

## **Legal, Governmental, and Developmental Perspectives on the Governance of the *Raden Anom* Customary Forest**

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### ***Abstract***

*This study examines the transformation of customary forest governance in Indonesia following the enactment of the Job Creation Law (Undang-Undang Cipta Kerja), with a specific focus on the customary forest of Raden Anom Village, Sarolangun Regency, Jambi. It explores how legal reforms have affected institutional authority, community participation, and environmental management. Employing a juridical-empirical approach, the research integrates statutory analysis with a case study based on legal documents, court decisions, and in-depth interviews with customary leaders, village officials, and local stakeholders. Findings reveal a governance shift from local wisdom-based conservation toward investment-oriented management, as centralized licensing reduces regional autonomy and subordinates customary law to state law. Customary institutions have adopted adaptive strategies by integrating customary norms into official village documents, establishing forestry units, and fostering cross-institutional collaborations. However, these strategies face constraints due to limited legal capacity, economic pressures, and uniform regulations. Such conditions impact environmental integrity, social cohesion, and economic equity, with the risk of a tragedy of the commons when community-based monitoring mechanisms weaken. The study underscores that effective reform requires harmonizing national legal instruments with local governance mechanisms and implementing polycentric governance principles to balance ecological sustainability with economic development. Policy recommendations include revising implementing regulations to restore local autonomy, ensuring consistent application of free, prior, and informed consent (FPIC), and strengthening institutional capacity through targeted technical and resource support.*

**Keywords:** Customary Forest, Legal Pluralism, Forestry, FPIC, Sustainability.

### ***Abstrak***

Penelitian ini mengkaji transformasi tata kelola hutan adat di Indonesia pasca Undang-Undang Cipta Kerja, dengan fokus pada hutan adat Desa Raden Anom, Kabupaten Sarolangun, Jambi. Studi ini menelusuri bagaimana reformasi hukum memengaruhi otoritas kelembagaan, partisipasi masyarakat, dan pengelolaan lingkungan. Menggunakan pendekatan yuridis-empiris, penelitian mengintegrasikan analisis perundang-undangan dan studi kasus berdasarkan dokumen hukum, putusan pengadilan, serta wawancara mendalam dengan tokoh adat, aparat desa, dan pemangku kepentingan lokal. Hasil menunjukkan pergeseran orientasi tata kelola dari konservasi berbasis kearifan lokal menuju pengelolaan berorientasi investasi, seiring perizinan terpusat yang mengurangi otonomi daerah dan menempatkan hukum adat di bawah subordinasi hukum negara. Lembaga adat mengadopsi strategi adaptasi

yang mengintegrasikan norma adat ke dokumen resmi desa, membentuk unit kerja kehutanan, dan menjalin kolaborasi lintas institusi. Tetapi, strategi tersebut terhambat keterbatasan kapasitas hukum, tekanan ekonomi, dan regulasi seragam. Kondisi ini memengaruhi integritas lingkungan, kohesi sosial, dan keadilan ekonomi, dengan risiko *tragedy of the commons* saat pengawasan berbasis komunitas melemah. Penelitian ini menegaskan bahwa reformasi efektif memerlukan harmonisasi instrumen hukum nasional dengan mekanisme lokal, serta penerapan prinsip *polycentric governance* untuk menyeimbangkan keberlanjutan ekologis dan pembangunan ekonomi. Rekomendasi meliputi revisi regulasi pelaksana guna memulihkan otonomi lokal, penerapan *free, prior, and informed consent* (FPIC) secara konsisten, serta penguatan kapasitas kelembagaan melalui dukungan teknis dan sumber daya yang memadai.

**Kata Kunci:** Hutan Adat, Pluralisme Hukum, Kehutanan, FPIC, Keberlanjutan.

## Introduction

Customary forest governance represents a central issue at the intersection of law, governance, and development, particularly in countries with plural legal systems such as Indonesia. Hutan adat not only functions as a vital ecological asset but also carries profound socio-cultural significance, serving as both a source of livelihood and a marker of identity for Indigenous communities. However, the enactment of the Omnibus Law on Job Creation in 2020 marked a significant shift in the framework of forest governance, aiming to streamline investment processes and stimulate economic growth, while simultaneously posing the potential to alter the role of customary institutions at the local level. This transformation has raised concerns over the possible marginalization of Indigenous peoples' rights in natural resource management, thereby underscoring the need for strict oversight mechanisms and inclusive dialogue among stakeholders to safeguard sustainability and social justice for customary communities (Aliansi Masyarakat Adat Nusantara, 2023).

