

# Integration of Indigenous Peoples' Protection with Environmental Sustainability as an Impact of Environmental Change

## Abstract

Climate change is not merely an environmental phenomenon but a profound challenge to the relationship between law and social justice. In Indonesia, Indigenous Peoples, whose cultural survival and livelihoods are tied to forests and ecosystems, face disproportionate risks from rising temperatures, deforestation, and extractive industries. Communities such as the Dayak in Kalimantan, the Baduy in Banten, and the Orang Rimba in Jambi exemplify how environmental degradation intersects with long-standing marginalization and weak legal recognition of customary rights. This paper examines how Indonesia's legal framework mediates the nexus between climate governance and social justice. It focuses on the tension between the Job Creation Law (Law No. 11/2020), which prioritizes investment through centralized licensing and reduced environmental safeguards, and the Draft Law on Indigenous Peoples (RUU MA), which aims to formalize recognition of customary territories, participatory rights, and the principle of Free, Prior and Informed Consent (FPIC). Employing a normative and literature-based analysis, the study draws upon constitutional jurisprudence, international human rights instruments (UNDRIP, ILO Convention No. 169), and climate justice frameworks (UNFCCC, Cancun Safeguards) to evaluate how law can either perpetuate or mitigate social inequality. The findings indicate that regulatory incoherence weakens constitutional guarantees and fractures the social bond linking law, environment, and vulnerable communities. The paper proposes a rights-based model of climate governance that positions Indigenous Peoples as partners in climate solutions, reaffirming law's potential to foster, not fracture, social cohesion and justice.

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## 1 | Introduction

The Paris Agreement's Preamble recognizes the rights of Indigenous Peoples, and scholarship defines climate justice as substantive outcomes plus fair procedures that safeguard vulnerable groups. The human rights dimension of climate justice becomes particularly pronounced when examining indigenous peoples; unique vulnerability to climate impact. Despite contributing less than 5% of global greenhouse gas emissions, indigenous communities face disproportionate climate risks due to their intimate dependence on climate-sensitive ecosystems and traditional territories.<sup>[1]</sup> This vulnerability intersects with historical marginalization and ongoing violations of fundamental rights, including the right to self-determination, cultural integrity, and free, prior, and informed consent (FPIC) as established under the UN Declaration on the Rights of Indigenous Peoples.<sup>[2]</sup>

The procedural dimension of climate justice demands that Indigenous Peoples have meaningful participation in climate policy design and implementation, moving beyond tokenistic consultation toward genuine partnership and decision-making authority over their territories. This procedural justice is operationalized through recognition of Indigenous governance systems, traditional knowledge integration, and benefit-sharing arrangements that respect Indigenous sovereignty. Contemporary climate finance mechanisms, particularly those targeting forest conservation and renewable energy development, must therefore incorporate robust safeguards

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<sup>1</sup> K. Anderson, "Indigenous Communities and Climate Change" *Greenly*, 1 September 2023. <https://greenly.earth/en-us/blog/ecology-news/indigenous-communities-and-climate-change>. [accessed: 1.8.2025].

<sup>2</sup> Cultural Survival, "New Guide Supports Indigenous Leaders to Develop FPIC Protocols and Secure Self-Determined Priorities of Communities" 9 October 2023. <https://www.culturalsurvival.org/news/new-guide-supports-indigenous-leaders-develop-fpic-protocols-and-secure-self-determined>. [accessed: 13.8.2025].

that prevent further marginalization while ensuring equitable distribution of climate benefits and burdens.<sup>[3]</sup>

The adaptation-mitigation distinction proves critical for understanding how climate interventions differently impact Indigenous communities. Adaptation measures, such as ecosystem-based approaches, traditional knowledge preservation, and climate-resilient infrastructure, tend to align more closely with Indigenous priorities for territorial protection and cultural continuity. Conversely, mitigation strategies, particularly market-based mechanisms like carbon offsetting and REDD+, often involve external actors and commodification processes that may conflict with Indigenous worldviews and land tenure systems.<sup>[4]</sup> This analytical framework thus enables assessment of how different climate pathways either reinforce or challenge existing power asymmetries affecting Indigenous Peoples.<sup>[5]</sup>

Climate change is now not merely an environmental issue but also a matter of climate justice and human rights<sup>[6]</sup>. Climate impacts such as temperature increases, extreme weather events, and erosion of natural resources disproportionately affect indigenous peoples, whose dependence on traditional living spaces makes them highly vulnerable. Indonesia recorded an annual temperature anomaly of 1.68°C above pre-industrial levels in 2024, exceeding the threshold regulated in Law No. 16 of 2016 as the framework for ratifying the Paris Agreement.<sup>[7]</sup>

The catastrophic consequences of climate change compounded by environmental mismanagement were tragically demonstrated in the flash floods and landslides that struck Aceh, North Sumatra, and West Sumatra in late November 2025. The disaster claimed over 753 lives, left 650 people missing, and affected more than 3.3 million people across 50 regencies.<sup>[8]</sup>

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<sup>3</sup> Smita Nakhooda, Charlene Watson, Liane Schalatek, "The Effectiveness of Climate Finance: A Review of the Green Climate Fund's Approach" *Climate Policy*, No. 4 (2021): 492-508.

<sup>4</sup> Esteve Corbera, Martha Estrada, Katrina Brown, "Rights to Land, Forests and Carbon in REDD+: Insights from Mexico, Brazil and Costa Rica" *Forests*, No. 2 (2011): 301-342.

<sup>5</sup> Jennifer C. Franco, Saturnino M. Borras Jr., Alberto Alonso-Fradejas, Jing Ye, *The Global Land Grab: A Primer*, Transnational Institute Briefing Series (2013): 1-14.

<sup>6</sup> Natalia Tkacz, "To What Extent Do Human Rights Provide an Appropriate Approach to Achieving Environmental Protection?" *Prawo i Więź*, No. 1 (2022): 103-115.

<sup>7</sup> Kimberly M. Suisseeya, "Contesting Justice in Global Forest Governance: The Promises and Pitfalls of REDD+" *Conservation and Society*, No. 2 (2014): 189-199.

<sup>8</sup> "Update BNPB: 753 Meninggal Dunia akibat Banjir-Longsor di Sumatera Kompas.com, 3 December 2025.

According to environmental experts from Universitas Gadjah Mada, the severity of the disaster was not solely attributable to extreme rainfall, but reflected decades of forest degradation in upper watersheds, with approximately 1.4 million hectares of forest lost between 2016 and 2024 in the affected provinces.<sup>[9]</sup> The discovery of illegally logged timber swept by floodwaters, combined with findings from the Ministry of Forestry identifying five locations where logging operations violated regulations, provided concrete evidence that weak environmental governance and prioritization of extractive industries over ecological sustainability directly contributed to the scale of human casualties.<sup>[10]</sup> This disaster exemplifies how the intersection of climate change impacts and systematic environmental destruction disproportionately affects Indigenous and local communities who depend on forest ecosystems for their survival, yet have minimal voice in the development policies that determine their fate.

