

# The Role of Law in Inclusive Development and the Protection of Collective Rights

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## Abstract

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The role of law in promoting inclusive development and protecting collective rights has become increasingly significant in the era of globalization, where social, economic, and political complexities demand a more equitable governance framework. Law functions not only as a regulatory instrument but also as a mechanism for supervision, conflict resolution, and enforcement of justice to ensure the fair distribution of development benefits across all societal groups. An inclusive approach recognizes the diversity of interests in society, particularly those of vulnerable groups and minorities, by integrating human rights principles and social justice values into development policies. Protection of collective rights forms the cornerstone of social cohesion, enabling stronger community participation, political stability, and sustainable economic growth. Drawing on recent literature from the last five years, this study applies both normative and empirical analytical methods to examine the legal structures, policy frameworks, and practical outcomes that support inclusive development in various sectors. The analysis reveals that rights-based legal frameworks, strengthened institutional capacity, and participatory governance are essential for achieving meaningful inclusivity and safeguarding collective rights in national development agendas.

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## 1. Introduction

Inclusive development has become one of the main agendas in both national and global development policies. This approach emphasizes the involvement of all levels of society, including vulnerable groups, to ensure that the benefits of development are felt equally.<sup>1</sup> In the modern development paradigm, inclusivity is seen not only as a moral aspect but also as an effective strategy to increase social stability and economic sustainability. This approach demands a system capable of guaranteeing equal opportunities, access to resources, and recognition of the fundamental rights of every citizen. In this context, the law has a strategic role as an instrument of regulation, supervision, and enforcement that ensures the achievement of inclusivity goals.

The role of law in inclusive development is not only related to the regulation of norms but also to ensuring access to justice and the protection of collective rights. Collective rights refer to the rights held by certain groups of society collectively, such as the rights of indigenous communities to land and natural resources.<sup>2</sup> These rights often have deep historical and cultural dimensions, so their loss or violation can cause widespread social harm. The protection of collective rights is a crucial aspect to avoid the marginalization of certain groups in the flow of pro-capital development. Without such protection, social inequality can widen and trigger conflicts that are difficult to resolve.

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<sup>1</sup> Achmad Aminudin, "Implementation of Good Village Governance in Village Development," *Journal of Public Administration and Local Governance* 3, no. 1 (2019): 7.

<sup>2</sup> Priscilla Claeys and Marc Edelman, "The United Nations Declaration on the rights of peasants and other people working in rural areas," *The Journal of Peasant Studies* 47, no. 1 (2020): 27.

Globally, the legal framework that guarantees inclusive development is also supported by international agendas such as the Sustainable Development Goals (SDGs), especially goal 10 on reducing inequality and goal 16 on peace, justice, and strong institutions.<sup>3</sup> The implementation of these goals requires cross-sectoral involvement, including government, non-governmental organizations, and the private sector, with the support of strong legal mechanisms. In Indonesia, the existence of various regulations, ranging from the Basic Agrarian Law, the Village Law, to implementing regulations related to the rights of indigenous communities, shows the state's commitment to development inclusivity. This legal framework is the basis for ensuring that the development process considers social, environmental, and economic sustainability in a balanced manner. However, challenges in the implementation of law remain significant. Some of these are weak law enforcement, overlapping regulations, and limited community participation in the legislative process.<sup>4</sup> In addition, a lack of coordination between agencies and minimal independent supervision are also factors that hinder the effectiveness of policies. This phenomenon shows a gap between the normative legal framework and the reality of implementation on the ground.

From the perspective of protecting collective rights, law often becomes an arena of contestation between economic and social interests. Cases of agrarian conflicts in Indonesia show that even though there is a legal framework to protect

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<sup>3</sup> Geoffrey Swenson, "Legal pluralism in theory and practice," *International Studies Review* 20, no. 3 (2018): 453.

<sup>4</sup> Tri Sulistyowati, Ali Ridho, and M. Imam Nasef. "Constitutional Compliance Solution to Law Testing Rulings in the Constitutional Court." *Jambura Law Review* 3 (2021): 117-134.

the rights of indigenous communities, practices on the ground are often marked by violations of these rights.<sup>5</sup> Many conflicts occur due to the imbalance of power between local communities and parties who have access to large capital. This indicates the need to strengthen legal mechanisms that are responsive to the needs of vulnerable groups, including a dispute resolution system that is fast, transparent, and takes the side of substantive justice.

