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# Setting of free and prior informed consent to the protection of indigenous peoples' rights to water resources in Indonesia

Rahmi Jasim[1*], Saldi Isra[2], Kurnia Warman[3], Hengki Andora[4]
[1]Doctoral Program Students of the Faculty of Law, Universitas Andalas, Indonesia; rahmijasim2701@gmail.com (R.J.)
[2]Faculty of Law, Universitas Andalas, Indonesia; saldiisra@yahoo.com (S.I.)
[3,4]Faculty of Law, Universitas Andalas, Indonesia; kwarman@law.unand.ac.id (K.W.) hengkiandora@gmail.com (H.A.).

**Abstract:** This study examines the implementation of Free, Prior, and Informed Consent (FPIC) as a framework for safeguarding the rights of indigenous communities over water resources in Indonesia. FPIC is recognized in international law as the right of indigenous peoples to grant consent voluntarily and without pressure, as stated in UNDRIP. However, Indonesian positive law has not explicitly regulated its implementation. This study highlights the tension between the State's Right to Control (HMN) and indigenous communities' customary rights, which frequently results in the neglect of their rights in managing water resources. Through a normative legal approach, this research evaluates existing legislative arrangements and practices, identifies conflicts, and offers FPIC as a solution to ensure justice and sustainability in water resources management. The results show that the implementation of FPIC can improve the protection of indigenous peoples' rights, strengthen the synergy between the state and indigenous peoples, and support democratic and equitable water resources management.

***Keywords:*** *And legal protection. FPIC, Indigenous peoples, Water resources.*

## 1. Introduction

Water resources are among the most valuable blessings bestowed by God upon all living beings on earth, contributing significantly to the achievement of prosperity across various sectors [1]. As a fundamental element of life, water plays a crucial role in ensuring human well-being, as all living organisms consist of cells containing at least 60% water, and their metabolic processes occur within this medium (Enger and Smith). Additionally, it is a well-known fact that water covers approximately 70% of the earth's surface (Goethe) [2]. In fact, the Holy Qur'an also states "*We created man from water (Q.S. 25:54), We created all animals from water (Q.S. 24:45), We created everything that lives in water (Q.S. 21:30)*". Thus, water is the key to all life, without which all life would cease.

HMN embodies an ideological principle that provides the state with the authority and legitimacy to regulate and utilize land and natural resources within its territory [3]. The purpose of HMN over natural resources, especially water, is based on social justice and as much as possible for the prosperity of the people [4]. This positions the state as the primary entity responsible for achieving these objectives. Furthermore, the State's Right to Control (HMN) in water resource management grants the government the authority to regulate and oversee the distribution, use, supply, and preservation of land, water, and space. This authority extends to establishing and managing legal relationships between individuals and these natural resources, as well as governing legal interactions related to land, water, and space. Through HMN, the state assumes a central role in ensuring the sustainable and equitable management of natural resources while balancing public interests and indigenous rights [5].

The authority possessed by the state, which is reflected in HMN over water resources, does not necessarily mean that the state can apply ownership actions because the state's control rights over water


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* Correspondence: rahmijasim2701@gmail.com

resources are not property rights (*eigendom*) as in the civil sector, but are within the scope of public law (*publiekrechtelijk*) [6]. In addition, there are rights owned by indigenous peoples over everything within their territory, as it is known that water resources are also the object of customary rights for indigenous peoples (Bushar Muhammad, 1983). Similar to land as an object of customary rights, water is also regarded as a valuable resource that forms part of a geographical and social unit traditionally inhabited, utilized, and managed by indigenous communities through their customary systems. It serves as a symbol of social identity passed down from their ancestors [7].

Based on the description above, it shows that in addition to being HMN, water resources are also customary rights. This means that both the state and indigenous peoples have the right and authority to manage water resources in their sovereign territory. This, when viewed in the theoretical dimension, is related to two views regarding the origin of law. The first view sees law as the sole product of the state, thus overriding the normative order that lives in society. This is in accordance with John Austin's view that law is an order from the sovereign authority and states that the only source of law is the supreme power in a country [8].

The second view sees law as a crystallization or concretization of the values and social structure of society. The historical school developed by Savigny and G. Puchta believes that law is a reflection of the soul of society. This means that law grows together with society, not merely made but found in society. In addition, the *Sociological Jusprudence* school believes that the development of law is not found in laws, legal science and court decisions, but in society itself [9]. De facto, Indonesia is certainly not free from this second view. Historical facts show that in Indonesia, the law originates, is made, discovered and grows from the community itself. This means that in terms of control rights over water, both in terms of HMN and customary rights should be able to go hand in hand without ignoring each other. However, the facts show that many problems occur when HMN is on the object of customary rights [10].

While the state holds the authority to regulate and oversee water resources, indigenous communities also have inherent rights over these resources based on their customary laws [11]. As a result, the governance of water resources must balance state control of indigenous peoples' traditional rights. This utilization has caused various polemics that have resulted in real losses for indigenous peoples. De facto, this utilization is carried out by ignoring indigenous peoples' rights to water resources and making water resources a contested commodity in terms of investment such as the bottled water industry [12]. Some examples of cases that have caused harm to indigenous peoples include: (1) Kedung Ombo case which is part of the Jratunseluna River Basin Development Project; (2) Water conflict between farmers and Sleman Regional Water Company since 1997; (3) Conflict between the Sawai tribe and PT. Tekindo and PT. Weda Bay Nickel; (4) Conflicts between the community of Lubuk Mata Kucing Kelurahan Pasar Usang and the Regional Drinking Water Company (PDAM) of Padang Panjang City, the indigenous people of Lubuk Bonta Nagari Kapalo Hilalang and PDAM Padang Pariaman; (5) Conflicts between the people of Nagari Malalo Tanah Datar Regency and PT PLN (Persero) Bukittinggi in the construction of the intake tunnel of the Singkarak Hydroelectric Power Plant, and so on.

