
Beyond State Recognition of Customary Forests: Initiating Agrarian Reform in Indigenous Peoples

Eko Cahyono¹, Arif Satria², Endriatmo Soetarto³, Soeryo Adiwibowo⁴,
Didik Suhardjito⁵

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Abstract

This article examines the socio-political dynamics of agrarian issues surrounding the recognition of customary forests in Kasepuhan Karang, Lebak Regency, Banten. The recognition of customary forests is interpreted by indigenous peoples as a political victory. The political policy of recognition provides opportunities for indigenous peoples to reclaim their customary lands that have been subjected to agrarian colonialism, although this is limited to the recognition of customary forest areas. The data presented is based on the author's periodic research, which was intensive during 2018 and 2019, and continued through various field studies in 2020, 2023, 2024, and early 2025. Field data was collected using qualitative methods, through direct observation, live-in, in-depth interviews with key informants, and focus group discussions. The findings of this research show that the state's recognition of customary forests is half-hearted, partial, and fragmentary, so that socio-agrarian conditions remain unchanged and the previous structure of agrarian inequality remains intact. The state unilaterally recognized only some of the proposed customary forests, while ignoring the social dynamics and changes in the Kasepuhan Karang community, which experienced social differentiation due to the concentration of land ownership. The ideas and recommendations proposed are to encourage agrarian reform in indigenous peoples. This is to ensure agrarian justice, which has been ignored by the existing political recognition model. Among the requirements for agrarian reform in indigenous peoples is interconnectivity between ecological aspects, tenure systems, and local socio-cultural aspects, so that its implementation is flexible and contextual, and certainly cannot be standardized.

Keywords: Indigenous Peoples; Recognition Politics; Customary Forests;
Agrarian Colonialism; Agrarian Reform; Kasepuhan Karang-
Banten

Endriatmo Soetarto | endriatmo@yahoo.com

Soeryo Adiwibowo | adibowo3006@gmail.com

Didik Suhardjito | didiks@apps.ipb.ac.id

- 1 Department of Communication Science and Community Development, IPB University, Indonesia
Sajogyo Institute Bogor, Indonesia
- 2, 3, 4 Faculty of Human Ecology, IPB University, Indonesia
- 5 Faculty of Forestry and Environment, IPB University, Indonesia

Introduction

Indigenous peoples have faced subjugation through agrarian colonialism, marked by the issuance of the Agrarian Law of 1870 (*or Agrarische Wet of 1870*) (Klaveren 2013; Rachman 2011; Riyanto 2025). These colonial agrarian policies eroded the collective rights of indigenous communities, including customary land rights and resource management areas. (Fahmi 2020). During the New Order regime, agrarian colonialism against indigenous communities escalated, particularly through the 1967 Forestry Law, which reinforced state dominion over unregistered lands, notably forest territories. This law facilitated the state's monopolization of forest resources, effectively marginalizing local communities and entrenching the classification of unclaimed forests as "Political Forests," thereby delineating access and control based on political dynamics (Peluso and Vandergeest 2021).

During Indonesia's New Order era, Indigenous peoples were politically excluded and discursively framed as "uncivilized." A key state policy was the Isolated Community Development Program (PMT), initiated in 1974, which aimed to "integrate" communities by relocating them to government-built villages and imposing state systems like formal education, religion, and market economics (Tsing 1998). This program coincided with rural development projects and agrarian policies that facilitated the expansion of capital and extractive industries (such as logging, plantations, and mining) into indigenous territories. Even under the doctrine of national sovereignty, the New Order treated indigenous entities as rivals, constantly viewing *adat* (indigenous peoples and their laws) with suspicion as competitors (Mahruz 2024). Article 7 of the Forestry Law even explicitly

states that 'communal customary rights (*hak ulayat*) must not impede the achievement of the objectives of this law' (Riyanto 2025).

Agrarian problems in indigenous communities are rooted from "state nationalism" projects that prioritize economic growth (Soetarto 2023). This development model creates structural inequality and neglects marginalized groups, fueling the rise of indigenous movements since the 1998 Reformation. The state's recognition of indigenous rights remains minimal, while their territories are aggressively targeted for expansion by plantation, mining, and forestry industries, resulting in widespread human rights violations (Cahyono 2016). The government continues to use force and regulation—legacies of the New Order era—to enforce these policies, ultimately marginalizing and excluding indigenous peoples from their own lands (Li 2010).

In the 1990s, a wave of indigenous resistance emerged against the seizure of their lands, a struggle deeply intertwined with their fight for identity, as their land is the material basis for their existence (Rachman and Masalam 2017; Tamma and Duile 2020). This movement was fueled by international support, resistance to New Order repression, democratization after 1998, and the legacy of colonial customary law (Davidson, Moniaga, and Henley 2010). The struggle became more organized with the founding of the Aliansi Masyarakat Adat Nusantara (AMAN) in 1999, which focused on state recognition and restoring resource rights. A landmark victory was achieved with Constitutional Court Decision No. 35/2012, which affirmed that customary forests are separate from state forests, giving the movement significant legal and political momentum (Siscawati and Rachman 2014).

Constitutional Court Decision 35 was a landmark political and legal victory for indigenous activists, officially recognizing their rights over customary forests and obligating the state to protect them. This decision forms the legal basis for restructuring the relationship between the state and indigenous peoples concerning the management of natural resources. The struggle to implement this recognition continues through a counter-hegemonic movement combining legal and grassroots efforts (Rachman and Masalam 2017). According to data from the Badan Registrasi Wilayah Adat (BRWA) as of March 2024, there are 1,425 registered customary territories, covering an area of 28.2

million hectares across 33 provinces and 161 districts/cities—an increase of 1.3 million hectares from the previous year. However, of this total, only 3.9 million hectares (13.8%) have received official recognition from the government (Ariya 2024). This official process is widely criticized as being slow, costly, and insensitive to ongoing conflicts (Arizona, Trenggono Wicaksono, and Vel 2019).

