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Implementation of The Relocation Policy For Residents of Rempang & Galang Old Villages: Human Rights Protection Issues

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Abstract: The relocation policy for residents of the Old Villages of Rempang and Galang in the context of developing Rempang Eco City raises serious issues in legal, social, and human rights aspects. This study aims to analyze the implementation of the relocation policy based on the approaches of Ius Constitutum and Ius Operatum, as well as to provide policy recommendations through the framework of Ius Constituendum. The method applied is empirical juridical with a qualitative approach, involving interviews with affected communities and NGOs, as well as a review of relevant legal regulations. The findings show that the relocation policy has not fulfilled the principles of public participation, the right to housing, and social justice, while also neglecting the principle of Free, Prior, and Informed Consent (FPIC), which is a standard in the protection of indigenous peoples. The relocation process is considered to lack transparency, compensation is disproportionate, and it fails to ensure the social and cultural sustainability of local communities. This study emphasizes the need for a human rights-based and justice-oriented relocation policy, referring to John Rawls' Theory of Social Justice, by ensuring the protection of customary land rights, meaningful participation, and recognition of indigenous cultural identity. The reformulation of the relocation policy should be grounded in legal principles that are humanistic, participatory, and uphold substantive justice.

Keywords: Forced Relocation, Human Rights, Rempang Old Village, Public Participation, Social Justice.

INTRODUCTION

The right to adequate housing constitutes a fundamental human right guaranteed under the Indonesian Constitution. Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia stipulates that "Every person shall have the right to live in physical and spiritual prosperity, to have a home, and to enjoy a good and healthy environment, and shall have the right to obtain health care" (1945 Constitution, Article 28H paragraph 1). This provision is

reinforced by Law No. 1 of 2011 on Housing and Settlement Areas, which emphasizes that every citizen has the right to a proper, safe, and affordable dwelling (Law No. 1 of 2011).

Within the framework of national development, spatial planning is governed by Law No. 26 of 2007, which provides the legal foundation for the state to regulate spatial management in the public interest, including the development of strategic economic zones. This regulation is further strengthened by Presidential Regulation No. 3 of 2016 on the Acceleration of National Strategic Projects, which authorizes the government to expedite development while ensuring the principles of social justice and the protection of human rights (Presidential Regulation No. 3 of 2016). However, in practice, the implementation of development projects often clashes with the protection of community rights, particularly in cases of relocation.

A tangible example of such tension is the relocation of residents of Old Villages on Rempang and Galang Islands, Riau Islands Province, as part of the Rempang Eco City project (Habiba et al., 2023). This project is part of the government's strategic efforts to promote investment and economic growth through environmentally based industrial development. Nevertheless, its implementation has sparked resistance from local communities who feel that their fundamental rights have been neglected (Alam, Saebani, & Tresnayadi, 2024).

Residents of Rempang Old Villages argue that the relocation disregards their historical rights to customary land that they have inhabited for generations (Habiba et al., 2023). They also highlight that the relocation process has lacked transparency, meaningful participation, and compliance with the principle of Free, Prior, and Informed Consent (FPIC), which is internationally recognized in the protection of indigenous peoples (Earlene & Sitabuana, 2024).

The National Commission on Human Rights (Komnas HAM), in its Annual Report, also identifies this case as a critical issue, as it concerns citizens' fundamental rights, including the right to housing and cultural identity. Komnas HAM stresses that development policies must be inclusive, human rights-based, and should not be carried out arbitrarily against vulnerable groups (Komnas HAM, 2023). According to Aritonang and Maheswara (2023), relocation without adequate and transparent public consultation constitutes an abuse of authority, contradicting the principles of legal authority theory. This further illustrates the state's weak protection of fundamental rights, particularly the right to housing, land, and cultural identity. On the other hand, the government's approach, which prioritizes economic considerations without accounting for local socio-cultural values, has deepened the conflict and risks exacerbating social inequality.

