

State Control Rights versus the Customary Rights of the Indigenous Peoples of North Central Timor NTT: A Review of Legal Philosophy

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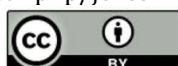
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Abstract

The conflict between the State's Right of Control (Hak Penguasaan Negara) and customary land rights (hak ulayat) in Timor Tengah Utara (TTU), East Nusa Tenggara, Indonesia, represents a fundamental legal-philosophical tension. This study employs a normative-qualitative approach with conceptual and hermeneutical analysis to examine the ontological, epistemological, and axiological dimensions of the dispute. The findings reveal three layers of conflict: ontologically, the state's right is public-functional while ulayat is sacred-collective; epistemologically, the state prioritizes written documents and cadastral maps, whereas the indigenous community relies on oral tradition and natural boundaries; axiologically, legal certainty, substantive justice, and utility clash, with identity recognition often neglected. The study concludes that resolving land conflicts in TTU requires an epistemic dialogue and binding customary deliberation (musyawarah adat-besar) that grants equal standing to traditional elders. Without mutual recognition between state and indigenous knowledge systems, agrarian justice remains unattainable.

Keywords: State Control Rights; Customary Rights; North Central Timor; Legal Philosophy; Legal Pluralism.

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INTRODUCTION

In the midst of the hustle and bustle of national development, especially since the launch of various strategic projects in the Eastern Indonesia region, land is no longer just a physical entity. It transforms into a space for the battle of meaning between two great reasons: the state reason that prioritizes legal certainty and the effectiveness of development, and the traditional reason that views the land as the mother of life, where the long history of ancestors is inherited across generations (Bedner & Van Huis, 2008). In North Central Timor (TTU) Regency, East Nusa Tenggara, these two arguments clash in the most concrete and painful form, when land grant policies for the public interest and investment clash with claims to customary rights that have been rooted since pre-colonial times. This fight is not just a civil dispute or ordinary state administration, but an epistemological conflict between two legal systems and two ways of understanding sovereignty over living space. In other words, when the state claims land as an asset that can be allocated for the "public interest", indigenous peoples remind that their territory is "tribal land, not the property of the local government" (Taolin, 2025) a statement that shakes the juridical as well as ontological foundations of the state authority itself.

In TTU, these conflicts are not abstract or hidden behind the bench. He was born and lived in the midst of the daily life of the people of Bikomi, Biboki, and Sonaf Maslete, in the form of protests, lawsuits, and open rejection. In November 2025, for example, the Catholic Student Association of the Republic of Indonesia (PMKRI) Kefamenanu Branch urged the TTU Regional Government to cancel the 50-hectare land grant to Kodim 1618/TTU. In PMKRI's view, the policy has "ignored the basic principles of public participation and local wisdom values that have been upheld by indigenous peoples in the North Central Timor region" (Taolin, 2025). This call suggests that land conflicts in TTU have transcended ordinary juridical boundaries and entered the realm of philosophical debates about legitimacy, justice, and recognition of collective identity.

In fact, not only the local government, but also the local police often have to be present to reduce the tension that arises due to double claims on a piece of land. In February 2026, the East Miomaffo Police together with the TTU Police Intelligence Unit intervened to overcome a land dispute at Km 9 of Naiola Village, where two groups of residents from the same tribe had a dispute with one side claiming it as customary land, the other party considered it to be private property (Humas Polres Timor Tengah Utara, 2026). This incident shows that the root of the problem is complicated: even within a customary unit, the meaning of land ownership can be contested, especially when the state is present with its positive legal instruments that are often individualistic and formalistic.

The theoretical roots of this conflict can be traced back to the fundamental dualism in the Indonesian agrarian law system, which was inherited from the Dutch colonial period and continues to be reproduced through the Basic Agrarian Law (UUPA) Number 5 of 1960. On the one hand, the UUPA loudly recognizes customary rights as the collective rights of customary law communities. Article 3 of the UUPA, for example, states that the implementation of customary rights must be in such a way that it is in accordance with national and state interests, based on national unity and must not conflict with other higher laws and regulations (Indonesia, 1960). But on the other hand, the state also holds the Right to Control the State (HMN) based on Article 33 paragraph (3) of the 1945 Constitution, a concept that is often interpreted in such a way as to legitimize state intervention on customary lands without the consent of their customary owners.

