

RIGHT TO CULTIVATE IN THE CAPITAL CITY OF NUSANTARA: ANALYSIS OF AGRARIAN LEGAL IMPLICATIONS ON THE SOCIAL FUNCTION OF LAND AND SUSTAINABILITY

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Abstract

The granting of Right to Cultivate (HGU) in the Capital City of Nusantara (IKN) serves as a crucial instrument in supporting long-term investment to realize inclusive and sustainable national development. However, the extended duration of HGU, reaching nearly two centuries, presents significant challenges, particularly in ensuring alignment with national agrarian principles as stipulated in Law No. 5 of 1960 on Basic Agrarian Regulations (UUPA). Article 6 of the UUPA emphasizes that all land rights must fulfill a social function, requiring land utilization for the broader public interest.

This study analyzes the agrarian legal implications of granting HGU in IKN concerning social justice, environmental sustainability, and the protection of indigenous communities' rights. Using a normative juridical approach, the research examines Law No. 3 of 2022 on IKN, Government Regulation No. 12 of 2023, and national agrarian legal principles. The findings indicate that while HGU policies provide legal certainty for investors, they also risk creating social disparities, disregarding indigenous land rights, and triggering the exploitation of natural resources that could harm ecosystems.

As a solution, this study recommends periodic evaluation mechanisms, the protection of indigenous rights through public consultation and fair compensation, and the harmonization of agrarian regulations. The application of digital technology is also necessary to enhance transparency and public participation. Through inclusive and sustainable policies based on the social function of land, IKN can emerge as a symbol of fair and environmentally friendly national development transformation.

1. Introduction

The development of IKN in East Kalimantan is a strategic step taken by the Indonesian government to support the transformation of national development. As the new administrative center, IKN is designed not only as a governmental hub but also as a symbol of sustainability and inclusive development.¹ The development of IKN aims to reduce regional development disparities, create an environmentally friendly urban area, and enhance government efficiency. In this context, land management becomes one of the most crucial aspects.

HGU (Right to Cultivate) is one of the agrarian legal instruments used to support the development of IKN. HGU grants legal entities or individuals the right to utilize state land for commercial purposes within a specified period. Under the applicable regulations, such as Law No. 3 of 2022 on IKN and Government Regulation No. 12 of 2023, the duration of HGU in IKN can extend to nearly two centuries. This policy aims to provide legal certainty for investors and support long-term development. However, such an extended duration raises various challenges concerning social justice, environmental sustainability, and the protection of indigenous rights.²

Article 6 of Law No. 5 of 1960 on Basic Agrarian Regulations (UUPA) asserts that all land rights must fulfill a social function. This means that land should not be used solely for the economic interests of individuals or specific groups but must provide broader benefits for society.³ In the context of granting HGU in IKN, this

¹ Syaban, A. S. N., & Appiah-Opoku, S. (2024). Unveiling the Complexities of Land Use Transition in Indonesia's New Capital City IKN Nusantara: A Multidimensional Conflict Analysis. *Land*, 13(5), 606. <https://doi.org/10.3390/land13050606>

² Hernawan, D. (2023). Assessing the Impact of Land Development Regulations on Customary Land Values: A Case Study of Rempang and IKN in Indonesia. *Society*, 11(2), 644–664.

³ Hidayanti, S., Koswara, I., & Gunawan, Y. (2021). The Land Legal System in Indonesia and Land Rights According to the Basic Agrarian Law (UUPA). *Legal Brief*, 11(1).

principle faces significant challenges, particularly regarding the distribution of land benefits, the recognition of indigenous rights, and environmental protection.

The Capital City of Nusantara (IKN) is located in East Kalimantan, which is also home to various indigenous communities with historical, social, and spiritual ties to their customary lands. The policy of granting Right to Cultivate (HGU) without considering indigenous rights has the potential to trigger horizontal conflicts, exacerbate social inequalities, and threaten environmental sustainability. Additionally, the long-term utilization of HGU poses the risk of uncontrolled natural resource exploitation, contradicting the sustainable development goals that form the core vision of IKN.⁴

From a sustainability perspective, IKN is designed as a green urban area that serves as a model for environmentally friendly development in Indonesia. However, without adequate oversight, the long-term utilization of land risks damaging local ecosystems, reducing biodiversity, and worsening environmental degradation. Therefore, the implementation of HGU policies in IKN requires transparent monitoring mechanisms, periodic evaluations, and the application of eco-friendly technologies to ensure sustainable development.