The losses felt by indigenous peoples as a result of the conflict are losses such as loss of shelter, damage to community facilities, water shortages that result in the obstruction of indigenous peoples' activities, and even loss of livelihoods including water which is part of their customary rights. This is a result of the absence of coordination and is not based on the consent of indigenous peoples so that they have no choice but to give up sources of livelihood that are part of their customary rights. Indigenous peoples are in a more vulnerable and weaker position so that they are pressured and are in a *defensive* position against new rights based on written legal provisions granted by the state [13].

The state, through various laws and regulations, has acknowledged the existence of indigenous peoples and their customary rights [14]. However, in practice, inconsistencies, ambiguities, and unclear interpretations in recognizing indigenous peoples and their customary rights reveal the weak protection afforded to them. Therefore, to ensure the protection and legal certainty of indigenous peoples' rights over their water resources or customary water, it is essential to implement one of the internationally

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recognized rights concepts outlined in Article 3 and Article 32, Paragraph (2) UNDRIP. Adopted by the UN General Assembly on December 13, 2007, this concept, known as *Free, Prior, and Informed Consent* (FPIC), serves as a mechanism to safeguard indigenous communities' rights by requiring their voluntary and informed approval before any activities affecting their resources take place.

FPIC is a fundamental right that grants indigenous peoples the authority to provide free, prior, and informed consent regarding any actions that may affect them, laws and policies that will be carried out on their customary lands and are part of the core of their struggle for self-determination. In the international legal order, FPIC has been regulated in various provisions [15]. However, Indonesian positive law does not yet regulate this FPIC right. Considering the weak protection for indigenous peoples in the water resources sector, the researcher considers that the regulation and application of FPIC is very necessary. However, more in-depth studies and considerations are needed regarding the regulation and application of FPIC, starting from the urgency of implementing FPIC as a legal instrument to water resources and how FPIC can increase legal capacity in water resource management and strategies that are considered appropriate for implementing FPIC. By adopting an approach that combines legislative science and the customary law of indigenous peoples, this research seeks to offer solutions that ensure a balanced protection of indigenous communities' rights over their customary resources, particularly water. This approach aims to harmonize state regulations with traditional legal systems, promoting equitable management and safeguarding indigenous peoples' sovereignty over their water resources.

## 2. Methods

This study utilizes normative legal research, relying exclusively on library materials or secondary data [16]. The research object is understood as a set of norms or rules, including legal principles, systematic structures, and comparative law. To support the analysis, this study relies on data sourced from library research or legal materials, which are categorized into three main types: primary legal materials (such as laws and court rulings), secondary legal materials (such as books and legal journals), and tertiary legal materials (such as legal dictionaries and encyclopedias).

Primary legal materials are authoritative sources that have binding legal force, including the preamble and body of the 1945 Constitution of the Republic of Indonesia, statutory regulations, customary law, court decisions, international treaties, and the Criminal Code. These materials serve as the foundation for legal analysis and interpretation, providing essential references in the formulation and application of laws. Secondary legal materials consist of resources that interpret or expand upon primary legal materials, including academic papers, legislative drafts, legal expert research findings, and similar documents. These materials provide analysis and context to support legal understanding.

Johnny Ibrahim divides the normative legal research approach into seven approaches including [17]: statutory, conceptual, analytical, comparative, historical, philosophical and case approaches. In this writing, researchers use statutory, conceptual, analytical, and historical approaches.

## 3. Results And Discussion

Fundamentally, the legal relationship between the state and water gave rise to the concept of HMN, while the relationship between indigenous peoples and water established customary rights. Ultimately, customary rights also led to the recognition of individual rights, albeit with legal limitations. Ideally, these three relationships should exist in harmony and balance [18]. Additionally, it governs legal actions involving water, including those carried out by indigenous peoples. This provision underscores the state's role in overseeing water resources while acknowledging the legal interactions that exist within indigenous communities. This underscores that the state holds supreme authority in managing water resources. However, indigenous communities also retain the right to regulate and oversee water resources within their territories based on customary rights.

Paragraph (2) of Article 18B of the 1945 Constitution of the Republic of Indonesia stipulates that "The State recognizes and respects the unity of customary law communities along with traditional

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rights as long as they are still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia (NKRI), which are regulated in the Law." The article can be understood as an acknowledgment by the Constitution of the traditional rights of indigenous communities in Indonesia [19]. However, in practice, derivative regulations often fail to provide strong guarantees for the protection of indigenous peoples' customary rights over water resources. The state, through its Right to Control (HMN), tends to recognize these rights only symbolically, without ensuring meaningful protection or implementation.

In reality, legal regulations regarding water resources are deemed insufficient in safeguarding the rights of indigenous peoples over these resources. The uncertainty can be examined from several arrangements related to water resources in Indonesian legislation as follows:

1. Regulation of Water Resources in Law Number 11 of 1974 concerning

   The substance of Law No. 11/1974 on Irrigation is largely based on the perspective of water as a social function, aiming to maximize the prosperity of the people, as stated in Articles 1 and 2 of the law. This reflects the government's role in managing water resources to ensure equitable access and utilization for the benefit of society as a whole [20]. "The people" in this context include indigenous communities, who are also Indonesian citizens. The substance of the regulation establishes that water resources are controlled by the state, with the authority of control delegated to both central and regional governments. As *stipulated* in Articles 3, 5, and 6 of the law. This ensures that indigenous communities maintain their customary rights over water resources within the framework of state management.