From a juridical perspective, forced relocation that fails to uphold justice and neglects the rights of local communities also contravenes Law No. 39 of 1999 on Human Rights. Article 36 paragraph (1) affirms that every individual has the right to reside and to live decently (Law No. 39 of 1999). Furthermore, Indonesia, as a state party to the International Covenant on Economic, Social and Cultural Rights (ICESCR) through Law No. 11 of 2005, bears an international legal obligation to guarantee the right to an adequate standard of living, including the right to adequate housing (Dastgir Khan & Temocin, 2022).

The neglect of these rights demonstrates potential violations of General Comment No. 7 issued by the United Nations Committee on Economic, Social and Cultural Rights (UN CESCR), which explicitly states that forced evictions must be strictly limited, carried out only under fair legal procedures, and accompanied by adequate compensation (UN CESCR, 1997).

The relocation policy in Rempang, conducted without community participation and disregarding the historical and cultural aspects of Old Village residents, stands in conflict with the FPIC principle articulated in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). Indonesia endorsed UNDRIP upon its adoption by the United Nations General Assembly in 2007, and its principles are acknowledged as international norms that should guide the protection of indigenous communities (United Nations, 2007; Habiba et al., 2023; Najooan, 2024; Earlene & Sitabuana, 2024).

The core issue in the Rempang conflict lies in the dispute over land rights. Residents claim ownership based on customary law, having inhabited the land for generations. However, with the implementation of the Rempang Eco City project, they face the threat of dispossession without legal certainty and without fair compensation (Najoan, 2024). Legal uncertainty and the lack of meaningful community involvement in decision-making processes constitute an abuse of power from the perspective of administrative law. The absence of proper public consultation mechanisms and inadequate compensation reflects weak protection of citizens' fundamental rights (Komnas HAM, 2023).

From a human rights perspective, the government's failure to ensure adequate housing and economic rights for displaced residents indicates violations of the principles enshrined in both the ICESCR and the Universal Declaration of Human Rights (UDHR). The state has an obligation to guarantee that development does not proceed at the expense of vulnerable groups (UN CESCR, 1997).

Indigenous communities are the most severely affected. Their land is not only a place of residence but also a central component of cultural identity and livelihood. A government perspective that reduces land to a mere economic asset, while neglecting its cultural and social value, runs counter to the principles of indigenous rights recognition as affirmed in UNDRIP (United Nations, 2007).

Economically, the relocation may exacerbate structural poverty, as residents lose access to their traditional sources of livelihood. Development projects that fail to ensure economic sustainability risk deepening social inequality within the region (Najoan, 2024).

Accordingly, a humanrights-based approach is imperative in resolving the Rempang conflict. The government must guarantee social justice, fair compensation, and the right to dignified housing for all affected residents. The principles of participation, transparency, and accountability must be prioritized in every relocation policy (Habiba et al., 2023).

Based on the aforementioned background, this research departs from two main problems that require in-depth analysis:

1. How is the relocation policy of Rempang and Galang Old Village residents implemented from the perspective of *Ius Constitutum* and *Ius Operatum* within the Indonesian legal system?
2. To what extent does the policy comply with the principles of human rights protection, and how can the concept of *Ius Constituendum* be applied to improve the policy in the future?

In line with these research problems, the study aims to analyze the implementation of the relocation policy through the perspectives of *Ius Constitutum* and *Ius Operatum*, to assess the extent to which the policy respects and protects human rights, and to provide recommendations grounded in the framework of *Ius Constituendum*. The ultimate objective is to reformulate relocation policies so that they are more humane, equitable, and consistent with ideal legal values.

The theoretical framework of this research provides the conceptual basis for analyzing the relocation policy of Rempang and Galang Old Villages from the perspective of human rights protection and social justice. Two principal theories are employed: Human Rights Theory and John Rawls' Theory of Social Justice.