From the perspective of legal pluralism, the coexistence of state law and customary law generates a dynamic interaction in forest governance (Berman, 2020; Griffiths, 1986). The Indonesian Constitution recognizes the existence of Indigenous peoples and their traditional rights, insofar as such rights remain viable and align with the principles of the Unitary State of the Republic of Indonesia. Nevertheless, regulatory reforms such as the Omnibus Law on Job Creation and its implementing regulations may shift the balance of authority, introducing governance arrangements that tend to favor market-oriented management over traditional conservation practices.

The multi-level governance framework (Hooghe & Marks, 2017) offers another perspective that highlights the interactions among actors at the central, regional, and local levels in managing forest resources. In the context of hutan adat governance, decision-making processes often involve complex negotiations among government agencies, local governments, customary institutions, and private investors. The shift in governance priorities following the enactment of the Omnibus Law on Job Creation inevitably raises further questions regarding institutional adaptation strategies and the sustainability of Indigenous community participation.

From the perspective of commons management as articulated by Ostrom (1990), the successful management of shared natural resources depends heavily on the strength of local institutions that are well-adapted to their socio-ecological context. The weakening of customary authority due to standardized, pro-investment regulations risks undermining the traditional mechanisms that have long safeguarded the sustainability of forest ecosystems (Block, 2011; Ostrom, 2019). When formal, top-down rules fail to align with local norms, the risk of a tragedy of the commons increases due to the erosion of community-based social control. In the long term, this misalignment may foster dependency on state mechanisms, which are not always responsive or adaptive to local ecological and social dynamics.

This challenge is clearly observable in Raden Anom Village, Sarolangun Regency, Jambi, where customary forests, traditionally managed by the community under customary rules are increasingly facing external pressures. Following the enactment of the Omnibus Law on Job Creation, opportunities emerged for investors to manage the land, triggering a shift in the function of certain forest areas toward plantations and other economic activities. This situation creates a dilemma: on one hand, investment is perceived as a means to improve the village economy; on the other hand, such changes threaten environmental sustainability and diminish the role of customary institutions in regulating forest utilization. Conflicts of interest have begun to surface among villagers, between villagers and customary institutions, and between Indigenous communities and external actors.

Several recent studies provide empirical insights into customary forest governance in Indonesia. Saragih et al. (2023) examined the management of customary forests in the villages of Pandumaan and Sipituhuta, North Sumatra, and found that despite de jure recognition, de facto protection of Indigenous peoples' rights remains weak (Saragih et al., 2023). A study by Arauf (2021) in Bengkalis, Riau, revealed that legal uncertainty over the

status of customary forests further undermines local wisdom-based mechanisms for environmental conservation (Arauf, 2021). Legal analyses by Ola Gelu et al. (2023) and Wiyono (2018) emphasized that although Constitutional Court Decision No. 35/PUU-X/2012 has provided a constitutional basis for the recognition of customary forests, its implementation remains limited due to the absence of complementary regulations that substantively accommodate Indigenous rights (Ola Gelu et al., 2023; Wiyono, 2018). However, all these studies were conducted without taking into account the fundamental changes brought about by the Omnibus Law on Job Creation. Consequently, they have yet to examine in depth how this new regulation transforms customary forest governance at the local level, particularly in the context of relations between state law and customary institutions.

This study seeks to fill the existing gap by empirically analyzing how the Omnibus Law on Job Creation has transformed customary forest governance in Raden Anom Village. The scope of the analysis includes changes in legal and institutional arrangements, the dynamics of relations between government authorities and customary institutions, Indigenous community adaptation strategies, and the implications for environmental sustainability and social well-being. By integrating the frameworks of legal pluralism, multi-level governance, and commons management, this research offers a comprehensive account of the challenges and opportunities that have emerged in the wake of regulatory reform. Furthermore, the study aims to produce policy recommendations that promote harmonization between state law and customary norms, strengthen the capacity of local institutions to withstand investment pressures, and ensure meaningful participation of Indigenous communities in decision-making processes. These recommendations are expected to serve as a reference for policymakers, local stakeholders, and civil society organizations in developing an equitable and sustainable model of customary forest governance.