In Indonesia, the legal framework has yet to fully realize these principles. Law No. 41/1999 on Forestry opened space for the recognition of customary forests, but the subsequent Job Creation Law (Law No. 11/2020) weakened these protections by centralizing permits, simplifying Environmental Impact Assessment (AMDAL) procedures, and restricting avenues for public participation. Although the Constitutional Court has affirmed that customary forests are no longer part of state forests (Decision No. 35/PUU-X/2012), the Job Creation Law threatens to undermine this recognition by prioritizing investment interests over Indigenous rights. Meanwhile, the long-promised Draft Law on Indigenous Peoples (RUU MA) intended as a national umbrella for collective Indigenous rights remains stalled, creating regulatory fragmentation across forestry, agrarian, and environmental sectors.<sup>[11]</sup> Indigenous communities in Indonesia are highly vulnerable to climate change impacts because they depend on traditional living spaces and face structural marginalization regarding recognition of rights to land and natural resources. Environmental changes due to climate, deforestation, and expansion of national industries such as plantations and mining add pressure to indigenous communities who often lose access to ancestral lands and their sources of livelihood.

<sup>9</sup> Universitas Gadjah Mada, “UGM Expert: Severe Sumatra Flash Floods Driven by Upper Watershed Forest Degradation” *UGM News*, 2 December 2025.

<sup>10</sup> Dwi Januanto Nugroho, “Temuan Terkini soal Pembalakan Liar di Hutan Sumatra Penyebab Banjir” *CNN Indonesia*, 8 December 2025.

<sup>11</sup> Arief Wicaksono, “Average Air Temperature Anomaly for 2024” *Meteorology, Climatology, and Geophysics Agency*, 3 January 2025.

Concrete cases illustrate the consequences of these legal tensions. The struggle that faced by communities in Kalimantan, Jambi, and Banten, where deforestation, mining expansion, and climate-induced ecological stress undermine Indigenous livelihoods.<sup>[12]</sup> In the context of national law, the Job Creation Law is aimed at accelerating economic development on one side. However, critics mention that several provisions in this law potentially reduce protection of indigenous peoples' rights through relaxation of AMDAL procedures and permit simplification that weakens public participation in environmental decision-making.

Meanwhile, the Draft Law on Indigenous Peoples (RUU MA), promised as a national legal umbrella for recognition of indigenous peoples' collective rights, has not yet been enacted. Regulatory fragmentation, particularly in forestry, agrarian, and environmental law, causes unresolved regulatory conflicts and worsens the vulnerability of indigenous peoples in facing climate change impacts.<sup>[13]</sup> With the weakening of environmental protection and recognition of indigenous peoples by the Job Creation Law, and the delay in enacting the RUU MA, indigenous communities are increasingly marginalized. This violates the principles of climate justice, which affirm that vulnerable groups must obtain recognition, protection, and participation in climate policy-making.

The research gap in this study lies in the absence of a systematic legal analysis that connects Indonesia's recent regulatory reforms particularly the Job Creation Law (Law No. 11/2020) with the principles of climate justice and the protection of Indigenous rights. Previous scholarship has generally focused on issues such as Indigenous vulnerability to deforestation, land tenure conflicts, or the socio-economic impacts of climate change. However, few studies have explored how contemporary regulatory reforms generate legal tensions with constitutional guarantees and international obligations. This paper seeks to address that gap by critically examining the synchronization and contradictions between the Job Creation Law and the long-delayed Draft Law on Indigenous Peoples (RUU Masyarakat Adat/MA), and by evaluating their implications for Indigenous rights within the broader climate justice framework. Methodologically, this research employs a literature review, emphasizing doctrinal interpretation

<sup>12</sup> Human Rights Watch, "Indonesia: Job Creation Law Harms Workers and Indigenous Communities" 14 October 2020. <https://www.hrw.org>.

<sup>13</sup> "Papuan Tribe, Palm Oil Firms Battle for Land Rights in Indonesian Top Court" Reuters, 20 June 2024.

and normative legal evaluation. This approach is particularly appropriate because the primary concern of the study is the legal recognition and protection of Indigenous rights in the context of climate governance. Unlike empirical or quantitative research, which might prioritize statistical relationships or survey data, the normative juridical method focuses on analyzing legal norms, identifying inconsistencies, and evaluating coherence with broader human rights principles.

The analysis draws upon a combination of primary legal sources and secondary references. Primary sources include statutory laws such as Law No. 41/1999 on Forestry, Law No. 11/2020 on Job Creation, and Law No. 16/2016 ratifying the Paris Agreement. It also examines key Constitutional Court decisions, including Decision No. 35/PUU-X/2012 on customary forests and Decision No. 91/PUU-XVIII/2020 on procedural defects in the Job Creation Law, as well as the draft legislation on Indigenous Peoples (RUU MA). International instruments, particularly UNDRIP, ILO Convention No. 169, and the UNFCCC Cancun Safeguards, provide normative benchmarks for assessing the adequacy of Indonesia's domestic framework. Secondary sources include academic journal papers on climate justice and Indigenous rights, policy documents such as BMKG climate data and Bappenas adaptation frameworks, and global frameworks such as the REDD+ safeguards.

The analytical framework of this research unfolds through four inter-related stages. It begins with a doctrinal interpretation that examines how Indonesian law recognizes, regulates, or overlooks the rights of Indigenous Peoples in the context of climate change. This is followed by a comparative evaluation, which assesses Indonesia's legal framework against international standards of climate justice and human rights, particularly the principle of Free, Prior and Informed Consent (FPIC) and the protective mechanisms under the UNFCCC. The third stage involves case-based illustrations to demonstrate how regulatory tensions are experienced in practice. Finally, the analysis turns to synthesis, identifying gaps, inconsistencies, and opportunities for harmonization between the Job Creation Law, the Indigenous Peoples Bill, and Indonesia's climate governance instruments such as the National Action Plan for Climate Change Adaptation (RAN-API) and the Enhanced NDC, while also examining Indigenous Peoples' protection models in Europe. This methodological design ensures transparency and analytical rigor while situating Indonesia's regulatory framework within constitutional jurisprudence and international principles of climate justice.

## 2 | Vulnerability of Indigenous Peoples' Rights in the Climate Justice Framework

Climate change has intensified vulnerabilities among Indigenous Peoples in Indonesia, both environmentally and legally. Data from the Meteorological, Climatological, and Geophysical Agency (BMKG) confirms a consistent warming trend, with temperature anomalies of 0.49°C in June 2024 and 0.4°C in September 2023, the highest since 1981. While these numbers highlight the physical dimension of climate change, their impact is disproportionately borne by communities whose livelihoods depend on forests and ecosystems.<sup>[14]</sup> Based on these two facts, air temperature in Indonesia can be said to have experienced a quite significant increase.