As part of the national agrarian legal framework, the HGU policy in IKN must also be harmonized with the principles outlined in the Basic Agrarian Law (UUPA). Article 2 of the UUPA asserts that land management should be directed toward maximizing the prosperity of the people, both individually and collectively. However, the nearly two-century duration of HGU raises concerns about legal uncertainty, particularly regarding the protection of indigenous rights and the equitable distribution of land benefits. A thorough study is needed to ensure that the HGU policy aligns with social justice and the social function of land, as stipulated in the UUPA.⁵

Furthermore, it is essential to establish inclusive mechanisms in HGU management, such as public consultations with indigenous communities, fair compensation schemes, and formal recognition of customary land rights. The government must also develop a digitalized land management system to enhance transparency, public participation, and accountability. By doing so, the HGU policy in IKN will not only support national development but also reflect social justice and environmental sustainability.

This study aims to analyze the agrarian legal implications of granting HGU in IKN concerning social justice, sustainability, and the protection of indigenous rights. A normative juridical approach is used to examine relevant regulations,

⁴ Ayuningtyas, T. R. et al. (2024). Analisa Hukum Terhadap Pengaturan Hak Guna Usaha di Ibu Kota Negara. *Unes Law Review*, 6(4), 11766–11776.

⁵ Moore, J. W. (2018). The Capitalocene Part II: accumulation by appropriation and the centrality of unpaid work/energy. *The Journal of Peasant Studies*, 45(2), 237–279. <https://doi.org/10.1080/03066150.2016.1272587>

including Law No. 3 of 2022, Government Regulation No. 12 of 2023, and national agrarian legal principles. This research also identifies strategic measures to address challenges in HGU management, such as regulatory harmonization, periodic evaluation mechanisms, and the implementation of eco-friendly technologies.

With inclusive and sustainable policies, IKN is expected to become a symbol of national development transformation that prioritizes not only investment but also social justice and environmental sustainability. This article provides an in-depth analysis of how HGU policies in IKN can be optimized to achieve these objectives while offering relevant recommendations to strengthen land governance⁶ in the future.

The granting of Hak Guna Usaha (HGU) in IKN has become a crucial government strategy to promote long-term investment in support of sustainable development. However, this policy presents significant challenges related to social justice, environmental sustainability, and the protection of indigenous land rights. Law No. 3 of 2022 concerning IKN and Government Regulation No. 12 of 2023 serve as the legal foundation for granting HGU in this region, with an exceptionally long duration—nearly two centuries. While this policy provides legal certainty and attracts investor interest, the question remains as to what extent it aligns with the principles of national agrarian law as regulated in Law No. 5 of 1960 on Basic Agrarian Regulations (UUPA).

The social function of land, as stipulated in Article 6 of the UUPA, emphasizes that land must be utilized for the greatest welfare of the people.⁷ In the context of HGU allocation in IKN, it is essential to ensure that economic benefits are not only enjoyed by individuals or specific groups but also by the broader community. The long duration of HGU, which is investment-oriented, may create imbalances, increase the risk of conflicts, and potentially neglect the needs of indigenous communities, who have historical and spiritual ties to their customary lands. Therefore, this policy must be designed in a way that ensures the social function of land remains a fundamental principle.

The presence of indigenous communities in the IKN region adds an additional layer of complexity to HGU policy implementation. Customary land rights, which are recognized in Article 3 of the UUPA, are often overlooked when confronted with large-scale development interests. This inequality can lead to horizontal conflicts and worsen social disparities, contradicting the objectives of

⁶ Fietz, B., & Günther, E. (2021). Changing Organizational Culture to Establish Sustainability. *Controlling & Management Review*, 65(3), 32–40. <https://doi.org/10.1007/s12176-021-0379-4>

⁷ SARI, N. A (2021). KONSEP HAK MENGUASAI NEGARA TERHADAP TANAH DALAM HUKUM TANAH (UUPA) DAN KONSTITUSI. *Ganec Swara*, 15(1), 991–998.

inclusive development.⁸ Therefore, protecting indigenous rights through formal recognition, inclusive public consultations, and fair compensation must be integrated into the HGU policy framework.

Beyond social justice, environmental sustainability is a crucial element that must be prioritized in the allocation of HGU in IKN.⁹ The extended duration of HGU risks excessive exploitation of natural resources, which may damage local ecosystems and threaten the sustainability of the region. IKN, designed as a model for sustainable development, emphasizes resource efficiency and environmental conservation. Thus, HGU policies must be supported by the adoption of eco-friendly technologies, periodic evaluations, and strict sustainability standards to ensure responsible resource management.

