

LEGAL UNCERTAINTY AND INDIGENOUS ECONOMIC RIGHTS: NOEL BESI-CITRANA & BIJAEL SUNAN-OBEN

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Abstract

The Noel Besi-Citrana and Bijael Sunan-Oben border disputes between Indonesia and Timor-Leste generate legal uncertainty that undermines indigenous economic rights, including land tenure, customary livelihoods, and cross-border trade. This article aims to examine how the interaction of state law, customary law, and international norms affects the protection of these rights in contested borderlands. Employing normative legal research with a comparative case study design, the study analyzes domestic legislation, bilateral instruments, and documentary evidence of local economic practices. The findings indicate that jurisdictional vacuums and overlapping legal regimes exacerbate socio-economic marginalization and deter community-centered investment. Based on this analysis, the paper proposes a rights-based bilateral framework, explicit statutory recognition of indigenous economic entitlements, and the establishment of jointly governed Border Economic Zones that incorporate customary institutions and participatory governance mechanisms. The proposed measures are evaluated in terms of legal feasibility and potential socio-economic impact. By integrating legal pluralism with economic law, the study contributes policy-relevant models for reconciling territorial sovereignty with indigenous agency and sustainable development in disputed border regions.

Keywords: border disputes; border economic zone; indigenous economic rights; legal uncertainty; legal pluralism

Abstrak

Sengketa Noel Besi-Citrana dan Bijael Sunan-Oben di perbatasan Indonesia-Timor Leste menimbulkan ketidakpastian hukum yang mengancam hak ekonomi masyarakat adat termasuk akses atas tanah, mata pencaharian tradisional, dan perdagangan lintas batas. Tujuan penelitian ini adalah menganalisis bagaimana interaksi antara hukum negara, hukum adat, dan instrumen internasional mempengaruhi perlindungan hak ekonomi adat di kawasan sengketa. Penelitian ini menggunakan metode penelitian hukum normatif dengan pendekatan komparatif dan studi kasus, memeriksa peraturan nasional, perjanjian bilateral, dan bukti empiris praktik ekonomi lokal. Analisis menunjukkan bahwa kekosongan yuridis dan tumpang-tindih norma memperdalam

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marginalisasi ekonomi serta menghambat investasi komunitas. Untuk mengatasi hal tersebut diusulkan perjanjian bilateral berbasis hak, pengakuan eksplisit terhadap hak ekonomi adat, dan pembentukan Border Economic Zones/Kawasan Ekonomi Perbatasan (BEZ/KEP) yang dikelola bersama dengan mekanisme partisipatif dan penguatan peran lembaga adat. Studi ini berkontribusi pada sintesis pluralisme hukum dan hukum ekonomi untuk kebijakan perbatasan yang pro-komunitas.

Kata Kunci: *hak ekonomi masyarakat adat; kawasan ekonomi perbatasan (KEP); ketidakpastian hukum; pluralisme hukum; sengketa perbatasan*

I. Introduction

Border areas inherently embody a complex paradox, serving as a symbol of state sovereignty and a frequent socio-economic marginalization zone.⁶ This tension creates a unique context of legal pluralism in which state law, religious law, and customary law interact, often controversially.⁷ These conditions are found along the Indonesia-Timor Leste border, a demarcation formed by a turbulent history and where the final status of certain segments, namely the Noel Besi-Citrana area in Oecusse and the Bijael Sunan-Oben area in Belu Regency, remains officially unresolved through bilateral agreements.⁸ This unresolved status fosters conditions of widespread legal uncertainty, a vacuum in which jurisdictional authority, applicable law, and law enforcement mechanisms are ambiguous or contested. It is in this vacuum that the basic economic rights of indigenous peoples become very vulnerable.⁹

Research on the Indonesia-Timor Leste border has effectively documented the historical and political contours of the dispute, analyzing its implications for bilateral relations and regional security.¹⁰ For example, Meitzner Yoder's study in the enclave of Oecusse details how societies engage in 'hybrid justice,' strategically navigating between state and customary legal systems to resolve disputes, thus highlighting the de facto legal pluralism on the ground.¹¹ Similarly, studies from the perspective of border studies have documented how the ambiguous status of borders shapes community identities and social networks, often reinforcing local solidarity in response to external state

⁶ Martines, O. (1994) *Border People: Life and Society in the U.S.- Mexico Borderlands*. University of Arizona Press.

⁷ Wilson, T. & Donnan, H. (eds) (2012) *A Comparison to Border Studies*. Wiley.

⁸ Kingsbury, D. & Leach, M. (2007) *East Timor: Beyond Independence*. Monash University Press.

⁹ Teitel, R. & Howse, R. 'Cross-Judging: Tribunalization in a Fragmented but Interconnected Global Order', *New York University Journal of International Law and Politics*, 41(959).

¹⁰ International Crisis Group (2010) *Timor-Leste: Oecusse and the Indonesian Border* [Online]. Diakses di: <https://www.crisisgroup.org/sites/default/files/b104-timor-leste-oecusse-and-the-indonesian-border.pdf>.

¹¹ Yoder, L. (2007) 'Hybridising Justice: State-Customary Interactions over Forest Crime and Punishment in Oecusse, East Timor', *The Asia Pacific Journal of Anthropology*, 8(1).

pressures.¹² In response to this complex dynamic, the dominant solution proposed in both academic and policy circles remain the national security approach. This paradigm prioritizes the finalization of technical demarcations through high-level diplomacy and strengthens state-controlled security apparatus to manage cross-border movements, emphasizing territorial integrity above all else.¹³ This approach is considered fundamental, as it seeks to establish basic prerequisites for stability and clear territorial sovereignty.¹⁴ There is a conspicuous gap in the literature regarding the application of economic law frameworks and a rigorous examination of how legal uncertainty directly infringes upon specific indigenous economic rights, such as the rights to land, traditional livelihoods, and cross-border trade as protected under international instruments like the UNDRIP.¹⁵ Consequently, while the state-security approach is necessary for establishing foundational stability, it is insufficient as it tends to sideline community-specific economic vulnerabilities in high-level policy formulation. This gap results in a policy vacuum where the core economic injustices and tenure insecurity experienced by indigenous communities remain unaddressed, perpetuating cycles of marginalization. This study aims to fill this critical gap by interrogating the nexus between border-induced legal uncertainty and the violation of indigenous economic rights, an area that remains underexplored and vital for a holistic resolution.

Studies on the Indonesia–Timor-Leste border dispute, particularly in the Noel Besi–Citrana and Bijael Sunan-Oben segments, have predominantly focused on international law and border diplomacy. Sabrilla explains that the dispute has been addressed through the Joint Border Committee (JBC) mechanism, based on the *Treaty of 1904*, the *Permanent Court of Arbitration (PCA) Award of 1914*, and the *Provisional Agreement of 2005*.¹⁶ More recently, Korbafo, Kalembang, and Nurak argue that the *Agreed Principles on the Final Settlement* (2019) marked a significant milestone in resolving the political aspects of the two unresolved segments, although technical demarcation and field implementation remain incomplete.¹⁷ These studies demonstrate

¹² Wilson, T. & Donnan, H. (2012), *op.cit.*

¹³ Prescott, J. (2014) *Political Frontiers and Boundaries (Routledge Library Editions: Political Geography)*. Routledge.

¹⁴ Tyson, A. (2010) *Decentralization and Adat Revivalism in Indonesia: The Politics of Becoming*. Routledge.

¹⁵ Anaya, S. (2004) *Indigenous Peoples in International Law*. Oxford University Press.