## **Research Method**

This study employs a juridical-empirical (socio-legal research) approach that integrates normative analysis of the legal framework with empirical field findings. This approach is selected because the issue of customary forest management in Raden Anom Village is not only related to formal regulatory aspects but also to governance practices at the community level, which are shaped by the interaction between state law and customary law (Banakar &

Travers, 2005). The normative analysis is conducted through a statutory approach to examine relevant legislation, including Constitutional Court Decision No. 35/PUU-X/2012, Law No. 11 of 2020 on Job Creation and its implementing regulations, and the Sarolangun Regency Regulation on the recognition of customary forests. This approach enables the researcher to assess the extent to which the new regulation alters the status and management of customary forests, as well as the degree of alignment between national legal norms and customary norms.

To understand the social and institutional dimensions, this research also adopts a case study approach, focusing on the customary forest in Raden Anom Village. The case study method is chosen for its capacity to provide an in-depth understanding of the dynamics of actor–institution interactions within a specific context (Yin, 2018). The research site is purposively selected because the village possesses a customary forest that has received formal recognition from the local government but faces regulatory and investment pressures in the aftermath of the enactment of the Omnibus Law on Job Creation.

The data used in this study comprise both primary and secondary data. Primary data were obtained through in-depth interviews with customary leaders, community members, and village officials involved in the governance of the customary forest. A semi-structured interview technique was employed to elicit information regarding institutional changes, Indigenous community adaptation strategies, and perceptions of the new policy framework (Bryman, 2016). Secondary data were collected from official government documents, court decisions, regional regulations, official press releases, and academic literature related to customary forest governance, legal pluralism, and sustainable development.

Field data collection was conducted over a period of six months and encompassed stages of observation, interviews, and data verification. Data analysis employed thematic analysis, integrating legal interpretation of relevant regulations with empirical findings to identify patterns, gaps, and relationships among the research variables (Braun & Clarke, 2008). Data validity was ensured through source and method triangulation, by comparing the results of interviews, legal documents, and academic literature. This approach is expected to provide a holistic account of the transformation of customary forest governance in Raden Anom Village, while offering findings that are relevant to policy formulation in the fields of law, governance, and development.

## Results and Discussion

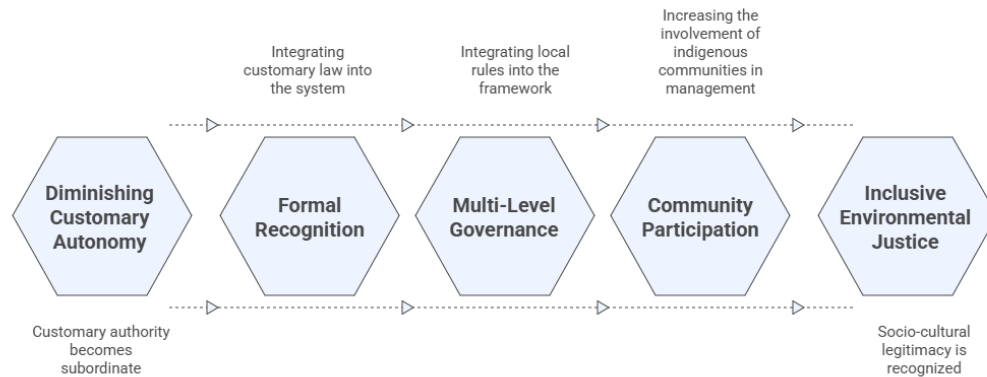
### ***Regulatory and Legal Framework Changes Following the Omnibus Law on Job Creation***

Prior to the enactment of Law No. 11 of 2020 on Job Creation, the legal framework for the recognition of customary forests in Indonesia was grounded in Constitutional Court Decision No. 35/PUU-X/2012, which affirmed that customary forests are not part of state forests but fall under the authority of Indigenous peoples (*masyarakat hukum adat*) (Mahkamah Konstitusi RI, 2012). This ruling reinforced the provisions of Article 18B(2) and Article 28I(3) of the 1945 Constitution, which recognize the rights of Indigenous peoples as long as those rights remain viable and in accordance with contemporary developments (Republik Indonesia, 1945). Its implementing regulation, such as Law No. 41 of 1999 on Forestry, positioned local governments as the competent authority to determine the status of customary forests through regional regulations, allowing the recognition process to be adapted to local socio-ecological contexts (Republik Indonesia, 1999).