Transparency and accountability in HGU management are key to ensuring fair and sustainable policy implementation. The use of digital technology can enhance transparency, enabling real-time land use monitoring and greater public participation in decision-making processes. Satellite-based monitoring systems, for instance, can be used to detect activities that violate regulations, while online platforms allow the public to track HGU implementation more openly. These measures can improve government and corporate accountability, thereby reducing the risk of conflicts and policy deviations.

Additionally, strong legal protection is essential to ensure that HGU allocation in IKN promotes social justice and sustainability. Harmonized regulations with national agrarian principles must be established to protect indigenous rights, minimize environmental impacts, and balance economic and social interests. Strict oversight of policy implementation, periodic evaluations, and the imposition of firm sanctions on violations should be integral components of a transparent and accountable governance framework.

This research holds high relevance in supporting IKN's development as a symbol of national transformation based on social justice and sustainability. By analyzing the key challenges emerging from HGU policy implementation, this study aims to provide a meaningful contribution to the formulation of inclusive and sustainable agrarian policies. The normative juridical approach employed in this research provides a strong legal foundation for evaluating this policy from multiple perspectives, ultimately leading to relevant and applicable recommendations.

⁸ Siregar T. R. K., & Lewoleba, K. K. (2024). DINAMIKA HUKUM SOSIAL DAN BUDAYA PADA EKSISTENSI MASYARAKAT ADAT KALIMANTAN TIMUR DI ERA PEMBANGUNAN IKN. *Jurnal Hukum dan Kewarganegaraan*, 4(11).

⁹ Tasya, N. (2024). Kebijakan Pemindahan Ibu Kota Nusantara (IKN) Perspektif Pembangunan Berkelanjutan Berwawasan Lingkungan. *Savana: Indonesian Journal of Natural Resources and Environmental Law*, 1(2), 122–132. <https://doi.org/10.25134/savana.v1i2.193>

The primary objective of this research is to analyze the compatibility of HGU allocation in IKN with national agrarian law principles, particularly the social function of land. Additionally, this study seeks to identify the policy's impact on social justice¹⁰, especially for indigenous communities, and evaluate its potential risks to environmental sustainability. Through a comprehensive approach, this research aims to develop policy recommendations that enhance transparency, accountability, and legal protection in HGU management in IKN.

By focusing on social justice and sustainability¹¹, this study is expected to support the establishment of a more inclusive and responsible land governance system in IKN. A policy framework rooted in national agrarian principles will not only improve the quality of life for local communities but also position IKN as a model for sustainable development that can be adopted both nationally and globally.

2. Research Method

This study employs a normative juridical method, which focuses on the examination of positive law by referring to legislation and legal doctrines. This approach aims to analyze the agrarian legal implications of granting Right to Cultivate (HGU) in the Capital City of Nusantara (IKN) concerning social justice, environmental sustainability, and the protection of indigenous rights. The primary sources of this research include Law No. 5 of 1960 on Basic Agrarian Regulations (UUPA), Law No. 3 of 2022 on IKN, and Government Regulation No. 12 of 2023. Additionally, this study examines national agrarian legal principles, including the concept of the social function of land, and its relevance to sustainability principles in national development.

Data collection in this research is conducted through a study of primary legal materials, such as legislation and relevant court decisions, as well as secondary legal materials, including legal journals, books, and previous studies on HGU policies and land governance in Indonesia. The data analysis applies a qualitative analysis method, aiming to assess the compliance of HGU policies in IKN with national agrarian legal principles. The conclusion is drawn deductively, where existing agrarian legal theories and principles serve as the basis for evaluating the policies implemented in IKN. Through this approach, the study is expected to provide strategic recommendations on regulatory harmonization,

¹⁰ Bennett, N. J., Katz, L., Yadao-Evans, W., Ahmadia, G. N., Atkinson, S., Ban, N. C., Dawson, N. M., de Vos, A., Fitzpatrick, J., Gill, D., Imirizaldu, M., Lewis, N., Mangubhai, S., Meth, L., Muhl, E.-K., Obura, D., Spalding, A. K., Villagomez, A., Wagner, D., ... Wilhelm, A. (2021). Advancing Social Equity in and Through Marine Conservation. *Frontiers in Marine Science*, 8. <https://doi.org/10.3389/fmars.2021.711538>

¹¹ Ruggerio, C. A. (2021). Sustainability and sustainable development: A review of principles and definitions. *Science of The Total Environment*, 786, 147481. <https://doi.org/10.1016/j.scitotenv.2021.147481>

periodic evaluation mechanisms, and the application of technology in HGU management at IKN to achieve inclusive and sustainable development.