¹⁶ Sabrilla, N. (2022) 'Penyelesaian Sengketa Perbatasan Darat Di Segmen Bidjael Sunan Oben Antara Indonesia Dan Timor Leste', *Ganesha Law Review*, 4(1).

¹⁷ Korbafo, Y., Kalembang, E., & Nurak, R. (2024) 'Indonesian-Timor Leste Western Demarcation Line Dispute Settlement on Unresolved Segment of Neoliberalism Perspective: Endeavors and Challenges', *Jurnal Global & Strategis*, 18(1).

that existing scholarship has primarily emphasized territorial settlement and interstate cooperation rather than the protection of the rights of the indigenous communities affected by the dispute.

Within the context of indigenous peoples, the interaction between state law and customary law continues to be characterized by legal pluralism. Although Article 18B(2) of the 1945 Constitution formally recognizes indigenous communities, this constitutional recognition has not been fully translated into harmonized sectoral regulations or effective legal protection.¹⁸ The legal pluralism literature indicates that overlapping state and customary legal norms frequently generate legal uncertainty, particularly regarding customary land tenure and natural resource governance.¹⁹ This challenge becomes more complex in border regions, where indigenous communities maintain historical, social, cultural, and economic ties that transcend modern state boundaries.

Furthermore, the economic rights of indigenous peoples constitute an integral component of internationally recognized human rights, as reflected in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Nevertheless, previous studies have concentrated on customary land rights and agrarian disputes, while limited attention has been devoted to examining how legal uncertainty affects indigenous economic rights, including access to productive land, traditional livelihoods, and cross-border trade. Research on customary lands in the Timor border area, such as research conducted by Kalembang, shows that the conflict of state boundaries is a conflict of customary rights rooted in the history of customary control. Settlements based on local wisdom such as the Baefeto-Baemone concept are able to reduce social conflicts, but do not provide certainty for the sustainability of community economic activities.²⁰ From a law and economics perspective, legal certainty constitutes a fundamental prerequisite for investment security, economic efficiency, and the effective protection of property rights.

Bridging this critical gap requires moving beyond conventional state-centric and security-oriented paradigms. This research, therefore, proposes a community-driven

¹⁸ Narwadan, T. (2025) 'The Existence of Customary Law as a Living Law within Indonesia's Legal System: A Legal Pluralism Analysis', *Journal of Adat Recht*, 2(4).

¹⁹ Maswatu, I. et al. (2025) 'Legal Protection of Indigenous Land Rights: A Study of Customary Law Integration in National Legal', *RIGGS: Journal of Artificial Intelligence and Digital Business*, 4(3).

²⁰ Kalembang, E. (2018) 'Tanah Ulayat Sebagai Simbol Eksistensi Adat-Istiadat: Studi Kasus Tentang Konflik Tanah Ulayat Di Perbatasan Republik Indonesia (RI) Dan Republik Demokratik Timor Leste (RDTL) Segmen Bijael Sunan/Oelnasi', *Sabda: Jurnal Kajian Kebudayaan*, 13(1), p. 44.

legal framework that synthesizes principles of economic law and legal pluralism. The study pursues three interrelated objectives: (1) to identify and analyze the specific patterns through which legal uncertainty undermines the economic rights of indigenous communities in the Noel Besi-Citrana and Bijael Sunan-Oben disputes; (2) to critically assess the extent to which existing national and international legal instruments provide effective protection or, conversely, perpetuate structural vulnerabilities; and (3) to develop a normative framework for a bilateral agreement that formally recognizes indigenous economic rights and establishes a jointly managed Border Economic Zone (BEZ), thereby transforming legal certainty into sustainable economic empowerment. By doing so, the research seeks to contribute both theoretically, by enriching the discourse on legal pluralism in borderlands, and, by offering policy-oriented recommendations to harmonize state, customary, and international legal orders.

The scientific merit and novelty of this paper lie in its interdisciplinary integration of border studies, indigenous rights law, and economic law, a synthesis directly addressing the siloed approaches that have characterized previous research. By foregrounding indigenous economic rights as a central variable in resolving border disputes, this study offers a necessary corrective to the state-security dominated discourse and provides a fresh perspective on legal pluralism in borderland contexts. The significance of this study is twofold. Theoretically, it enriches academic discourse by challenging the primacy of the state-security framework and arguing for a more pluralistic understanding of law and justice in border regions. Practically, its findings and proposed framework are designed to provide actionable policy recommendations for the governments of Indonesia and Timor-Leste, advocating for a border management model that achieves not only territorial integrity but also economic justice and sustainable development for their most vulnerable citizens.

II. Method

This study adopts doctrinal legal research complemented by comparative case analysis and documentary evidence review. The core method is normative doctrinal analysis of primary legal materials, including bilateral instruments, domestic statutes, constitutional texts, and customary law instruments, combined with secondary legal literature to situate doctrinal interpretation within broader legal theory. To capture on-the-ground economic practices and institutional behavior, the doctrinal analysis is triangulated with documentary empirical sources such as government reports, NGO field

reports, academic theses, and local media accounts. The comparative element contrasts relevant legal frameworks in Indonesia and Timor-Leste and examines international norms, notably the United Nations Declaration on the Rights of Indigenous Peoples. Analytical techniques include textual interpretation of legal instruments, institutional mapping of governance actors, and issue-focused comparison of legal responses to land tenure, market regulation, and dispute resolution in contested border segments. The study explicitly states limitations where primary field data are unavailable and proposes targeted empirical follow-up (interviews, market surveys) where documentary evidence remains inconclusive.

III. Analysis and Discussion

A. The Configuration of Legal Pluralism in the Noel Besi-Citrana and Bijael Sunan-Oben Border Sectors

The disputes in the Noel Besi-Citrana and Bijael Sunan-Oben segments are not isolated contemporary phenomena, but direct consequences of historical failures rooted in the colonial era. The core issue lies in divergent interpretations of legal instruments created by colonial powers, particularly the 1904 Dutch-Portuguese Treaty.²¹ This treaty, intended as a definitive foundation for territorial boundaries, contained inherent imperfections and ambiguities that have led to conflicting interpretations, especially concerning Article III.²² These deficiencies have created a situation where the existing border lacks full recognition or agreement between the two successor states, Indonesia and Timor-Leste.

Despite post-independence negotiations resulting in the 2005 Provisional Agreement that successfully established 907 land border coordinates,²³ the Noel Besi-Citrana and Bijael Sunan-Oben segments remain unresolved.²⁴ This situation has triggered geopolitical debates dominated by a state-centric security approach, which prioritizes technical demarcation through high-level diplomacy. However, this approach has proven inadequate, as observed in the border conflicts between North Central Timor (TTU) and Oecusse, where disputes involve not only government-to-government (G-to-

²¹ Arvanti, A. et al. (2023) 'Dynamics of Border Conflict Resolution Between Indonesia-Timor Leste', *International Journal Of Humanities Education and Social Sciences (IJHESS)*, 3(1).

²² Madu, L., Nugraha, A., & Kusumo, Y. (2025) 'Increasing Indonesia-Timor Leste Borders Diplomacy through Community-Based Health Security', *Jurnal Global Strategis*, 19(1).

²³ *ibid.*

²⁴ Susilo, H. (2024) *Model Penyelesaian Sengketa Batas Darat Indonesia-Timor Leste Dan Implikasinya Terhadap Ketahanan Wilayah (Studi di Unresolved Segment Noel Besi - Citrana)*. PhD dissertation. Universitas Gadjah Mada.