These two theories complement each other in examining the legality of the policy and its impacts on vulnerable groups, particularly indigenous communities at risk of losing their housing, cultural identity, and customary land rights. Human Rights Theory serves as a normative framework for evaluating whether citizens' fundamental rights are upheld in the development process, while Rawls' Theory of Social Justice emphasizes the fair distribution of benefits and just compensation.

The integration of both theoretical perspectives enables this study to evaluate relocation policies not only in terms of formal legality but also from the standpoint of humanitarian concerns and substantive justice.

METHOD

This study employs a legal research method with an empirical juridical approach. This approach is relevant as it allows for an understanding of the application of existing laws (*Ius Constitutum*) in practice, as well as an examination of their implementation (*Ius Operatum*) within society. The study also integrates a socio-juridical approach, which focuses on the impact of policies on communities and their effects on social rights.

Accordingly, this research utilizes two types of data: primary and secondary. Primary data were obtained through in-depth interviews with informants, including affected residents, relevant government officials, legal experts, and organizations that offer critical perspectives on the relocation policy. The sampling technique applied for primary data collection is purposive sampling, whereby informants were selected based on specific criteria relevant to the study, with a total of two respondents. The fieldwork was conducted in Kampung Tua Rempang and Galang, Batam City, Riau Islands Province, during the period of January to April 2025. Interviews were carried out with diverse sources, including affected communities and NGOs with perspectives on the relocation policy. The main instruments for data collection were semi-structured interviews and field observations, which enabled the collection of qualitative data regarding experiences, perceptions, and policy implementation.

To ensure the validity and reliability of the data, this research employed a data triangulation mechanism, involving comparison and cross-verification of information from different sources. The interview and observation data were compared with official government reports, media publications, and relevant legal regulations, allowing for the identification of inconsistencies or alignments between normative frameworks and empirical realities. This triangulation process strengthened the credibility of the findings and ensured that the analysis accurately reflected both the legal and social dimensions of the issue.

Secondary data consist of primary legal materials, referring to various regulations such as Article 28H paragraph (1) of the 1945 Constitution, Law No. 39 of 1999 on Human Rights (Article 36), Law No. 1 of 2011 on Housing and Settlement Areas, and Presidential Regulation No. 62 of 2018 on the Handling of Social Conflicts (Muhaimin, 2020). Secondary legal materials include research reports, scholarly articles, and books relevant to the subject matter. These secondary sources were collected through library research (Aritonang & Maheswara, 2023; Alam et al., 2024; Earlene & Sitabuana, 2024).

The collected data were then analyzed using a qualitative descriptive approach, which involved the stages of data reduction, data presentation, and conclusion drawing. In the analysis phase, the data were examined through the lens of legal rules, as well as Justice Theory and Human Rights Theory, in order to provide a clear understanding of the extent to which the relocation policy aligns or fails to align with the principles of human rights and social justice. The findings are expected to contribute to the formulation of a more humanistic and equitable relocation policy that takes into account the right to adequate housing and social justice (Habiba et al., 2023; Yudistira & Chaerudin, 2023).

RESULTS AND DISCUSSION

The Implementation of the Relocation Policy for Kampung Tua Rempang and Galang Residents from the Perspective of *Ius Constitutum*

The relocation policy of Kampung Tua Rempang and Galang residents cannot be separated from the framework of national law and international human rights norms. Constitutionally, Article 28H paragraph (1) of the 1945 Constitution of the Republic of

Indonesia stipulates that every citizen has the right to a prosperous life, adequate housing, and a good and healthy living environment. This principle establishes a normative foundation that the state has a constitutional responsibility to ensure the right to adequate housing for all individuals, including indigenous communities.