3. Results And Discussion

3.1. Implementasi Prinsip Keadilan Sosial dalam Pengelolaan di IKN

The principle of social justice serves as the fundamental basis of Indonesia's agrarian legal system, as enshrined in Law No. 5 of 1960 on Basic Agrarian Regulations (UUPA). Article 2 of the UUPA affirms that land control and utilization must be directed toward the greatest prosperity of the people. In the context of IKN development, this principle requires a comprehensive and thorough implementation to prevent social disparities¹² that may arise from the long-term granting of Right to Cultivate (HGU).

HGU is a legal instrument that grants legal entities or individuals the right to utilize state land for commercial purposes within a specified period. In its implementation, the principle of social justice demands that land use does not solely generate economic benefits for specific parties, such as investors, but also ensures equitable distribution of benefits to the wider society. Article 6 of the UUPA emphasizes that land must fulfill a social function, meaning that its utilization must prioritize the well-being of local communities, especially those residing in the designated land area.

In the case of IKN, an unequal distribution of land benefits may lead to significant social disparities. The long-term granting of HGU, extending up to nearly two centuries, has the potential to increase investment dominance over indigenous and local community interests. This condition risks marginalizing indigenous communities who have historical, social, and spiritual ties to their customary lands (tanah ulayat). Therefore, HGU policies must strike a balance between economic interests and the welfare of local communities.

Indigenous communities in East Kalimantan, where IKN is being developed, maintain a close relationship with land as a source of livelihood and cultural identity. The UUPA recognizes indigenous land rights in Article 3, stating that customary land rights (hak ulayat) and similar rights must be protected as long as they still exist and do not contradict national interests. However, the implementation of this protection often faces obstacles, particularly due to large-scale development and investment interests.¹³

¹² García-Sánchez, E., Correia, I., Pereira, C. R., Willis, G. B., Rodríguez-Bailón, R., & Vala, J. (2022). How Fair is Economic Inequality? Belief in a Just World and the Legitimation of Economic Disparities in 27 European Countries. *Personality and Social Psychology Bulletin*, 48(3), 382–395. <https://doi.org/10.1177/01461672211002366>

¹³ Pramesti, W., Natasya, A. V., Dija, H., R., A., & Putri, V., F. (2025). Kontradiksi Pengaturan Hak Guna Usaha Dalam Undang-Undang Penanaman Modal dan Undang-Undang Ibu Kota Negara. *Ulil Albab*, 4(2), 542–556.

In the context of IKN, the HGU policy must be designed to protect indigenous rights through formal mechanisms such as the recognition of customary land rights, fair compensation, and inclusive public consultations. These mechanisms are crucial to ensuring that indigenous voices are heard and considered in all decision-making processes related to HGU allocation. For instance, the recognition of customary land rights can be achieved through customary land certification, which provides legal certainty and prevents future land disputes.¹⁴

The provision of fair compensation to indigenous communities is also a key element in ensuring social justice. Compensation must reflect the economic, social, and cultural value of the land used, while also guaranteeing the sustainability of indigenous livelihoods. Additionally, the government must actively involve indigenous communities in decision-making processes through inclusive public consultations. This process not only enhances justice for indigenous communities but also fosters transparency and accountability in HGU policies.

An HGU policy that excessively prioritizes investment interests often neglects the needs of local communities. In many cases, local communities become the disadvantaged party due to limited access to information, non-transparent decision-making processes, or inadequate compensation. This contradicts the principle of social justice, which requires that land benefits be distributed equitably.

For example, the long duration of HGU in IKN allows investors to control land for an extended period. While this ensures legal certainty for investors, such policies may overlook the rights of local communities to access land and natural resources in the area. Therefore, the government has a responsibility to ensure that HGU policies not only benefit investors but also provide tangible advantages for local communities.¹⁵

3.2. Sustainability Strategies in the Right to Cultivate (HGU) Policy in IKN

The granting of Right to Cultivate (HGU) with a long duration of nearly two centuries in IKN presents a significant opportunity to support sustainable national development. However, this extended duration also brings complex challenges related to environmental sustainability, social justice, and land

¹⁴ Afifah, D., Aristias, A., Manullang, I. A., Sukma, N.F., & Prasetyo, H. (2024). Kepastian Hukum Terkait Hak-Hak Masyarakat Konservatif Dalam Pembangunan Ibu Kota Nusantara. *Socius*, 1(11), 311–319.