This significant temperature increase also impacts the lives of living beings, especially those whose sources of life depend on nature, one of which is forest communities. Forest communities are people who live in forests and conduct their lives alongside forests, depending their lives on natural resources contained in forests.<sup>[15]</sup> Climate change impacts the agricultural sector which is also related to economic growth and productivity of each country.<sup>[16]</sup> Based on several studies that have been conducted, the occurrence of climate change results in increased earth temperature that affects rainfall intensity and evaporation in various countries.<sup>[17]</sup> The consequences of climate change cause losses for forest communities who work as farmers, because changes in temperature and unpredictable rainfall have great potential to cause crop failures that result in losses for farmers. The losses experienced by farmers will also impact Indonesia's economic growth because the agricultural sector is one of the contributing sectors to the national economy in Indonesia.

Based on that fact, for indigenous people vulnerability arises from a triple dimension:

<sup>14</sup> Society of Indonesian Environmental Journalists (SIEJ), 2024.

<sup>15</sup> Wicaksono, "Average Air Temperature Anomaly for 2024."

<sup>16</sup> Forestry Study Club UGM, *Social Forestry for the Welfare of Forest Village Communities*, Forestry Study Club FKT UGM. <https://foresclub.fkt.ugm.ac.id>. [accessed: 6.8.2025].

<sup>17</sup> Khalid Abbass, Muhammad Z. Qasim, Haiyun Song, Md Murshed, Hassan Mahmood, Imran Younis, "A Review of the Global Climate Change Impacts, Adaptation, and Sustainable Mitigation Measures" *Environmental Science and Pollution Research*, 29 (2022): 42539-42559.

- a. physical vulnerability, given exposure to climate-induced disasters;
- b. legal vulnerability, due to weak recognition of customary land rights;
- c. socio-economic vulnerability, as dependence on natural resources means that any ecological disruption directly affects food security and cultural survival.

These vulnerabilities reveal not only environmental risks but also the systemic marginalization of Indigenous Peoples in Indonesia's climate governance. Besides that, several studies state that indigenous peoples in Indonesia still face legal uncertainty in recognition of customary territories, making them vulnerable to green grabbing, Reducing Emission from Deforestation and Forest Degradation (REDD+), and carbon trading schemes that do not consider the principles of FPIC (Free, Prior and Informed Consent). There is previous research that states that carbon policy implementation does not accommodate rights to land sovereignty in Papua, which potentially damages the identity and livelihoods of communities.<sup>[18]</sup> Additionally, there is previous research that highlights how carbon investment in indigenous forests can cause human rights violations because it does not involve them in decision-making.<sup>[19]</sup>

## 3 | Case Studies from Areas Most Affected by Climate Change

### 3.1. Dayak Shifting Cultivator Communities, West Kalimantan

West Kalimantan is one of the provinces located on Kalimantan Island. The total forest area in West Kalimantan reaches 8.2 million hectares or about 57.14% of the total area of West Kalimantan.<sup>[20]</sup> The tribe that inhabits

<sup>18</sup> Tunjung Sekar Sulisty, Yuliana J. Utama, Ani Putrijanti, "Legal Policy of Carbon Trading and Threats to Indigenous Peoples" *Journal of Posthumanism*, No. 6 (2025): 203-218.

<sup>19</sup> La Ode Herlina Yusran Rangkuti, Dedy A. Batubara, Fakhry M. Syam, "Indigenous Forests and Carbon Trading: Assessing the Potential for Human Rights Violations" *Indonesian Law Journal*, No. 2 (2024): 6.

<sup>20</sup> Narasipos, "FOLU Net Sink 2030 West Kalimantan, KLHK Emphasizes Important Role of Indonesian Forests" 1 August 2022.

Kalimantan Island is known as the Dayak tribe. The Dayak tribe inhabiting West Kalimantan in Melayang Hamlet, Sahan Village, Bengkayang Regency is one of the village communities whose livelihood is largely as shifting cultivators and whose life depends on forests. The Dayak community of Melayang Hamlet is one of the village communities affected by climate change that has occurred. The Melayang Hamlet community experienced a drastic decrease in income from farming. They reported that before 2018, one hectare of land could produce 25 tons of rice, but since 2018, income has decreased drastically. This drastic decrease is caused by rice plants being attacked by pests and weather changes occurring in their village, resulting in shifts in planting and rice harvesting seasons.<sup>[21]</sup> The Melayang Hamlet community is heavily impacted by climate change because their daily food source, rice, is obtained by planting and they never buy rice, so the climate change that occurs greatly impacts the sustainability of food sources for the village community.

### 3.2. Migration of Baduy Tribe Communities in Banten

The Baduy tribe is an indigenous community living in the Lebak Regency area, Banten. The Baduy tribe is forced to migrate to nearby cities such as Rangkasbitung and Serang due to several conditions caused by climate change, such as changes in rainfall patterns and unexpected droughts that often cause severe land and environmental damage such as droughts that cause various plants not to develop and continuous rain causing floods resulting in severe land erosion. This also affects the ecosystem, because temperature changes also impact the availability of natural resources used by the Baduy tribe for daily needs.<sup>[22]</sup>

<sup>21</sup> Aulia Mukaram, “Dayak Farmers Adapt to Climate Crisis, Need Innovation to Survive” *Ekuatorial*, 10 January 2022; updated 19 April 2025.

<sup>22</sup> Elvira de Rosary, “Indigenous Peoples, Climate Crisis and Development Conflicts: What’s the Solution?” *Mongabay Indonesia*, 16 October 2021.

### 3.3. Flash Floods in Aceh and Sumatra: Environmental Degradation and Illegal Logging

The flash floods and landslides that devastated Aceh, North Sumatra, and West Sumatra in late November 2025 represent one of the deadliest hydro-meteorological disasters in Indonesia's recent history. By early December, the disaster had claimed over 750 lives, with hundreds more missing and more than 3 million people affected across 50 regencies. According to Dr. Hatma Suryatmojo, a researcher from Universitas Gadjah Mada, the flash floods were not merely triggered by extreme weather, but reflected the accumulation of long-standing ecological degradation in upstream watersheds.<sup>[23]</sup> Between 2016 and 2024, approximately 1.4 million hectares of forest were lost in the three affected provinces, particularly in critical ecosystems such as Batang Toru in North Sumatra and along the Bukit Barisan mountain range. This deforestation, driven by oil palm plantations, mining operations, and illegal logging, significantly reduced the land's natural capacity to absorb rainfall, causing rapid surface runoff that intensified flooding and landslides.<sup>[24]</sup>

The discovery of large timber logs with chainsaw marks swept away by floodwaters provided concrete evidence of illegal logging activities in upstream areas. The Ministry of Forestry identified five locations where logging operations violated regulations, suspected to be among the primary triggers of the disaster. The Directorate General of Forest Law Enforcement stated that preliminary analysis indicated not only extreme rainfall but also environmental damage in the upstream areas of the Batang Toru and Sibuluan watersheds, where the loss of forest cover on slopes and upstream areas reduced soil absorption capacity.<sup>[25]</sup> Environmental organizations including Wahana Lingkungan Hidup Indonesia (WALHI) and the Independent Forest Monitoring Network (JPIK) emphasized that the disaster was not solely a result of extreme weather, but rather the manifestation of systematic forest destruction through concessions granted to

<sup>23</sup> UGM, "UGM Expert: Severe Sumatra Flash Floods Driven by Upper Watershed Forest Degradation."