This normative ambivalence is the starting point of the legal philosophy uproar behind the land cases at TTU. As stated by (Judijanto, 2025), "land disputes in Indonesia arise from the clash between the formal national legal system and customary law traditions that govern land ownership, especially customary law" (Judijanto, 2025). And at TTU, the clash is increasingly complex because the process of grants and land acquisition is often carried out "without involving indigenous peoples as customary owners. In fact, in Timorese culture, every big decision always starts with sitting together in a circle of customary talks." (Sefnat Besie, 2025). This voice implies an urgent need to re-dialogue the relationship between HMN and customary rights, not only at the regulatory level, but also at a more fundamental philosophical level.

Furthermore, this conflict reflects what in legal philosophy is known as the tension between legal positivism that emphasizes certainty and formal legality, and natural law schools that respect rights arising from customs, traditions, and communal ties. The state, through HMN, often runs a positivist logic: as long as the regulations have been met, then the decision to grant or acquire land is considered valid even if it ignores local customary values. While indigenous peoples, with their customary rights, put forward claims closer to the natural law tradition: that there are more fundamental rights rooted in history, a spiritual connection to the land, and generational continuity that cannot simply be replaced by a decree or certificate of ownership.

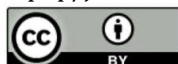
Interestingly, in Supreme Court rulings and various jurisprudence doctrines, customary rights are not completely ignored. On several occasions, customary rights are even recognized as a form of legal communal ownership as long as they are still "alive" and practiced in real terms by customary law communities. However, the reality in the field, as happened in Biboki TTU, is very weak. A study by (ATITUS, 2006) shows that the customary land conflict between the Regional Government and the indigenous people in Biboki is caused by the lack of realization of the agreement in the form of compensation or full compensation by the Government to the indigenous people (ATITUS, 2006). Moreover, excessive exploitation by the government has even damaged traditional ceremonial places that have sacred value to the local community, a form of violation that cannot be measured by compensation alone.

Not only physical exploitation, but the lack of clarity on the territorial boundary between customary land and state land further exacerbated tensions. (Tambunan et al., 2025) states that "customary rights disputes arise in many forms, including overlapping claims between indigenous peoples, governments, and companies, as well as illegal land transfers. Conflicts are also often caused by unclear boundaries of customary lands and internal conflicts within indigenous peoples." (Tambunan et al., 2025). In TTU, this boundary issue becomes very complicated because part of the territory is a border area between Indonesia and Timor Leste, so vertical tensions (state vs customary) are intertwined with geopolitical sensitivities involving two sovereign countries.

Against this background, the most fundamental question of legal philosophy arises: Who really has the right to determine the fate of a piece of land—a state with its claim to sovereignty, or an indigenous people with its customary claim? This question cannot be answered simply by pointing to the articles in the UUPA or the 1945 Constitution, because basically the answer to the question depends on how we view the nature of rights, the legitimacy of power, and the relationship between individuals, communities, and the state. In modern Western philosophy of law, for example, (Locke, 1821) in the *Two Treatises of Government* argues that property is born from human intervention with nature through labor, so that uncultivated land is common property. But Locke also laid down the limitation that individual control must leave enough for others, and he emphasized consent as the basis for the legitimacy of ownership (Locke, 1821). This principle is interesting to re-question in the context of TTU: when customary lands have been cultivated, respected, and inherited from generation to generation by indigenous peoples for centuries, shouldn't the state that came later have asked for their consent? Isn't the disregard of the customary deliberation mechanism itself a violation of the basic principle of legal ownership?