   Based on the perspective that water resources are essential natural resources for human survival, their management and utilization should prioritize environmental sustainability. The substance of the relevant legal regulations regards water rights as common property, aiming to fulfill social functions for the benefit of society by emphasizing equitable management, utilization, and access across various sectors. However, the law is predominantly influenced by HMN, as stated in Article 3, which declares that water and its sources are controlled by the state. This provision grants the government significant authority in managing, licensing, and regulating water use. Only marginally mentioned in paragraph (3), provided that they do not conflict with national interests. In addition, the recognition of indigenous peoples' rights is a formality, as evidenced by the lack of regulation related to indigenous peoples' involvement in water management. This shows the absence of the right to FPIC in the law.

2. Arrangements in Law Number 7 Year 2004 on Water Resources

   Many academics argue that this law, which was enacted and promulgated on March 18, 2004, contradicts the values and social functions of the right to water resources as mandated by Article 33, Paragraph (3) of the 1945 Constitution [21]. They contend that the law does not fully align with the constitutional principle that natural resources, including water, should be controlled by the state and utilized for the greatest benefit of the people, potentially undermining indigenous and communal rights to water access and management. This is because the law places water resources as an element that has economic and profit value and is strategic to be used as an object of privatization.

   *The* essence of the law is considered to carry the values of *neo-liberalism* and privatization. The enforcement of water use rights, including both water use rights and water business use rights under the law, has facilitated privatization and commercialization, which ultimately disadvantages the community, including indigenous peoples. This is evidenced by the increasing role of the private sector following the issuance of Government Regulation No. 16/2005 [22]. This regulation has facilitated greater private sector involvement in water resource management, raising concerns about the potential commercialization of water and its impact on equitable access, particularly for indigenous communities and marginalized groups.

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In response to this, the Constitutional Court has canceled the law *a quo* through PMK Number 85/PUU-XI/2013. Therefore, the Constitutional Court ruled the law unconstitutional with the following grounds for annulment:

a. Any utilization of water must not disrupt, eliminate, or infringe upon the people's rights to water resources.
b. The state is obligated to uphold the people's right to water as a fundamental human right, as mandated by Article 28I, Paragraph (4) of the 1945 Constitution. This provision reinforces the state's duty to ensure fair and equitable access to water resources for all citizens, recognizing water as an essential element for life and well-being. Consequently, state policies and regulations must align with this constitutional mandate to prevent the marginalization of vulnerable communities, including indigenous peoples, in water resource management.
c. Water resources management must consider environmental sustainability.
d. Supervision and control of water resources is absolutely by the state.
e. The primary priorities for the exploitation of water resources are given to State-Owned Enterprises (BUMN) and Regional-Owned Enterprises (BUMD). This policy aims to ensure that water resource management remains under state control to serve the public interest while limiting excessive privatization.

The Court emphasized that the primary aspect of state control over water resources should focus on self-management, aiming to enhance the State Budget (APBN) and promote the welfare of the people. Indonesian democracy has a collective character so that it cannot lead to an individualistic concept of economic democracy. In fact, the law *is* considered to give leeway to foreign capital owners.

The right to use water is exercised by subordinating the right to use water, demonstrating governance that leads to an individualistic, capitalist economic system. This was also the consideration for the court to annul *the* law in order to restore the spirit of state control rights as mandated by the constitution. Although the court had previously regulated conditional constitutionality through Decisions No. 058-059-060-063/PUU-II/2024 and No. 008/PUU-III/2005, the conditional constitutionality was not fully implemented.

3. Arrangements in Law No. 17/2019 on Water Resources

After the Constitutional Court annulled Law No. 7/2004 on Water Resources through Decision No. 85/PUU-XI/2013, water resource regulation in Indonesia reverted to the previous law, Law No. 11/1974 on Irrigation [23]. However, this law is no longer suitable for addressing the current challenges and complexities of water resource management. Recognizing this, the House of Representatives (DPR) has taken steps to formulate new legal provisions to better regulate water resources in Indonesia, ensuring alignment with contemporary needs and sustainability principles.

On October 16, 2019, Law Number 17 of 2019 concerning Water Resources (Law No. 17/2019) was enacted, marking a new approach to water governance in Indonesia. This law aims to reaffirm the principle that water resources must be managed for the greatest welfare of the people, ensuring state control while addressing contemporary challenges in water management, sustainability, and equitable access. In addition, the presence of the new law is expected to be able to create a Remunicipalization Movement, which is to restore water utilization governance that prioritizes justice for all Indonesian people. Remunicipalization, according to Eric Swyngedouw, is an effort to return water from private to public goods, so that water resources should be managed by the government for the common welfare and not for *profit oriented* or water commercialization purposes [24].

The idea of water privatization creates a new framework regarding water, which was originally a public object that can be used by the people easily, but now turns into an economic object that is exploited by the private sector, thus further perpetuating the practice of commercialization or materialization of water management. The emergence of the idea of water privatization is inseparable from historical facts where the emergence of this idea is one of the impacts of the monetary crisis

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experienced by Indonesia during the New Order era, which then made the Indonesian government look for institutions that could provide aid funds to deal with the crisis faced by Indonesia.

Loans provided as financial assistance often include conditions that the borrowing country must adhere to, particularly when dealing with institutions like the International Monetary Fund (IMF). In Indonesia's case, agreements with the IMF led to specific structural adjustments, including policies related to natural resources and environmental management. These conditions were outlined in a memorandum of understanding, which required Indonesia to implement reforms in various sectors, ensuring economic stability and sustainable development. As a result, financial aid from international institutions influenced national policies, especially in managing critical resources like water.