<sup>24</sup> Hatma Suryatmojo, quoted in "Banjir Bandang Sumatera 2025: Ekosistem Hutan Kian Rapuh, Bencana Kian Dekat" *Kompas.com*, 3 December 2025.

<sup>25</sup> Dwi Januanto Nugroho, "Temuan Terkini soal Pembalakan Liar di Hutan Sumatra Penyebab Banjir."

631 companies involved in mining, palm oil plantations, and hydroelectric power projects in ecologically sensitive areas.<sup>[26]</sup>

The conversion of protected forests into plantations and extractive industries eliminated critical water catchment functions, transforming what should have been natural buffers into sources of vulnerability. The case demonstrates how weak environmental governance and prioritization of short-term economic gains over ecological sustainability have placed Indigenous and local communities at the frontline of climate disasters, despite their minimal contribution to environmental degradation.<sup>[27]</sup>

## 4 | Orang Rimba Groups of Interior Village Communities in Rejo Sari Village

Rejo Sari Village is a village located in Merangin Regency, Jambi Province. Rejo Sari Village has palm oil plantations within which there are Orang Rimba Groups consisting of 9 Family Cards; they previously lived in forests that have now been converted into palm oil plantations owned by residents and companies. The condition of these Rimba groups is very concerning; amid the loss of their habitat/residence, the Rimba groups must also face one of the impacts of climate change, namely the presence of various diseases.<sup>[28]</sup> Rimba groups have been attacked by various diseases several times, such as Pulmonary Tuberculosis, Dengue Hemorrhagic Fever (DHF) due to mosquito bites, and malaria. They are affected by various types of diseases due to climate change related to temperature, air humidity, and rainfall that trigger disease breeding.<sup>[29]</sup>

<sup>26</sup> Muhammad Ichwan, quoted in “Korban Banjir-Longsor Sumatra Melampaui 750 Jiwa, 3 Juta Terdampak dan Pengungsi Capai 2,1 Juta” *Zonautara*, 3 December 2025.

<sup>27</sup> Rianda Purba, quoted in “Rekam Citra Satelit dan 8 Perusahaan Penyebab Banjir Sumatra” *CNN Indonesia*, 3 December 2025.

<sup>28</sup> KKI Warsi, “Orang Rimba in Jambi in the Vortex of Climate Change” *Riau Online*, 9 August 2023.

<sup>29</sup> Guntur Plasmando, “Malaria Zoonosis Threatens Orang Rimba Groups” *Ekatoria*, 15 February 2022; updated 16 February 2022.

Disease problems are not the only problems experienced by Rimba Groups. Food scarcity has become one of the impacts felt by Rimba Groups. Rimba Groups' food ingredients are sourced from hunted animals and fruits in forests, but due to land conversion, hunted animals are increasingly difficult to find, and previously Rimba Groups knew the grand resistance season, which is the abundant fruit season, but since climate change, this season only occurs once every 4 (four) years. Based on the problems experienced, Rimba Groups become an example of forest communities affected by the climate change that has occurred.

Together, these cases illustrate how Indigenous communities are disproportionately positioned at the intersection of climate change and weak legal protection. They transform climate change from an abstract environmental challenge into a human rights and justice problem.

## 5 | Human Rights-Based Protection and Climate Justice Framework

Indonesia's Constitutional Court has affirmed that customary forests are no longer 'state forests' but forests within indigenous territories (MK No. 35/PUU-X/2012),<sup>[30]</sup> forming a constitutional baseline. Procedurally, scrutiny of the Job Creation Law also followed (MK No. 91/PUU-XVIII/2020), highlighting defects relevant to public participation. In the mitigation domain, REDD+ activities must observe the Cancun Safeguards (including respect for the knowledge and rights of Indigenous Peoples) and apply Free, Prior and Informed Consent (UNFCCC Decision 1/CP.16, App. I).<sup>[31]</sup>

Various cases occurring to indigenous peoples become one of the reasons this research was conducted; the magnitude of impacts occurring due to climate change becomes a cause of serious problems faced by indigenous peoples that need to be addressed. Critical studies of the social conditions of indigenous peoples regarding climate change impacts show that policies regarding indigenous peoples' rights are often implemented under

<sup>30</sup> Constitutional Court (Indonesia), Decision No. 35/PUU-X/2012.

<sup>31</sup> United Nations Framework Convention on Climate Change (UNFCCC), "Decision 1/CP.16."

conditions that weaken the rights and participation of indigenous peoples themselves. Many conditions show that climate change impact mitigation policies often fail to meet human rights standards, particularly for indigenous peoples. This also reflects that formal policies are often not aligned with climate justice principles that regulate involvement and protection for vulnerable communities.<sup>[32]</sup>

According to the UN Special Rapporteur on the Rights of Indigenous Peoples in 2022, indigenous peoples play an important role as guardians of ecosystems capable of absorbing and storing carbon, but irony occurs when they become victims of climate mitigation policies that do not consider their customary rights and traditional knowledge. International instruments such as the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and ILO Convention No. 169 outline rights to land, natural resources, and full participation in decision-making. However, in Indonesia, these principles have not been fully internalized in national climate policies, including in the Job Creation Law (United Nations Human Rights Council, 2017).

Based on several previous studies, it is identified that without explicit human rights-based protection, climate mitigation projects can end in land grabbing in indigenous territories. This not only eliminates livelihoods, but also erodes the cultural identity of indigenous peoples that is closely related to their ecological landscape.<sup>[33]</sup> Current conditions in Indonesia show that human rights protection against climate change impacts is becoming increasingly important due to the following:

- a. Physical vulnerability, where many indigenous communities are in coastal areas, lowlands, and forests prone to climate disasters such as tidal floods, droughts, and forest fires.<sup>[34]</sup>
- b. Legal vulnerability, because there is no specific law on indigenous peoples causing recognition and protection of their rights to depend on interpretation of national regulations that often overlap.<sup>[35]</sup>

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<sup>32</sup> Rina Lestari, Zulkifli Akmal, "Protection of Indigenous Legal Communities Against Global Warming Impacts in Riau Province" *Riau Law Journal* (2025).

<sup>33</sup> Hans Nicholas Jong, "Indonesia's Indigenous Communities Sidelined from Conservation" *Mongabay*, 20 December 2024.

<sup>34</sup> Ahmad Syahputra, "Loss and Damage Due to Climate Change Impacts in the Coastal Sector" *LDCI - Climate Resilient Development Blog*, 29 August 2022.

<sup>35</sup> Sapariah Saturi Lahay, "Indigenous Communities Lack Protection, Customary Forest Designation Also Slow" *Mongabay Indonesia*, 21 March 2024.

c. Socio-economic vulnerability where dependence on natural resources makes every ecosystem damage directly impact food security and the economy of indigenous communities.<sup>[36]</sup>

This demonstrates a fundamental disjuncture: while international law and constitutional jurisprudence affirm Indigenous rights, national policy instruments, especially the Job Creation Law – continue to privilege investment and resource extraction over protection. The gap between normative standards and policy practice remains a defining feature of Indonesia's climate governance.