However, based on an interview with Bokri, a resident affected by relocation from Kampung Pasir Merah, conducted on Thursday, July 11, 2025, it was found that the community has never obtained legal certainty over the land they have occupied for generations. He mentioned that his family possesses a Spatial Utilization Permit (Surat Keterangan Tata Ruang SKTR) from the Riau Provincial Government, yet attempts to obtain a land ownership certificate since 2004 have consistently failed. This reflects a legal vacuum in the recognition of indigenous land rights, which should be accommodated within the national legal system.

Such a situation clearly contradicts Law No. 39 of 1999 on Human Rights, particularly Article 36(1), which emphasizes that every individual has the right to adequate housing and a decent living environment. The absence of formal legality and the lack of transparent consultation processes indicate that the state has failed to respect, protect, and fulfill the human rights of its citizens (Porter, 2021).

In a separate interview with Dian Arniandi, Chairperson of the Malay Youth Alliance, on Monday, July 7, 2025, he stated that the indigenous community had never been substantively involved in decision-making. “We were only informed that relocation would occur; we were never engaged in discussions from the beginning,” he remarked. This contradicts the principle of Free, Prior, and Informed Consent (FPIC) as set out in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) (United Nations, 2007), which affirms that indigenous peoples must be involved from the planning stage and retain the right to approve or reject projects directly affecting their territories.

Relocation practices carried out without meaningful consultation and transparency not only disregard national legal norms but also risk violating international standards established under the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified by Indonesia through Law No. 11 of 2005. ICESCR explicitly obliges states to guarantee the right to adequate housing without discrimination or coercion (UN CESCR, 1998).

Furthermore, under the principle of distributive justice in John Rawls’ *A Theory of Justice* (1971), public policies can only be justified if they provide the greatest benefit to the most vulnerable groups. However, in the case of Rempang, the opposite occurred. According to Dian Arniandi, many residents who previously held between 10–20 hectares of land were offered only two hectares as compensation. No consideration was given to the historical, cultural, or spiritual value of the land. This reflects that the benefits of development are largely enjoyed by investors, while the burdens and losses are borne by the weakest segment of society.

The absence of a fair and transparent compensation scheme was also criticized in Bokri’s interview, where he stated that “compensation only covered temporary rental costs and subsistence funds far from equivalent to what we lost.” The National Commission on Human Rights (Komnas HAM, 2024), in its annual report, documented that the Rempang project presents strong indications of violations of the right to housing, communal land rights, and cultural rights.

Additionally, the lack of accessible grievance mechanisms exacerbates human rights violations. According to Dian Arniandi, most residents did not know where to file complaints, and even attempts to approach Komnas HAM or the Ombudsman often lacked sufficient assistance. This demonstrates the state’s failure to provide effective and inclusive avenues for redress, which should form part of a human rights-based legal framework.

From an administrative law perspective, the disjunction between national regulations and practices in the field provides clear evidence that the relocation policy did not adhere to the principle of due process of law. Communities were denied the opportunity to legally defend

their rights, while the development approach proceeded coercively in a top-down manner. This finding is reinforced by Earlene and Sitabuana (2024), who argue that the Rempang relocation, absent recognition of indigenous cultural rights, risks erasing the structural and long-term existence of the Malay community.

Amnesty International (2023) even classified the forced evictions in Rempang as a serious human rights violation, given that they fail to meet both the procedural and substantive safeguards required under national and international law.

Based on the above analysis, it can be concluded that the Rempang relocation policy has not been implemented in accordance with legal principles that guarantee the protection of human rights and social justice. The state has failed to ensure legal certainty of indigenous land ownership, ignored the FPIC principle, and neglected to provide fair mechanisms for compensation and redress. The unequal distribution of development's burdens and benefits demonstrates that the current legal approach remains biased against the most vulnerable groups.

Therefore, the government must reformulate the relocation policy using a human rights-based and distributive justice approach. Communities must be fully involved at every stage of policymaking, and the state must respect and recognize the collective rights of indigenous peoples as legal subjects, rather than treating them merely as objects of development.