The enactment of the Omnibus Law on Job Creation introduced fundamental changes by amending several provisions of the Forestry Law and consolidating licensing authority under the central government (Republik Indonesia, 2020). The new regulatory arrangement integrates the process of customary forest designation into the centralized business licensing system (Online Single Submission / OSS), thereby reducing the autonomy of local governments in decision-making (Kementerian Investasi/BKPM, 2021). While the recognition of customary forests remains formally regulated, the standardized nature of the procedures raises concerns about diminished policy adaptability to local wisdom, which has long played a critical role in safeguarding forest ecosystem sustainability (Colchester & Chao, 2013).

These changes have also affected the recognition of Indigenous peoples' rights from the perspective of legal pluralism. Customary institutions that previously enjoyed relatively autonomous authority are now dependent on the formal legitimacy of the state (von Benda-Beckmann & von Benda-Beckmann, 2006). The centralized licensing system tends to position state law as the dominant framework, while customary law becomes subordinate. This condition runs counter to the principle of nested enterprises in Ostrom's commons management theory, which underscores the importance of integrating local rules within a

multi-level governance framework (Ostrom, 1990). As a result, the potential for Indigenous peoples' participation in natural resource management is constrained, and their socio-cultural legitimacy is often overlooked in formal decision-making processes. This dynamic generates tensions between state authorities and Indigenous communities and presents significant challenges to achieving inclusive and sustainable environmental justice.



Empirical data indicate that this regulatory transition has created administrative barriers. A report by HuMa notes that, out of 105 customary forest units proposed to the Ministry of Environment and Forestry (KLHK) by 2021, only 80 had received official designation, with most delays stemming from the process of integrating data into the OSS system (Perkumpulan HuMa, 2019). In Jambi Province, including Raden Anom Village, customary leader Abdul Rahman stated that the recognition process for customary forests had slowed because local governments could no longer confer customary forest status without central government approval (Rahman, personal communication, May 12, 2024). These obstacles reflect a friction between the logic of state law, which prioritizes standardization, and the logic of customary law, which emphasizes context-based flexibility.

From a multi-level governance perspective, the changes introduced by the Omnibus Law on Job Creation reinforce a vertical hierarchy in which the central government holds dominant control, while local governments function as implementers of central policies rather than as equal partners (Hooghe & Marks, 2017). This model risks undermining the principle of polycentric governance, which is believed to produce policy responses that are more adaptive to local needs (Ostrom, 2019). Such imbalance also widens the gap between policymakers and Indigenous communities who are directly affected by the regulation.

In Raden Anom Village, the impact is evident in the delayed implementation of customary regulations previously agreed upon by the community. Interviews with customary leaders revealed that lengthy administrative procedures have diminished community enthusiasm in supporting the recognition of customary forests (Rahman, personal communication, May 12, 2024). The loss of this momentum increases the risk of a tragedy of the commons due to the weakening of previously effective customary-based social monitoring mechanisms (Ostrom, 2019). Therefore, regulatory harmonization is needed to enable the recognition process for customary forests to be more responsive to local needs, without compromising the principles of accountability and environmental sustainability.

### ***Institutional Dynamics and Adaptation Strategies in Raden Anom Village***

Following the enactment of the Omnibus Law on Job Creation, customary institutions in various regions, including Raden Anom Village, have faced structural challenges in maintaining their role as managers of customary forests. Prior to this regulatory reform, customary institutions held significant authority in determining rules for forest management, monitoring, and benefit distribution based on deeply rooted local norms (Wiyono, 2018). However, with the introduction of a centralized licensing system, these roles have become increasingly limited and are often displaced by administrative procedures controlled by the central government (Perkumpulan HuMa, 2019). This shift has altered the power relations between the state and Indigenous communities, in which formal legality has become the primary prerequisite for the continuity of management rights, even when such rights have been historically recognized.

This condition compels customary institutions to adopt adaptation strategies to remain relevant. Based on interviews and field observations in Raden Anom Village, several forms of adaptation are evident, including the integration of customary regulations into official village documents, the establishment of specialized working units to handle forestry matters, and the strengthening of negotiation capacity with external parties, including the government and private companies (H. Bakri, personal communication, May 7, 2024). These strategies align with the concept of adaptive governance, which emphasizes the importance of institutional flexibility in responding to changes in legal and policy environments (Chaffin et al., 2014).



Nevertheless, such adaptations do not always proceed smoothly. One of the main obstacles is the limited human resources with an understanding of formal legal aspects, which slows down the advocacy process for the recognition of customary forests (Colchester & Chao, 2013). On the other hand, economic pressures have driven some community members to open land for plantation investments, thereby weakening collective commitment to forest protection (Fisher et al., 2007). This phenomenon illustrates that institutional adaptation depends not only on structural innovation but also on social cohesion and the sustained motivation of the community.