This article addresses three main questions. First, how has the implementation of the Indigenous Forest recognition policy addressed the structural socio-agrarian problems experienced by the Kasepuhan Karang? Second, to what extent does the recognition of Indigenous Forests overlook or reproduce agrarian injustice and agrarian colonialism in Indigenous peoples' territories? Third, what forms of agrarian reform are necessary to resolve these structural inequalities?

To address these three questions, this article uses the perspectives and conceptual frameworks of recognition politics, socio-agrarian justice, and agrarian reform. Recognition politics is understood as encompassing both struggles for recognition and state-led recognition policies. The struggle for recognition has the dimension of fighting for access to agrarian resources, as well as ownership and production relations; at the same time, it has the dimension of fighting for recognition of identity to show that they have historically existed in that living space (Tamma and Duile 2020). Meanwhile, *recognition policies* refer to the state's recognition in a relational and legal sense that indigenous peoples have rights to their natural resources, which must therefore be protected. This article emphasizes that the dimension of recognition always includes redistribution (Fraser and Honneth 2003).

Social-agrarian justice refers to the concept of justice in access, control, utilization, allocation, and distribution of agrarian resources for the community (Wiradi 2009). This is based on the view of social reality that society consists of social structures that are never singular but consist of social strata with diverse bases, including ownership and control of land and other agrarian resources (Sajogyo and Pudjiwati 1982). Therefore, social-agrarian justice must be felt by the weakest groups in rural areas. This means that agrarian social justice must not exclude the weakest groups in rural areas and communities, such as women, landless smallholders, and other marginalized groups

(Sajogyo 2006), by fulfilling the conditions of *tenure sustainability*. It means that This article examines the transformation of tenure and ownership regimes over agrarian resources following the formal recognition of customary forests (*hutan adat*). It scrutinizes whether such recognition ensures equitable access across all social strata , safeguards their rights, and promotes the sustainability of agricultural systems and ecological integrity in Kasepuhan Karang. Conversely, it investigates whether these changes merely perpetuate the dominance of the state-led forestry regime, which historically has tended to marginalize the Kasepuhan Karang Communities.

Methods

This article examines the Kasepuhan Karang Indigenous community, which occupies approximately 1,081.286 hectares. Administratively, Kasepuhan Karang is located in Jagaraksa Village, Lebak Regency, Banten. This study employs a qualitative research approach and draws on the author's periodic and ongoing fieldwork. Intensive research was conducted in 2018 and 2019, followed by subsequent field studies in 2020, 2023, 2024, and early 2025. Field data was collected through observation, in-depth interviews with key informants, and focus group discussions.

Results

The Dilemma of Social Justice - Agrarian Issues After the Recognition of Customary Forests in Kasepuhan Karang, Banten

Administratively, Kasepuhan Karang is located in the village of Jagaraksa, Muncang subdistrict, Lebak district. The Jagaraksa Village area covers 1±,260 m² and borders Cikarang Village (north), Sobang (south), Pasirnangka (west), and Maraya (east), and is located in the Halimun Mountains at an altitude of 410-1,000 meters above sea level. The population reaches around 815 households or 2,858 people, spread across five hamlets: Cikadu, Cilunglum, Karang, Cibangkala, and Kapudang (Jaetuloh 2019). Although the village is formally led by a *Jaro* (Village Head), customary authority rests entirely with the

Kokolot (Customary Leader) who leads the Kasepuhan community. Within this structure, Jagaraksa Village functions as an administrative extension of the Kasepuhan Karang customary community, while authority over natural resources and customary norms rests with the customary authorities, who socially hold a higher position than the village government. The center of Kasepuhan is located in Kampung Karang, one of the hamlets of Jagaraksa Village. The Kasepuhan Karang community lives according to religious teachings, state law, and ancestral traditions (*karuhun*). The customary forest structure consists of *Leuweung Tutupan* (prohibited forest), *Leuweung Titipan* (conservation reserve forest), and *Leuweung Garapan* (cultivated forest). The community's economy is based on rice field and garden agriculture, which are the main sources of livelihood.

Table 1. *Classification of Traditional Spatial Planning in Kasepuhan Karang*

Spatial Classification	Tenurial System (Control and Utilization)	Authority Holder	Spatial Function
Leweung Tutupan	Communal control	<i>Kokolot</i>	Protection and prohibition functions
Leweung Titipan	Communal control	<i>Kokolot</i>	Function of reserve forests for conservation, limited-scale agricultural activities, and ritual and cultural activities
Leweung Garapan	Communal control and individual utilization rights	<i>Kokolot</i>	Agricultural and settlement areas
Paniisan	Communal	<i>Kokolot</i>	Ritual and cultural sites
Freehold land	Private	Individual	Agriculture and settlement

Source: compiled from author fieldworks (2023 and 2025)

In 2016, Kasepuhan Karang became one of the first communities in Java to obtain legal recognition of customary forests, based on Constitutional Court Decision No. 35/2012 and Decree No. 6748/MENLHK-PSKL/PKTHA/PSL.0/12/2016. This recognition is important considering that the Kasepuhan Karang area is located in the Halimun Salak interior landscape, which is mostly forest area and claimed as state territory. This recognition of customary forests frees Kasepuhan Karang from the dominance of the Gunung Halimun Salak National Park (TNGHS) conservation regime, allowing them to regain their power to manage their customary territory.