The Human Rights (HR) theory provides the primary foundation for analyzing the relocation policy of Kampung Tua Rempang and Galang residents. Within this framework, the state bears obligations to respect, protect, and fulfill citizens' fundamental rights, including the right to adequate housing, the right to participate in policymaking, and the right to cultural identity and communal land (Porter, 2021).

However, the implementation of relocation in Rempang demonstrates a neglect of these obligations. As confirmed in the July 7, 2025 interview with Dian Arniandi, no meaningful consultations were held with the indigenous community from the early stages of the process. According to him, the FPIC principle was not observed, and project-related information was disseminated unilaterally. This indicates that the state failed to meet the standards of public participation enshrined in UNDRIP (2007) and General Comment No. 7 of the UN CESCR (1998) on forced evictions.

Meanwhile, in his July 11, 2025 interview, Bokri from Kampung Pasir Merah disclosed that his family had lived there for generations and held an SKTR from the Riau Provincial Government. Yet, all attempts to secure land ownership certificates since 2004 had failed without clear legal justification. He further noted that socialization of the project only occurred after decisions had been made, not during the planning stage.

This condition represents a violation of the right to adequate housing guaranteed under the ICESCR, which Indonesia ratified through Law No. 11 of 2005. Komnas HAM (2024) has documented strong indications of serious human rights violations in the Rempang relocation, including violations of land rights, the right to be heard, and the protection of indigenous cultural heritage. From a human rights theoretical perspective, the relocation policy is thus inconsistent with the state's obligations to ensure the full protection of local communities' rights.

John Rawls' Theory of Social Justice (1971) provides a normative framework to evaluate whether public policy advances substantive justice for all citizens. In *A Theory of Justice*, Rawls contends that justice should not merely be assessed through formal equality under law, but rather through the fair distribution of development's benefits and burdens in favor of the most vulnerable groups known as the difference principle.

In the context of Rempang's relocation, government policy has disproportionately benefited investors while disadvantaging indigenous communities who have occupied the area for generations. According to Dian Arniandi, many residents who once held 10–20 hectares of communal land were offered only two hectares per person as compensation. Moreover, the

compensation framework disregarded the historical and cultural significance of the land collectively held for centuries. He described the government's approach as "technical, partial, and dismissive of substantive justice."

Bokri likewise emphasized the inequity in bearing the costs of development, stating that "all the burdens of uncertainty, loss, and psychological pressure are borne by the residents," while the government failed to provide adequate legal or social protections for those refusing relocation.

Rawls' theory rejects policies that exacerbate inequality without delivering direct benefits to the most vulnerable members of society. As noted by Earlene and Sitabuana (2024), national strategic projects such as Rempang Eco City are often implemented without regard for social justice. The state remains overly focused on economic growth and investment narratives while neglecting inclusive community participation in decision-making.

Thus, Rawlsian justice underscores that relocation policies implemented in a top-down manner, without equitable benefit-sharing, contravene the principle of justice as fairness. In practice, the Rempang relocation has produced structural inequalities and disregarded the rights of the most affected group: the indigenous Malay community of Rempang and Galang.

Together, Human Rights Theory and Social Justice Theory provide a strong theoretical basis for evaluating the Rempang-Galang relocation policy. The Human Rights framework highlights the state's failure to ensure participation, land protection, and cultural rights, while the Social Justice framework reveals the inequities in distributing development's burdens and benefits.

Based on field interviews and empirical findings, it can be concluded that the relocation policy does not rest on legal principles that guarantee respect for collective rights or distributive justice. Accordingly, a reorientation of policy is necessary one that positions communities as active subjects of development rather than as victims of elitist and technocratic policies.

Implementation of the Relocation Policy for Residents of Kampung Tua Rempang and Galang from the Perspective of *Ius Operatum*

Human Rights Theory is grounded in the universal principle that every individual possesses inherent and inalienable rights from birth, which cannot be revoked by the state. In the context of relocation, the right to adequate housing is part of economic, social, and cultural rights as enshrined in Article 25 of the Universal Declaration of Human Rights (1948) and Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which Indonesia ratified through Law No. 11 of 2005.