G) relations but also crucial people-to-people dynamics.²⁵ The excessive focus on state sovereignty marginalizes the social, economic, and cultural ties that actually constitute the source of stability on the ground.

A deeper causal chain emerges from this analysis: conflicting interpretations of the 1904 Treaty,²⁶ and the failure of high-level negotiations,²⁷ create unresolved segments,²⁸ which causally produce legal indeterminacy or a jurisdictional vacuum in the area. This vacuum becomes fertile ground for violations of economic rights, as no state legal system can be applied effectively and unchallenged. This creates a profound paradox: the priority given to state-centric security approaches overlooks the people-to-people relations that are the actual source of stability.²⁹

This theoretical chain finds a clear illustration in the case of the Indonesia-Timor Leste border, particularly in the Noel Besi-Citrana and Bijael Sunan-Oben areas, serves as a clear example of how legal pluralism operates in a borderland context. In this region, state law, customary law, and international legal instruments interact and sometimes conflict, creating a complex situation for indigenous communities whose livelihoods depend on land access and cross-border trade. Several studies emphasize that border dispute resolution cannot rely solely on international agreements but must also consider the socio-legal practices of local communities.³⁰ Other research indicates that conflicts in this border area are not only about state sovereignty claims but also involve customary law embedded in the social structures of the communities, making a legal pluralism approach essential for understanding these dynamics.³¹ Recent studies further highlight the role of traditional leaders in land dispute resolution models in Oecusse, demonstrating that customary law possesses significant regulatory capacity alongside state law.³² Thus, this region not only reflects territorial disputes but also represents a space of complex interaction among multiple legal systems, directly impacting the

²⁵ Arvanti, A. et al. (2023) *op.cit.*

²⁶ Susilo, H. (2024) *op.cit.*

²⁷ Raharjo, S. (2016) 'Manager Concrete Through: Cross-Border Cooperation: A Study at the Indonesia-Timor Leste Border', *Managing Conflict Through: A Study at the Indonesia-Timor Leste Border*, 6(1).

²⁸ Mayaut, C. (2021) 'Kajian Hukum Internasional Terhadap Penyelesaian Sengketa Wilayah Perbatasan Indonesia-Timor Leste', *Lex Privatum*, 9(3).

²⁹ *ibid.*

³⁰ Taebenu, R. & Arman, Y. (2024) 'Upaya Penyelesaian Sengketa Wilayah Perbatasan Darat Indonesia-Timor Leste Dalam Perspektif Hukum Internasional', *Journal of Law and Nation*, 3(4), pp. 875-876.

³¹ Rato, D. (2019) 'Legal Conflicts in the Border Dispute between Indonesia and Timor Leste', *Lentera Hukum*, 6(3), p. 349.

³² Mangku, D. et al. (2025) 'Land Border Dispute Resolution Model in the Involvement of Customary Leaders Between Indonesia and Timor Leste in the Oecussi Enclave Area', *Journal of Law and Legal Reform*, 6(1).

protection of the economic rights of indigenous communities.

From the perspective of state law, both Indonesia and Timor-Leste prioritize a sovereignty-oriented territorial approach. Indonesia employs legal foundations such as Law Number 43 of 2008 concerning State Territory and has established the National Border Management Agency (BNPP) to regulate this strategic area. However, this top-down approach often clashes with the socio-economic practices of local communities. A recent study found that land disputes in the Noel Besi-Citrana segment persist due to the lack of synchronization between national law and on-the-ground realities.³³ On the other hand, although Timor-Leste constitutionally recognizes customary land, its implementation often faces the problem of ownership dualism, pitting formal certification against communal claims. This is clearly evident in the Naktuka case, which demonstrates the conflict between the state's formal rights and the traditional rights of citizens.³⁴ As emphasized by Schofield and Arsana, the finalization of state borders through national legal instruments can only be effective if accompanied by the resolution of local land disputes rooted in community practices.³⁵

Customary law in the Noel Besi-Citrana and Bijael Sunan-Oben border areas plays a vital role in regulating the socio-economic relations of local communities. The communal customary land system, for instance, remains the foundation for land tenure and resource access, where collective ownership is based on lineage and community recognition rather than formal state certification. This practice enables communities to maintain social stability while preserving their traditional livelihood.³⁶ Furthermore, cross-border trade through barter systems continues to operate as an economic mechanism that transcends state boundaries, with kinship networks between villages in Indonesia and Timor-Leste serving as the primary binding.³⁷ When disputes arise, resolution is typically achieved through traditional forums involving village elders and spiritual leaders, demonstrating the capacity of customary law to maintain order without

³³ Susilo, H., Rijanta, R., & Zubaidi, A. (2024) 'Model For Settling The Unresolved Segment In Noel Besi-Citrana Land Borders Of Indonesia-Timor Leste', *Revista Juridica Portucalense*.

³⁴ Tukan, E. & Dimoe, R. (2024) 'Role of the NTT Provincial Border Management Agency in Resolving Land Boundary Issues Between Indonesia and Timor-Leste (Case Study in North Netemnanu Village)', *Journal of Social, Humanity, and Education*, 4(3).

³⁵ Schofield, C. & Arsana, I in McWilliam, A. & Leach M. (2019) *Routledge Handbook of Contemporary Timor-Leste*. Routledge.

³⁶ Fitzpatrick, D., McWilliam, A., & Barnes, S. (2016) *Property and Social Resilience in Times of Conflict*. Routledge.

³⁷ Morita, Y. (2019) 'Mice' of Transborder Trade in Timor Island: Timorese Smugglers and 'Reconciliations' (Special Theme : Nationalism in Timor-Leste)', *国立民族学博物館*, 43(3).

the intervention of state apparatus.³⁸ The role of this customary law not only endures amid the dominance of state law but also functions as a social buffer that guarantees the continuity of identity and economic life for border communities.

In addition to state and customary law, international legal instruments provide an important normative framework for protecting the rights of indigenous peoples in border areas. The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) affirms that indigenous peoples have rights to their lands, territories and resources, including the right to shape development that affects their lives.³⁹ In addition, the International Covenant on Economic, Social and Cultural Rights (ICESCR) guarantees the rights of all peoples, including indigenous peoples, to an adequate standard of living, cultural protection, and access to.⁴⁰ Similarly, the International Covenant on Civil and Political Rights (ICCPR) emphasizes the principles of non-discrimination and self-determination, which form the basis for recognizing the rights of indigenous peoples across borders.⁴¹ However, despite the strong international legal foundation provided by this instrument, its implementation at the national level often remains limited. Many countries, including Indonesia and Timor-Leste, face challenges in translating these international norms into domestic policies.