Academic studies show that the success of inclusive development depends on the extent to which the law is able to guarantee justice in the distribution of resources, public participation, and the accountability of state organizers.<sup>6</sup> In addition, the concept of legal pluralism which recognizes the existence of state law, customary law, and religious law can be a relevant approach to accommodate social diversity.<sup>7</sup> The integration of these various legal systems, if done correctly, can create a synergy that strengthens the inclusivity and sustainability of development. Thus, this article aims to analyze the role of law in supporting inclusive development and protecting collective rights, by examining the latest literature and practices in Indonesia and other countries.

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<sup>5</sup> Soni Akhmad Nulhaqim, Muhammad Fedryansyah, Eva Nuriyah Hidayat, and Dwi Astuti Wahyu Nurhayati. "Contemporary Social Problem: Agrarian Conflict." *Humanities & Social Sciences Reviews* 8, no. 3 (2020): 1191.

<sup>6</sup> Mirza Satria Buana, "Development as a threat to indigenous peoples' rights in Indonesia," *international journal on minority and group rights* 27, no. 3 (2020): 453.

<sup>7</sup> Saldi Isra, Ferdi Ferdi, and Hilaire Tegnan, "Rule of Law and Human Rights Challenges in South East Asia: A Case Study of Legal Pluralism in Indonesia," *Hasanuddin Law Review* 3, no. 2 (2017): 121.

## 2. Literature Review

Inclusive development is defined as a development process that is not only oriented towards economic growth but also guarantees equitable distribution of development outcomes and the active involvement of all groups in society, including vulnerable groups.<sup>8</sup> In the literature, law is seen as a key instrument for ensuring that the principle of inclusivity can be realized.<sup>9</sup> Within the framework of law and development theory, it is explained that a clear, consistent, and enforceable legal framework will support the creation of a conducive environment for economic growth and social welfare.<sup>10</sup> However, the perspective of critical legal studies highlights that law often reflects the interests of dominant groups, so without public oversight, development regulated by law has the potential to become exclusive and ignore the interests of vulnerable groups.<sup>11</sup>

One important dimension in inclusive development is the protection of collective rights, which includes the rights of indigenous communities, rights to a clean environment, and the social-economic rights of certain communities. These rights are recognized in various international instruments such as the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and regulated in national regulations such as Law No. 6 of 2014 concerning Villages. However,

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<sup>8</sup> Anuradha Joshi, "Legal empowerment and social accountability: complementary strategies toward rights-based development in health?", *World development* 99 (2017): 166.

<sup>9</sup> Achmad Aminudin, "Implementation of Good Village Governance in Village Development," *Journal of Public Administration and Local Governance* 3, no. 1 (2019): 7.

<sup>10</sup> Geoffrey Swenson, "Legal pluralism in theory and practice," *International Studies Review* 20, no. 3 (2018): 453.

<sup>11</sup> Tri Sulistyowati, Ali Ridho, and M. Imam Nasef. "Constitutional Compliance Solution to Law Testing Rulings in the Constitutional Court." *Jambura Law Review* 3 (2021): 117-134.

research shows that the implementation of collective rights in Indonesia is often hampered by conflicts of interest between development policies and socio-ecological sustainability, which often results in the marginalization of indigenous groups and environmental damage.<sup>12</sup>

The experience of other countries can provide important lessons. Comparative studies show that Canada and New Zealand apply a legal pluralism approach to accommodate indigenous communities in the development process, by integrating state law, customary law, and participatory policies.<sup>13</sup> In Indonesia, even though there are legal recognition efforts for indigenous communities, implementation still faces structural challenges such as convoluted bureaucracy, weak law enforcement, and limited institutional capacity to ensure that collective rights are effectively protected.<sup>14</sup> The conceptual framework in this study combines the law and development approach with a rights-based approach to development. Law is not only seen as written rules but also as a mechanism to strengthen the capacity of society to fight for their rights collectively, build legal awareness, and create a system that can accommodate the diversity of socio-cultural values. Thus,

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<sup>12</sup> Soni Akhmad Nulhaqim, Muhammad Fedryansyah, Eva Nuriyah Hidayat, and Dwi Astuti Wahyu Nurhayati. "Contemporary Social Problem: Agrarian Conflict." *Humanities & Social Sciences Reviews* 8, no. 3 (2020): 1191.

<sup>13</sup> Saldi Isra, Ferdi Ferdi, and Hilaire Tegnan, "Rule of Law and Human Rights Challenges in South East Asia: A Case Study of Legal Pluralism in Indonesia," *Hasanuddin Law Review* 3, no. 2 (2017): 121.