A human rights-based approach emphasizes that the state has three core obligations: to respect, to protect, and to fulfill the rights of its citizens. This means the state must refrain from violating rights (respect), protect individuals from violations by third parties (protect), and actively ensure the fulfillment (fulfill) of the right to housing, land rights, and citizen participation in public policy processes (Porter, 2021).

In the case of Rempang-Galang, the state has been criticized for failing to uphold the principle of Free, Prior, and Informed Consent (FPIC) the minimum standard for the protection of indigenous peoples as stipulated in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP, 2007). The absence of FPIC indicates that the relocation process was conducted without due respect for the dignity and collective rights of indigenous communities (Dastgir Khan & Temocin, 2022).

Based on an interview with Dian Arniandi, Chairperson of the Malay Youth Alliance, on Monday, July 7, 2025, he stated that community participation in the Rempang relocation process was merely a formality. He emphasized that "community leaders were not involved from the outset, and information about the relocation often came unilaterally and belatedly."

This reflects that the relocation policy was implemented without meaningful consultation as required by the principle of FPIC.

A similar account was given by Bokri, a resident of Kampung Pasir Merah, in an interview on Thursday, July 11, 2025. He revealed that residents were not engaged in deliberations from the beginning and that “they were only provided with socialization after the relocation decision had already been made.” Both testimonies underscore that the policy-making process was carried out in a top-down manner, with little to no substantive involvement of affected communities.

Such conditions demonstrate a violation of the principle of participation in human rights, particularly the right of indigenous peoples to self-determination (UNDRIP, 2007). Komnas HAM (2024) has similarly noted that the absence of meaningful engagement with indigenous communities may be categorized as a denial of the public’s right to participation in development.

Furthermore, a human rights approach rejects development-induced displacement when the process is non-participatory, non-transparent, and causes social, cultural, and economic harm, as will be further elaborated in the findings of this study. In the same interview, Bokri explained that his family had resided in Rempang for generations and possessed a Land Use Certificate (Surat Keterangan Tata Ruang, SKTR) issued by the Riau Provincial Government. However, since 2004, their application for formal land ownership certificates had repeatedly been rejected without clear justification. This reveals the absence of formal legal recognition of indigenous land rights.

The lack of a clear legal mechanism for recognizing indigenous land ownership highlights a weakness in Indonesia’s legal system in protecting collective rights. As emphasized by Earlene and Sitabuana (2024), the state has yet to establish effective legal instruments to accommodate the claims of indigenous communities, particularly in the context of agrarian conflicts involving national strategic projects.

The interviews also revealed the psychological burdens caused by the relocation. Bokri expressed that residents now live under economic uncertainty, social trauma, and fear of losing their Malay cultural identity. Similarly, Dian Arniandi argued that the relocation threatens to dismantle long-standing social and cultural networks within Kampung Tua Rempang. These impacts are consistent with Cernea’s (2000) concept of resettlement risks, which identifies forced relocation as a cause of livelihood loss, social disarticulation, and the erosion of cultural identity. In other words, the relocation policy not only displaces residents physically but also undermines their social heritage and cultural values.

Both informants also voiced strong criticism of the government’s dissemination of information regarding the relocation project. Bokri reported that residents never received official and detailed explanations about compensation schemes, grievance mechanisms, or social protection measures. Meanwhile, Dian Arniandi remarked that “no information was ever conveyed in full—everything came piecemeal and in a highly technocratic manner.” This lack of transparency points to a violation of the principle of public accountability in development. The Asia Pacific Forum (2022) stresses that a human rights-based approach to public policy requires openness of information, active citizen engagement, and fair feedback mechanisms. In the case of Rempang, the state appeared to prioritize investment interests over social justice for local communities (Alam, Saebani, & Tresnayadi, 2024; Lubis, Ridwan, & Batubara, 2024).