Prior to the recognition of customary forests, Kasepuhan Karang experienced agrarian colonialism through layered territorialization since colonial times. The designation of the area as a protected forest by the Dutch colonial government (1912–1936) prohibited the use of land by indigenous peoples, a policy that continued into the New Order era (Arizona et al. 2019). Then, in 1963, the area was designated as a reserve forest, then became a production forest controlled and managed by Perhutani (1973). Under Perhutani, the community still had limited access to forest land with the obligation to pay an "informal tax" of one-tenth of the harvest. This tax was a form of indirect recognition of the community's rights to the land (Lund and Rachman 2018). Although the amount was small, this obligation was still a burden for farmers because the harvest had to be shared with the landowners and farm workers. The Kasepuhan community considered the Perhutani regime to be better than the subsequent conservation regime because it still allowed the community to utilize the land.

However, in 1979, this area was turned into Gunung Halimun National Park (TNGH), which was expanded in 2003 to become TNGHS, covering an area of 113,357 ha. This expansion claimed more than half of the customary area and triggered prolonged agrarian conflicts (Jaetuloh 2019). The establishment of TNGHS triggered fierce conflict with the community due to differing claims over the area, unclear forest boundaries, and the incompatibility of conservation zoning with customary spatial planning, further restricting the agricultural space of the Kasepuhan community, who had traditionally depended on farming the forest land for their livelihood. The state views forests as state land for conservation, while communities articulate forests as a living, spiritual, and economic space

inherited from their ancestors. The national park regime prohibits all utilization activities, including the collection of non-timber forest products, which has a direct impact on the livelihoods of the community and leads to criminalization and violence (Ramdhaniaty 2017). Women are the most severely affected because they lose access to food and firewood and are increasingly marginalized from access to sources of livelihood.

Meanwhile, outside the forest area, these communities also face agrarian issues, such as land conversion and unequal production relations. In other use areas (APL), land ownership has been transferred due to gold-based rice field mortgages. Land is mortgaged to finance consumption needs, home renovations, or health costs. This mortgage system excludes farmers from access to production and, due to gold price inflation, creates a debt trap that has the potential to encourage illegal gold mining practices. At the same time, control of cultivated land in forest areas is concentrated in the hands of middlemen and timber owners through bribes to forestry officials (Jaetuloh 2019). Through these bribes, these elites are free from restrictions on access to land in the forest, allowing them to expand their cultivated land and ultimately emerge as a new local elite.

During field research, the author found changes in the traditional agricultural system of Kasepuhan Karang due to the intensification of the Green Revolution program. Initially, the Kasepuhan Karang community had a social security system based on open harvest work called *gacong*, where anyone could join in harvesting rice and receive a share of the harvest for their work. This system allowed landless groups, including women, to access food through a profit-sharing scheme: for every five *pocong* (bundles of rice), workers received one or two *pocong*. However, the Green Revolution significantly changed this pattern. The introduction of high-yield rice varieties with shorter planting periods (3–4 months) replaced local varieties (4–6 months), shifting the *gacong* system to *ngepak*, which is limited work that requires involvement from the beginning of the planting season. In addition, there were changes in production tools and inputs—from *ani-ani* to sickles, from natural fertilizers to chemicals, and from storage in *leuit* (granaries) to packaging in sacks. This shift reduced community participation in harvesting and weakened the function of *leuit* as an instrument of collective food security, especially for vulnerable groups. Furthermore, the impact is most felt by non-elite women without land, who are at the bottom of the social ladder. They

depend on the *gacong* system, which is now being eroded by changes in the agricultural system, thereby reducing women's access to food and weakening the customary social protection system that supports this vulnerable group.

Furthermore, gender inequality also occurs as a result of both state territorialization and decision-making at the community level that is insensitive to women's roles. Women, especially non-elite women, experience a double burden of domestic and reproductive work, especially when access to forests is restricted by the state. They lose their sources of food and fuel that were previously collected from the forest, and must work harder as farm laborers or domestic migrants to support their household economies (RMI 2023). At the community level, decision-making is dominated by men. Important positions in customary institutions are almost entirely filled by men, except for one or two symbolic roles such as *paraji* (traditional birth attendants) or *palawari* (ritual assistants). At the household level, decisions related to land and crop yields are almost entirely in the hands of men, even though women participate in agricultural production and forest management (Simanjuntak and Siscawati 2023).

As described above, prior to the recognition of customary forests, Kasepuhan Karang experienced agrarian injustice due to territorialization and changes in agricultural production relations. In this context, the Kasepuhan Karang community, with the support of RMI, JKPP, Epistema, AMAN, and other NGOs, fought for forest management rights as a customary movement. From the outset, this struggle focused on obtaining recognition of customary forests as a *counter-hegemonic force* against the territorialization of the conservation regime. The recognition of customary forests that they obtained in 2016 was interpreted as a "political victory," but not the end of the struggle.

This recognition ended the agrarian conflict with TNGHS and opened up space for local economic restructuring and fairer agrarian distribution (Jaetuloh 2019; RMI 2023). This shift solidified tenure security and restored land access, mitigating institutional repression (Arizona et al. 2019). Beyond stabilizing livelihoods, recognition empowered indigenous governance through land titling and cooperatives while fostering inclusion for women and youth. Crucially, it restored Kasepuhan cultural identity and dignity, reversing decades of stigmatization and the systemic suppression of customary practices. However, the

recognition of customary forests leaves behind an extraordinarily complex task. State recognition of Kasepuhan Karang's customary forests remains fragmentary. By prioritizing Forestry Law No. 41/1999 over the holistic indigenous *leuweung* concept, the state recognized only 62.7% of the proposed area, excluding vital productive lands and fueling tenure conflicts. Furthermore, imposing state-mandated conservation status restricts indigenous autonomy by prohibiting traditional farming and land transfers (Arizona et al. 2019; RMI 2023). This misalignment highlights the systemic tension between state conservation paradigms and indigenous socio-ecological practices, resulting in a limited recognition that undermines community sovereignty.