A 1997 study conducted by the World Bank highlighted significant issues in Indonesia's water resource management, urging immediate reforms. These recommendations became the foundation for the Water Resource Sector Adjustment Loan (WATSAL), a policy restructuring program aimed at improving water governance. Through WATSAL, Indonesia sought to align its policies with international standards while addressing domestic challenges in water management, demonstrating the impact of global financial institutions on national policies.

This led to the emergence of economic liberalization in Indonesia's water management sector, shifting water resource governance toward commercialization by the private sector. Such a shift contradicts the original purpose of water resource management. If this issue is not promptly addressed, water scarcity in Indonesia could become a real threat, as private sector control prioritizes profit maximization. Water scarcity is a critical issue in many countries, particularly in Asia and Africa, where water availability is disproportionate to demand, and management practices are inequitable, often neglecting the needs of local communities.

Besides being a breath of fresh air for water resources management in Indonesia, which has abolished the water revitalization movement, Law 17/2019, based on the analysis above, has not been able to thoroughly answer other problems faced by this nation, especially the protection of indigenous peoples' customary rights to their customary water. In Law No. 17/2019, the state's centralized control over water resources remains dominant, as outlined in Article 9, Paragraphs (1), (2), and (3). The law grants full authority to both central and regional governments to regulate and manage water resources while formally recognizing the existence and rights of indigenous peoples. However, this recognition is conditional, as indigenous rights must not conflict with national and public interests. This restriction raises concerns about the extent to which indigenous communities can exercise their customary rights over water resources without state intervention.

The article in question closely resembles the provisions in the Basic Agrarian Law (UUPA), imposes restrictions based on national interests. This similarity reflects a legal framework that recognizes indigenous rights in principle but limits their practical implementation, often subordinating them to broader state policies and development priorities. As a result, indigenous communities may face challenges in fully exercising their customary rights over water resources. In reality, as previously discussed with reference to international legal perspectives on the protection of indigenous peoples' rights, it can be concluded that the law in question has not fully incorporated these views. It should be understood that this research does not actually allow the state to limit the ownership rights of its people, in this case the customary rights of indigenous peoples to water resources, but rather seeks a middle ground so that the right to control the state can run in harmony and balance with the customary rights owned by indigenous peoples.

The constraints within legal provisions regarding the protection of indigenous peoples' customary rights have, in practice, resulted in various conflicts over water resources, which are considered part of their customary rights. This illustrates a condition where the state's right to control seems to override the customary rights of indigenous peoples over their water resources. Thus, various impacts are directly felt by indigenous peoples themselves, such as the emergence of criminalization and poverty for indigenous peoples.

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The case of the Sawai Tribe and PT Weda Bay Nikel exemplifies the ongoing struggle of indigenous communities in protecting their customary rights from corporate encroachment. Despite international standards requiring Free, Prior, and Informed Consent (FPIC), the project, financed by the World Bank, proceeded without securing proper approval from the affected tribes. This reflects a broader failure of the Indonesian government to provide adequate legal protection for indigenous land rights, leaving communities vulnerable to displacement and loss of their traditional territories. The lack of state intervention in ensuring FPIC not only disregards indigenous sovereignty but also exacerbates social and environmental injustices.

The absence of informed consent means that indigenous groups were unable to make fully informed decisions about their land, effectively forcing them into an unfavorable position. For generations, these communities have relied on their land for sustenance and cultural continuity, making their displacement particularly harmful. The failure to uphold FPIC highlights the broader challenges of balancing economic development with human rights and environmental protection. Without stronger legal safeguards and state commitment to indigenous rights, similar cases are likely to persist, reinforcing patterns of marginalization and resource exploitation in Indonesia.

As a result of these actions, the community's source of livelihood was lost and the community was even conditioned to an unfavorable situation. Where they are required to switch professions from farmers and fishermen to laborers in the company. In addition, the community is prohibited from accessing their customary forests, which have been designated by the government as protected forests and national parks. In addition, PT Weda Bay Nickel, PT NHM and PT ANTAM are allowed to conduct mining activities in protected forests. From the *a quo* case, it can be understood that the existence of state control rights over natural resources can actually eliminate the rights of indigenous peoples to their customary rights. The state's right to control, particularly in regulating the utilization of natural resources by third parties such as the private sector, is susceptible to misuse. Without strict oversight and enforcement of safeguards, this authority can lead to the marginalization of indigenous communities, environmental degradation, and unfair resource distribution. The lack of effective mechanisms to ensure transparency and accountability increases the risk of exploitation, where corporate interests may take precedence over the rights and welfare.

Furthermore, the Senjaya water resource conflict is located in Semarang Regency, Central Java. In this water source, there are many springs with a fairly high debit, some of which are "Tuk Nganten", a spring located at the east end, "Tuk Umbul", a spring that becomes and center, "Tuk Bandung", a spring that is used as a bathing place, "Tuk Teguh" and "Tuk Slamet," springs located to the north of Tuk Bandung. During the Dutch colonial period, Senjaya water source was used by farmers at that time for irrigation. In addition, Senjaya water was also used to meet the Dutch soldiers in Barak Zibang 411 Salatiga (now called the Headquarters of Bataliyon 411 Diponegoro Division), which at that time could be utilized for free. Even back then, every Monday and Thursday, some of Senjaya's water was used to clean up feces and horse manure at the 411th Battalion headquarters.

There are seven interest groups that utilize the Senjaya water source, namely; 1) Salatiga Regional Drinking Water Company (PDAM), which has been using the Senjaya water source since the Dutch era; 2) The dormitory of Battalion 411 or formerly called Zibang 411 has been utilizing the water source since the Dutch era; 3) PT Damatex-Timatex; 4) Karang Gondang IDT program community; 5) Semarang Regency PDAM since 1997; 6) Farmers, and 7) Residents in the vicinity of the spring. In addition, Senjaya spring is also utilized by the Semarang Regency Tourism Office for bathing tours. The number of interests competing for Senjaya's water resources is evidence that future conflicts over water resources will be increasingly difficult to avoid.