¹⁵ Zaini, A, Syihabuddin, M., Wiranti, & Wijayanti, W. (2023). Legal Review Of Granting Of Building Utilization Rights (HGB) For 160 Years To Investors In The Capital City Of The Nusantara Development (IKN). *YURISDIKSI : Jurnal Wacana Hukum Dan Sains*, 19(1), 58–73. <https://doi.org/10.55173/yurisdiksi.v19i1.175>

governance. To address these challenges, a sustainability strategy is required that integrates agrarian legal principles, responsible natural resource management, and active involvement of local communities in the decision-making process.

Sustainability in the context of HGU management in IKN encompasses three main pillars: environmental, social, and economic sustainability. These three pillars must operate in tandem to ensure that IKN development provides optimal benefits without damaging ecosystems¹⁶ or harming local communities.

IKN is designed as a green city model that prioritizes environmental conservation. However, the granting of long-term HGU increases the risk of excessive natural resource exploitation¹⁷, particularly if not accompanied by adequate monitoring mechanisms. These risks include deforestation, land degradation, and biodiversity loss.

To mitigate these risks, the following strategic measures¹⁸ are required:

- a. **Implementation of Eco-Friendly Technology:** HGU holders must be required to adopt sustainable technologies, such as efficient waste management systems, renewable energy utilization, and sustainable agricultural techniques.
- b. **Digital-Based Monitoring:** Satellite-based monitoring systems can be used to track real-time land use changes, allowing for early detection of activities that may harm the environment.
- c. **Ecosystem Restoration:** HGU holders should be obligated to conduct ecosystem restoration as part of their corporate social and environmental responsibility.

The granting of HGU in IKN must also consider its impact on local and indigenous communities. Indigenous communities in East Kalimantan **hold** customary land rights (hak ulayat), which are recognized under Article 3 of Law No. 5 of 1960 on Basic Agrarian Regulations (UUPA). These rights must be protected through inclusive and fair policies.

Key steps to ensure social sustainability include:

¹⁶ Wang, S., Liu, Z., Chen, Y., & Fang, C. (2021). Factors influencing ecosystem services in the Pearl River Delta, China: Spatiotemporal differentiation and varying importance. *Resources, Conservation and Recycling*, 168. <https://doi.org/10.1016/j.resconrec.2021.105477>

¹⁷ Xiaoman, W., Majeed, A., Vasbieva, D. G., Yameogo, C. E. W., & Hussain, N. (2021). Natural resources abundance, economic globalization, and carbon emissions: Advancing sustainable development agenda. *Sustainable Development*, 29(5), 1037–1048. <https://doi.org/10.1002/sd.2192>

¹⁸ Amin, A., Adrianto, M. A., , Kusumastanto, L., , T., & Imran, Z. (2021). Community knowledge, attitudes and practices towards environmental conservation: Assessing influencing factors in Jor Bay Lombok Indonesia. *Marine Policy*, 129. <https://doi.org/10.1016/j.marpol.2021.104521>

- a. **Inclusive Public Consultation:** Local and indigenous communities must be involved at every stage of decision-making regarding HGU allocations. Public consultations can enhance transparency and policy accountability.
- b. **Fair Compensation:** Compensation for indigenous communities should reflect the economic, social, and cultural value of the land used. Compensation can take the form of monetary payments, land substitution, or community development programs.
- c. **Empowerment of Local Communities:** HGU holders can be required to involve local communities in economic activities related to land use, such as eco-tourism management or local product development.

As the new administrative capital, IKN aims to foster inclusive economic development.¹⁹ While long-term HGU provides legal certainty for investors, it must also ensure that economic benefits are not concentrated in the hands of a few. Therefore, key economic sustainability strategies include:

- a. **Equitable Distribution of Economic Benefits:** The government must ensure that revenue from HGU, whether in the form of taxes or royalties, is used to support infrastructure development and public services in IKN.
- b. **Innovation in Land Utilization:** HGU holders should be encouraged to develop businesses that promote sustainability, such as organic farming, renewable energy projects, or eco-tourism.
- c. **Periodic Evaluation:** The government should conduct regular evaluations of HGU utilization to ensure that economic activities align with sustainability principles.