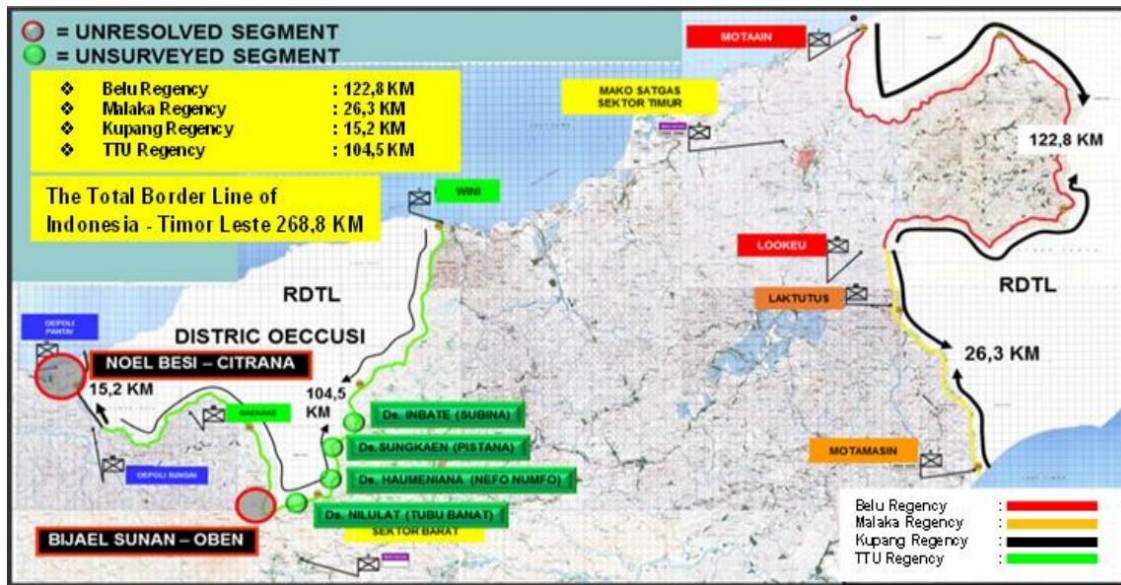
³⁸ Sugiarti, E. et al. (2024) 'Contesting Sovereignty: The State Indigenous Relations at the Indonesia-Timor Leste Borderlands', *JAS (Journal of ASEAN Studies)*, 12(2).

³⁹ Feiring, B. (2018) *Indigenous Peoples' Rights to Lands, Territories, and Resources, The UN Declaration on the Rights of Indigenous Peoples*. ILC.

⁴⁰ Ploeg, L. (2022) *Indigenous Peoples' Rights 'versus' Rights of Nature*. Master's thesis. Tilburg University.

⁴¹ Mukhayer, H. 'Transboundary Rights and Indigenous Peoples Between Two or More States' in Newman, D. (ed.) (2022) *Research Handbook on the International Law of Indigenous Rights*. Edward Elgar Publishing.

Figure: Map of Indonesia-Timor Leste land Boundary Problems



Source: Susilo, Rijanta & Zubaidi (2024)

The overlap of jurisdictions in the Noel Besi-Citrana and Bijael Sunan-Oben segments is evident in the legal ambiguity surrounding the thousands of hectares of disputed land. Susilo, Rijanta, and Zubaidi point out that in Noel Besi-Citrana, more than 1,000 hectares of land do not have clear boundary demarcations, while in Bijael Sunan-Oben, about 489 plots of land are in the legal gray area.⁴² As a result, the economic activities of local communities are mired in deep uncertainty. The pending settlement of land borders has, in fact, reinforced informal practices, including unauthorized cross-border trade, which are considered legitimate by indigenous peoples but considered illegal by state authorities.⁴³ Further, the root of the problem lies in the inconsistent mapping of the colonial era, which results in the territorial claims of the two countries remaining overlapping and contested to this day.⁴⁴ Therefore, this overlap of jurisdiction not only affects the certainty of state sovereignty but also creates legal and economic vulnerabilities for indigenous peoples in border areas.

When compared with the existing literature, the configuration of legal pluralism in the Noel Besi-Citrana and Bijael Sunan-Oben border area reveals distinctive dynamics. Grenfell characterizes the phenomenon in Timor-Leste as a form of deep legal pluralism,

⁴² Susilo, H. Rijanta, R., & Zubaidi, A. (2024) 'Protracted Unresolved Segment of Indonesia-Timor Leste Land Boundary in Noel Besi-Citrana Region', *Geopolitics Quarterly*, 20(2).

⁴³ Menon, V. (2019) 'Timor-Leste & Its Neighbours: Consolidating Ties' *RSIS Commentaries*, 176.

⁴⁴ Handoyo, S. (2014) *A Brief History of the Boundary Mapping Between Indonesia and Timor-Leste*. Springer.

wherein a still-fragile state law must share legitimacy with customary law and international community practices.⁴⁵ This perspective helps explain why borderlands often become an arena of 'jurisdictional negotiation' rather than the unilateral imposition of state law. Conversely, Laube emphasizes the importance of collective identity in Timor's post-colonial borderlands, where local communities perceive themselves as 'heterogeneous yet connected,' an identity expression that resists state-driven legal homogenization and affirms customary practices as the primary mechanism for dispute resolution.⁴⁶ Meanwhile, Tamanaha, in his theoretical analysis of legal pluralism, argues that hybrid legal systems are a natural consequence of colonial history and post-colonial dynamics, a framework highly relevant to understanding the Indonesia–Timor Leste case.⁴⁷ In summary, the entire discussion demonstrates that legal pluralism in the Noel Besi-Citrana and Bijael Sunan-Oben border area is not merely a theoretical concept, but a tangible reality that directly shapes the lives of indigenous communities. Jurisdictional overlaps, legal uncertainty, and divergent interests among the state, indigenous communities, and international norms have created precarious conditions for local economic rights.

B. Legal Uncertainty and the Economic Rights of Indigenous Communities

Legal uncertainty is a defining characteristic of legal pluralism dynamics in borderland regions. This concept refers to a condition in which legal rules fail to provide clarity regarding rights and obligations, thereby creating ambiguity for both communities and state officials.⁴⁸ In the context of Noel Besi-Citrana and Bijael Sunan-Oben, such uncertainty extends beyond state sovereignty claims to encompass the security of land tenure and access to economic resources for indigenous communities.⁴⁹ The Noel Besi-Citrana segment, for instance, remains a protracted unresolved segment, leaving border communities in a state of pervasive uncertainty.⁵⁰

Tenure insecurity creates vulnerability because customary land rights, recognized under adat law, often lack formal state legitimacy. This deprives communities of a legal

⁴⁵ Grenfell, L. (2006) 'Legal Pluralism and the Rule of Law in Timor Leste', *Leiden Journal of International Law*, 19(2).

⁴⁶ Laube, M. (2019) *Berbeda Tetapi Tetap Sama* - 'Different But Still The Same' Collective Identities In The Post-Colonial Borderland On Timor. Master's thesis. University of Eastern Finland.

⁴⁷ Tamanaha, B. (2021) *Legal Pluralism Explained*. Oxford University Press.

⁴⁸ Mangku, D. et al. (2020) 'Implementation Of Technical Sub Committee Border Demarcation And Regulation (TSC-BDR) Agreement Between Indonesia-Timor Leste In The Resolution Of The Land Border Dispute', *Jurnal IUS Kajian Hukum Dan Keadilan*, 8(3).

⁴⁹ *ibid.*

⁵⁰ Susilo, H. Rijanta, R., & Zubaidi, A. (2024), *op.cit.*

basis to claim their cultivated fields or grazing lands.⁵¹ This situation leads to declining agricultural productivity and the undermining of agrarian livelihoods, as land cultivated for generations can be contested or reallocated by the state or external actors at any time.⁵² A study by Batterbury, Palmer, and Reuter demonstrates that in Timor-Leste, unclear land access in the post-conflict period has trapped rural communities in a cycle of subsistence economics with low agricultural yields.⁵³ Meanwhile, research by Tjoe emphasizes that in the West Timor border area, the sustainability of dryland livelihoods is critically determined by the role of clans and customary law in maintaining a balance between land distribution and traditional agrarian practices.⁵⁴ Therefore, tenure insecurity is not merely a question of legal certainty but is fundamentally linked to the resilience of local economies that are based on land and natural resources.

