and distrust of the legal system and the government.

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<sup>27</sup> Forina Lestari, *Pemikiran Isu Dan Strategi Pengembangan Wilayah Dan Kota Di Indonesia* (Bayumas: wawasan Ilmu, 2021). Hal. 88

<sup>28</sup> Bambang Suharto and Supadno Supadno, "Hambatan-Hambatan dalam Pelaksanaan Program Pendaftaran Tanah Sistematis Lengkap (PTSL)," *The Indonesian Journal of Public Administration (IJPA)* 9, no. 1 (July 12, 2023), <https://doi.org/10.52447/ijpa.v9i1.6824>.

<sup>29</sup> Onytra Nirwana Prihatin and Wagiman, "Hak Pemegang Sertifikat Tanah Eks Eigendom Verponding Di Bawah Uu Pokok Agraria 1960," *Jurnal Hukum & Pembangunan Masyarakat* 15, no. 7 (July 20, 2024), <https://jurnalhost.com/index.php/jhpm/article/view/1457>.

Formal land ownership is regulated by the Basic Agrarian Law (UUPA) and other related regulations, which provide a clear legal framework for the certification, utilization, and transfer of land rights. In this system, official documents such as land certificates become legal proof of ownership recognized by the state.<sup>30</sup> The process of obtaining this certificate involves administrative procedures that are often complicated and require a variety of supporting documents. People who have formal land certificates have stronger legal protections, including the right to apply for compensation in the event of evictions or disputes. However, access to this formal process is often limited to low-income communities or those living in remote areas, creating gaps in land tenure.

On the other hand, informal land ownership is usually not supported by official documents and relies more on social recognition and customary practices. Communities that control land informally often rely on oral traditions and community agreements as proof of ownership. While this informal system provides flexibility and accessibility for many people, it also faces a high risk of legal disputes and evictions, especially when there is pressure from developers or governments to change land use.<sup>31</sup> In many cases, indigenous peoples use customary law to resolve their land disputes without involving formal institutions. However, uncertainty regarding the legal status of informal lands can lead to prolonged conflicts and put communities in a vulnerable position.

#### **4.1.3 Recognition of Customary Land Rights**

The right to customary land is a very important concept in the context of agrarian law in Indonesia, especially in facing the challenge of gentrification. In general, customary land rights include customary rights, which are rights owned by customary law communities over certain areas that are their environment. This right not only includes physical ownership of land but also the right to utilize the natural resources that exist in it.<sup>32</sup> The relationship between customary law communities and land is hereditary and unbroken, creating a strong bond between their cultural and environmental identities. In the context of gentrification, where pressure to change land use often comes from developers and governments, customary land rights are particularly relevant because they can provide legal protection for local communities. However, the recognition of these rights is often neglected in practice, so indigenous peoples face difficulties in maintaining their ownership.

The relevance of customary land rights in the context of gentrification can also be seen from how the development process often ignores the existence of local communities.

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<sup>30</sup> Anita Dewi Anggraeni Kolopaking, *Penyelundupan Hukum Kepemilikan Hak Milik Atas Tanah di Indonesia* (Bandung: Penerbit Alumnus, 2021).

<sup>31</sup> Dewa Gede Praditha, *Hukum Kearifan Lokal Suatu Pengantar Hukum Adat* (Malang: PT. Literasi Nusantara Abadi Grup, 2023).

<sup>32</sup> Irma- Mangar and Muhammad Rosyid Ridho, "Tanah Ulayat Adat Perspektif Hukum Positif dan Hukum Islam," *El-Dusturie* 1, no. 1 (June 21, 2022), <https://doi.org/10.21154/eldusturie.v1i1.4176>.

When development projects are implemented, such as infrastructure development or commercial housing, indigenous peoples are often not involved in the decision-making process. This creates injustice and potentially leads to evictions without fair compensation. In many cases, governments and developers argue that the development is in the public interest, but often ignore the rights of indigenous peoples who have lived in the area for years. Therefore, it is important to integrate the recognition of indigenous land rights into development policies so that local communities do not lose their homes and cultural identity.