The long duration of HGU in IKN necessitates regulatory harmonization to ensure that this policy does not contradict national agrarian legal principles.²⁰ Article 6 of the UUPA asserts that all land rights must fulfill a social function. Therefore, land use must benefit the broader society rather than serving only individual or corporate interests.

The government should consider revisions to Government Regulation No. 12 of 2023 to ensure that the long-term duration of HGU does not conflict with agrarian legal principles. Potential revisions may include:

- a. **Limiting HGU Duration:** Although long-term HGU is granted in IKN, a maximum duration cap is needed to prevent land monopolization.

¹⁹ Pradhan, R. P., Arvin, M. B., Nair, M. S., Hall, J. H., & Bennett, S. E. (2021). Sustainable economic development in India: The dynamics between financial inclusion, ICT development, and economic growth. *Technological Forecasting and Social Change*, 169. <https://doi.org/10.1016/j.techfore.2021.120758>

²⁰ Sulistyaningsih, R. (2021). PERSPEKTIF Volume 26 Nomor 1 Tahun 2021 Edisi Januari REFORMA AGRARIA DI INDONESIA. *Perspektif*, 26(1), 57–64. <https://jurnal-perspektif.org/index.php/perspektif/article/view/753>

- b. **Mandatory Periodic Evaluation:** Regulations should mandate regular evaluations of HGU utilization, including social, economic, and environmental aspects.

The IKN Authority must possess adequate capacity to oversee HGU supervision and law enforcement.²¹ This includes enhancing human resources, technology, and inter-agency coordination.

Transparency and public participation²² are key elements in ensuring the sustainability of HGU policies in IKN. Digital technology implementation can increase transparency and allow public involvement in monitoring HGU allocations.

The government can develop an online platform that provides public access to HGU-related information, including ownership, location, duration, and land use plans. This system would enable citizens to monitor HGU implementation transparently.

Local and indigenous communities²³ must be involved in the decision-making process regarding HGU. This participation can be realized through:

- a. **Public Consultation:** Local communities should be given the opportunity to express their views and provide input on HGU policies.
- b. **Partnerships with Local Communities:** HGU holders can establish collaborations with local communities to develop programs that support sustainability.

Regular evaluations of HGU implementation in IKN are essential to ensure that the policy remains relevant and aligned with sustainable development goals. These evaluations should include:

- a. **Social Impact Assessment:** Evaluating the impact of HGU policies on local community welfare, including land access and natural resource availability.
- b. **Environmental Impact Monitoring:** Assessing ecosystem changes, biodiversity loss, and carbon emissions resulting from HGU-related activities.
- c. **Regulatory Compliance:** Ensuring that HGU holders comply with all legal provisions governing land use and sustainability.

²¹ Purba, M. H. Y., Sirait, N. N., Siregar, M., & Harianto, D. (2023). Peraturan Komisi Pengawas Persaingan Usaha Nomor 4/2019: Bukti Arogansi Institusi Penegak Hukum. *JURNAL MERCATORIA*, 16(2), 129–138. <https://doi.org/10.31289/mercatoria.v16i2.8226>

²² Bauhr, M., & Carlitz, R. (2021). When does transparency improve public services? Street-level discretion, information, and targeting. *Public Administration*, 99(3), 500–516. <https://doi.org/10.1111/padm.12693>

²³ Kadykalo, A. N., Cooke, S. J., & Young, N. (2021). The role of western-based scientific, Indigenous and local knowledge in wildlife management and conservation. *People and Nature*, 3(3), 610–626. <https://doi.org/10.1002/pan3.10194>

Based on the analysis above, the following recommendations are proposed to enhance HGU sustainability in IKN:

1. **Regulatory Strengthening:** The government should harmonize HGU regulations with national agrarian law principles, particularly concerning land's social function.
2. **Implementation of Digital Technology:** Technology-based monitoring systems can improve transparency and efficiency in HGU management.
3. **Public Participation:** The government must ensure that local and indigenous communities are involved in every stage of the decision-making process regarding HGU.
4. **Regular Evaluations:** Periodic assessments of HGU implementation should be mandated by regulations to track compliance and impact.
5. **Commitment to Sustainability:** HGU holders should be required to adopt environmentally friendly technologies and sustainable land-use practices.