Third, this half-hearted recognition fails to address the root causes of agrarian issues within the Kasepuhan Karang community. Inequality in land ownership remains high, with ownership concentrated in the hands of community elites and middlemen (Ramdhaniaty 2017; Jaetuloh 2019, Musaddad and Abdulkadir-sunito 2021). The recognition of customary forests has not yet reached a broader dimension of distributional justice at the community level. Fourth, after the recognition of customary forests, there has been no significant change in gender inequality. Women, especially those from non-elite groups, remain excluded from community development and even face the potential for new marginalization due to the dominance of elite interests. At the household level, land management and strategic decision-making—including the sale of crops—remain dominated by men, reflecting the continuation of patriarchal patterns in resource management (Ramdhaniaty 2017; Simanjuntak and Siscawati 2023).

Ultimately, when viewed from the perspective of agrarian justice in terms of *tenure sustainability*, the picture is as follows:

Table 2. *The Impact of Half-Hearted Recognition on Agrarian Justice in Kasepuhan Karang*

Access Guarantee	Protection of Rights	Protection of Production Systems	Ecosystem Protection
<ul style="list-style-type: none"> • Recognition limited to forest cover • No recognition of cultivated land within forest areas • No (re)distribution of access to agrarian resources that corrects land ownership inequality • No guarantee of access to agrarian resources for non-elite women 	<ul style="list-style-type: none"> • Protection of communal rights to forest cover • No protection of rights to cultivated land • No protection of the rights of indigenous peoples from non-elite groups such as women and tenant farmers 	<ul style="list-style-type: none"> • There is no protection for production systems • The community initiated a women's cooperative • The community initiates the zoning of commodity crops and independent nurseries for agricultural production on cultivated land 	<ul style="list-style-type: none"> • Protection of forest cover ecosystems by maintaining conservation functions

Source: compiled from author fieldworks (2022 -2023)

The recognition of customary forests in Kasepuhan Karang does not yet meet the requirements of agrarian justice in terms of comprehensive *tenure sustainability*. The fragmented recognition does not guarantee access to agrarian resources that favor the

needs and interests of vulnerable groups in Kasepuhan Karang, such as non-elite indigenous women and landless farmers. The root of the problem is the non-recognition of cultivated land in forest areas and the failure to address land ownership inequalities. The absence of (re)distributive protection of access to these agrarian resources is accompanied by a lack of protection of individual and communal rights to cultivated land within forest areas. There have been initiatives among the indigenous people of Kasepuhan Karang to issue local land certificates to determine who controls which cultivated land. However, the issuance of these certificates has not been accompanied by redistribution.

Furthermore, the recognition of customary forests has not been accompanied by efforts to protect production systems to ensure the economic sustainability of the Kasepuhan Karang indigenous community. As a result, the agrarian crisis caused by the intensification of agriculture in the style of the Green Revolution remains a problem that the community must face on a daily basis. This fragmented recognition of customary forests has also been limited to providing protection for forest ecosystems by maintaining their conservation function. This ecosystem protection still leaves serious problems unresolved, as it perpetuates the tension between the state's conservation policy and the practices of the Kasepuhan Karang indigenous community.

In response to this half-hearted recognition and its impact, the Kasepuhan Karang community took the initiative on their own, with the assistance of various NGOs such as RMI Indonesia, AMAN and the Participatory Mapping Network (JKPP). These initiatives include the establishment of a women's cooperative to increase their group's participation in community development. Assisted by RMI Indonesia, the community established a women's cooperative, namely the Jagaraksa Mandiri Cooperative (Koperasi Jagaraksa Mandiri/KJM). KJM provides two types of loans. First, a loan of 5 million rupiah, repayable in 6 installments or 6 harvest periods, with 277 kilograms of grain. The condition is that the community pledges their rice fields, which are recorded in *the land registry*. The right to cultivate the rice fields remains in the hands of the owners and is not taken over by the cooperative. The owners use the rice harvest from these fields to pay off their installments. In the event of a crop failure, KJM allows them to defer their

installments until the next harvest. With this type of pawn scheme, the community does not experience economic loss because they still have the right to cultivate the land. This is different from the gold pawn scheme. In its early stages, the first type of loan was used to redeem land pawned with gold, in order to prevent land grabbing among fellow villagers (*intimate land dispossession*). The second type of loan, worth 1 million rupiah, is paid in cash. It is usually accessed by the community to finance small economic enterprises.

There are several other initiatives, such as the zoning of commodity crops on cultivated land, the establishment of independent nurseries to serve the need for high-quality seeds for agricultural production on cultivated land, and so on. This article does not focus on explaining these initiatives, but rather seeks to capture the issue of "*why is the policy of recognizing customary forests half-hearted: partial and fragmented?*" Because of this half-hearted recognition, the Kasepuhan Karang community has taken over the state's responsibility to resolve the agrarian injustices they have experienced.

Ignorance of State Recognition Policy

The policy of recognition of customary forests has been part of the post-reform legal and political discourse, especially after the issuance of Constitutional Court Decision 35. For indigenous activists, Constitutional Court Decision 35 was a political victory in the long struggle to regain control and access to customary forests that had undergone a long process of agrarian colonialism through territorialization (Siscawati 2014). This ruling revised Law 41/1999 on Forestry, which classified customary forests as state forests, and stipulated that customary forests are no longer state forests. The Ministry of Environment and Forestry (KLHK) issued Circular Letter Number SE.1/Menhut-II/2013 in response to Constitutional Court Decision 35. The circular letter emphasizes that customary forests can be granted as long as the indigenous community has been recognized based on research results and established through a Regional Regulation (Perda) (RMI 2023).