Cross-border trade in the Noel Besi-Citrana and Bijael Sunan-Oben regions is fundamentally a traditional economic practice that has been sustained intergenerationally, encompassing the barter of agricultural products, livestock, and daily necessities. However, within the framework of modern state law, these activities are frequently categorized as illegal trading, leading to the criminalization of local populations.⁵⁵ A study by Zamili demonstrates that traditional trading practices along the border of North Central Timor and the Oecusse Enclave in Timor-Leste are often interpreted as illicit trade because they bypass official channels, despite being considered socially and culturally legitimate by indigenous communities.⁵⁶ Meanwhile, research by Suwartiningsih and Purnomo in the Wini Market confirms that cross-border trade serves significant socio-economic functions, reinforcing social capital and maintaining harmony among border communities.⁵⁷ This situation reveals an inherent tension between the logic of state law, which prioritizes control and security, and the logic of customary law, which positions cross-border trade as a mechanism of solidarity and essential economic

⁵¹ Yoder, M. (2005) *Custom, Codification, Collaboration: Integrating the Legacies of Land and Forest Authorities in Oecusse Enclave, East Timor*. PhD dissertation. Yale University.

⁵² Fitzpatrick, D. & McWilliam, A. (2013) 'Bright-Line Fever: Simple Legal Rules and Complex Property Customs among the Fataluku of East Timor', *Law & Society Review*, 47(2).

⁵³ Batterbury, S. et al. (2015) 'Land Access and Livelihoods in Post-Conflict Timor-Leste: No Magic Bullets', *International Journal of the Commons*, 9(2), p. 619.

⁵⁴ Tjoe, Y. (2016) 'Dryland Sustainable Livelihoods: Role of Clan and Customary Laws in West Timor, Indonesia', *The International Journal of Sustainability in Economic, Social, and Cultural Context*, 13(1).

⁵⁵ Rato, D. (2019), *op.cit.*

⁵⁶ Pala, A. & Zamili, M. (2023) 'Illegal Trading in the Cross-Border of Indonesia and Enclave Oecusse, Timor Leste', *Masyarakat, Kebudayaan dan Politik*, 36(2).

⁵⁷ Suwartiningsih, S., Purnomo, D., & Lahade, J. (2022) 'The Role of Social Capital on International Trade Transactions at Wini Market, In Realizing Social Harmonization of Indonesia-Timor Leste Border Community', *International Journal of Criminology and Sociology*, 9.

sustenance.

The dominant state approach remains rooted in the security paradigm, which emphasizes ideological resilience, political stability, and strict supervision of cross-border activities.⁵⁸ Atikawati et al. highlight that border policy in Belu and Malaka is often framed within the context of state resilience, thereby subordinating the economic interests of local communities.⁵⁹ Conversely, research by Batterbury, Palmer, and Reuter underscores that the primary needs of post-conflict communities lie in access to land and sustainable livelihoods, rather than mere territorial security.⁶⁰ Grenfell further demonstrates that the application of the rule of law in Timor-Leste is often formalistic, overlooking the needs of indigenous communities in accessing their economic rights.⁶¹

Legal uncertainty in border areas is not just an administrative issue but has resulted in diverse economic marginalization for indigenous peoples. The ambiguous status of land, the criminalization of cross-border trade, and the absence of effective protection from both national and international legal instruments place these communities in a position of profound vulnerability.⁶² Idler and McGill point out that marginalization at the border arises from a fundamental disconnect between the logic of the state and the living realities of local communities whose survival depends on cross-border economic practices.⁶³

C. The Limitations of National and International Instruments, Towards a Normative Framework for Economic Protection

The national legal system and international legal instruments are often considered as the main mechanisms that are expected to provide protection for the rights of indigenous peoples. This hope stems from the normative view that the national laws of Indonesia and Timor-Leste must be able to guarantee legal certainty.⁶⁴ As Muni observes, border governance often fails to include the participation of local communities

⁵⁸ Rato, D. (2019), *op.cit.*

⁵⁹ Atikawati, D. et al. (2024) 'Political and Ideological Vulnerabilities in Indonesia's Border with Timor-Leste to Support State Resilience and Security: A Study on Belu and Malaka Regencies', *International Journal of Sustainable Development and Planning*, 19(6).

⁶⁰ Batterbury, S. et al. (2019), *op.cit.*

⁶¹ Grenfell, L. (2006), *op.cit.*

⁶² Correia, J. (2018) 'Indigenous Rights at a Crossroads: Territorial Struggles, the Inter-American Court of Human Rights, and Legal Geographies of Liminality', *Geoforum*, 97.

⁶³ Idler, A. & McGill, D. 'Secession or Sense of Belonging? Marginalization in the Context of Transnationality', *International Political Sociology*, 18(4).

⁶⁴ Strating, R. (2018) *The Post-Colonial Security Dilemma: Timor-Leste and the International Community*. ISEAS–Yusof Ishak Institute.

in policymaking, with anticipated legal protection often failing to materialize.⁶⁵

From the perspective of international law, Mareto emphasized that the Indonesia-Timor-Leste border dispute illustrates the absence of application norms that guarantee protection for affected indigenous peoples.⁶⁶ Similar findings were put forward by Sugiarti, who highlighted how state-indigenous relations in border areas are often characterized by persistent tensions between state sovereignty and the recognition of the rights of local communities.⁶⁷ Thus, the hope that national and international law will serve as a protective shield for border indigenous peoples remains an important agenda.

Indonesia's national legal framework, in principle, provides normative instruments for protecting the rights of indigenous communities in border regions. The constitutional rights of indigenous peoples are guaranteed under Article 18B Paragraph 2 and Article 28I Paragraph 3 of the UUD 1945. These provisions explicitly affirm state recognition and respect for indigenous legal communities and their traditional rights. The Basic Agrarian Law of 1960 (UUPA)⁶⁸ asserts that the state controls the earth, water, and airspace for the greatest prosperity of the people, while simultaneously recognizing customary rights (*hak ulayat*) as long as they genuinely exist and are acknowledged.⁶⁹ Furthermore, Law No. 6 of 2014 on Villages,⁷⁰ opens a space for customary villages (*desa adat*) to govern their own affairs.⁷¹ Additionally, Law No. 43 of 2008 on State Territory⁷² positions border management as a national priority.⁷³ However, in practice, a significant implementation gap exists. The UUPA is often interpreted through a centralist lens, and village policies tend to emphasize administrative aspects over the genuine empowerment of indigenous communities.⁷⁴ Consequently, these national legal norms

⁶⁵ Muni, J. (2019) 'State Border Governance: Participatory of Local Communities (Case Study: Timor Leste-Indonesia Border)', *Literasi Hukum*, 3(1).

⁶⁶ Mareto, I. (2022) 'Perspective of International Law on Maritime Territorial Dispute: Case Between Indonesia and Timor Leste', *Jurnal Hukum Dan Peradilan*, 9.

⁶⁷ Sugiarti, E. et al. (2024), *op.cit.*

⁶⁸ Undang-Undang Nomor 5 Tahun 1960 Tentang Peraturan Dasar Pokok-Pokok Agraria.

⁶⁹ Sumbara, A. (2023) 'Legal Analysis of Communal Rights of Ammatoa Kajang Customary Law Community On Customary Forest In Bulukumba District', *Edunity Kajian Ilmu Sosial Dan Pendidikan*, 2(7).