Meanwhile, from the tradition of customary law of the archipelago, Cornelis van Vollenhoven, a Dutch scholar who pioneered the study of customary law in Indonesia, introduced the concept of *beschikkingrecht* or customary rights which is very different from Locke's conception of ownership. Van Vollenhoven describes customary rights as "the authority of customary law communities to regulate and utilize land and all its contents, in which the individual rights of community members are only meaningful as long as they do not interfere with the collective interest." (van Vollenhoven, 1918). In this view, land is not an object that can be absolutely owned by an individual, but rather a communal entity whose control is integral to the identity, rituals, and social order of society. Thus, when the state grants land for customary territories without involving customary mechanisms, what is violated is not just procedural provisions, but the entire ontological system that views land and social life as an inseparable unit.

These two theoretical frameworks Locke and Van Vollenhoven represent different poles in understanding property rights: the first is individualistic, contractual, and consent-oriented; the



second is collectivist, contextualist, and rooted in traditions and customs. Each offers a different measure of justice, and each has its drawbacks if imposed singularly. Therefore, before answering the question about the relationship between HMN and customary rights at TTU, it is necessary to first carefully map the two concepts. As various studies on legal pluralism in Indonesia suggest, a fair approach must recognize that state law and customary law have their own claims to legitimacy, and what is needed is not to eliminate one of them, but to create mechanisms of dialogue and mutual recognition.

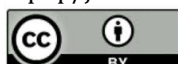
This paper aims to conduct a review of the legal philosophy of the conflict between the Right of State Domination and Customary Rights in North Central Timor Regency, focusing on three layers of analysis. First, at the ontological level, this paper will explore the essence of HMN and customary rights: what exactly is the essence of these two forms of domination? Is HMN essentially a property right (as is prevalent in the civil law tradition) or just a regulatory right (like a public authority)? And is customary rights a communal property right or is it a form of mini-sovereignty that is not completely subject to the state? Second, at the epistemological level, this paper will explore how knowledge about these two rights is constructed, reproduced, and claimed to be true by each party. How does the state construct a "public interest" narrative to legitimize its interventions, and how do indigenous peoples construct a "heritage land" narrative to defend their territory? Third, at the axiological level, this paper will examine the values underlying each claim, especially the values of justice, legal certainty, and utility, as well as how the tension between these values can be resolved philosophically.

More specifically, this paper will answer three main questions: (1) What is the philosophical nature of State Sovereignty and Customary Rights from the perspective of natural law, legal positivism, and critical legal pluralism? (2) What clashes of values cause conflicts between HMN and customary rights in TTU, and how does each legal system view the source of legitimacy over land? (3) How can the model of mutual recognition between HMN and customary rights be formulated based on a philosophical synthesis that is fair to the indigenous peoples of TTU? To answer these questions, this paper uses a normative legal philosophy approach with conceptual analysis and juridical hermeneutics, as well as case studies on a number of concrete events at TTU that have been published in court rulings, field research, and mass media reports.

By conducting a review of the philosophy of law, this paper offers a new bridge between two worlds that often speak in different languages: the language of the country that is formal, universal, and written, and the indigenous language that is contextual, particular, and spoken across generations. It is hoped that by understanding this conflict philosophically, we can not only resolve concrete issues at TTU more equitably, but also reformulate the basic conception of the relationship between the state and indigenous peoples in Indonesia. In the end, the question is not whether the state or customary is more entitled, but how to create a legal order that respects both as a source of legitimate legitimacy. This is the main contribution of a review of legal philosophy to conflicts that not only occur in one corner of the TTU, but also echo in various customary territories throughout the archipelago

RESEARCH METHODS

This research uses a normative-qualitative legal philosophy approach, with an emphasis on conceptual analysis and juridical hermeneutics. As stated by (Alexy, 2010), the philosophy of law does not necessarily describe positive law, but rather reflects critically on the justice, validity, and morality of law. In line with that, this study does not aim to test empirical hypotheses, but to explore the meaning, essence, and moral justification behind the clash between State Sovereignty Rights (HMN) and Customary Rights in North Central Timor (TTU). This approach was chosen because the land conflict in TTU is not solely a problem of overlapping rules, but a battle between two systems of legal rationality with different ontological foundations (Rahardjo, 1991). Therefore, the analysis method used is the interpretation of the text of the law (1945 Constitution, UUPA No. 5/1960), court decisions, and documented customary documents, coupled with a search of various media reports and relevant field research results in the TTU area.