### 5.1. Evaluation of the Job Creation Law on Indigenous Rights and/or Protection of Indigenous People

The Job Creation Law does not contain proactive arrangements for resolving regulatory disharmony related to indigenous legal communities. There are no concrete protection instruments for the territory and integrity of indigenous peoples' customary rights.<sup>[37]</sup> Articles regulating indigenous peoples in the Job Creation Law are only articles related to natural resource management and spatial planning, then those related to customary rights attached to indigenous peoples, and several exemptions from obligations to adjust marine space utilization activities from the central government and several other matters, but there are still many things not regulated in this Job Creation Law, such as limited public participation and permit authorization that facilitates seizure of indigenous territories.

In line with this, the limitation of such participation can be seen from the weakened AMDAL process where Environmental Approval replaces Environmental Permits, and regional authority in licensing is also abolished (although for reasons of effectiveness centralized in the central government), but this actually narrows the space for indigenous peoples to participate. Another deficiency for communities is that investment based on the Job Creation Law prioritizes corporate interests more; the Job Creation Law in several conferences and previous research is said to

<sup>36</sup> Syahputra, "Loss and Damage Due to Climate Change Impacts."

<sup>37</sup> Rofiq Hidayat, "Job Creation Bill Considered Not Yet Protecting Indigenous Legal Communities" *Hukumonline*, 10 March 2020.

place indigenous peoples' rights in a subordinate position to investment access, while traditional communities are not recognized as providers of economic contributions recognized by the state.

The Job Creation Law has been criticized for simplifying environmental sector permits and reducing the role of public participation, where policies largely facilitate natural resource exploitation without considering protection of indigenous peoples' rights. Empirical research in Riau shows that although indigenous peoples are affected by global warming (crop failure, ecological disasters), adequate legal protection mechanisms have not been found in local or national regulations.<sup>[38]</sup> In the climate justice framework, the Job Creation Law creates disharmony with indigenous rights recognized in the Constitutional Court's jurisprudence, for example, regarding recognition of customary forests. Because business permits often violate the principles of consultation and free prior consent, this law actually weakens the legal position of indigenous peoples in facing climate projects or development that has environmental impacts.

With various conditions describing the lack of the Job Creation Law's role in protecting indigenous peoples above, specific regulations that ensure indigenous peoples' rights are accommodated inclusively and constitutionally are clearly needed, especially related to climate change. Without a clear legal umbrella, several increasingly worse conditions can arise, including:

- a. Rights to customary land remain vulnerable to overlap with climate, forestry, or investment projects.
- b. There are no FPIC (Free, Prior, Informed Consent) mechanisms required by law for development projects affecting indigenous areas.
- c. There is no benefit-sharing, compensation, or guarantee of sustainability of indigenous peoples' traditional work that is important in climate justice.

This condition describes the urgency of the need for enactment of specific comprehensive regulations regarding Protection of Indigenous Legal Communities in Indonesia. This RUU MA is expected to fill various gaps and loopholes in protection of indigenous legal communities under the enactment of the Job Creation Law. Based on analysis of the RUU MA, the author found several important points, including:

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<sup>38</sup> Lestari, Akmal, "Protection of Indigenous Legal Communities."

- a. RUU MA can become potential strengthening of several indigenous legal community rights; RUU MA is designed to provide recognition such as written legal basis for rights to certain territories, and exceeds formal institutional requirements required by the Job Creation Law.
- b. Guarantee of FPIC and active participation, where RUU MA requires involvement of indigenous peoples in decision-making related to their territories in development projects and climate change mitigation.
- c. Cross-sectoral regulatory coordination, where RUU MA provides a legal umbrella to unite provisions in agrarian, environmental, forestry, and labor law that have been overlapping.

## 5.2. Implications for Climate Justice and Policy

### Recommendations – Why is the explicit alignment of policies on Indigenous Peoples' rights urgent?

Indonesia's adaptation-mitigation framework (RAN-API and NDC) already outlines the broad direction for socio-economic and ecological resilience, yet it does not operationally mandate the safeguarding of Indigenous Peoples' rights (recognition of territories, FPIC, and benefit-sharing schemes) as a prerequisite for climate programs and financing. RAN-API is designed to strengthen economic resilience, livelihoods, ecosystem services, and special areas, and has been or is being reviewed for integration into the 2020-2024 RPJMN.<sup>[39]</sup> However, detailed implementation guidelines at the sectoral and regional levels remain varied and often lack binding provisions on human rights and climate justice. Official Bappenas sources and national adaptation documents affirm RAN-API's mandate as a multi-stakeholder adaptation action framework, and note the existence of the RAN-API Secretariat (now merged into the Low Carbon Development Initiative or LCDI Secretariat) for cross-actor coordination (Ministry of Finance of the Republic of Indonesia). The gap lies in the absence of standardized FPIC indicators as a mandatory requirement for adaptation/mitigation projects in Indigenous territories.

<sup>39</sup> Ministry of Finance of the Republic of Indonesia – Fiscal Policy Agency, *Climate Change Financing Policy: An Introduction* (Bogor: IPB Press, 2019).

On the mitigation front, Indonesia's Enhanced NDC, announced on 23 September 2022, increased its emission reduction targets to 31.89% unconditionally and 43.20% conditionally by 2030, with the forestry/LULUCF and energy sectors carrying the greatest share of responsibility. This stronger commitment opens the door to embedding safeguards for Indigenous Peoples' rights not only to enhance effectiveness by, for example, reducing land conflicts and fostering social compliance, but also to help advance the goals of SDGs 13, 15, and 16.<sup>[40]</sup>

Based on Presidential Regulation No. 53 of 2021, a cross-sectoral action framework and indicator-based monitoring related to human rights are established. The National Action Plan on Human Rights (RANHAM) serves as a measure to integrate climate justice metrics and complaint mechanisms for Indigenous Peoples, thereby strengthening the accountability of climate policies while also contributing to the achievement of SDG 16 targets (Constitution Act, 1982). Normatively, global standards are clear: the UNDRIP affirms the rights to self-determination, territory, and FPIC; ILO Convention No. 169 provides operational references (although Indonesia has not ratified it, its provisions can be adopted into national laws and project guidelines).<sup>[41]</sup>

Basically, in relation to this problem, the Indonesian government has implemented various policies aimed at mitigating and anticipating negative potential from climate change impacts such as the National Action Plan for Climate Change Adaptation (RAN-API). RAN API is part of the National Development Framework in Indonesia; RAN API is a cross-sectoral thematic plan that more specifically emphasizes preparation of development plans that are resilient to climate change. Climate change adaptation in Indonesia is aimed at:<sup>[42]</sup>

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<sup>40</sup> Government of the Republic of Indonesia, *Enhanced Nationally Determined Contribution: Republic of Indonesia*, 23 September 2022, UNFCCC. [https://unfccc.int/sites/default/files/NDC/2022-09/23.09.2022\\_Enhanced%20NDC%20Indonesia.pdf](https://unfccc.int/sites/default/files/NDC/2022-09/23.09.2022_Enhanced%20NDC%20Indonesia.pdf). [accessed: 14.8.2025].