⁷⁰ Undang-Undang Nomor 6 Tahun 2014 Tentang Desa.

⁷¹ Zurnita, T. (2024) 'Upaya Penyelesaian Sengketa Batas Desa Di Indonesia Demi Terciptanya Kepastian Hukum (Studi Kasus Desa Di Kutai Barat)', *Konferensi Nasional Asosiasi Pengajar Hukum Tata Negara Dan Hukum Administrasi Negara*, 2(1).

⁷² Undang-Undang Nomor 43 Tahun 2008 Tentang Wilayah Negara.

⁷³ Wattimena, R. et al. (2023) 'Hukum Agraria Berdasarkan Kearifan Lokal Pulau-Pulau Kecil Perbatasan Dan Hukum Lingkungan Hidup Wilayah Pulau-Pulau Kecil Perbatasan', *AJAD: Jurnal Pengabdian Kepada Masyarakat*, 3(3).

⁷⁴ Thontowi, J. et al. (2016) 'Aktualisasi Masyarakat Hukum Adat (MHA): Perspektif Hukum Dan Keadilan Terkait Dengan Status MHA Dan Hak-Hak Konstitusionalnya', *Pusat Penelitian Dan Pengkajian Perkara, Pengelolaan Teknologi Informasi Dan Komunikasi Mahkamah Konstitusi Republik Indonesia*, 1.

have proven ineffective in confronting the complex reality of legal pluralism in the Indonesia–Timor-Leste border region.

Timor-Leste's national law, through its 2002 Constitution, explicitly recognizes the importance of customary law (Article 2[4]), including the regulation of land rights as affirmed in Article 54 concerning traditional ownership and use of land. However, this constitutional recognition has not been fully realized in practice.⁷⁵ Operational legislation such as Law No. 1/2003 is often interpreted narrowly, prioritizing formal land titles and effectively marginalizing customary rights in practice.⁷⁶ This regulatory contradiction was critically exacerbated by the destruction of land records following the 1999 referendum, which created a vacuum of formal evidence and intensified confusion over land claims.⁷⁷ The underlying tension stems from a fundamental paradigmatic divergence: the communally oriented and cosmic-order-focused Timorese customary law inherently conflicts with the positivist-individualistic framework of the imported state legal system.

This dissonance between constitutional principle and statutory practice resulted in a protracted period of legal insecurity. Almeida asserts that the legal framework for land in Timor-Leste remained fragmented until the mid-2010s and failed to provide certainty for indigenous communities reliant on customary land systems.⁷⁸ This situation has resulted in overlapping ownership claims, weak dispute resolution mechanisms, and a continued reliance on customary forums over formal state institutions.

⁷⁵ Constitution of the Democratic Republic of Timor-Leste.

⁷⁶ Almeida, B. (2021) 'The Law and Its Limits: Land Grievances, Wicked Problems, and Transitional Justice in Timor-Leste', *International Journal of Transitional Justice*, 15(1).

⁷⁷ *ibid.*

⁷⁸ Almeida, B. (2016) *Land Tenure Legislation in Timor-Leste*. The Asia Foundation.

Table 1.
Comparison of the Legal Framework for
Customary Rights in Indonesia and Timor-Leste

Legal Aspect	Indonesia	Timor-Leste	Implications for Border Communities
Constitutional Foundation	1945 Constitution Article 18B (2) and 28I (3)	Constitution Article 2 (4) – recognizes but with limitations	Demonstrates existing legal recognition, yet implementation remains weak or ambiguous, particularly in disputed border areas
Primary Legislation	Law No. 6/2014 on Villages; Draft Indigenous Communities Bill	Land Law (Lei de Terras) Transitional regimes	Unsynchronized national frameworks still in development create legal uncertainty
Recognition of Customary Rights	Recognized “as long as they exist”; registration through regional committees	Strong customary concepts but often lack formal state recognition	Persistent gap between de jure recognition of customary law and de facto protection, leading to ongoing land conflicts

Source: *Indonesian & Timor-Leste Law*

The primary livelihoods of communities in the Noel Besi-Citrana and Bijael Sunan-Oben border products.⁷⁹ Disputes over unresolved border segments directly threaten this economic foundation, as boundary ambiguities, such as along the Noel Besi River, trigger land conflicts that jeopardize hereditary heritage.⁸⁰ The absence of clear ownership status impedes community-based investment and development, as residents lack legal certainty over their assets. This situation creates a structural economic vulnerability: de facto legal uncertainty regarding land tenure makes communities susceptible to dispossession, restricts their access to vital resources, such as fertile agricultural land, and consequently blocks their participation in formal development and investment, thereby perpetuating a cycle of poverty and marginalization.⁸¹ Confronted with formal economic barriers and the absence of adequate legal frameworks, border communities have developed informal trading practices, often labeled as ‘illegal trading,’ as an adaptive survival strategy.⁸² This informal trade is driven by several factors, including commodity price disparities, for example, subsidized fuel being sold at higher prices in Oecusse, limited goods availability, and inadequate infrastructure.⁸³

Ironically, amidst state failure, people-to-people cooperation plays a significant role.

⁷⁹ Susanti, A. (2014) ‘Kehadiran Negara Dalam Pengelolaan Sumber Daya Air Di Perbatasan Negara Republik Indonesia-Republik Demokratik Timor Leste (RI-RDTL)’, *Cakrawala: Jurnal Penelitian Sosial*, 3(2).

⁸⁰ Arvanti, A. et al. (2023), *op.cit.*

⁸¹ *ibid.*

⁸² Pala, A. & Zamili, M. (2023), *op.cit.*

⁸³ *ibid.*

Border communities have established their own economic mechanisms, such as collectively managed traditional markets operating on both sides of the border, like the Napan and Wini markets.⁸⁴ These markets provide tangible evidence that communities have developed ways to overcome formal constraints and enhance their welfare. This phenomenon recontextualizes illegal trading: it is not merely a criminal issue but a symptom of profound economic injustice. Legal uncertainty and infrastructural limitations effectively create bureaucratic and economic barriers to legal trade, compelling communities to engage in informal cross-border exchange as their only viable survival strategy.⁸⁵

Table 2.
Characteristics and Economic Impacts in the Indonesia–Timor-Leste Border Region

Economic Sector	Examples of Practices	Impacts of Legal Uncertainty
Agriculture/Livestock	Cultivation of corn and rice; livestock farming	Communal land disputes and limited access to water resources hinder investment and development.
Informal Trade	Smuggling of fuel, basic commodities, and cigarettes	Loss of state revenue, legal risks for local communities, and instability of supply chains.
Cross-Border Social Activities	Family visits, traditional ceremonies	Mobility restrictions weaken social and cultural ties, particularly among communities sharing kinship across borders.

Source: Data processed from Susanti (2014); Raharjo (2016); Arvanti et al. (2023); Pala & Zamili (2023).

The data presented in Table 2 illustrates how economic and socio-cultural activities in the Indonesia–Timor-Leste border region are deeply intertwined with issues of legal uncertainty and weak institutional governance. Agricultural and livestock practices, which constitute the primary livelihood of border communities, are frequently disrupted by unclear land tenure and overlapping customary claims, resulting in limited investment incentives. Similarly, the persistence of informal cross-border trade reflects both the structural dependence of local economies on unregulated exchanges and the absence of coherent regulatory mechanisms that could transform these activities into formal economic channels. These findings underscore the necessity of integrating indigenous economic rights into border governance frameworks, ensuring that local communities are not merely regulated subjects but active participants in regional economic development.