On the other hand, although the Basic Agrarian Law (UUPA) Number 5 of 1960 recognizes customary rights, its implementation often faces obstacles. Many customary law communities do not have official documents proving their land ownership, so their position becomes vulnerable when dealing with claims from other parties.<sup>33</sup> In addition, the complicated and bureaucratic formal land certification process is often an obstacle for communities to obtain legal recognition of their rights. In this situation, efforts to strengthen recognition of indigenous land rights should be undertaken through more inclusive and participatory policy reforms.

The challenges of recognizing customary land rights in the midst of modernization and development in Indonesia are complex and diverse. One of the main challenges is the legal ambiguity regarding the recognition of customary land rights in the national legal system. Although the Basic Agrarian Law (UUPA) provides space for the recognition of customary rights, its implementation is often inconsistent and uneven across regions. Many indigenous peoples do not have formal documents proving their land ownership, so when disputes arise, their position becomes very vulnerable. In the context of modernization that drives infrastructure development and investment, the rights of indigenous peoples are often neglected, and they are forced to face evictions without fair compensation. This legal uncertainty creates instability for communities that depend on land as their source of livelihood and cultural identity.

In addition, the rapid modernization process often brings with it significant social changes, including shifts in cultural values and people's way of life. In many cases, indigenous peoples living in areas rich in natural resources are targeted for exploitation by large corporations that want to take over land for industrial or tourism purposes. This modernization not only threatens the physical existence of indigenous lands, but also erodes traditional values and social systems that have existed for centuries. Local communities often do not have enough bargaining power to resist pressure from more powerful parties. As a result, they are forced to adapt to the

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<sup>33</sup> Adelina Muthi'ah Rosidy et al., "Perlindungan Hukum Terhadap Hak-Hak Masyarakat Adat Dalam Pengelolaan Sumber Daya Alam Di Indonesia: Studi Kasus Masyarakat Adat Dayak Di Kalimantan," *Quantum Juris: Jurnal Hukum Modern* 6, no. 4 (October 1, 2024), <https://journalpedia.com/1/index.php/jhm/article/view/3253>.

changes even if it means losing their rights to land and natural resources that have become an integral part of their lives.

Another challenge in recognizing indigenous land rights is the lack of understanding and awareness among policymakers regarding the importance of involving indigenous peoples in the development planning process. Often, development projects are implemented without considering their impact on local communities and without involving them in the decision-making process. This creates a sense of injustice and discontent among indigenous peoples, who feel that their voices are not heard. To address these challenges, a more inclusive approach to development planning is needed, where the rights of indigenous peoples are recognized and respected. Policy reforms should be directed to ensure that indigenous peoples have access to legal processes and can actively participate in decision-making that affects their lives.

Conflicts between customary land rights and modern property rights in Indonesia often create complex tensions, especially in the context of increasingly aggressive development. One of the striking case studies is the conflict that occurred in Pandumaan-Sipituhuta Village, North Sumatra, between indigenous peoples and PT. Toba Pulp Lestari (TPL). The local community claims that the forests and land managed by TPL are customary land that has been inherited from generation to generation. However, the government granted the company a Hak Guna (HGU) permit, which caused deep dissatisfaction among indigenous peoples.<sup>34</sup> They feel their traditional rights are being ignored and that government decisions do not take into account their history and cultural relationship with the land. These conflicts reflect how modern policies often contradict indigenous values, leaving indigenous peoples forced to struggle to defend their rights amid pressure from massive investment and infrastructure development.

On the other hand, this conflict also shows challenges in the legal recognition of customary rights in the national legal system. Although the Basic Agrarian Law (UUPA) provides space for the recognition of customary rights, its implementation is often inconsistent. Many indigenous peoples do not have formal documents to prove their land ownership, so when disputes arise, their position becomes very vulnerable. This is exacerbated by corrupt practices and unclear regulations that make it difficult for the public to get justice. In the context of modernization that promotes economic development, customary land rights are often neglected for the sake of investment and development. This difficulty in obtaining legal recognition adds to the burden on indigenous peoples who struggle to preserve their identity and natural resources.