In the context of legal pluralism theory, this dynamic reflects an ongoing process of negotiation between customary norms and state law (Von Benda-Beckmann, 2001; von Benda-Beckmann & von Benda-Beckmann, 2006). On one hand, customary institutions seek to preserve their identity through the application of local norms in forest management. On the other hand, they are compelled to conform to the formal legal framework to obtain legitimacy in the eyes of the state. This tension produces a hybrid governance model that combines elements of customary and state law, but with the risk of subordinating customary norms under national policy.

The experience of Raden Anom Village also demonstrates that successful adaptation strategies often involve cross-actor collaboration. For example, the local customary institution has established partnerships with civil society organizations to obtain legal assistance and technical support in drafting documents for customary forest recognition. Such collaboration strengthens the bargaining position of Indigenous communities before the government and accelerates the recognition process (Perkumpulan HuMa, 2019). This approach aligns with the principle of polycentric governance, which emphasizes the importance of coordination among multiple centers of power and authority (Ostrom, 1990, 2019).

However, if such collaboration is not accompanied by regulations granting autonomy to customary institutions, the adaptation may remain temporary. Overly uniform regulations risk undermining local innovation and fostering dependence on external interventions. Therefore, to ensure the sustainability of customary forest governance, adaptation strategies must be accompanied by policy reforms that recognize the uniqueness of customary institutions while providing adequate resource support. This is crucial to prevent a tragedy of

the commons resulting from the erosion of the social role of customary institutions (Ostrom, 2019).

### ***Implications for Sustainable Development and Indigenous Community Participation***

Changes in customary forest governance following the enactment of the Omnibus Law on Job Creation (Undang-Undang Cipta Kerja) have direct implications for the environmental, social, and economic aspects of Indigenous communities. Environmentally, the reduced autonomy of customary institutions in monitoring and enforcing local rules has weakened control over forest encroachment, land clearing, and the entry of large-scale investments (Colchester & Chao, 2013). This condition threatens the sustainability of customary forest ecosystems, which have long been preserved through management mechanisms based on local wisdom (Fisher et al., 2007). Within the framework of Ostrom's commons management theory, the erosion of local authority has the potential to trigger a tragedy of the commons (Ostrom, 1990), wherein shared resources are overexploited due to the weakening of internal monitoring mechanisms.

From a social perspective, the shift of authority to the central level has altered the relationship between Indigenous communities and the government. Community participation in decision-making processes has become more limited because centralized licensing procedures restrict opportunities for dialogue at the local level (Perkumpulan HuMa, 2019). This situation contradicts the principle of free, prior, and informed consent (FPIC), recognized in various international legal instruments such as the United Nations Declaration on the Rights of Indigenous Peoples (United Nations, 2007). The lack of substantive participation not only undermines the legitimacy of policies but also diminishes the community's sense of ownership over their customary forests.

Economically, these governance changes create a dilemma. On the one hand, pro-investment policies under the Omnibus Law may open opportunities for market access and village infrastructure development (Kementerian Investasi/BKPM, 2021). On the other hand, without adequate protection of Indigenous rights, economic benefits tend to be captured by external actors, while Indigenous communities bear the ecological losses and the deprivation of access to resources that form the basis of their livelihoods (Nawir & Santoso, 2005). A case study in Raden Anom Village shows that some residents have begun leasing or selling their management rights to private parties due to economic pressures, which in the

long run may erode the village's socio-ecological resilience (H. Bakri, personal communication, May 7, 2024).

These implications underscore that the success of sustainable development in customary territories depends heavily on integrating environmental, social, and economic dimensions within a governance framework that respects customary rights. The polycentric governance theory offers a relevant framework, as it encourages coordination between various levels of government and non-state actors to produce adaptive and inclusive policies (Ostrom, 2019). In the context of Raden Anom Village, applying this model could entail the establishment of a multi-stakeholder forum involving the central government, local government, customary institutions, and civil society organizations to jointly formulate forest management strategies.