⁸⁴ *ibid.*

⁸⁵ *ibid.*

D. The Imperative of Prioritizing Indigenous Rights in National and International Law

The resolution of legal uncertainty in border regions necessitates the unequivocal prioritization of indigenous rights within both national and international legal frameworks. This imperative stems from the fundamental role these rights play in ensuring sustainable development and social justice in contested border areas.⁸⁶ The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) provides a crucial foundation for this approach, serving not merely as a symbolic instrument but as a substantive legal framework that obligates states to uphold indigenous rights.⁸⁷

International law establishes clear obligations: Article 3 of UNDRIP guarantees the right to self-determination, enabling indigenous communities to pursue their economic development pathways; while Articles 8(2)(b), 10, and 20(1) collectively protect against forced displacement, ensure just compensation, and affirm the right to maintain traditional economic systems, including cross-border trade.⁸⁸ These provisions must form the non-negotiable basis for any bilateral agreements affecting border communities.

⁸⁶ Indigenous Word (2025) *The Indigenous World, Theatre of the Borderlands*. Indigenous Word.

⁸⁷ United Nations Declaration on the Rights of Indigenous Peoples.

⁸⁸ *ibid.*

Table 3.
Key UNDRIP Principles Pertaining to the Economic Rights of Indigenous Peoples

UNDRIP Article	Description of Rights	Implications for Border Disputes
Article 3	Right to Self-Determination — Indigenous peoples have the right to freely determine their political status and pursue their economic, social, and cultural development.	Provides the normative foundation for indigenous communities to exercise autonomy over their economic development, free from detrimental state interference in border regions.
Articles 8 (2) (b) & 10	Protection Against Forced Dispossession of Land — States shall not forcibly remove indigenous peoples from their lands or territories, and any relocation shall occur only with free, prior, and informed consent, along with fair compensation.	Establishes legal safeguards ensuring that indigenous populations cannot be arbitrarily displaced from their ancestral lands, thereby reinforcing claims to land rights within contested border zones.
Article 20(1)	Right to Maintain Traditional Economic Systems — Indigenous peoples have the right to maintain and develop their political, economic, and social institutions.	Affirms the entitlement of indigenous groups to continue traditional economic practices, including cross-border trade and resource management, without discrimination by state authorities.

Source: United Nations General Assembly, United Nations Declaration on the Rights of Indigenous Peoples, Resolution 61/295, 13 September 2007.

At the national level, this prioritization requires concrete legislative action. Indonesia must urgently enact and effectively implement the Draft Law on Indigenous Communities, ensuring it provides unambiguous protection for customary rights.⁸⁹ Simultaneously, Timor-Leste must undertake comprehensive legal reforms to eliminate contradictions within its existing legal framework and establish clear mechanisms for recognizing and protecting indigenous rights.⁹⁰ This dual approach strengthening international legal foundations while pursuing synchronized national legal reforms, represents the most viable pathway to resolving the protracted legal uncertainties that perpetuate the vulnerability of border communities.

Although International instruments such as the UNDRIP (2007), ICCPR (1966), and ICESCR (1966) are frequently regarded as the normative foundation for the protection of indigenous peoples' rights, including in borderland areas.⁹¹ However, the

⁸⁹ Aliansi Masyarakat Adat Nusantara (2023). *RUU Masyarakat Adat: Payung Hukum Perlindungan Dan Pemenuhan Hak Konstitusional Masyarakat Adat*. Aliansi Masyarakat Adat Nusantara.

⁹⁰ United Nations Human Rights Council in 2019.

⁹¹ United Nations Declaration on the Rights of Indigenous Peoples, International Covenant on Civil and Political Rights, and International Covenant on Economic, Social and Cultural Rights.

effectiveness of these three instruments remains limited. While UNDRIP is declaratively significant, it remains a soft law instrument, functioning more as a moral and political framework rather than creating legally enforceable obligations.⁹² Conversely, while the ICCPR and ICESCR are formally binding international treaties (hard law), their implementation heavily depends on the commitment of state parties. This often renders their practical application akin to soft law, due to the absence of robust sanction mechanisms.⁹³ Consequently, despite the normative recognition of indigenous rights at the international level, factual protection on the ground remains weak, particularly in border regions susceptible to marginalization.

The situation in the Noel Besi-Citrana and Bijael Sunan-Oben borderlands reveals a distinct vacuum of protection, where neither national legal systems nor international instruments can provide adequate guarantees for indigenous communities. This absence of protection creates a legal void that risks being exploited by non-state actors, whether through the criminalization of traditional practices or the exploitation of natural resources.⁹⁴ As demonstrated by Wildcat and De Leon, indigenous communities in such border regions often exist 'in between spaces' that lie beyond the effective reach of both state authority and international norms.⁹⁵ This situation confirms that the failure of existing legal mechanisms has reinforced the economic marginalization of indigenous peoples and generated an urgent need for a new, more responsive normative framework.

E. Towards a Normative Framework for Economic Protection

The management of the Indonesia-Timor-Leste border has long been dominated by a state security paradigm that prioritizes territorial control and political stability. However, a growing body of science is emphasizing the need for a paradigm shift towards a more holistic community-based approach.⁹⁶ From another perspective, Strating points out that Timor-Leste's trap in the post-colonial security dilemma underscores the limitations of a purely state-centered security paradigm, thus requiring a border governance model that goes beyond mere sovereignty claims.⁹⁷ Thus, the need

⁹² Barnabas, S. (2017) 'The Legal Status of the United Nations Declaration on the Rights of Indigenous Peoples (2007) in Contemporary International Human Rights Law', *International Human Rights Law Review*, 6(2).

⁹³ Hossain, K. (2023) 'Human Rights Law and the Arctic Indigenous Peoples', *Juridica Lapponica*, 50.

⁹⁴ Wildcat, M. & Leon, J. (2020) 'Creative Sovereignty: The In-Between Space: Indigenous Sovereignties in Creative and Comparative Perspective', *Borderlands Journal*, 19(2).

⁹⁵ Womelsdorf, A. (2024) *Border Problems. Law, Capitalism, and the Creation of State Institutions in the Yukon Riverlands, ca. 1895-1925*. Master's thesis. University of Vienna.

⁹⁶ Madu, L., Nugraha, A., & Kusumo, Y. (2025), *op.cit.*

⁹⁷ Strating, R. (2018), *op.cit.*

for a new paradigm that prioritizes the protection and economic empowerment of indigenous border communities is becoming increasingly clear.

The establishment of a Border Economic Zone (BEZ) between Indonesia and Timor-Leste can serve as an important instrument for integrating the protection of customary rights into a formal bilateral framework. Through bilateral agreements, the two countries can not only resolve the issue of border delimitation but also create a pathway for the participation of indigenous peoples in more formal and sustainable cross-border economic schemes.⁹⁸ This approach is in line with the precedent set in the bilateral negotiations on the Timor Sea Agreement, which underlined the importance of including the economic dimension in the framework of border settlement.⁹⁹

Table 4.
Comparison of the State-Security Paradigm versus the Border Economic Zone (BEZ) Approach

Aspect	State-Security Paradigm	BEZ (Border Economic Zone) Approach
Primary Focus	Political stability, sovereignty, territorial control	Economic empowerment, sustainable development
Position of Indigenous Communities	Object of surveillance and control	Active participating subject in bilateral agreements
Dominant Legal Instruments	Laws on National Security, Laws on Border Management	Bilateral treaties, cross-border economic legal frameworks
Impact on Customary Rights	Often marginalized or even criminalized	More recognized and integrated into formal schemes
Sustainability	Reactive, short-term	Progressive, long-term, community-based

Source: Adapted from Tukan & Dimoe (2024) and Kusumawardhana & Dewi (2023).