From the Sanjaya case, it can be concluded that water conflicts are basically rooted in three things, namely: (1) policies in water exploitation are based on the concept of "*public goods*"; (2) the existence of regional autonomy policies that place water resources as a factor of production or an excessive economic asset, especially to increase local revenue; and (3) policy-making towards water resources that is based on the development of sectoral and regional egoism. Water as a "public good" can and should be utilized

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by anyone freely. The development of water resources exploitation policies has shifted to the concept of *state property*. This has complicated matters, as seen in the case involving the Semarang District Government and Salatiga City Government, each of which has an interest in exploitation to increase local revenue, leaving indigenous peoples/water users as victims.

Furthermore, water resources located in Lubuk Mata Kucing, Padang Panjang City, now the government in this case the state has given recognition and protection to local indigenous peoples. However, this recognition and protection was preceded by prolonged conflicts and endless struggles from indigenous peoples as customary rights owners. Water resources that are the object of conflict are located on customary land covering an area of ± 3,300 m², namely the Lubuk Mata Kucing bathing water source in Pasar Usang Village, West Padang Panjang District, Padang Panjang City. The customary land where the water resources are located, namely the Lubuk Mata Kucing bathing complex, belongs to the Amir Hamzah clan of the Koto Tjari tribe. The customary land was formerly part of an expanse of rice fields and dead land purchased jointly by Siti Mariah, Lelo Urai, Siti Ainsjah, Siti Rahmah and Henak, namely the Tjari tribe around 1985. The boundaries of the customary land of the Koto Tjari tribe are as follows:

North : bounded by Lubuk Mata Kucing hill (friend of this land also / SHM No.244 GS No.254 in 1993 on behalf of 1. Fatimah Jamil 2. Syamsu Dahliar 3. Asma 4. Rahmawati and SHM No. 325 GS Number 395 of 1997 in the name of Mukhtar Sutan Batuah)

South : bounded by the stone wall of the Lubuk Mata Kucing hill and the land of Fachrudi Datuak Panduko Kayo

East : bordered by a friend of this land, namely the stone wall of the Lubuk Mata Kucing hill.

West : bordered by Lubuk Mata Kucing road

The land with the boundaries as referred to above is the customary territory of the customary community, namely the Amir Hamzah Sutan Malenggang Koto Bukit Surungan Tribe. Wilyah ulayat in Minangkabau customary law includes anything that exists and grows on the surface of the earth or land and its contents, in this case the customary land includes water resources within the scope of the customary land. Since 1956, namely after Indonesia's Independence, the customary land of the Amir people along with existing water resources has been controlled by the Padang Panjang City Government on the basis of control of Law Number 8 of 1956 and Article II of the Transitional Rules of the 1945 Constitution which reads:

> "all existing state bodies and regulations are still in effect, as long as a new one has not been made according to this Constitution"

Control by the Padang Panjang City government is focused on the utilization of Lubuk Mata Kucing water resources as a source of clean water, irrigation water sources, and other public interests. Until now, the water resources of Lubuk Mata Kucing are still used for bathing and irrigation sources for rice fields in the lower silaiang. Around 1987, the Regional Drinking Water Company (PDAM) of Panjang City built a PDAM pumping station in Lubuk Mata Kucing with the aim of producing water. PDAM Kota Padang Panjang installs or plants pipes that function to distribute water to its customers, which is in accordance with the main task of PDAM Kota Padang Panjang to organize public services in the management of clean water and drinking water for the community that meets health standards and was established in 1982 based on Regional Regulation Number 3 of 1979 jo Number 2 of 2002.

For the indigenous people in Nagari Bukit Sarungan, Lubuk Mata Kucing is part of their customary rights, because in the customary land, precisely at the Lubuk Mata Kucing bathing location, there are water resources which were formerly called kepala bandar which are useful for irrigating the rice fields of Pasar Usang Village children. Palin Gelar Sutan Alamsjah in his statement also stated that based on the statement of Datuak Rangkayo Mulia Nan Sati, "the land where Lubuk Mata Kucing bathing place belongs to the nagari children", in accordance with the decision of the Pasar Usang Village Meeting which explained that St. Malenggang, Cs had the right to the Lubuk Mata Kucing bathing land.

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The dispute over water resources in Pasar Usang Village highlights the conflicting claims between the indigenous community and the Padang Panjang City government. While the indigenous people assert their customary rights over the Lubuk Mata Kucing water resources, the state does not formally recognize these claims. Instead, the government justifies its control over the water resources by citing constitutional and legal provisions that grant the state authority over land, water, and natural resources. This stance reflects the broader tension between customary land rights and national policies, where indigenous claims are often overlooked in favor of state-managed development and public welfare initiatives.

The Padang Panjang City Government argues that its management of the Lubuk Mata Kucing water resources aligns with legal mandates aimed at ensuring public benefit. By referencing Article II of the 1945 Constitution's Transitional Rules, Article 33 paragraph (3) of the 1945 Constitution, and Article 2 paragraph (3) of Law Number 5 of 1960 on Basic Agrarian Principles, the government asserts that state control is necessary to guarantee access to clean water, support irrigation, and meet other public needs. However, this legal justification does not necessarily address the indigenous community's longstanding relationship with the water resources, raising concerns about the recognition and protection of customary rights in Indonesia's natural resource governance.