After this ruling, the movement for the recognition of customary forests and the rights of indigenous peoples over forest areas gained momentum (Wibowo 2019) and policy changes regarding indigenous peoples increased (Arizona et al. 2019). As of 2016, there were at least 69 new regional legal products concerning indigenous peoples, ranging

from recognition of the existence of indigenous peoples, customary territories, customary forests, customary institutions and courts, as well as customary villages. The area of customary territories has also expanded from 15,199.16 hectares before Constitutional Court Decision 35 to 213,541.01 hectares. In other words, there has been an increase of 197,541.85 hectares in three years, or 65,847.28 hectares per year. In line with this, at the national level, there has also been more concrete legal recognition when the Minister of Environment and Forestry issued a Decree recognizing 9 customary forests covering an area of 13,097.99 hectares, which was handed over by the President of the Republic of Indonesia at the State Palace on December 30, 2016 (Arizona et al. 2019). According to data from the Badan Registrasi Wilayah Adat (BRWA) as of March 2024, there are 1,425 registered customary territories, covering an area of 28.2 million hectares in 33 provinces and 161 districts/cities—an increase of 1.3 million hectares compared to the previous year. However, of this total, only 3.9 million hectares (13.8%) have received official recognition from the government (Ariya 2024). The number of legal products concerning indigenous peoples and the designation of customary forests continues to grow, albeit slowly, with a lengthy and costly process.

Despite the optimism above, the policy and implementation of customary forest recognition have received various criticisms. Instead of being a starting point for structural change in agrarian inequality in indigenous communities, this policy has shown a half-hearted character. As in the case of Kasepuhan Karang, the recognition of customary forests is limited to accepting 62.7% of the indigenous community's proposal (486 hectares), which is a forested area. Meanwhile, 289 hectares of forest area that has been productively managed for generations has not been recognized and remains state forest with a conservation function under the control of Gunung Halimun Salak National Park (RMI 2023). These unrecognized forest areas remain off-limits to agricultural activities, even though they have long been cultivated and are highly diverse in terms of food production. This partial recognition further entrenches inequality in access to livelihoods and land ownership, which is concentrated in the hands of the local elite. In other words, on the one hand, the recognition of customary forests does not change the conservation policy that has marginalized indigenous peoples and women; and on the other hand, the

recognition of customary forests ignores or is insensitive to agrarian issues in rural areas. In addition, the recognition of customary forests does not accommodate the dynamics of non-forest land or other use areas (APL) that are not under the authority of the forestry sector.

Half-hearted recognition, as in the case of Kasepuhan Karang, also occurs in several indigenous communities. Research by the Sajogyo Institute found that the recognition of customary forests in Kasepuhan Citorek in 2019 covered 1,647 hectares of the 4,439 hectares of customary forests that had been proposed. Elsewhere, the recognition of the customary forest of the Ammatoa Kajang indigenous community in South Sulawesi in 2016 designated the customary forest in a protected area (which is in line with the conservation function based on customary wisdom), but ignored their long struggle to *reclaim* the former HGU. In the process, the decrees establishing customary forests in these two cases were not participatory. The Kasepuhan Citorek indigenous community did not even know that they had obtained less than half of the proposed customary forest area. Meanwhile, in Ammatoa Kajang, the government only recognized "*uncontested areas and spaces*" within the customary territory where there was no fierce contestation and battle between corporate interests to maintain land control and profit motives and the efforts of indigenous peoples to fight for justice and sovereignty within their customary territory.

RMI research (2023) on the recognition of customary forests in seven indigenous communities (namely Kasepuhan Pasir Eurih, Ammatoa Kajang, Wana Posangke, Kasepuhan Karang, Malalo Tigo Jurai, Kulawi, and Dayak De'sa) found that indigenous peoples divide the functions of their customary territories into livelihood areas using various terms that often do not include the word "forest" at all. This understanding of forest differs from the location of "customary forests" as listed in the Customary Forest Decree established by the State. The scope of the Customary Forest Decree only covers forest areas or tree stands, not more complex ecosystem networks. In addition, the designation of customary forests has not been accompanied by structural reforms to address inequality and has instead perpetuated the status quo in society. This is exacerbated by the absence of a social justice scheme to redistribute greater benefits to

non-elite indigenous communities.

The above cases show that recognition does not work at all to transform the legacy of inequality from agrarian colonialism. The question is, how does the political policy of recognition ignore agrarian injustice and colonialism in indigenous communities?

Recognition of customary forests works with the logic of policy sectoralism. Forest areas are under the authority of the Ministry of Environment and Forestry, while non-forest areas or other use areas (APL) are under the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency. On the one hand, the Ministry of Environment and Forestry does not have the authority to include non-forest areas in the recognition of customary forests. On the other hand, there is no communal land administration system to include areas outside forest areas. This fragmentation leads to a dualism of property regimes: a combination of communal property rights within recognized customary forests and individual property rights outside unrecognized customary forests. Ultimately, this fragmentation of recognition gives rise to a dualism of authority at the community level. In Kasepuhan Karang, customary institutions can only obtain the authority to regulate land within customary forest areas. Land ownership rights (with proof of SPPT and SHM), which are outside the non-forest area, are mainly outside the authority of customary law, namely under the national land regime. As a result, land use planning initiatives carried out by the Kasepuhan Karang indigenous community can only apply in customary forest areas, but do not extend to areas outside of that, such as rice fields.