<sup>41</sup> United States Indigenous Law Center, *United Nations Declaration on the Rights of Indigenous Peoples: A Quick Reference* (2016). <https://www.usetinc.org/wp-content/uploads/bvenuti/Annual%202016/Thumbdriive%20items/Monday/Importance%20of%20Engaging%20in%20International%20Issues/2%20-%20UNDRIP%20Summary.pdf>.

<sup>42</sup> Dewi Hidayati, "Study: National Action Plan for Inclusive Policy Design for Climate Change Adaptation in Indonesian Coastal Areas" (presentation, National Committee for UNESCO MOST Program and LIPI, Widya Graha LIPI Building, Jakarta, 9 January, 2019).

- a. Adjustment efforts in the form of strategies, policies, management, technology, and attitudes in reducing negative impacts to minimum levels and if possible, can take maximum advantage of positive impacts;
- b. Efforts to reduce negative impacts of climate change, both direct and indirect, continuous or discontinuous, and permanent based on their impact levels.

Several adapted policies tend to focus on climate change mitigation, such as reducing greenhouse gas emissions and forest conservation, but give less attention to adaptation of affected communities, especially those living around forests. In this context, protection of people's basic rights such as rights to land, access to natural resources, and rights to obtain decent livelihoods are often neglected. As a result, communities forced to migrate due to climate change impacts often face legal uncertainty and lose access to their rights.

### 5.3. Example Programs Supporting the Protection of Indigenous Peoples

No	Program	Description
1	Social Forestry & KPH Strengthening	Through social forestry programs, indigenous and local communities obtain legal permits to manage forests. This program synergizes with climate mitigation such as peat restoration and deforestation reduction. <sup>[43]</sup>
2	TERRA for Customary Forest (TERRA-CF)	This scheme from BPDLH and Climate and Land Use Alliance (CLUA) support 108 indigenous communities in 20 provinces to manage customary forests independently. <sup>[44]</sup>
3	Mangrove Program for Coastal Resilience (M4CR)	BPDLH program funds mangrove reforestation through community-based activities (Mangrove Assistance Villages), strengthening coastal mainland resilience important for coastal indigenous peoples. <sup>[45]</sup>

<sup>43</sup> Lusia Arumingtyas, Ridzki R. Hariandja, "US\$103 Million Climate Fund, Input: Transparent and Strengthen Indigenous Peoples Protection" *Mongabay Indonesia*, 4 September 2020.

<sup>44</sup> Open Climate Change Financing in Indonesia (OCFI), "Climate Change Programs at BPDLH, What Do Communities Get?" OCFI, 22 February 2024.

<sup>45</sup> Ibidem.

No	Program	Description
4	Climate Village Program (PROKLIM)	Indigenous farmers and local communities are actively involved in this program, more than 4,218 villages are recorded (through community-based mitigation and adaptation actions) (Ministry of Environment and Forestry).
5	Village Authority Strengthening (NTT, ADAPTATION Coalition)	Village governments in Lembata and Rote Ndao affirm local wisdom traditions such as the Muro system for marine management, which receives local regulatory support and funding of more than Rp 4 billion climate. <sup>[46]</sup>
6	Community Forestry (Social Forestry)	Forest management models by communities and indigenous peoples have been granted legal permits up to 4.7 million hectares by the government (2016–2021), helping natural resource management while mitigating (IUCN NL).
7	Traditional Adaptation Practices (Sea People Tribe, Riau)	Sea People communities use natural weather forecasting, stilt houses, and seasonal migration as adaptive strategies ecologically and culturally. <sup>[47]</sup>

#### 5.4. Human Rights – Based Policy Development

The state needs to make FPIC principles mandatory in every nature-based development policy or carbon scheme that touches indigenous peoples' territories. This is in line with recommendations to build fair and transparent benefit-sharing mechanisms in climate projects.<sup>[48]</sup> FPIC principles have been adopted in international instruments such as UNDRIP and ILO Convention No. 169. Without FPIC as a legal requirement, indigenous peoples do not have the right to reject development projects, which potentially abandons them from decision-making regarding their indigenous territories. Besides that, human rights-based policy development can also help transparent benefit-sharing; based on several studies stating that ignoring indigenous peoples' rights in renewable energy projects can cause project failure and additional costs. Conversely, integration of co-ownership

<sup>46</sup> Sustainable Village Association, “Village Initiative in Climate Change Adaptation Through Protection of Local Wisdom” *Sustainable Village Association – Stories of Change*, 22 May 2025.

<sup>47</sup> Wahyu Ariando, “This Indigenous Community in Indonesia Is Applying Traditional Practices to Adapt to Climate Change” *Global Center on Adaptation*, 11 November 2020.

<sup>48</sup> Sulistyo, Utama, Putrijanti, “Legal Policy of Carbon Trading.”

and benefit-sharing models has proven effective in various international projects.<sup>[49]</sup>

Integration of the Indigenous Peoples Draft Law is needed as a form of formal recognition of indigenous territories, where RUU MA has the potential to clarify and strengthen rights to territories and participatory rights of indigenous peoples, which have been fragmented in sectoral regulations such as the Job Creation Law. Synchronization between the two can close existing legal gaps. Besides that, regulatory harmonization is needed because many studies mention inconsistencies between regulations related to indigenous peoples that potentially weaken the legal existence of indigenous peoples' rights.<sup>[50]</sup>

An inclusive Indigenous Peoples Draft Law is no longer just an aspirational demand but an urgent need for climate justice and recognition of indigenous peoples' constitutional rights. A number of academic institutions and civil society organizations highlight the long delay in enacting this RUU, whereas during the indigenous territorial governance process still depends on partial and often overlapping sectoral regulations, indigenous rights remain vulnerable to displacement. Moreover, climate change exacerbates the vulnerability of indigenous peoples, even to regulations that should protect them, due to the absence of legal instruments that recognize their existence and capacity comprehensively.

The absence of binding safeguards for Indigenous rights in Indonesia's adaptation and mitigation frameworks represents a critical gap. RAN-API and the Enhanced NDCs articulate climate resilience and emission reduction targets, but do not embed FPIC, benefit-sharing, or recognition of customary territories as prerequisites for implementation. This undermines both justice and effectiveness: projects that disregard Indigenous rights risk conflict, social resistance, and long-term unsustainability.

Examples of existing programs, such as Social Forestry, TERRA-CF, M4CR, PROKLIM, and Mangrove Resilience initiatives demonstrate partial successes. Yet, without a clear legal mandate for FPIC and harmonization with the RUU MA, these initiatives remain fragmented. The implication is clear: legal harmonization is urgent. Without explicit protection of Indigenous

<sup>49</sup> Ana Zbona, Ana María Garro, "Comment: Why Indigenous Peoples' Rights Must Be at the Heart of the Transition to Renewables," *Reuters*, 18 December 2024.