Furthermore, the active participation of indigenous communities in the planning and implementation of development programs should be positioned not merely as a formality, but as a collaborative process that recognizes their strategic role as forest guardians (Wiyono, 2018). Consistent and transparent implementation of free, prior, and informed consent (FPIC) is key to ensuring that any development project utilizing customary forests genuinely secures approval based on adequate information and without coercion. This approach would strengthen policy legitimacy and prevent prolonged social conflicts (Colchester & Chao, 2013). Moreover, it can serve as a protective mechanism against the erosion of local cultural values, which are often undermined by top-down development models. Integrating FPIC with community-based monitoring mechanisms will ensure that customary forest governance aligns with the principles of ecological sustainability and social justice.

**Table 1. Key Aspects and Implications of Indigenous Peoples' Participation**

Aspect	Description	Analytical Implication
<b>Indigenous Peoples' Participation</b>	Positioned as a collaborative process that recognizes their strategic role as forest guardians, rather than as a mere formality.	Promotes <i>power sharing</i> between the state and indigenous communities, strengthening social legitimacy in resource governance.
<b>Implementation of FPIC</b>	<i>Free, Prior, and Informed Consent</i> applied consistently and transparently to ensure consent is given without coercion and with adequate information.	Serves as a key instrument bridging the gap between state law and customary law in development processes.

<b>Policy Legitimacy</b>	Effective FPIC reinforces policy legitimacy and prevents prolonged social conflicts.	Reduces the potential for <i>policy resistance</i> and enhances the sustainability of development programs.
<b>Protection of Cultural Values</b>	Participatory approaches safeguard local cultural values from erosion due to top-down development models.	Maintains cultural identity as social capital for resource conservation.
<b>Integration of Community-Based Monitoring</b>	FPIC is integrated with community-based monitoring mechanisms.	Ensures long-term accountability and facilitates adaptive policy-making informed by local knowledge.

A collaborative approach to indigenous peoples' participation in forest governance reframes the relationship between the state and indigenous communities from a purely administrative arrangement into a strategic partnership based on power sharing. The consistent and transparent implementation of Free, Prior, and Informed Consent (FPIC) functions as a bridge between the centralized tendencies of state law and the locally embedded wisdom of customary law, thereby mitigating the risk of structural conflicts. Integrating FPIC with community-based monitoring mechanisms not only strengthens policy accountability but also enables adaptive policy-making that responds to evolving socio-ecological contexts. In this way, the protection of cultural values and collective identities becomes an integral part of long-term conservation strategies and a key driver for sustainable development outcomes.

Thus, the implications of post-Omnibus Law on Job Creation governance changes in Raden Anom Village highlight the necessity of a sustainable development approach that is equitable, inclusive, and respectful of indigenous institutional structures. Without policy designs that genuinely strengthen local participation and capacity, development initiatives risk undermining both environmental sustainability and the well-being of indigenous communities. Accordingly, strategic recommendations include revising the implementing regulations of the Omnibus Law on Job Creation, adopting a polycentric governance model, and strengthening indigenous institutions through adequate technical support and resources to ensure that customary forest management remains aligned with the principles of sustainability. Ultimately, integrating these measures into national and regional policy frameworks is essential to prevent legal fragmentation and to secure long-term ecological and socio-cultural resilience.

## Conclusion

This study demonstrates that the enactment of the Omnibus Law on Job Creation (Undang-Undang Cipta Kerja) has substantially transformed the legal framework and governance structure of customary forests (hutan adat) in Raden Anom Village. The regulatory shift from a decentralized recognition system to a centralized licensing regime has not only altered administrative procedures but also reconfigured the balance of power between the state and customary institutions. Customary authorities, which previously enjoyed relative autonomy, are now dependent on formal state legitimacy, potentially diminishing their role in sustaining forest ecosystems.

Post-reform institutional dynamics reveal adaptive strategies, including the integration of customary norms into official village documents, the establishment of new governance units, and cross-actor collaborations. Nevertheless, these initiatives face persistent constraints, such as limited legal capacity, economic pressures, and the risk of subordinating customary law to uniform national policies. The consequences extend beyond institutional arrangements, influencing environmental integrity, social cohesion, and local livelihoods.

The findings underscore that effective reform of customary forest governance requires harmonizing national legal instruments with local institutional mechanisms. A governance model grounded in polycentric governance and commons management principles could balance investment priorities with ecological sustainability. Accordingly, this study recommends revising supplementary regulations to the Omnibus Law to grant greater autonomy to customary institutions, ensuring consistent implementation of free, prior, and informed consent (FPIC), and enhancing institutional capacity through technical and resource support. Such an approach is expected to safeguard the ecological integrity of customary forests while ensuring the socio-economic sustainability of indigenous communities amid investment-oriented regulatory reforms.

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