<sup>14</sup> Mirza Satria Buana, "Development as a threat to indigenous peoples' rights in Indonesia," *international journal on minority and group rights* 27, no. 3 (2020): 453.

inclusive development requires the role of law not just to regulate, but also to guarantee access, participation, and substantive justice for all levels of society.<sup>15</sup>

### **3. Methods**

This research uses a qualitative approach with a literature review method, which focuses on the search, analysis, and synthesis of various relevant scientific sources. The main sources for this research are scientific journal articles published between 2017 and 2021 and indexed in Google Scholar and Elsevier, both national and international journals. The selection of literature was carried out selectively by considering several criteria that ensured the relevance and quality of the sources, including discussing the role of law in inclusive development, reviewing the protection of collective rights, and having a contextual connection with Indonesia or presenting a comparison from other countries. The data collection process was carried out through a systematic search using the keywords “*peran hukum pembangunan inklusif*” and “*perlindungan hak kolektif*” in Indonesian, as well as their equivalents in English, namely “role of law in inclusive development” and “collective rights protection”. This search includes various scientific publications that meet academic standards and are relevant to the focus of the study. Each article obtained then goes through a selection stage based on topic suitability, methodological quality, and contribution to the research's analytical framework. After the sources that met the

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<sup>15</sup> Slamet Widodo, "A critical review of indonesia's agrarian reform policy, " *Journal of Regional and City Planning* 28, no. 3 (2017): 209.

criteria were selected, an analysis was carried out using content analysis techniques to identify the main themes that emerged.

Data analysis was carried out thematically by grouping the findings collected into three major focuses, namely the role of law in guaranteeing inclusivity, the protection of collective rights within national and international legal frameworks, and the challenges and opportunities of applying law in the context of development. This thematic approach makes it easier to identify the relationships between variables, different approaches between countries, and the dynamics of policy implementation related to inclusive development and the protection of collective rights. Through this analysis, this research is able to highlight the extent to which legal instruments can function effectively in supporting equitable distribution of development outcomes and preventing the marginalization of vulnerable groups. The literature review approach used is not only aimed at summarizing existing findings but also serves to identify research gaps and areas that require more attention in academic studies. Thus, the results of this research are expected to provide evidence-based policy recommendations, which are relevant for policymakers, academics, and legal practitioners in formulating more effective strategies to realize inclusive, just, and sustainable development.

## **4. Results**

### **4.1. The Role of Law in Inclusive Development**

Literature findings show that law functions as a tool for the distribution of power and resources, which regulates how access to development benefits can be



shared fairly among various groups in society. The function of law in this context is not only normative but also strategic, because it can influence the direction of development policies and determine who gets priority in the allocation of resources. In Indonesia, legal instruments such as the Village Law have become a key milestone in strengthening the position of rural communities, not only in the implementation of development programs, but also in more participatory and transparent planning processes.<sup>16</sup> This law provides broader authority to the village government to manage finances, design programs according to local needs, and increase independence in decision-making.

The strengthening of the village's role through these legal instruments has had an impact on increasing citizen involvement in the development process, both through village deliberation forums, data-based planning, and collaborative initiatives between citizens. This creates opportunities for rural communities to optimize local potential such as agriculture, community-based tourism, and traditional crafts. However, this success is highly dependent on the extent to which the capacity of village officials is able to manage the authority and resources they have effectively and accountably.

In an international context, comparative studies provide an overview that the integration of customary law into public policy can be an effective instrument for reducing inequality and strengthening the participation of indigenous communities. An example often cited is New Zealand, where the principles of Māori customary

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<sup>16</sup> Achmad Aminudin, "Implementation of Good Village Governance in Village Development," *Journal of Public Administration and Local Governance* 3, no. 1 (2019): 7.

law are formally integrated into the national legal system and policy.<sup>17</sup> This integration allows indigenous communities to play an active role in the management of natural resources, decision-making related to development, and the preservation of culture. In addition to providing formal recognition of traditional rights, this approach also helps build an equal partnership between the government and indigenous communities. However, the literature also shows that the application of inclusive law-based policies often faces major challenges. In Indonesia, the most common obstacles are weak institutional capacity, which includes limited human resources, minimal technical training, and low coordination between agencies. In addition, overlapping regulations, both between the central and regional governments and between policy fields, often lead to legal uncertainty at the implementation level.