In addition, Constitutional Court Decision 35 maintains conditional recognition. This decision does indeed normatively distinguish between "state forests" and "customary forests." However, as stated by Mahruz (2024), this decision depends on Article 67 paragraph (2) of the Forestry Law. This article serves as a bulwark to maintain state forests under the authority of the Ministry of Environment and Forestry. As a consequence, the state remains the actor that monopolizes the right to determine the validity of collective identity and customary territories. This is reflected in the area designated as customary forest in Kasepuhan Karang. The Ministry of Environment and Forestry did not accept all areas claimed as customary forests by the Kasepuhan Karang community, but only recognized some of them. The designation of recognized customary

forests based on the decree was also carried out unilaterally, without involving a participatory process based on the principle of democratization of decision-making in the hands of *the rights bearers*. It is not surprising that there are many discrepancies between what was proposed by the indigenous community and what was determined by the state. In addition, Article 67 paragraph (2) of the Forestry Law requires a regional regulation (Perda) as proof of the legality of the existence of customary law communities (Masyarakat Hukum Adat/MHA), making recognition not automatic, but requiring a complicated political and administrative process. In line with Mahruz, according to Laksmi Savitri (2014), conditional recognition through Perda creates *another political arena* that requires *new political battles*. The process of fighting for the formation of local regulations ultimately requires political connections with the legislative and executive branches of government at the regional level, and raises elitism and even gender inequality (Savitri 2014). Take Kasepuhan Karang, for example, customary recognition favors elite networks, fostering gender inequality and personifying movements—like the Jaro in Kasepuhan Karang. Trapped by state "follow-up processes" rather than self-determination, indigenous groups face co-option by regional politicians, hindering democratization and collective rights.

Indonesian customary forest recognition remains constrained by colonial and New Order structural legacies, specifically the marginalization of customary law within the national legal hierarchy. This reflects an enduring tension between integralistic and pluralistic citizenship, where land policy prioritizes centralized, positivistic "national interests" over indigenous rights. In extractive political economies, "national interest" often serves oligarchic capital, rendering customary recognition contingent upon its compatibility with corporate expansion. Ultimately, the state only acknowledges "uncontested spaces," subordinating customary sovereignty to strategic investments and preventing meaningful legal pluralism in contested territories.

Second, the rise of the New Order's authoritarian centralism and state legal positivism effectively derailed agrarian decolonization. This shift rendered the 1960 Agrarian Law—specifically Article 5's adoption of customary law—virtually dead. While the Agrarian Law originally sought to dismantle feudal land tenure through

redistribution, ownership limits, and the recognition of indigenous hak ulayat, the regime's centralized policies prioritized state control over land reform. Consequently, the transformative potential to empower landless farmers and protect indigenous rights was sacrificed to maintain a top-down, extractive resource management framework (Rachman 2011; Rachman and Masalam 2017; Wiradi 2009).

Indonesian customary forest recognition fails to dismantle colonial and New Order agrarian structures. This "half-hearted" policy perpetuates agrarian colonialism through procedural hurdles and sectoral fragmentation, prioritizing state dominance over indigenous sovereignty. By excluding self-determination, the state grants symbolic identity recognition while neglecting substantive land redistribution. Consequently, the framework ignores systemic injustices and historical legal authoritarianism, reinforcing entrenched power dynamics rather than facilitating reform. Ultimately, recognition functions as a tool of state control, decoupling territorial claims from the structural transformations necessary for genuine agrarian justice.

Agrarian Reform in Indigenous Communities: Attaching the Goal of Redistribution to Recognition

The ignorance of the political policy of recognition "turns a blind eye" to the long history of the struggle of indigenous peoples in Indonesia. The struggle of indigenous peoples is a movement to reclaim their sovereignty over customary territories (*the struggle for redistribution*) and to gain recognition of their identity (*the struggle for recognition*). This kind of movement emerged to challenge the state, which deliberately ignored (*non-recognized*) or *misrecognized* the existence of indigenous peoples, both culturally and materially (Savitri 2014). This movement responds to the seizure of living spaces that form the cultural and material basis of indigenous peoples (Rachman and Masalam 2017; Tamma and Duile 2020). That is why it is no longer possible to separate the two aspects of indigenous peoples' political struggle, namely *recognition* and *redistribution*.

Conceptually, recognition requires integration with *the goal of redistribution*. This is because if the ultimate goal of recognition is social justice, then recognition and

redistribution cannot be separated, even though they have different positions and roles. When recognition is understood comprehensively and properly, redistribution is actually included in it. Thus, there is no separation between the theories of recognition and redistribution. Quoted from Savitri (2014), philosophically, the main goal of the political struggle for recognition and redistribution is equality in participating in social transformation (*parity of participation*). Fraser and Honneth (2003) state that preconditions must be provided to achieve equality in participation, namely (1) *objective conditions*, in which the distribution of material resources enables subjects to be independent and sovereign, and (2) *intersubjective conditions*, namely the internalization of cultural values that provide equal recognition and ensure equal opportunities for all subjects to gain social self-esteem. These two preconditions must be in place to achieve social justice.

What has happened in the policy of recognizing customary forests is far from the ideal of the political struggle for redistribution and recognition. As discussed in the previous sub-discussion, there are three problems in the political policy of recognition, namely (1) proceduralism and sectoralism of policy, (2) conditional recognition, (3) the dominance of the character of agrarian colonialism policy. These three problems hinder the availability and intersubjective *conditions* for realizing *parity of participation* and social justice.

Table 3. *Structural Obstacles to the Realization of Social Justice in Recognition Policy*

Structural barriers to political recognition policies	Objective conditions	Intersubjective conditions
Proceduralism and sectoralism in policy	<ul style="list-style-type: none"> • Failure to comprehensively redistribute customary territories, instead leaving them to conflicting sectoral policies that hinder the distribution of agrarian resources 	<ul style="list-style-type: none"> • The process of recognizing customary forests is costly and complicated, thus not providing equal space for participation
Conditional recognition	<ul style="list-style-type: none"> • Hostage to the interests of political elites at the regional level • Recognition of identity is predominantly top-down 	<ul style="list-style-type: none"> • Elitism in participation based on political networks and transactions, prone to creating gender inequality
The dominance of colonial agrarian policies	<ul style="list-style-type: none"> • The dominance of "national interests" over the sovereignty interests of indigenous peoples 	<ul style="list-style-type: none"> • An unequal struggle between indigenous peoples and "national interests"