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<sup>34</sup> Apri Ella Rumapea, Nur Hidayat- Sardini, and Dzunuwanus Ghulam Manar, "Konflik Pemodal Besar Versus Masyarakat Adat (studi Kasus: Pandumaan-Sipituhuta, Humbahas)," *Journal of Politic and Government Studies* 13, no. 2 (March 27, 2024): 428–41, <https://ejournal3.undip.ac.id/index.php/jpgs/article/view/43536>.

#### 4.1.4 Access to the Law

The limited access of low-income people to the judicial system in Indonesia is a very crucial and complex issue. One of the main factors hindering this access is the high costs associated with the legal process. Low-income communities often cannot afford the attorney's fees, administration, and other costs required to file a case in court.<sup>35</sup> This creates injustice, where only those with sufficient financial resources can fight for their rights before the law. In addition, many of them do not have an adequate understanding of the legal system and judicial procedures, further aggravating their position. This lack of understanding can cause them to be unaware of their rights or even give up before starting the legal process. In this context, it is important to consider how legal education and socialization on legal rights can be optimized to help low-income communities understand and access the justice system.

In addition to cost factors and legal understanding, there are also structural challenges in the justice system itself that hinder access for low-income communities. For example, court locations are often far from where they live, making travel difficult and expensive.<sup>36</sup> The physical condition of the courts that are not friendly to low-income communities, such as the lack of facilities for people with disabilities or adequate waiting rooms, can also be a barrier. In addition, social stigma against low-income communities often makes them feel alienated or unwelcome in the judicial environment. All of these factors create additional barriers that make low-income communities feel that the justice system is not an accessible or trusted place to get justice.

The inability of people to fight for their rights in court is influenced by a variety of interrelated factors. One of the main factors is the financial limitations experienced by many low-income individuals and families. The costs associated with legal proceedings, such as attorney honorariums, administrative fees, and transportation costs to court, are often a heavy burden that they cannot afford. In many cases, people prefer to divert their resources to daily needs rather than investing money in uncertain legal proceedings. In addition, the lack of understanding of legal procedures and their rights is also a significant obstacle. Many people do not have access to adequate information on how to file a case or understand the steps required in the justice system. This lack of understanding often drives them to give up before they can begin legal proceedings.

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<sup>35</sup> Muhammad Nur Arfiansyah Dirgantara Pua Upa, "Keterpurukan Pemberlakuan Hukum Di Indonesia - Jurnal Post - UMM Dalam Berita Koran Online | Universitas Muhammadiyah Malang," <https://www.umm.ac.id/id/arsip-koran/jurnal-post/keterpurukan-pemberlakuan-hukum-di-indonesia.html>, 2023, <https://www.umm.ac.id/id/arsip-koran/jurnal-post/keterpurukan-pemberlakuan-hukum-di-indonesia.html>.

<sup>36</sup> Ridwan Mansyur, "Pembaruan Peradilan Sebagai Ikhtiar Mewujudkan Court Excellence," 2021, <https://www.mahkamahagung.go.id/id/artikel/4965/pembaruan-peradilan-sebagai-ikhtiar-mewujudkan-court-excellence>.

Another factor that contributes to people's inability to fight for their rights is the social stigma and discrimination they may face in the justice system. Low-income communities often feel marginalized and unwelcome in the court environment, which can make them feel that their voices are not heard or valued.<sup>37</sup> In addition, the existence of corrupt practices and injustice in the justice system can further exacerbate this situation. When people see that justice is not always served fairly, they may lose faith in the legal system and feel that their efforts to fight for their rights are futile. This creates a cycle in which the inability to fight for rights becomes increasingly internalized in the culture of that society.

One example of a case that illustrates the challenges in access to justice in Indonesia is the case experienced by indigenous peoples in Wadas Village, Purworejo, Central Java. Local communities face the threat of eviction due to andesite mining projects managed by the government and private companies.<sup>38</sup> Although they have lived in the region for generations and consider the land to be their customary right, legal recognition of customary rights is often overlooked. The long and complex legal process makes it difficult for people to fight for their rights in court. In addition, the high legal fees and lack of understanding of legal procedures further exacerbate the situation. In this context, people feel caught between the desire to defend their land and pressure from more powerful parties, such as governments and developers. The Wadas case reflects how injustices in access to justice can threaten the existence of local communities and their cultural identities.