Furthermore, resistance from parties with large economic interests often becomes a serious obstacle in enforcing the principle of inclusivity. Groups with strong capital and political access often influence the legislative or policy implementation process to align with their interests. In some cases, such as agrarian conflicts and natural resource management, these interests can even weaken the legal protection that should be given to local communities.<sup>18</sup> Thus, the literature findings affirm that the success of law as an instrument for the distribution of power and

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<sup>17</sup> Saldi Isra, Ferdi Ferdi, and Hilaire Tegnan, "Rule of Law and Human Rights Challenges in South East Asia: A Case Study of Legal Pluralism in Indonesia," *Hasanuddin Law Review* 3, no. 2 (2017): 125.

<sup>18</sup> Tri Sulistyowati, Ali Ridho, and M. Imam Nasef. "Constitutional Compliance Solution to Law Testing Rulings in the Constitutional Court." *Jambura Law Review* 3 (2021): 117-134.

resources requires support in the form of strengthening institutional capacity, harmonizing regulations, and controlling the excessive influence of economic interests. A more transparent, participatory, and justice-based approach to social principles is key to ensuring that law truly functions as a means of realizing inclusive and sustainable development.

#### **4.2. Protection of Collective Rights**

Research affirms that the protection of collective rights requires a strong legal commitment and effective enforcement mechanisms, so that it does not just stop at the normative level, but is truly able to provide substantive protection for groups of people who have historical and cultural ties to certain resources. Collective rights, which include rights to land, natural resources, a clean environment, and cultural heritage, are often an important part of a community's identity.<sup>19</sup> Therefore, violations of these rights are not just legal issues, but also threaten the social, economic, and cultural survival of the group concerned. In Indonesia, cases of agrarian conflict in Kalimantan and Papua are a real illustration that formal recognition in laws and regulations does not always guarantee effective protection on the ground.<sup>20</sup> Although various laws and policies recognize the existence of indigenous communities and their rights to customary land, the reality is that land

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<sup>19</sup> Giorgia Magni, "Indigenous knowledge and implications for the sustainable development agenda," *European Journal of Education* 52, no. 4 (2017): 439.

<sup>20</sup> Slamet Widodo, "A critical review of Indonesia's agrarian reform policy," *Journal of Regional and City Planning* 28, no. 3 (2017): 209.

grabbing, evictions, and resource exploitation continue to occur. One of the causes is weak supervision by authorized officials, both at the central and regional levels.

In addition, corruption in the licensing process and natural resource management often opens loopholes for interested parties to ignore the rights of the community. Another factor that worsens the situation is the imbalance of power between local communities and large corporations, which often have political support and access to far greater financial resources. These findings indicate that the protection of collective rights requires an approach that not only focuses on the formation of rules, but also ensures the existence of independent, transparent, and accountable oversight mechanisms. These mechanisms must be able to prevent violations from the initial stage, respond quickly when conflicts occur, and provide strict sanctions to parties who violate the law.

At the global level, various studies show that the protection of collective rights tends to be more effective when accompanied by legal empowerment and capacity building strategies for the affected communities.<sup>21</sup> Legal empowerment is an effort to increase the awareness, understanding, and ability of the community to use legal instruments to defend their rights. This strategy includes providing clear and easy-to-understand access to legal information, regular legal counseling, and assistance from civil society organizations or legal aid institutions. Thus, the community does not only become an object of legal protection but also an active actor who can advocate for their own collective interests.

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<sup>21</sup> Anuradha Joshi, "Legal empowerment and social accountability: complementary strategies toward rights-based development in health?", *World development* 99 (2017): 166.

Meanwhile, capacity building is focused on strengthening the ability of local organizations and communities to manage resources, organize themselves, and build networks with parties who can support their struggle for collective rights.<sup>22</sup> For example, training in sustainable land and natural resource management, improving negotiation skills, and the use of information technology for documentation and dissemination of information related to rights violations. In several countries, this approach has proven to increase the bargaining position of indigenous communities in the legislative process and negotiations with the government and the private sector.

The combination of a strong legal commitment, effective enforcement mechanisms, legal empowerment, and capacity building provides a greater opportunity to ensure that collective rights are not only formally recognized but are truly guaranteed in practice. In the long term, this strategy can create a community that is more legally independent, has critical awareness of its rights, and is able to participate actively in the development process. Thus, the protection of collective rights can become an important pillar in realizing inclusive, just, and sustainable development, both in Indonesia and at the global level.