Source: compiled from author fieldworks (2023 - 2024)

Table 3 above clearly shows that political policies on recognition (of customary forests) have so far failed to provide a path to social justice. There are no *objective conditions* in the form of full (re)distribution of agrarian resources to indigenous peoples. What has actually happened is a curtailment of sovereignty over recognized customary forests to the extent that it does not conflict with "national interests," aka the interests of corporate- oligarchic networks in controlling natural resources. There are also no *intersubjective conditions* that enable equal participation and democratization of

decision-making. This is because indigenous peoples are dragged into *another political arena* to fight against unequal forces, such as local political elites, corporations, and even the state itself, which wants to protect its national interests. Even the recognition of customary forests can become part of the state territorialization process through non-coercive governance strategies aimed at creating new frontiers (Kurniawan & Rye 2025). It is clear that the political policy of recognition needs to be immediately surpassed. Relying on a political policy of recognition with so many "inherent flaws" will only degrade the political struggle for redistribution and recognition that indigenous peoples have fought for over a long period of time and on bloody terrain. Therefore, this article proposes "*agrarian reform (in) indigenous communities*" as an alternative policy. In this context, recognition without redistribution only legitimizes the oppressive status quo. Therefore, recognition policy must be understood comprehensively as a starting point for agrarian reform and the transfer of full autonomy over indigenous territories. This is not merely a matter of identity recognition, but also about restoring rights, resources, and collective control over the living spaces of indigenous peoples. However, the question is *what kind of agrarian policy reform is needed to resolve agrarian injustice and agrarian colonialism in indigenous communities?*

Agrarian reform in indigenous communities requires interconnectivity between many elements. In terms of objects, it is not enough to limit it to land redistribution; it must be accompanied by recognition of identity with all its diversity of history and knowledge in relation to the land. The definition of land is no longer adequate when simplified as an area. Land in indigenous communities is a network of living spaces—or a historical socio-ecological unity. This requires the (re)distribution of the ecological landscape in which communities have lived for generations (*ancestral domain*). In terms of subjects, communities are heterogeneous and have a long history of social differentiation. The heterogeneity of subjects and the historical experience of agrarian differentiation require different approaches. However, the principles are (1) to ensure that "structural agrarian inequality" is reduced/eliminated to achieve "*internal justice*," (2) to ensure fair "access" to natural resources for all social strata within indigenous communities, (3) to ensure that "productivity" increases from previous levels, (4)

ensuring "*benefit sharing*" and fair distribution, (5) prioritizing "types of recognition" to empower indigenous institutions and territorial institutions as the main basis for full recognition of indigenous territories. Borrowing from Borras Jr & Franco (2008) on democratic agrarian governance, agrarian reform in indigenous communities must fulfill the basic principles of *pro-poor land reform*, namely: (1) ensuring protection for the most marginalized groups in the process of agrarian resource redistribution; (2) ensuring a balance of power relations through the correction of inequalities in land ownership; (3) being sensitive to social class differences and class-based social relations; (4) being aware of the long historical process that has led to dispossession, exploitation, or destruction; (5) being sensitive to gender differences; (6) being sensitive to ethnic differences; (7) aiming to increase productivity and improve people's livelihoods; (8) being able to guarantee rights for the community.

Meanwhile, according to Shohibuddin (2018), agrarian reform in indigenous communities must *guarantee access*, namely the (re)distribution of agrarian resources as inclusively as possible without leaving behind the weakest groups in indigenous communities. This guarantee of access is based on principles adopted from *pro-poor land reform* as described by Borras Jr & Franco (2010). In addition, agrarian reform must realize the protection of rights, namely efforts to secure access to agrarian resources so that they are not taken away by exclusionary forces. The legality of these rights is not limited to individual rights, but also includes communal rights. In the context of indigenous communities that have been incorporated into the land and commodity markets, it is important to consider schemes for the legalization of communal rights, and even the legalization of shared resources (*the commons*) based on ecological landscape unity. Not only that, agrarian reform needs to protect the production systems of every indigenous household so that they can continue to operate and remain resilient; it is also necessary to promote ecosystem protection in order to restore environmental damage and maintain sustainability. The dimension of productivity must always be aligned with ecosystem protection.

By combining the various ideas about agrarian reform above, which carry the principles of democratization and tenure sustainability, this article proposes five

principles of agrarian reform for indigenous peoples. *First*, ensuring fair access for all social strata of indigenous peoples to agrarian resources and other natural resources that have been legally recognized. This is especially important for vulnerable, marginalized, and poorest social groups in indigenous communities (women, the poor, children, and youth). To that end, it is important to first recognize the unique social structures that exist in indigenous communities, including recognizing women's management of land in the customary tenure system. It is also necessary to reexamine whether recognition has only served to perpetuate the control of the indigenous elite. *Second*, ensure increased productivity (indigenous version) of legally recognized agricultural and natural resources. It is important to map the characteristics of existing and potential livelihood systems and economic resources, along with any changes that have occurred (before and after recognition). It is also important to examine whether recognition has the potential to cause further damage, neglect, or commercialization, etc.