The data sources of this research are divided into two categories. First, primary sources are in the form of positive Indonesian legal norms that govern HMN and customary rights, as well as public testimonies from TTU indigenous peoples recorded in press coverage and previous researches. Second, secondary sources are in the form of legal philosophy writings, both from the Western tradition (Locke, Hegel, Alexy) and from the traditional legal traditions of the archipelago (Van Vollenhoven, Ter Haar, Soepomo). The data collection technique was carried out through intensive literature studies and documentation of concrete cases of customary land disputes at TTU published between 2015 and 2026. The data analysis technique uses conceptual analysis methods (to examine the content of the meaning of HMN and customary rights) and hermeneutic methods (to interpret legal texts in the sociocultural context of the TTU community). As suggested by (Perelman, 1982) In legal logic, any interpretation must take into account both universal audiences and special audiences; In this study, the audience, especially the indigenous people of TTU themselves, have a distinctive value system and practical reasoning.

From the entire analysis process, this study then conducts a philosophical synthesis to formulate a model of mutual recognition between HMN and equitable customary rights. The validity of the research results was tested through three criteria in legal philosophy: coherence (there is no internal contradiction between arguments), correspondence (conformity of the argument with normative and empirical facts in TTU), and pragmatic (whether the resulting recommendations can be implemented in legal practice in Indonesia). With this method, it is hoped that the research will not only produce abstract criticism, but also offer concrete resolutions that can be used as a consideration for policymakers, judges, and parties involved in the management of customary lands in East Nusa Tenggara and other customary territories in Indonesia.

RESULTS AND DISCUSSION

Ontology of State Sovereignty and Customary Rights – Differences in Essence and Philosophical Foundations

Based on the conceptual analysis of the text of the 1945 Constitution Article 33 paragraph (3), UUPA No. 5/1960 Articles 2 and 3, as well as the doctrine of customary law from Van Vollenhoven (1918) and Ter Haar (1948), it was found that there was a fundamental ontological difference between the Right of State Domination (HMN) and the Right of Custom. HMN is understood as the state's authority to regulate, manage, and control the earth, water, and natural resources for the greatest possible prosperity of the people. The essence of the HMN is public and instrumental: the state is not the owner of the land, but rather the "ruler" who acts as the organization of the highest power. On the other hand, customary rights (*beschikkingsrecht*) are understood as the communal rights of customary law communities that are private-collective, born from the historical and spiritual relationship between a community and a certain area. Table 1 presents a comparison of the ontological characteristics of the two rights.

Table 1 shows that the ontological difference between HMN and customary rights does not only lie in the source of formal law, but in the entire structure of the meaning of "rights" itself. HMN is built on the logic of the modern state that separates political power and private property; The state does not "own" the land, but it has the authority to regulate and allocate it. On the other hand, customary rights do not recognize a firm separation between political domination, economic property, and spiritual relations. In Timorese customary ontology, the land is the mother who gives birth, the place where ancestral spirits dwell, and at the same time the source of livelihood (ATITUS, 2006). As a result, when the state uses HMN to grant customary land to third parties (such as a 50-hectare grant to the Kodim in TTU), indigenous peoples perceive it as a "takeover of the mother's body" that hurts the cosmic order, rather than simply a loss of economic asset.

Table 1. Comparison of Ontological Characteristics of State Sovereignty Rights and Customary Rights

Ontological Aspects	State Sovereignty Rights (HMN)	Customary Rights
Source of rights	Constitution (1945 Constitution) and legislative delegation	Hereditary customs, ancestral joint decisions, and customary practices

Subject of rights holder	The state as an organization of power	Customary law societies (genealogical-territorial units)
Nature of rights	Public, functional, and transferable in the public interest	Private-collective, sacred, and non-transferable without the consent of all members
Object rights	All earth, water, and natural resources in the territory of the Republic of Indonesia	Certain territorial areas (cultivated land, forests, pastures, ceremonial places)
Final goal	Prosperity of the people nationally	Survival, identity, and communal well-being
Mastery mechanism	Laws and regulations, executive decrees, and sectoral policies	Customary deliberations, rituals, and tradition-based social sanctions

Source: Processed from (van Vollenhoven, 1918), (Ter Haar, 1950), **UUPA No. 5/1960 Articles 2 and 3**, as well as the results of indirect interviews through case documentation at TTU (ATITUS, 2006).