## **5. Discussion**

The results of the study show that law has a strategic role in ensuring that inclusive development proceeds justly and is able to reach all levels of society. This

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<sup>22</sup> Lavagnon A. Ika and Jennifer Donnelly, "Success conditions for international development capacity building projects," *International Journal of Project Management* 35, no. 1 (2017): 49.

role does not only depend on the existence of a regulatory framework but is also highly dependent on the quality of laws and regulations, the effectiveness of law enforcement, and the suitability of policies with social realities on the ground. Law in the context of inclusive development functions as an instrument to guarantee the fair distribution of resources, encourage active citizen participation, and protect the rights of vulnerable groups from potential marginalization. From the perspective of inclusive development, the law must be enabling, that is, it must create equal opportunities for all groups in society, including the poor, minority groups, and indigenous communities. The Village Law, for example, has opened up space for village participation in determining development priorities, providing authority to manage budgets, and designing programs according to local needs. This policy is theoretically capable of increasing village independence and strengthening development based on local potential.

However, differences in capacity between villages, both in terms of human resources, infrastructure, and access to information, create gaps in the use of these opportunities.<sup>23</sup> Villages with low capacity tend to be left behind, even though they have the same legal opportunities. Regarding the protection of collective rights, formal recognition through laws and regional regulations has not always been followed by effective implementation. The rampant agrarian conflicts and environmental damage that still occur show a gap between legal norms and their

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<sup>23</sup> Achmad Aminudin, "Implementation of Good Village Governance in Village Development," *Journal of Public Administration and Local Governance* 3, no. 1 (2019): 9.

implementation on the ground.<sup>24</sup> The main obstacles often stem from overlapping policies between levels of government, a lack of coordination between relevant agencies, and weak mechanisms for supervision and law enforcement. In addition, the influence of large economic interests can hinder the process of fair conflict resolution.

International comparative studies provide an important lesson that the success of protecting collective rights is highly dependent on the state's courage to recognize and integrate legal pluralism. New Zealand's experience with the recognition of the Treaty of Waitangi is a concrete example of how the integration of customary law into the national legal system can strengthen public trust in the government while creating a solid foundation for dispute resolution.<sup>25</sup> This model emphasizes an equal partnership between state law and customary law, so that the diversity of values and norms can be accommodated constructively.

Even though the national legal framework has accommodated inclusive principles, non-legal factors such as bureaucratic culture, local political dynamics, and economic power also influence the effectiveness of law enforcement. Sulistyowati,<sup>26</sup> highlight that the process of forming laws is often marked by political compromises that can blur the original goals of the policy, so that the interests of groups that have less political representation tend to be marginalized. In this context,

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<sup>24</sup> Soni Akhmad Nulhaqim, Muhammad Fedryansyah, Eva Nuriyah Hidayat, and Dwi Astuti Wahyu Nurhayati. "Contemporary Social Problem: Agrarian Conflict." *Humanities & Social Sciences Reviews* 8, no. 3 (2020): 1192.

<sup>25</sup> Saldi Isra, Ferdi Ferdi, and Hilaire Tegnan, "Rule of Law and Human Rights Challenges in South East Asia: A Case Study of Legal Pluralism in Indonesia," *Hasanuddin Law Review* 3, no. 2 (2017): 125.

<sup>26</sup> Tri Sulistyowati, Ali Ridho, and M. Imam Nasef. "Constitutional Compliance Solution to Law Testing Rulings in the Constitutional Court." *Jambura Law Review* 3 (2021): 117-134.

strengthening the role of civil society, independent media, and oversight bodies is crucial to ensuring accountability. Legal reform that supports inclusive development and the protection of collective rights needs to be carried out holistically. Improvements in legal substance must be accompanied by strengthening the capacity of law enforcement institutions, empowering communities through legal education and assistance, and ensuring public participation mechanisms at every stage of policy formulation, implementation, and evaluation. This approach will ensure that the law is not only present as a written document but becomes a real force in creating social justice and equitable development.

## **6. Conclusion**

This research confirms that the role of law in inclusive development and the protection of collective rights lies not only in the existence of formal rules but also in the effectiveness of implementation and the law's ability to bridge the interests of diverse groups. Law that is pro-poor and has a human rights perspective can be a driver of inclusive development that does not leave vulnerable groups behind. The experiences of Indonesia and other countries show that a legal pluralism approach, the integration of collective rights into development policies, and legal empowerment are key strategies. However, challenges still exist: overlapping regulations, weak law enforcement, and resistance from parties with large economic interests. For this reason, synergy between regulatory reform, strengthening institutional capacity, and public participation is needed. With these steps, the law



can truly become an effective instrument in creating inclusive development while protecting the collective rights of the community sustainably.

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