Third, ensuring equitable and fair distribution of benefits across all social strata of customary law communities derived from legally recognized agricultural resources and natural resources jointly managed by indigenous peoples. It is important to map out socio-economic and political institutions to ensure that this distribution mechanism occurs, for example, cooperatives or other profit-sharing systems. Without this mechanism, all profits may flow only to certain elite groups. *Fourth*, ensure the reinforcement of ethnic and customary identities that are threatened with extinction. This is because the destruction of land, water, and forests in indigenous communities not only has economic and political impacts, but also threatens the erosion of their ethnic, cultural, religious, and civilizational identities. Therefore, it is important to ensure that customary mechanisms and institutions are strengthened and given the opportunity to rebuild indigenous identities, especially those related to their relationship with the land, water, and nature. Customary forests are only one aspect of the complexity of an indigenous community's identity. More than that, it is important to incorporate customary-based conservation systems to strengthen the agenda of ecological crisis recovery and protect living spaces from excessive exploitation. *Fifth*, ensure full recognition of indigenous peoples: namely, their territories, institutions, and existence (system of cultural values, beliefs, and

knowledge). This is because recognition of customary forests does not automatically recognize the knowledge systems and identity of indigenous peoples, with the result that the forests are recognized but the knowledge needed to manage them properly still uses the state system. Or their symbols of identity are promoted but their basic rights are ignored. Thus, it is important to ensure that this formal legal-political dimension is fulfilled.

In other words, agrarian reform in indigenous communities is not only about redistributing land to small farmers, but also about recognizing and reaffirming customary territories as part of the national spatial planning. Agrarian reform for indigenous communities must recognize the complexity and diversity of their localities, both in terms of ecology, tenure systems, and local culture. Each indigenous community has a unique historical and ecological relationship with their land and living space. Their land management systems are not always in line with the state's universal and formalistic approach. Therefore, agrarian reform in the context of indigenous communities must be *flexible and contextual*, recognizing the diversity of history, social structures, and customary norms that have been organically developed. Agrarian reform for indigenous peoples is not carried out solely for the benefit of certain communities, but as part of a spirit of interconnectivity and collective responsibility for the earth and life. This is reflected in the way indigenous peoples treat the land as a life-giving "mother earth," not as a commodity. This perspective is important in building a more equitable and sustainable spatial governance system.

Conclusion

The root of the problem in indigenous communities is a long history of agrarian colonialism, which involves the seizure of land and the displacement of people. This practice was formalized by the Dutch colonial Agrarische Wet of 1870 and was massively expanded during the New Order era through centralized laws governing forestry, mining, and plantations. This system dismantled traditional land rights, shifted control away from communities, and created deep structural inequality by seizing communal territories.

In response, indigenous peoples' movements emerged to fight for both redistribution (reclaiming their land) and recognition (affirming their identity). A major political victory was achieved with Constitutional Court Decision 35, which legally separated customary forests from state forests. This landmark ruling has since fueled the movement's efforts to gain official recognition for customary territories at regional levels. However, learning from the case in Kasepuhan Karang (which was then compared with other indigenous peoples' cases), this article finds that the recognition of indigenous forests is half-hearted, partial, and fragmentary. The state unilaterally only recognized some of the proposed indigenous forests, while ignoring the agrarian dynamics in the Kasepuhan Karang community, which experienced class differentiation due to the concentration of land ownership. The recognition of customary forests did not include the cultivated land that had been the arena of contention between the Kasepuhan Karang community and the Gunung Halimun Salak National Park for decades. As a result, the recognition of customary forests did not change the status quo.

As argued in this article, this half-hearted recognition stems from the "inherent flaws" of the political recognition policy. There are three problems with the political recognition policy, namely (1) proceduralism and sectoralism of the policy, (2) conditional recognition, (3) the dominance of the character of agrarian colonialism policy. These three problems hinder the availability and intersubjective *conditions* for realizing equality in participation for social transformation (*parity of participation*) and social justice. Therefore, the political policy of recognition (of customary forests) has so far not provided a way to realize social justice. There are no *objective conditions* in the form of the full (re)distribution of agrarian resources to indigenous peoples. What has actually happened is a curtailment of sovereignty over customary forests that are recognized only insofar as they do not conflict with "national interests," aka the interests of corporate-oligarchic networks in controlling natural resources. There are also no *intersubjective conditions* that enable equal participation and democratization of decision-making. This is because indigenous peoples are dragged into *another political arena* to fight against unequal forces, such as local political elites, corporations, and even the state itself, which wants to protect its national interests.

Therefore, this article proposes agrarian reform for indigenous peoples. Agrarian reform for indigenous peoples must fulfill the principles of democratization of redistribution and tenure sustainability. The aspect of redistribution (agrarian resources and political authority) cannot be separated from recognition (identity and culture). The aspect of productivity cannot be separated from the aspect of environmental sustainability. The author argues that agrarian reform for indigenous peoples must recognize the complexity and diversity of their localities, both in terms of ecology, tenure systems, and local culture, so that its implementation is inevitably *flexible and contextual*.

Ultimately, the author realizes that this article is an alternative proposal to accommodate the struggle for recognition and redistribution through agrarian reform in indigenous communities, which requires a long struggle. In closing, the author recommends that agrarian reform, *first*, ensure a solid and "validated" basis of customary values" in at least three areas: (a) The dimension of "conservation" (customary); (2) The spirit of holistic collectivity; (3) Empirical practices of customary systems. *Second*, agrarian reform requires conceptual strengthening and criticism/correction of agrarian and forestry policies that enable a "new" type of Custom-based Agrarian Reform. *Third*, for indigenous community activists, critical reflection on indigenous movements and agrarian reform is needed in an effort to transcend their limitations by envisioning the idealization of "social-ecological justice."

Fourth, agrarian reform requires a strong legal policy breakthrough for legal "recognition" that is capable of resolving the issue of "structural agrarian inequality" and is sensitive to the diversity of social stratification (social stratification) of social classes and the diversity of the "character" (socio-cultural and ecological) of indigenous peoples in Indonesia. *Fifth*, as a struggle agenda, agrarian reform requires the visibility of empirical cases that can serve as "role models" or examples for the priorities of the customary-based Agrarian Reform movement. With these five recommendations, it is hoped that agrarian reform in indigenous communities can be carried out not solely for the benefit of certain communities, but as part of a spirit of interconnectivity and collective responsibility for the earth and life.

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