Another striking example is the land dispute case in Kampung Pulo, Jakarta, where hundreds of families had to face eviction for a river revitalization project. The people living in Kampung Pulo have struggled to gain recognition of their land rights, but are often hampered by complicated bureaucracy and high legal costs.<sup>39</sup> When the government announced the eviction plan, many residents felt they did not have enough time or resources to prepare a legal defense. In some cases, they do not get fair compensation or even do not get clear information regarding the legal proceedings they will face. This uncertainty creates fear and anxiety among the population, who feel that their voices are not heard in the decision-making process. The case of Kampung Pulo shows how difficult it is for low-income communities to

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<sup>37</sup> Kateřina Čanigová, "Will You Work with Me?: Visual Worksheets as Facilitators of Inclusive, Collaborative, and Empowering Interviews with Vulnerable Populations," *International Journal of Qualitative Methods* 21 (April 1, 2022): 16094069211069444, <https://doi.org/10.1177/16094069211069444>.

<sup>38</sup> Muhamad Fathan Mandela Mandela, "Konflik Negara Dan Masyarakat : Isu Wadas Dalam Prespektif Politik Kewargaan," *Politeia: Jurnal Ilmu Politik* 16, no. 1 (January 31, 2024): 30–37, <https://doi.org/10.32734/politeia.v16i1.10974>.

<sup>39</sup> Nico Andrianto, *Rekam Jejak Anies di Jakarta* (Jakarta: Pustaka Al-Kautsar, 2023). Hal. 5 lihat juga dalam Nur Haryanto, "Penggusuran Kampung Pulo, Ini Kesepakatan Terakhir Ahok-Warga," *Tempo*, August 20, 2015, <https://metro.tempo.co/read/693548/penggusuran-kampung-pulo-ini-kesepakatan-terakhir-ahok-warga>.

get justice when dealing with development forces and government policies that often do not take into account the needs and rights of local communities.

#### 4.1.5 Economic and Social Inequality

Economic inequality in Indonesia has a significant impact on the land dispute resolution process, especially for low-income communities. In many cases, people who do not have sufficient financial resources have difficulty accessing the justice system to fight for their rights. For example, attorney's fees, administration, and transportation to the courts are often burdens that they cannot afford. This causes people to prefer to give up rather than continue with a long and expensive legal process. This inability to pay legal fees creates injustice, where only those with sufficient resources can fight for their rights before the law. In addition, economic inequality also contributes to a lack of understanding of legal procedures, so low-income people are often unaware of their rights or how to enforce them in court.<sup>40</sup>

In addition to financial factors, economic inequality also creates social conditions that worsen the land dispute settlement process. Low-income communities are often marginalized in social and political structures, so their voices are not heard in land-use decision-making. Dissatisfaction with government policies that are more in favor of big financiers makes people feel alienated and have no bargaining power in the legal process. In some cases, the existence of land mafias that take advantage of legal uncertainty further exacerbates this situation. They often take advantage of the uncertainty of land tenure, creating protracted conflicts and hindering dispute resolution. As a result, low-income communities not only lose access to the land they consider to be theirs, but also lose trust in the legal system and government institutions. This creates a cycle of injustice that is difficult to break, where economic inequality persists and hampers efforts to achieve social justice in the context of land.<sup>41</sup>

The economic power of developers has a significant impact on legal decisions, especially in the context of land disputes and infrastructure development. Developers often have large financial resources, which allows them to influence legal proceedings in the interests of their projects. For example, in the case of land disputes in Jakarta, where large developers often collaborate with the government to change land use, low-income local communities become particularly vulnerable.<sup>42</sup> They face not only high legal fees, but also pressure from developers who have the power to influence local policy. In many cases, legal decisions tend to favor developers because they are able to provide stronger evidence and arguments, as well as have better access to legal

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<sup>40</sup> Solikin M. Juhro, "Pertumbuhan Ekonomi Berkelanjutan: Tantangan Dan Strategi Kebijakan (Sustainable Economic Growth: Challenges and Policy Strategies)," SSRN Scholarly Paper (Rochester, NY: Social Science Research Network, March 1, 2016), <https://doi.org/10.2139/ssrn.2945267>.