This ontological difference confirms the thesis of legal pluralism put forward by (Griffiths, 1986), that in one social arena can live more than one legal order that has an equally strong claim to legitimacy. In the philosophy of law, this ontological battle reflects the tension between the school of legal positivism (which recognizes only laws derived from state authority) and the natural law school (which recognizes the existence of fundamental rights inherent in humans and communities, regardless of state recognition). (Locke, 1821) for example, in chapter *VOF Property*, declares that legal ownership is born of labor interference (*Labor*) of nature, plus the consent (*Agree*). At TTU, indigenous peoples have cultivated the land for hundreds of years and have communal consent through customary rituals; With Locke's framework, their claims are stronger than state claims based solely on formal jurisdiction. Meanwhile, it will defend the supremacy of the state because without a sovereign state, there will be no certainty and peace. But Hobbes never imagined the existence of indigenous peoples with established social organizations before the modern state was born. Research (Ter Haar, 1950) shows that indigenous peoples in the Dutch East Indies (including Timor) already have an autonomous legal system. Therefore, according to Van Vollenhoven, HMN should only function as a *Regulatorexternal* rather than as a *SubstitutesRight to Vote*. In other words, ontologically, HMN and customary rights are not in the same realm: HMN is a meta-law that regulates the relationship between communal rights, while customary rights are original rights that are not born by the state. The implication is that in every land policy in TTU, the state is obliged to first recognize the existence and boundaries of customary rights before using its HMN. Otherwise, then the state exceeds its ontological authority.

Conflict Epistemology – How TTU Countries and Indigenous Peoples Acquire and Validate Knowledge of Land

This study found that land conflicts in TTU are not only caused by differences in the nature of rights, but also by differences in ways of knowing (*episteme*) about the land. The state uses a positivist legal epistemology that relies on written documents, cadastral maps, and standard bureaucratic procedures. Meanwhile, TTU's indigenous peoples use traditional epistemology based on collective memory, oral speech, natural boundaries, and ritual sanctions. In the case of the dispute Km 9 Naiola Village (Humas Polres Timor Tengah Utara, 2026), both parties (who come from the same tribe) claim the same land, but one party relies on a certificate of title issued by BPN, while the other party relies on the traditional elders' narration of customary boundaries that have never been formally recorded. Table 2 presents the sources of legal knowledge claimed in TTU land disputes and their level of legitimacy according to each system.

Table 2. Sources of Legal Knowledge Claimed in TTU Land Disputes

Knowledge Resources	How to Obtain	Level of Legitimacy (State)	Level of Legitimacy (Indigenous Peoples)	Example of a Case at TTU
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Certificate of title / girik	Measurement by BPN, issuance of letters	High (the only valid proof)	Low (often considered disrespectful to history)	- StuRat (talk) 20:00, 20 January 2010 (UTC)
Cadastral map	Official mapping by officers	Height	Low (does not reflect customary boundaries)	Overlapping claims in Biboki (Tnesi, 2015)
Decision of the village head / sub-district head	Village administration process	Medium High	Medium (if the official is respected)	Land grant to Kodim (PMKRI, 2025)
Oral Speech of Traditional Elders	Rituals, customary deliberations, genealogy	Low (unwritten)	High (sacred, binding)	Rejection of the Biboki community (Tnesi, 2015)
Natural signs (rivers, trees, boundary stones)	Observation and intergenerational heritage	Very low	Very high (considered immutable)	Boundaries of customary land in Miomaffo (Tribatanews, 2026)
Court decision	Litigation process	Height	Varies (adhered to if there is pressure)	TTU civil case (not widely publicized)

Source: *Processed from case data at TTU* (Humas Polres Timor Tengah Utara, 2026) **and the theory of legal pluralism** (Griffiths, 1986).