The Social Justice Theory developed by John Rawls in *A Theory of Justice* (1971) provides further insight, emphasizing justice as fairness as a foundational principle for policymaking. Rawls identifies two main principles of justice: (1) the equal liberty principle, which guarantees equal basic rights for all, and (2) the difference principle, which permits inequality only if it benefits the least advantaged members of society.

In the context of relocating residents of Kampung Tua Rempang, the critical question is not merely whether the relocation is legally valid, but whether its process and outcomes are just for the affected groups. Government compensation must be evaluated not solely in terms of monetary value or land replacement, but in light of substantive justice, taking into account the historical, social, and spiritual significance of indigenous land (Rawls, 1971).

According to Rawls, justice cannot be realized when state policies exacerbate the vulnerability of marginalized groups. In this case, the indigenous communities of Rempang–Galang have suffered structural disadvantages, including the loss of ancestral land rights, social disintegration, and threats to the survival of local culture. Therefore, a Rawlsian approach to justice is critical in assessing the proportional and ethical distribution of burdens and benefits in development projects (Earlene & Sitabuana, 2024).

Based on interviews with Dian Arniandi, Chairperson of the Malay Youth Alliance, and Bokri, an affected resident, it was revealed that communities were excluded from meaningful participation at the early stages, suffered from fragmented and delayed information, and faced socio-psychological pressures resulting from the loss of land, cultural identity, and long-standing social networks.

From the perspective of Rawls' Social Justice Theory, the relocation policy for residents of Kampung Tua Rempang fails to prioritize the most disadvantaged groups, contrary to the difference principle which mandates the greatest protection for the least advantaged. The compensation offered has not taken into account the historical, social, and spiritual values attached to indigenous land, nor has it ensured the dignified survival of affected communities. In this regard, the Rempang relocation exemplifies a form of development that disregards substantive justice, collective identity, and the right to self-determination.

Evaluation and Recommendations on the Relocation of Kampung Tua Rempang and Galang Residents from the Perspective of *Ius Constituendum*

From the perspective of *ius constituendum*, law is not merely seen as a set of norms currently in force (law as it is), but also as an ideal vision of the law to be realized (law as it ought to be). Therefore, the evaluation of the relocation policy of Kampung Tua Rempang and Galang residents should not be limited to compliance with existing positive law, but must also be directed toward the creation of a legal and policy framework that is more just, inclusive, and respectful of human rights. Based on empirical findings and interview results, it appears that the current relocation policy still falls short of these principles, particularly in terms of community participation, protection of customary land rights, as well as compensation and recognition of the cultural identity of indigenous communities.

Future relocation policies must be designed in a participatory manner and grounded in human rights. The state is obligated to involve affected communities from the earliest stages of planning, not merely after decisions have been made or during implementation. The principle of Free, Prior, and Informed Consent (FPIC) must be upheld as a fundamental standard in all decision-making processes involving indigenous communities, as affirmed in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP, 2007). In an interview on July 7, 2025, Dian Arniandi, Chairperson of the Malay Youth Alliance, stated that the government's failure to implement FPIC was the root cause of the community's distrust toward the Rempang project. Residents perceived the policy as unilaterally imposed, with no opportunity to express their aspirations or to withhold consent voluntarily. Normatively, this also contradicts Law No. 39 of 1999 on Human Rights, which obliges the state to respect, protect, and fulfill the fundamental rights of all citizens, including the right to participate in decisions affecting their lives.