The settlement of the Indonesia-Timor-Leste border dispute cannot rely solely on unilateral mechanisms but requires a formal but flexible framework for cooperative management. One of the official forums that plays an important role is the Technical Sub-Committee on Demarcation and Border Regulation (TSC-BDR), which is tasked with reconciling different claims and formulating technical agreements on the ground.¹⁰⁰ However, the effectiveness of these mechanisms is often influenced by the social and cultural complexity of border communities.¹⁰¹ Therefore, a hybrid approach that

⁹⁸ Tukan, E. & Dimoe, R. (2024), *op.cit.*

⁹⁹ Kusumawardhana, I. & Dewi, G. (2024) 'What ASEAN Must Learn from Timor-Leste: A Tripartite Analysis on Australian Foreign Policy Related to Timor Sea Treaty 2018', *JAS (Journal of ASEAN Studies)*, 11(2).

¹⁰⁰ Mangku, D. et al. (2020), *op.cit.*

¹⁰¹ Azis, A. 'The Use of Traditional Conflict Resolution: A Case Study of Timor Leste', *Proceedings of the First Brawijaya International Conference on Social and Political Sciences*. Universitas Brawijaya, 26-

integrates customary law and bilateral negotiations is important.¹⁰²

In contrast to the state security paradigm, which prioritizes political stability and territorial control, the Border Economic Zone (BEZ) centered approach and cooperative management mechanisms offer a more promising alternative by integrating the protection of indigenous rights into the framework of sustainable economic development. This approach not only prevents the marginalization of indigenous peoples but also provides them with space for active participation in the formulation and implementation of cross-border policies. Research by Strating shows that the national security paradigm tends to be mired in a post-colonial dilemma, thus failing to respond to the needs of local communities in an inclusive manner.¹⁰³ Meanwhile, Kusumawardhana & Dewi assert that the BEZ model can effectively link legal certainty with the economic empowerment of indigenous peoples, creating a more sustainable foundation than unilateral oversight-based policies.¹⁰⁴ As a result, this new normative framework can be seen as a progressive middle ground, as it not only upholds state sovereignty but also ensures economic justice for indigenous peoples in the Noel Besi-Citrana and Bijael Sunan-Oben areas. Therefore, it can be concluded that the success of border governance lies in its ability to harmonize state law, customary law, and international norms within a single inclusive framework that promotes sustainable development.¹⁰⁵

F. Theoretical and Practical Implications

The theoretical implication of this research lies in its contribution to the study of legal pluralism in border regions. Contemporary scholarship emphasizes that legal pluralism entails not merely the coexistence of norms, but the creation of relational dynamics that determine legitimacy and resource distribution within indigenous communities.¹⁰⁶ In the context of economic law, this pluralism challenges the dominance of state-centric frameworks by demonstrating how customary mechanisms play a vital role in regulating access to and protection of land, as well as governing cross-border trade practices.¹⁰⁷ Furthermore, research on borderlands governance reveals that

28 November. Malang: Universitas Brawijaya.

¹⁰² Rato, D. (2019), *op.cit.*

¹⁰³ Strating, R. (2018), *op.cit.*

¹⁰⁴ Kusumawardhana, I. & Dewi, G. (2024), *op.cit.*

¹⁰⁵ Tukan, E. & Dimoe, R. (2024), *op.cit.*

¹⁰⁶ McKerracher, K. (2023) 'Relational Legal Pluralism and Indigenous Legal Orders in Canada', *Global Constitutionalism*, 12(1).

¹⁰⁷ Maldonado, D. 'Global Legal Pluralism and the Rights of Nature' in Davis, K. & Pargendler, M. (eds.) (2025) *Legal Heterodoxy in the Global South*. Cambridge University Press.

agrarian expansion and sovereignty contests in border areas create complex legal negotiation spaces between the state and local communities.¹⁰⁸ Thus, this study expands the theoretical horizon of economic law, which traditionally focuses on market-state relations, by incorporating the role of indigenous communities as both legitimate economic actors and legal subjects.

Practically, this study recommends the need for a more participatory border governance model where the governments of Indonesia and Timor-Leste not only emphasize security aspects but also create meaningful avenues for indigenous communities to partner in policy formulation. Recent research confirms that local community participation in border management enhances policy legitimacy while reducing the potential for cross-border agrarian conflicts.¹⁰⁹ Furthermore, strengthening the role of customary institutions in land dispute resolution has proven more effective compared to often cumbersome formal mechanisms, and should therefore be adopted within the Indonesia-Timor Leste bilateral framework.¹¹⁰ Another crucial recommendation is the establishment of a permanent cross-country consultation forum involving indigenous communities, local governments, and national authorities to ensure border development policies align with traditional economic rights.¹¹¹

This study's relevance to sustainable development is evident in its demonstration that border region management encompasses not only security aspects but also the protection of indigenous communities' economic rights, which form the fundamental basis for socio-ecological sustainability. Research by Sugiarti, Tsuchiya, and Romadhona indicates that state-indigenous community relations in the Indonesia-Timor Leste border area continue to result in the exclusion of local economic rights, thereby creating vulnerabilities for sustainable development.¹¹² Conversely, da Costa's research emphasizes the importance of governance based on social justice and cultural resilience as strategies to address ecological and social vulnerabilities in borderlands.¹¹³ Thus, this study affirms that protecting the economic rights of indigenous communities in the Noel Besi-Citrana and Bijael Sunan-Oben border areas is not merely a legal issue, but also a

¹⁰⁸ Eilenberg, M. 'Frontier Constellations: Agrarian Expansion and Sovereignty on the Indonesian-Malaysian Border', *The Journal of Peasant Studies*, 41(2).

¹⁰⁹ Muni, J. (2019), *op.cit.*

¹¹⁰ Tukan, E. & Dimoe, R. (2024), *op.cit.*

¹¹¹ Sugiarti, E. et al. (2024), *op.cit.*

¹¹² *Ibid.*

¹¹³ Costa, A. (2024) 'The Gender Inclusiveness Perspective in River Flooding and Cultural Resilience: Governing a Social Equity in Borderland between Eastern and Western Timor Island, Indonesia-Timor Leste', *Journal of Academic Perspectives*, 2024(3).

sustainable development agenda oriented toward intergenerational justice.

IV. Conclusion

This study demonstrates that legal pluralism in the Noel Besi–Citrana and Bijael Sunan–Oben border areas is not a mere theoretical construct but a tangible reality that directly affects indigenous communities' economic rights. The persistence of legal uncertainty, overlapping jurisdictions, and the criminalization of customary economic practices have entrenched economic marginalization. The findings affirm that relying solely on a state-security paradigm is insufficient, as it neglects the socio-economic vulnerabilities of border communities. Instead, the protection of indigenous peoples' economic rights requires the development of a new normative framework that integrates state law, customary law, and international instruments, while also being operationalized through bilateral agreements such as a Border Economic Zone (BEZ). The application of this framework can serve as a pathway for both Indonesia and Timor-Leste to transform legal certainty into sustainable empowerment, ensuring that border governance promotes justice, community resilience, and long-term development. The novelty of this research lies in bridging legal pluralism and economic law within borderland studies, offering not only academic enrichment but also actionable policy recommendations for a more inclusive and sustainable border governance model.

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