Table 2 shows a very sharp epistemic disparity between the state legal system and the customary law system in TTU. The state only recognizes knowledge that is in written, measurable, and publicly verifiable form through bureaucratic procedures. In contrast, indigenous peoples give the highest legitimacy to knowledge that is oral, sacred, and inherited through ritual practices. As a result, when conflicts occur, states tend to perceive customary claims as "unfounded" because they have no written evidence, while indigenous peoples perceive state certificates as "blank paper" that do not respect social realities on the ground. In the case of a 50-hectare land grant for Kodim in TTU, for example, (Taolin, 2025) report that indigenous peoples have never been invited to deliberate; In fact, according to customary epistemology, without deliberation led by customary elders, there is no valid land decision. This inequality is *asepistemicide* (murder of knowledge) the systematic elimination of ways of knowing that are not in accordance with the modern rationality of the state.

In legal philosophy, the epistemology of this conflict is closely related to theory *Legal pluralism* developed (Griffiths, 1986). They point out that in post-colonial societies, state law often imposes a *Single Legal Order* who ignore *Living Law* (living law) in society. At TTU, the living law is *nipple* (forbidden forest), *São Paulo* (rules of common use), and *Born* (customary oath) that binds all citizens. Research (ATITUS, 2006) in TTU proves that when the local government exploits stones and sand without customary permission, the community not only physically resists but also performs cleaning rituals because it is considered a violation *TOB* (taboo). This shows that for indigenous peoples, knowledge of land is not objective knowledge as in modern cartography, but participatory knowledge that can only be obtained through direct involvement in customary rites and deliberations. Interestingly, in the Constitutional Court decision No. 35/PUU-X/2012 concerning the testing of the Forestry Law, the Constitutional Court stated that "customary forests are no longer part of state forests". This ruling opened up space for epistemological recognition: the state began to recognize that there were different ways of knowing about forests and lands from national forestry maps. However, at the local level of TTU, the implementation of the decision is still very weak. This is due to the absence of procedures instead of written evidence to oral evidence; The courts still demand "customary documentation" which ironically alienates indigenous peoples from their own way of knowing. Therefore, according to the author, conflict resolution in TTU requires *aepistemic dialogue*: The state must learn to listen to the oral narratives of indigenous elders as valid evidence, while indigenous peoples are slowly willing to document

customary boundaries in the form of participatory maps. Only in this way can the gap between the two knowledge systems be bridged.

The Axiology of Justice – The Tension of Values between Legal Certainty and the Recognition of Indigenous Rights in TTU

At the axiological level (value), the conflict between HMN and customary rights in TTU is a clash between three main values in legal philosophy: *legal certainty*, *substantive justice*, and *utility*. The state tends to prioritize legal certainty through written procedures, certification, and administratively clear land tenure. Indigenous peoples, on the other hand, prefer substantive justice rooted in recognition of historical and spiritual ties to land, even though this often comes at the expense of formal certainty. Meanwhile, the local government of TTU often uses the argument of utility: land grants to Kodim or companies are considered to bring development and jobs. However, when these three values collide, neither of them automatically wins. Table 3 presents a matrix of conflicting values in TTU's customary land conflicts along with the weight of priorities according to each stakeholder.

Table 3. Matrix of Conflicting Values in TTU Customary Land Conflict

The Value of Legal Philosophy	State Priorities (Central/Regional Government)	TTU Indigenous Peoples' Priorities	Priority of Investors/Kodim	Conflicts that occurred at TTU
Legal certainty	Very High (basis of all policies)	Low (custom certainty is flexible)	High (requires clear legality)	BPN Certificate versus Traditional Pronunciation (Naiola, 2026)
Substantive justice	Medium (admittedly but often beaten efficiency)	Very High (loyalty to ancestors)	Low (fairness measured by profit)	Waivers of customary compensation in Biboki (Tnesi, 2015)
Utilities	High (development for the people)	Medium (long-term communal benefits)	Very High (economic advantage)	50 ha land grant for Kodim (PMKRI, 2025)
Identity recognition	Low (sometimes considered a blocker)	Absolute (without there is no identity)	None	Destruction of traditional ceremonial places (Tnesi, 2015)