A holistic approach to sustainability in HGU policies in IKN must integrate environmental, social, and economic sustainability.²⁴ Through regulatory harmonization, digital technology adoption, and community involvement²⁵, IKN can become a model of sustainable development that upholds social justice and environmental preservation²⁶. These policies will ensure that IKN's development does not solely focus on long-term investments but also delivers equitable benefits to local communities and ecosystems.

3.3. Harmonization of Right to Cultivate (HGU) Policy with National Agrarian Law Principles

The harmonization of HGU regulations with national agrarian law principles is an essential step in ensuring that land management²⁷ policies in IKN align with the goals of fair and sustainable national development.²⁸ HGU, as regulated under Law No. 5 of 1960 on Basic Agrarian Regulations (UUPA),

²⁴ Tonggo Michael Sihombing, A., Banke, R., & Pelita Harapan Kampus Medan, U. (2023). *POLITIK HUKUM PENGELOLAAN SUMBER DAYA ALAM DI INDONESIA*.

²⁵ Coy, D., Malekpour, S., Saeri, A. K., & Dargaville, R. (2021). Rethinking community empowerment in the energy transformation: A critical review of the definitions, drivers and outcomes. *Energy Research and Social Science*, 72. <https://doi.org/10.1016/j.erss.2020.101871>

²⁶ Nathaniel, S. P., & Adeleye, N. (2021). Environmental preservation amidst carbon emissions, energy consumption, and urbanization in selected african countries: Implication for sustainability. *Journal of Cleaner Production*, 285. <https://doi.org/10.1016/j.jclepro.2020.125409>

²⁷ Perdana, A. J., & Abdurrachman, M. (2024). *Proceeding of IROFONIC 2023 "Global Initiatives for Sustainable Development Goals" The Politics of Sustainable Development: Navigating Policy Challenges in Indonesia's New Capital City Nusantara*.

²⁸ Milla Sharfinda, N., Antikowati, Prakoso, B. (2023). *Kepastian Hukum Hak Guna Usaha di Atas Hak Pengelolaan* (Vol. 7, Issue 2). <https://ejurnal.unisda.ac.id/index.php/mimbar/article/view/5060/2816>

serves as a key legal instrument that allows legal entities or individuals to utilize land for economic purposes. However, with the introduction of Law No. 3 of 2022 on IKN and Government Regulation No. 12 of 2023, the extension of HGU duration to nearly two centuries poses new challenges in ensuring alignment with national agrarian law principles.

The fundamental principles of Indonesian agrarian law emphasize the social function of land, social justice, and sustainability. Articles 2 and 3 of the UUPA state that land must be used for the maximum prosperity of the people²⁹, both individually and collectively. The social function of land dictates that land should not be utilized solely for private or corporate gain but must provide broader benefits to society. In the context of HGU in IKN, this principle serves as a guideline to ensure that land use not only benefits investors but also supports the well-being of local communities and environmental preservation.

However, with HGU durations extending up to nearly two centuries, there is a risk of benefit imbalances, where investor interests may dominate, while indigenous and local communities lose access to land and resources that are vital to their livelihoods. Therefore, it is crucial to assess whether HGU policies in IKN align with these principles.

Law No. 3 of 2022 on IKN grants special authority to the IKN Authority to manage land within the region. While this flexibility aims to accelerate development and attract investment, it must still adhere to the national agrarian legal framework as outlined in the UUPA.

As a primary legal foundation, the UUPA stipulates that HGU should be limited in duration and must uphold the social function of land. Article 29 of the UUPA states that HGU is granted for a maximum period of 35 years and may be extended by 25 years. However, IKN regulations introduce HGU durations of nearly two centuries, raising concerns about the policy's compatibility with the UUPA.

The harmonization between IKN regulations and the UUPA can be carried out through the following approaches:

1. Regulatory Revisions: Aligning regulations through amendments to Government Regulation No. 12 of 2023 to ensure that HGU durations do not contradict national agrarian law principles.
2. Integration of the Social Function of Land: Even if HGU durations are extended, there must be periodic evaluation mechanisms to ensure that land use remains in accordance with the social function principle.

²⁹ Sulaiman, K. F. (2021). Polemic of Land Social Function and State Control Rights Post Law Number 12 Year 2012 and Constitutional Court Decision Number 50/PUU-X/2012. *Jurnal Konstitusi*, 18(1), 91–111. <https://doi.org/10.31078/jk1815>

3. Public Consultation: Any policy related to HGU granting must involve indigenous and local communities to ensure that their interests are considered in decision-making.