However, the indigenous people of Pasar Usang Village also claim that the water resources of Lubuk Mata Kucing are part of the Nagari's customary land and are under the control of the indigenous people of the Nagari. This is due to the fact that the land and water resources of Lubuk Mata Kucing are ancestral inheritances that have been passed down through generations. However, these resources were seized by colonial rulers in the past. For indigenous Minangkabau people, they and their customary land have an unbroken, fulfilling and eternal relationship. Unlike property rights, property rights can end if the object is destroyed, or there are no more heirs to inherit, but customary rights cannot end, because they are eternal.

Based on the analysis of the problems above, starting from laws and regulations that do not provide clear limits on state control rights, do not accommodate clear protection of indigenous peoples so that in practice they cause many conflicts that are detrimental to indigenous peoples themselves. Therefore, strengthening the existing system, especially in legislation, is essential to guarantee the active participation of indigenous peoples in every stage of water resource utilization and management within their territories. This approach ensures that indigenous communities have the right to make informed decisions without coercion, thereby protecting their customary rights over water resources.

Law Number 6 of 2014 on Villages. This law provides a significant legal framework for indigenous communities to assert their position and role in managing natural resources through indigenous villages. Specifically, Articles 19 and 103 of the law delineate the powers of indigenous villages. Among these, the recognition of indigenous governance structures and the ability to manage resources according to customary laws are particularly crucial in ensuring the protection of indigenous rights, including their control over water resources.

Two types of authority in the law that specifically support the FPIC principle are the "authority of origin" and "village-scale local authority." The "authority of origin" ensures that indigenous governance systems are respected and upheld, while the "village-scale local authority" allows indigenous communities to manage their resources, including water, in alignment with their traditional practices and customs. These provisions not only reinforce the customary rights of indigenous peoples but also reflect the principles of recognition and subsidiarity, which emphasize that indigenous villages have inherent, law-recognized authority, rather than power merely delegated by the government. By enshrining these authorities, the law seeks to uphold the FPIC principle and provide a legal foundation for indigenous communities to protect their rights and resources from external encroachment.

Authority based on the right of origin refers to the power rooted in cultural heritage and initiated by the village community or indigenous peoples through customary villages, in line with the evolution of community life. Meanwhile, village-scale local authority involves the power to regulate and manage community interests traditionally handled by the village or indigenous community through the

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customary village, which can be effectively managed by the village or emerges from community development or initiatives. These two types of authority serve as pathways and aspirations to empower villages or indigenous villages, making them sovereign, self-sufficient, and culturally distinctive.

Article 20 of Law No. 6/2014 on Villages explicitly grants customary villages the authority to regulate and manage their own affairs, reinforcing the autonomy of indigenous communities in governing their territories. This provision allows these communities to manage natural resources such as water according to their customs and traditions, while still adhering to the broader framework of national laws. This autonomy not only acknowledges the cultural and governance systems of indigenous peoples but also empowers them to issue and enforce local regulations that are binding on external parties, ensuring that their customs and practices are respected and upheld in managing their lands and resources.

The right to Free, Prior, and Informed Consent (FPIC) is a critical element in protecting indigenous communities from external forces that may marginalize their existence and rights to their territories or customary lands. By recognizing and encouraging the implementation of FPIC, the UN seeks to safeguard indigenous peoples against the encroachment of development or corporate interests that may violate their rights to self-determination and resource management. The combination of legal recognition through national laws and the international support for FPIC ensures that indigenous communities have a meaningful voice in decisions affecting their lands and resources, thereby protecting their cultural heritage and promoting sustainable development that aligns with their values and needs.

*Free*, *Prior*, *Informed*, *Consent* is neither a participatory meeting, nor a negotiation, nor a consultation. They are, however, ways of achieving FPIC. FPIC, as a right, refers to the creation of conditions that allow communities to exercise their fundamental right to engage in negotiations regarding external policies, programs, or activities that directly impact their livelihoods and well-being, as well as to make informed decisions about these matters [25]. FPIC is a fundamental right of indigenous peoples, and to ensure its effective implementation, it must be legally recognized through formal regulations. As a right that must be upheld by the state, FPIC ensures that any acquisition of customary rights by the state does not infringe upon the human rights of indigenous peoples. Through Free, Prior, and Informed Consent (FPIC), the development and management of water resources by the state can be carried out in a democratic and participatory manner. This approach ensures that indigenous communities are actively involved in decision-making processes, allowing their rights, interests, and traditional knowledge to be respected. By implementing FPIC, the state can foster a more inclusive and equitable water governance system that balances national development goals with the protection of indigenous peoples' customary rights.

The 2006 UNDRIP upholds the right of indigenous peoples to self-determination. This principle is crucial because it ensures that indigenous communities retain control over their resources, governance, and way of life. It allows them to preserve their cultural heritage while engaging in sustainable development practices that are aligned with their traditions. By recognizing the right to self-determination, UNDRIP protects indigenous peoples from exploitation by external forces and empowers them to participate in decision-making processes that impact their lands, territories, and natural resources. It grants them the authority to establish their own systems for governance and to create mechanisms for financing these autonomous functions. This legal framework strengthens the position of indigenous communities, providing them with the tools necessary to effectively govern their territories and protect their resources. In this way, UNDRIP not only promotes the cultural and economic development of indigenous peoples but also ensures their active participation in the decisions that shape their futures.