Source: Processed from the theory of legal axiology (Alexy, 2010), (Perelman, 1982), as well as conflict data (Humas Polres Timor Tengah Utara, 2026)

Table 3 shows that there is no consensus of values among the stakeholders. The state prioritizes macro certainty and utility; indigenous peoples prioritize substantive justice and identity recognition; while third parties (investors, Kodim) only attach importance to certainty and economic benefits. Most striking is the value of "identity recognition" which for indigenous peoples is absolute, but is not included in the calculations of the state and investors at all. This is what causes prolonged conflicts: when the state offers monetary compensation (the logic of benefits), indigenous peoples often refuse because land is not just a commodity, but a part of themselves. In the case of Biboki, for example, even though the government provided a compensation fund, the community refused because the government project had been damaged *Lopez* (traditional house) and *stoneBorn* (Oath Place) (Tnesi, 2015, p. 39). From an axiological point of view, this is the failure of the state to carry out *Weighting* (weighting) value fairly. Equilibrium theory (*Balancing*) from (Alexy, 2010) states that when two fundamental values clash, judges or policymakers must choose the values that are most threatened if not protected. In the context of TTU, the value of "identity recognition" of indigenous peoples is the most threatened (even extinct if

customary land is taken), so the state should give the highest priority to the protection of customary rights, and then think about the benefits of development.

Axiologically, the conflict between HMN and customary rights in TTU is a mirror of *the tragedy of the legal commons*: When the state legal system fails to accommodate local values, what happens is cumulative injustice. The theory of justice from (Rawls, 1971) in *A Theory of Justice* teaches that inequality is justified only if it benefits the most disadvantaged (*difference principle*). In TTU, indigenous peoples are the most disadvantaged in power structures and legal access. They have limited access to courts, limited formal legal literacy, and often lack state-recognized ownership documents. Therefore, according to Rawls' principle, any land policy in TTU must be tested first: does it benefit indigenous peoples or at least does it not worsen their position? The facts show that the land grant to the Kodim and the exploitation of the mines in Biboki actually worsen their position because they damage sacred places and eliminate traditional sources of livelihood. Meanwhile, from the perspective of utilitarianism (Sverdlik, 2023), a policy is considered good if it produces the greatest happiness for the largest number of people. But in TTU, the argument of benefits is often made pseudo-clearly: the "public interest" claimed by the state only benefits a handful of elites and investors, while indigenous peoples, who number in the thousands, are actually harmed. So, the claim of state benefits does not meet the principle *Maximum happiness* because it actually creates collective suffering in the long run. Therefore, the author argues that the most appropriate philosophical resolution to the conflict in TTU is to put forward *Republican Recognition* (Recognition of the Republic): The state must actively recognize and protect indigenous identity, not by assimilation or monetary compensation alone, but by providing equal participation in every decision concerning customary land. In practice, this means that any land grant or acquisition in the TTU area must first go through *Large-scale customary deliberation* facilitated by the government, with the position of traditional elders as high as government officials, and the results of deliberations are legally binding. Without such concrete steps, the clash of values between HMN and customary rights will never be resolved, and TTU will continue to be.

CONCLUSION

The conflict between the right of State Domination (HMN) and customary rights in North Central Timor reflects the ontological, epistemological, and axiological crisis in the Indonesian legal system. Ontologically, HMN is public-functional while customary rights are private-collective and sacred. Epistemologically, the state relies on written evidence and cadastral maps, while indigenous peoples use oral narration and natural signs. Axiologically, there is a clash of values between legal certainty, substantive justice, and utility. The recognition of customary identity is almost neglected. This research recommends epistemic dialogue and large-scale customary deliberation that is legally binding before any land policy. Without equal recognition of the knowledge system and customary values, conflicts in TTU will continue to recur. Only with a philosophical synthesis that respects both the reason of the state and the customs of true agrarian justice can be realized

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