One of the greatest challenges in harmonizing HGU regulations in IKN is the protection of indigenous land rights. East Kalimantan, where IKN is being developed, is home to various indigenous communities with historical and spiritual ties to their customary land (tanah ulayat). The UUPA recognizes indigenous land rights in Article 3, which states that customary land rights must be protected as long as they remain in practice.

However, the implementation of indigenous land rights protection in development contexts often faces challenges. In the case of IKN, the government must ensure that HGU policies do not neglect these rights. Several steps can be taken: The long duration of HGU poses challenges regarding legal certainty, particularly in clarifying the rights and obligations of all parties involved. Over nearly two centuries, policy changes, legal interpretations, or socio-economic conditions may impact HGU implementation. Therefore, HGU contracts must include adaptive clauses, such as:

1. Force Majeure Clause: Anticipating unforeseen changes such as natural disasters or shifts in national policy.
2. Renegotiation Clause: Providing flexibility to adjust contracts based on development dynamics.
3. Periodic Evaluations: Regularly monitoring HGU implementation to ensure that policies remain relevant and aligned with societal needs.

Transparent HGU management can be strengthened through the adoption of digital technology.³⁰ Satellite-based monitoring systems can track real-time land use changes, while online platforms can enhance public participation in HGU oversight. This approach ensures that HGU governance remains transparent, preventing misuse and reinforcing the social function of land.

To ensure the harmonization of HGU regulations with national agrarian law principles, the following policy recommendations are proposed:

1. Regulatory Harmonization: Amending HGU regulations in IKN to align with UUPA principles.
2. Protection of Indigenous Rights: Formal recognition and protection of indigenous land rights through customary land certification and dispute resolution mechanisms.

³⁰ Retor, Z. A., Sondakh, J., Paransi, E. (2024). *TINJAUAN YURIDIS PENANGANAN DAN PENYELESAIAN KASUS PERTANAHAN MENURUT PERATURAN MENTERI AGRARIA DAN TATA RUANG/BADAN PERTANAHAN NASIONAL NOMOR 21 TAHUN 2020*. <https://www.bbc.com/indonesia/indonesia-4563979>

3. Periodic Evaluations: Implementing regular assessments to monitor HGU execution and ensure that the social function of land is upheld.
4. Technology Implementation: Utilizing digital tools to enhance transparency and public participation in HGU management.
5. Institutional Capacity Building: Strengthening the IKN Authority's capacity to oversee HGU enforcement and regulatory compliance.

The harmonization of HGU regulations with national agrarian law is a crucial step in ensuring that land management in IKN supports fair and sustainable national development. By integrating the social function of land, protecting indigenous rights, and leveraging digital transparency, HGU policies can serve as effective instruments in fostering an inclusive and environmentally conscious development transformation.³¹

4. Conclusion

Until 2024, there are still many micro and small businessmen who do not have halal certificates. Although socialization has been carried out by the Central BPHPH, the Halal Task Force in the Regions, the Cooperatives, UMK, and Industry Service, there are still several factors that influence it, namely a low understanding of the obligation to obtain halal certificates, socialization has not reached all businessmen, low economic capacity to register halal certificates, some do not yet have a Business Identification Letter (SIB).

The bureaucracy of issuing halal certificates for micro and small business actors is carried out through two mechanisms, namely self-declare and regular. Self-declare is intended for micro and small businessmen if the materials used are confirmed and the production process is guaranteed to be halal. The self-declared mechanism is free of charge. The period that should be 12 working days in reality takes 2 to 3 months. Thus, the bureaucracy of issuing through self-declare is not yet efficient in terms of time and energy but is efficient in terms of cost. While the regular mechanism is charged according to the provisions of the Ministry of Finance's SBM, the period that should have been completed within 21 working days, in reality, takes 2 to 3 months. The length of the period that cannot be achieved according to the Service Level Agreement (SLA) target is because all the processing processes are still carried out by the Central BPJPH, and the halal fatwa hearing is carried out by the Central MUI. There are still a few LPHs that carry out the examination that have representatives in the regions. Thus, the bureaucracy of issuing halal certificates through the regular mechanism is not yet efficient in terms

³¹ Ye, C., Zhang, F., Mu, L., Gao, Y., & Liu, Y. (2021). Urban function recognition by integrating social media and street-level imagery. *Environment and Planning B: Urban Analytics and City Science*, 48(6), 1430–1444. <https://doi.org/10.1177/2399808320935467>

of time and energy. Meanwhile, in terms of cost, it depends on the level of complexity of the production process and the materials used.

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