The implementation of FPIC has three implications: legal, political and social [26]. Legal implications refer to the equality between the parties to the agreement and the rejection of arbitrary agreement contents. This is a manifestation of the legal principle of *equality* before the *law* and the principle of freedom of contract. Political implications lead to the obligation to obey the will of the people (community) where there is no higher power than the people. This implication obliges the state

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in this case the government and business actors to respect the voice of the people in determining or taking policies related to a project to be carried out. referring to the minimum standards of indigenous people in the UN declaration on the rights of indigenous people, the state has an obligation to provide recognition, namely:

a) Recognize the right of indigenous peoples to make decisions regarding their own destiny (*self determination*);
b) Recognize the right of indigenous peoples to participate in policy-making relating to them;
c) Recognize the right of indigenous peoples to control their natural resources and traditional lands;
d) Recognize the right of indigenous peoples to maintain, control, protect and develop cultural heritage;
e) Recognize *security subsistence and development.*

The social implications of implementing FPIC serve as a recognition of the rights and authority of indigenous peoples over their land and territory, helping to prevent social conflicts. As the holder of formal regulations, the government must consider indigenous rights and local wisdom before utilizing land or natural resources, including water resources. The enforcement of projects that are rejected by indigenous communities can lead to prolonged conflicts that harm all parties involved. This principle applies not only to the government but also to third parties or business entities operating under state-issued permits. Without recognizing and respecting indigenous rights, these communities risk being marginalized by unilateral interests that disregard their historical role in occupying, managing, and preserving these resources.

The implementation of the right to FPIC of indigenous peoples has not yet been regulated in Indonesia. REDD+ (Reducing Emissions from Deforestation and Forest Degradation) is a global initiative designed to mitigate climate change by reducing greenhouse gas emissions, primarily through halting deforestation and the degradation of forests and peatlands. One of the core principles of REDD+ is the recognition and respect for the rights of indigenous peoples, particularly their right to Free, Prior, and Informed Consent (FPIC). As a fundamental right, FPIC is not only a moral and legal obligation but also a requirement under international agreements related to environmental protection. This ensures that any project, including REDD+, that impacts indigenous communities must be conducted with their consent and active participation, ensuring their rights and interests are safeguarded.

In the context of REDD+, indigenous communities, especially those who are forest-dependent, are recognized as primary stakeholders. Their livelihoods are often directly linked to the forest and its resources, making their involvement in decision-making processes crucial. The FPIC process allows these communities to be informed about, consulted on, and to consent to any project that may affect their land, resources, or way of life. By ensuring that REDD+ projects uphold FPIC, indigenous communities are empowered to have a say in the environmental policies that affect them, ensuring that their rights are respected and that development proceeds in a manner that is both sustainable and equitable.

In relation to water resources, FPIC is not only important but urgent to be immediately applied, implemented and structured in Indonesia. In addition to sociological factors, FPIC is the right of indigenous peoples, thus creating an obligation for the state to protect and guarantee the rights of indigenous peoples. The legal considerations in the application of FPIC can be described as follows:

1. The right of indigenous peoples to be recognized and respected is enshrined in Article 18B of the 1945 Constitution of Indonesia, which guarantees the protection of their traditional rights. This aligns with international human rights principles, emphasizing full participation, involvement, effectiveness, contribution, and enjoyment in civil, economic, cultural, and political development. By upholding these rights, indigenous communities are ensured meaningful engagement in decision-making processes, particularly concerning their lands, resources, and governance, thereby preserving their identity and promoting equitable development.

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2. The rights of indigenous peoples are protected by various international legal instruments. UNDRIP, in particular, affirms that any development affecting indigenous communities must not proceed without their Free, Prior, and Informed Consent (FPIC). These legal frameworks emphasize the importance of indigenous participation in decisions regarding their lands, resources, and cultural heritage, ensuring their rights are not violated and that they benefit from sustainable and equitable development.
3. Indonesian positive law that also accommodates the interests of indigenous peoples' rights when faced with development is marked by the amendment of the 145th Constitution of the Republic of Indonesia, which contains a separate chapter on human rights. In addition, the Explanation of Law No. 11/2005 also sets out the Indonesian government's position on development and human rights, as follows: "Finally, it is realized that the life of the nation and state that does not respect, uphold and protect human rights will always cause injustice to the wider community and does not provide a healthy foundation for economic, political, social and cultural development for the long term";
4. TAP MPR No. IX of 2001 on Agrarian Reform and Natural Resource Management underscores the importance of conducting agrarian reform and managing natural resources with full respect for human rights. This policy directive highlights the need for the government to uphold the rights of indigenous and customary law communities, ensuring that their land and resource rights are recognized and protected. The document stresses that any efforts related to agrarian reform and resource management must take into account the cultural diversity of the nation, acknowledging the unique systems of governance, traditions, and legal frameworks that exist within various indigenous communities.
5. By emphasizing the recognition of customary law communities, TAP MPR No. IX of 2001 advocates for a more inclusive approach to land and resource management. This involves respecting the traditional rights and practices of these communities, ensuring that they are not marginalized in the process of national development. In doing so, the policy fosters a more equitable approach to managing natural resources, balancing the need for economic growth with the protection of the rights and cultural heritage of indigenous peoples. It represents a crucial step toward promoting sustainable development that integrates human rights and cultural recognition into the legal framework of agrarian reform.
6. Law No. 32/2009 on Environmental Protection and Management also regulates the recognition of the rights of indigenous peoples related to environmental protection and management in at least 7 (seven) articles. This can be a legal basis for data communities to be involved and fully participate in the management and or utilization of water resources in their area. *The* law also underscores that the community possesses equal rights and opportunities to actively participate in environmental protection and management. This participation can take various forms, including social supervision, submitting suggestions, expressing opinions, proposing initiatives, raising objections, filing complaints, providing information, and submitting reports:
7. Law No. 14/2008 on Public Information Disclosure ensures the protection of citizens' rights to access information related to public policies, programs, and decision-making processes. This law mandates that government agencies and public institutions provide transparent and accessible information to the public, enabling citizens to be informed about the rationale behind decisions made by the government. By promoting transparency, the law empowers citizens to actively participate in governance, hold authorities accountable, and make informed decisions regarding matters that affect their lives and communities. Through this legal framework, the law emphasizes the importance of openness in public administration, fostering an environment of trust and accountability between the government and the public. It guarantees that citizens have the right to access key information on public policies, ensuring that decisions are made based on public interest and are open to scrutiny. This not only enhances democratic

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participation but also strengthens the quality of governance by making the decision-making process more transparent and responsive to the needs and concerns of the citizens.