Furthermore, the integration of social justice values must become a central foundation in formulating relocation policies. John Rawls' (1971) Theory of Distributive Justice posits that

public policy can only be justified if it provides the greatest protection and benefits to the most vulnerable groups. In the case of Rempang, however, it is precisely the indigenous communities—who have long coexisted harmoniously with their natural environment—that have been most disadvantaged. In an interview on July 11, 2025, Bokri, a resident, revealed that the government's compensation scheme did not take into account the historical and cultural significance of their customary land. Even residents with tens of hectares of land were only offered two hectares in return, with no consideration for cultural heritage, spiritual values, or social sustainability. This sentiment was echoed by Dian Arniandi, who criticized the compensation as excessively technocratic and lacking substantive justice. Consequently, future relocation policies must be designed with a participatory approach that reflects the social realities of local communities.

The state must also guarantee fair forms of compensation—not only in material terms, but also with respect to the protection of the cultural identity of affected communities. Compensation cannot be reduced to mere monetary payments or land substitution, as land for indigenous peoples constitutes a source of life, collective identity, and a spiritual bond with their ancestors. Komnas HAM (2024) has emphasized that the loss of customary land not only affects the physical livelihood of communities but also severs generational continuity and erodes the collective memory of a people. For this reason, relocation policies must include the protection of historical sites and cultural heritage, while also ensuring the continuity of local culture through education, legal safeguards, and participation in development decisions in their new settlements. Without such an anthropological and humanistic approach, relocation policies like that of Rempang risk becoming a detrimental precedent for future national development.

Based on these considerations, the reformulation of relocation policies within the framework of *ius constituendum* must be directed toward establishing governance structures for development that are grounded in respect for the rights of indigenous peoples as subjects of law, rather than merely as objects of development. The state must draft new regulations rooted in principles of justice, humanity, and sustainability. This process requires multilateral dialogue involving the government, investors, indigenous communities, independent institutions such as Komnas HAM, and academics to ensure that development proceeds not only for the sake of economic growth, but also for social justice, cultural protection, and human dignity. Thus, future relocation policies will not perpetuate inequality or human rights violations but instead contribute to the legal transformation toward a more inclusive and just society.

CONCLUSION

Based on empirical findings, legal analysis, and the theoretical approaches previously discussed, it can be concluded that the relocation policy of Kampung Tua Rempang and Galang residents has generated fundamental issues in legal, social, and human rights dimensions. The top-down relocation process, carried out without substantive community participation, reflects a disregard for the principle of Free, Prior, and Informed Consent (FPIC), which should serve as the foundation of any policy concerning indigenous communities.

From the perspectives of *Ius Constitutum* and *Ius Operatum*, the policy is not fully aligned with the mandate of the Indonesian Constitution, particularly Article 28H(1) of the 1945 Constitution, as well as Law No. 39 of 1999 on Human Rights. Moreover, the inconsistency between national regulations and field practices indicates a violation of international commitments such as the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). The state has not optimally fulfilled its obligations to respect, protect, and fulfill citizens' rights to adequate housing, customary land, and the preservation of local culture. The

prevailing legal-formal approach has failed to safeguard the most vulnerable groups and has exposed structural inequalities between state-investor power and local communities.

Accordingly, this study proposes three strategic steps as a reflection of *Ius Constituendum* in the formulation of future relocation policies. First, the government must reformulate relocation policies on a human rights-based framework, positioning communities as primary actors engaged from the planning stage through to evaluation. Second, policies should integrate John Rawls' principle of social justice, ensuring a fair distribution of development benefits and burdens, while providing compensation that encompasses both material and cultural dimensions. Third, the state must concretely protect indigenous cultural identity through legal recognition of customary land, preservation of ancestral sites, and development policies oriented toward community sustainability rather than mere economic gain.

By building policies that are participatory, rights-based, and just, the state can ensure that national strategic projects do not advance at the expense of local communities' rights. The Rempang case serves as a critical lesson that development without social justice and equality will only create prolonged social conflict and collective trauma that is difficult to heal. Thus, the future direction of relocation policy must be grounded in dialogue, recognition, and respect for human dignity and diversity.

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