<sup>50</sup> Ahmad Prasetyo Ramadhan, Ika Fitriani Susilowati, "Synchronization of Laws and Regulations on the Existence of Indigenous Legal Communities" *Novum: Law Journal*, No. 1 (2018).

rights, climate mitigation and adaptation strategies risk deepening marginalization. Conversely, aligning the Job Creation Law, RAN-API, and RUU MA with constitutional and international standards could transform Indigenous Peoples from passive recipients into active partners in climate governance, advancing both justice and sustainability.

## 6 | Comparative Analysis: Learning from European Indigenous Rights Protection Models

The European Arctic region, particularly the Nordic countries' approach to protecting the Sámi people in the context of climate change, offers critical lessons for Indonesia's development of the Indigenous Peoples Draft Law (RUU MA). Unlike generic indigenous rights frameworks, Nordic countries have developed specific legal and policy mechanisms that explicitly integrate indigenous protection into climate change adaptation and mitigation strategies. The Arctic Council, an inter-governmental forum established in 1996, provides an institutional model where Indigenous Peoples participate as Permanent Participants alongside eight Arctic states, ensuring that indigenous voices are structurally embedded in climate governance.<sup>[51]</sup> This model demonstrates how indigenous representation can be institutionalized at the regional level, moving beyond tokenistic consultation toward genuine co-governance in climate policy formulation.<sup>[52]</sup>

Norway's integration of Sámi rights into climate adaptation frameworks exemplifies how procedural protections can be operationalized in practice. The Norwegian consultation agreement with the Sámi Parliament, established concurrent with the Finnmark Act (2005), mandates that state authorities must consult the Sámi Parliament on any legislative or administrative measures directly affecting Sami interests, with the explicit goal

<sup>51</sup> Arctic Council, Permanent Participants. <https://arctic-council.org/about/permanent-participants/>. [accessed: 10.12.2025].

<sup>52</sup> Dalee Sambo Dorough, "The Indigenous Peoples and the Arctic Council," *The Arctic Institute*. <https://www.thearcticinstitute.org/eu-sami-cooperation-climate-change-adaptation-arctic/>. [accessed: 6.12.2025].

of reaching agreement before implementation.<sup>[53]</sup> Critically, this consultation framework has been extended to climate-related projects, including renewable energy developments and land-use planning that may impact traditional reindeer herding areas increasingly threatened by climate change.<sup>[54]</sup> The European Court of Human Rights (ECtHR), in Greenpeace Nordic and Others v. Norway (2024), reinforced state obligations to comprehensively assess climate impacts of fossil fuel extraction on Indigenous territories and livelihoods, establishing procedural environmental rights under Article 8 of the European Convention on Human Rights.<sup>[55]</sup> This jurisprudence affirms that states must evaluate not only direct environmental harm but also the cumulative effects of climate change on Indigenous communities' traditional practices and cultural survival.

The substantive integration of Indigenous knowledge into climate adaptation planning represents another critical dimension of the Nordic model. Finland's National Adaptation Plan explicitly recognizes Sámi traditional ecological knowledge as essential for climate resilience, particularly in monitoring environmental changes, predicting weather patterns, and developing nature-based adaptation solutions.<sup>[56]</sup> The UNFCCC's Local Communities and Indigenous Peoples Platform (LCIPP), which became operational in 2019, has facilitated knowledge exchanges where Sámi reindeer herders, fishers, and land stewards share climate adaptation strategies grounded in centuries of ecological observation.<sup>[57]</sup> Importantly, the LCIPP's Arctic regional gathering in Norway (2023) produced formal UN documentation of indigenous climate knowledge, transforming traditional practices into recognized inputs for international climate policy. This institutional recognition contrasts sharply with Indonesia's climate governance frameworks (RAN-API, NDCs), which reference vulnerable communities generically but lack specific mechanisms for Indigenous knowledge integration or benefit-sharing from climate finance.

<sup>53</sup> Øyvind Ravna, "The Duty to Consult the Sámi in Norwegian Law" *Arctic Review on Law and Politics*, 11 (2020): 450-479.

<sup>54</sup> Kristin Rosendal, Øyvind Ravna, quoted in "New Nordic Cooperation to Study Sami Rights and Environmental Protection in the North" *High North News*, 24 September 2025.

<sup>55</sup> European Court of Human Rights, Greenpeace Nordic and Others v. Norway, Application No. 34068/21, Judgment of October 28, 2024, paras. 212-282.

<sup>56</sup> Finnish Ministry of Justice, Rights of the Sámi People. <https://oikeusministerio.fi/en/rights-of-the-sami-people>. [accessed: 10.12.2025].

<sup>57</sup> Gunn-Britt Retter, "Including Indigenous Knowledge in Global Climate Governance," *WWF Arctic*, 23 April 2025.

However, the Nordic experience also reveals persistent challenges that Indonesia must proactively address. Despite progressive frameworks, the European Union's prioritization of rapid green transition driven by the European Green Deal and emissions reduction targets has created tensions with Indigenous rights and environmental protection in practice.<sup>[58]</sup> Mining operations for critical minerals needed for renewable energy technologies have proceeded in Sámi territories without adequate Free, Prior and Informed Consent (FPIC), demonstrating how climate mitigation imperatives can override Indigenous rights when institutional safeguards are weak. The UN Special Rapporteur on Indigenous Peoples (2016) noted that despite Norway's consultation mechanisms, economic pressures consistently favor extractive industries over Indigenous territorial protection, particularly when substantial state revenues are at stake.<sup>[59]</sup> These implementation gaps underscore that legislative frameworks alone are insufficient; Indonesia's RUU MA must therefore establish independent oversight bodies with enforcement powers, transparent monitoring of FPIC compliance, and accessible remedies for communities whose rights are violated in the name of climate action.

The comparative analysis yields several actionable recommendations for Indonesia's climate-responsive RUU MA. First, Indonesia should establish statutory Indigenous representative bodies at national and regional levels with formal advisory powers in climate policy formulation, modeled on the Sámi Parliament's consultative status. Second, the RUU MA must mandate climate impact assessments that explicitly evaluate effects on Indigenous livelihoods, cultural practices, and traditional knowledge systems that not merely environmental parameters, for all mitigation and adaptation projects in or near customary territories. Third, Indonesia should create dedicated funding mechanisms ensuring direct access to climate finance for Indigenous communities, enabling community-led adaptation initiatives grounded in traditional ecological knowledge, similar to schemes emerging in Canada and Nordic countries. Fourth, the RUU MA should codify the principle that Indigenous Peoples are rights-holders and knowledge-holders in climate governance, not merely vulnerable

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<sup>58</sup> Başak Alpan, "Emotional Politics of Norm Hierarchy in EU's External Relations: The Case of Climate Crisis and the EU's Arctic Policy" *European Security*, No. 4 (2024): 548-571.