<sup>41</sup> Dewi Gafuraningtyas, Nurasih Setiatin, and Tommy Anggrivianto, "Dampak Redistribusi Tanah Terhadap Penghidupan Masyarakat di Kawasan Fora 2 (Ternate) Maluku Utara," *Majalah Geografi Indonesia* 38, no. 1 (February 23, 2024), <https://doi.org/10.22146/mgi.84620>.

<sup>42</sup> Sasikirana Anastasia et al., "Implikasi Hukum Agraria terhadap Konflik Pertanahan Indonesia," *Arus Jurnal Sosial dan Humaniora* 4, no. 2 (August 19, 2024): 545-53, <https://doi.org/10.57250/ajsh.v4i2.485>.



resources. This creates injustice in the justice system, where the voices of small communities are often ignored.

A concrete example of this phenomenon can be seen in the case of Kampung Pulo in Jakarta. Here, the river revitalization project by the DKI Jakarta government involves the eviction of hundreds of residents' houses to make way for infrastructure development.<sup>43</sup> Although local communities claim their land rights based on traditional ownership, legal decisions are often more in favor of the interests of developers and governments. Developers can use their economic power to influence the licensing process and gain political support, while low-income communities do not have enough resources to fight the decision. In this case, inequality of economic power creates an injustice in access to justice, where legal decisions tend to favor the financially stronger parties. The Kampung Pulo case shows how economic forces can distort the legal process and result in the loss of local people's rights to their land.

Gentrification often brings in the middle and upper classes into communities previously inhabited by low-income communities, which can result in increased rents and the cost of living. In many cases, local communities have been forced to flee their homes as a result of evictions to make room for more financially profitable development. This creates social injustice, where the rights of people who have long lived somewhere are ignored in the interests of investment and development. Social justice in this context requires the recognition of the rights of local communities and the protection of them from unjust evictions, as well as ensuring that they benefit from the development that takes place in their environment.

Furthermore, social justice is also related to how the decision-making process is carried out in the context of gentrification. Often, local communities are not involved in the planning and decision-making that affects their lives. This creates a gap between the interests of developers and the needs of the community, where their voices are not heard in the urban planning process. To achieve social justice, it is important to engage communities in dialogue about land use and development policies. A participatory approach can help ensure that the needs and aspirations of local communities are taken care of, so that development not only benefits a few people but also benefits the entire community. As such, discussions on social justice in the context of gentrification and land disputes should include efforts to strengthen the rights of local communities and increase their participation in decision-making processes, so that development can take place in an inclusive and sustainable manner.

## 5. Conclusion

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<sup>43</sup> Putri Nurafifah, "Gaya kepemimpinan aktor politik: studi terhadap kepemimpinan Basuki Tjahaja Purnama dalam kebijakan penggusuran Kampung Pulo, Jakarta Timur Tahun 2015" (bachelorThesis, Jakarta: Fakultas Ilmu Sosial dan Ilmu Politik UIN Syarif Hidayatullah, 2017), <https://repository.uinjkt.ac.id/dspace/handle/123456789/41924>.

Legal challenges related to land ownership disputes due to gentrification in Indonesia reflect the complexity faced by communities in their efforts to protect their rights. The legal uncertainty surrounding land ownership, where many individuals do not have valid official documents, results in difficulties in fighting for their rights in court. In addition, legality and documentation issues pose significant obstacles, especially for those living in gentrified areas without formal proof of ownership. The recognition of indigenous land rights also faces major challenges in the era of modernization, which often ignores local history and culture. On the other hand, limited access to the legal system for low-income communities exacerbates this situation, while economic inequality between developers and long-term residents adds layers of injustice in dispute resolution. Therefore, it is important to identify and address these challenges so that people's rights can be protected, and justice in the development process can be achieved.

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