<sup>59</sup> Eva Josefson, "Implementing Indigenous Self-Determination: The Case of the Sámi in Norway" *E-International Relations*, 30 May 2014.

populations requiring protection, a paradigm shift essential for transforming Indonesia's climate frameworks (RAN-API, REDD+, NDCs) from top-down interventions into participatory partnerships. Finally, legislative harmonization must ensure that sectoral laws, including the Job Creation Law, incorporate binding FPIC requirements and Indigenous safeguards as prerequisites for project approval, preventing regulatory fragmentation that currently undermines constitutional protections. By learning from both the achievements and shortcomings of European models, Indonesia can develop a RUU MA that not only protects Indigenous rights but actively positions Indigenous Peoples as essential partners in achieving climate justice and environmental sustainability.

## 7 | Conclusion

The protection of Indigenous Peoples in the context of climate change is not merely a developmental concern but a constitutional and justice imperative. This research has demonstrated that while Indonesia has taken steps toward climate mitigation and adaptation, the Job Creation Law undermines procedural and substantive safeguards for Indigenous rights, placing investment priorities above constitutional guarantees. In contrast, the long-delayed Draft Law on Indigenous Peoples (RUU MA) offers the potential to harmonize fragmented regulations and institutionalize principles such as FPIC, recognition of customary territories, and participatory governance. The catastrophic flash floods in Aceh, North Sumatra, and West Sumatra in November 2025, which claimed over 753 lives and affected more than 3.3 million people, starkly illustrate the deadly consequences of regulatory incoherence and weak environmental governance.

The disaster exemplifies how the intersection of climate change impacts and systematic environmental destruction driven by illegal logging, mining concessions, and extractive industries, disproportionately affects Indigenous and local communities who depend on forest ecosystems for survival, yet have minimal voice in the development policies that determine their fate. This tragedy underscores that climate governance failures are not abstract legal problems but matters of life and death, demanding urgent reform.

The contribution of this article lies in its critical synthesis of legal tensions between existing and draft legislation, showing how regulatory dis-harmony perpetuates the marginalization of Indigenous communities within climate governance. By situating Indonesia's framework against international norms such as UNDRIP, ILO Convention No. 169, and the UNFCCC Cancun Safeguards, and by examining comparative models from Nordic countries' protection of the Sámi people, this study underscores the urgent need for legal harmonization that operationalizes climate justice principles. The European experience demonstrates that progressive legislative frameworks alone are insufficient without robust enforcement mechanisms, independent oversight bodies, and genuine Indigenous participation in climate policy formulation, lessons that Indonesia must heed in developing its RUU MA.

The case studies presented from the Dayak communities in West Kalimantan experiencing drastic agricultural losses, the Baduy people forced to migrate due to climate-induced environmental degradation, the Orang Rimba facing disease outbreaks and food scarcity, and the communities devastated by the 2025 Sumatra floods, collectively transform climate change from an abstract environmental challenge into a concrete human rights and justice crisis. These cases reveal the triple vulnerability faced by Indigenous Peoples: physical exposure to climate disasters, legal uncertainty due to weak recognition of customary rights, and socio-economic marginalization as ecosystem disruption directly threatens food security and cultural survival.

The conclusion is clear: unless climate policies such as the Job Creation Law, RAN-API, and the RUU MA are aligned with human rights obligations and informed by successful international models, climate governance risks reproducing injustice rather than remedying it. Conversely, by embedding FPIC as a binding legal requirement, establishing Indigenous representative bodies with co-management authority (modeled on the Sámi Parliament), mandating climate impact assessments that evaluate effects on Indigenous livelihoods and traditional knowledge systems, and creating dedicated funding mechanisms for community-led adaptation initiatives, Indonesia can transform Indigenous Peoples from vulnerable subjects into active partners in climate transition. This would not only fulfill constitutional and international commitments, but also enhance the legitimacy, effectiveness, and sustainability of national climate action, while preventing future disasters like the 2025 Sumatra floods that result from the deadly combination of climate change and governance failure.

## 8 | Recomendation

**8.1. Strengthening FPIC as a Binding Legal Obligation** The state should adopt Free, Prior and Informed Consent (FPIC) as a legally binding requirement for all development projects, climate programs, and carbon schemes affecting Indigenous territories. FPIC must be codified in statutory law and supported by clear procedures timelines, documentation standards, and dispute-resolution mechanisms, drawing on Norway's consultation model with the Sámi Parliament. The Draft Indigenous Peoples Law (RUU MA) should also establish an independent oversight body, such as an Indigenous Rights Ombudsman, with authority to monitor compliance, investigate violations, and issue binding remedial recommendations.

**8.2. Urgent Enactment of the Draft Indigenous Peoples Law (RUU MA).** The immediate passage of the RUU MA is necessary to provide a comprehensive legal framework for Indigenous rights and to resolve conflicts across forestry, agrarian, and environmental laws. Inspired by Finland's constitutional recognition of the Sámi, Indonesia should consider constitutional amendments that explicitly affirm the existence and rights of Indigenous Peoples, alongside statutory Indigenous representative councils with advisory and co-management powers. Such harmonization is essential to prevent regulatory inconsistencies, such as those found in the Job Creation Law, and to address vulnerabilities that contributed to disasters like the 2025 Sumatra floods.

**8.3. Integrating Human Rights and Indigenous Knowledge into Climate Governance** Climate governance instruments, including RAN-API, Enhanced NDCs, and sectoral regulations must incorporate human rights indicators and mechanisms for integrating Indigenous knowledge. This includes mandatory recognition of Indigenous territories, binding FPIC requirements with clear consent thresholds, transparent benefit-sharing arrangements, and participatory monitoring systems rooted in traditional ecological knowledge. Following Finland's model, Indonesia should formally recognize Indigenous knowledge as essential to climate resilience and restore substantive roles for local governments and Indigenous institutions. Independent oversight mechanisms within the National Human Rights Action Plan (RANHAM) are needed to ensure accountability.

**8.4. Establishing a Specialized Indigenous Land Rights Commission** Indonesia should form an Indigenous Land Rights Commission with authority to adjudicate territorial disputes, formalize customary tenure through participatory mapping, and oversee implementation of the RUU MA. Drawing lessons from Norway's Finnmark Commission, the body must ensure strong Indigenous representation, transparent methodologies, binding decision-making powers, and political independence. Reforms should also restore meaningful regional and Indigenous participation in environmental decision-making, supported by independent monitoring and accessible remedies under RANHAM.

**8.5. Ensuring Direct Climate Finance Access for Indigenous Communities** Indonesia should create dedicated climate-finance mechanisms that guarantee direct access for Indigenous communities, enabling community-led adaptation based on traditional ecological knowledge. Following emerging models in Canada and the Nordic countries, these mechanisms should bypass exclusionary bureaucracy, recognize Indigenous governance systems as legitimate fund managers, support capacity-building, and prioritize nature-based and ecosystem-restoration initiatives. The RUU MA should affirm Indigenous Peoples as rights-holders and knowledge-holders in climate governance, ensuring that Indonesia's climate frameworks function as participatory and just partnerships rather than top-down interventions.

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