To uphold democracy and respect for human rights and cultural diversity, as mandated by the 1945 Constitution, the existence, interests, and aspirations of indigenous peoples regarding water resources as rights holders must be given serious attention. These few conflicts should serve as a reflection in regulating and implementing FPIC in Indonesia. FPIC in this context can be viewed from two perspectives: first, as a human rights instrument and a means of democratizing development in water resource management; second, as a concept that has long existed, thrived, and evolved within communities under various terminologies and mechanisms aligned with local socio-cultural values.

The application of FPIC, if examined further, has indirectly been carried out by several regions in Indonesia. This is clear evidence that indigenous peoples have independence in managing their water resources. Examples of indigenous peoples who have been involved in the management of water resources are:

1. Baturiti Waterfall in Central Sulawesi

   Baturiti waterfall is located in Catur Karya village, Balinggi sub-district, Parigi Moutong district, Central Sulawesi. The people in this village come from and hold firmly to Balinese customs and culture, because historically the ancestors of the people in Balinggi sub-district came from Bali. Catur Karya Parigi Moutong Village is a transmigration village of Balinese Hindu Community and borders Poso Regency.

   In the beginning, around 2006, there was a conflict over the water resources of "Baturiti Waterfall" between the community of Catur Karya Village and the local government. The local government intended to use and utilize Baturiti Waterfall for PDAM (Regional Drinking Water Company), but the community rejected the idea. The conflict took the form of a physical conflict in which the community used machetes and other sharp weapons where the community rejected the presence of the state, in this case the government, in the management of water resources in Baturiti. Various approaches were finally made by the local community and the local government, until finally the government handed over the management of Baturiti Waterfall including for the utilization and profit taking by the local community through the Community Drinking Water and Sanitation Program (PAMSIMAS).

   Baturiti Waterfall is a source of water that then flows into small rivers in Catur Karya Village. Through the rivers, the water is used to irrigate the rice fields of the local community, ninety percent of whom work as farmers. The water needed for irrigation is managed directly by the Perkempulan Petani Pemakai Air (P3A) in Baturiti. In addition to irrigating rice fields, through the self-management of the local community, Baturiti Waterfall is also utilized as a tourist spot and source of drinking water supply.

   The utilization of Baturiti Waterfall for tourism is managed directly by the Baturiti Hamlet community without the intervention of the main local government in terms of *profit*. Ninety percent of the management of waterfall tourism is done by the community itself, although there is assistance from the local government through the public works department to build public toilets and concrete paths for two-wheeled vehicles based on proposals from the community.

   Utilization for drinking water supply is also built and managed by the community with a mutual cooperation system. All houses in Baturiti Village do not use Regional Drinking Water Company (PDAM) water, but use Baturiti water which is managed by the community with each house only paying an amount of Rp.5000,- (five thousand rupiah) per month which is used for maintenance. To drain water from the waterfall to the houses of the Community using pipes that are passed on the lands of the Community, where the land passed by the pipe is not obtained or carried out not through the compensation process but by socialization and grants.

   The facts above show that the community is actually capable of being independent in managing the water resources in their area. If possible, the state does not even need to present a Regional Drinking Water Company in Baturiti because with their customary water they are able

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to meet their basic needs for water, and can even manage irrigation and water tourism which certainly supports the community's economy. When needed by the community, the state is present in Baturiti through the Public Works Office to provide assistance such as consultation, evaluation, and others. For example, with a proposal from the community, tertiary channels to provide drinking water to homes are assisted by the Public Works Agency, while primary channels are directly implemented by the local community or what they call Balai.

2. Indigenous people in Jambi

Water resource management by indigenous communities also occurs in Bungo Regency, Jambi Province. In Bungo Regency there is a river called Batang Pelepat River. Previously, the water in the Batang Pelepat River was used for clean water needs such as consumption, bathing, washing and latrines. The indigenous people who live in Dusun Baru Pelepat are very dependent on Batang Pelepat. However, since the upstream activities, namely the use of chemicals for plantations and mining that have exceeded the threshold, the water in Batang Pelepat has become disturbed. The phrase of the people of Baru Pelepat Hamlet is "*Now the* water in the Batang Pelepat River is *murky, it is difficult for us to find clean* water, if the *electricity is off for a day we can buy candles*, if the water is off for *two hours it* is difficult to find water" which means "now the water in the Batang Pelepat River is murky, it is difficult for us to find clean water, if the electricity is off for a day we can buy candles, but if the water is off for two hours it is difficult to find water".

Faced with this, the indigenous community, the village government together with the customary forest manager tried to find a solution to overcome the problem of water needs. The solution found was to utilize the water sources found in Rimbo Adat Datuk Rangkayo Mulio. Rimbo adat or Rangkayo Mulio Customary Forest is administratively located in Dusun Baru Pelepat, Pelepat District, Bungi Regency, Jambi Province. The management of the customary forest is regulated in Village Regulation Number 02 of 2005 concerning the Management and Utilization of Customary Forests, which management is divided into two functions, namely:

a. Customary function, the management of which aims to improve the welfare of the people of the new hamlet of Pelepat;
b. Protection function, its management aims to preserve natural resources, including maintaining the survival of flora and fauna, preventing erosion, as water absorption and preventing the destruction of Forest Areas.

The customary forest of Datuk Rangkayo Mulio is the headwaters of small rivers that flow into the Batang Pelepat River. Batang Pelepat or Pelepat River also has several tributaries, namely Sungsang River, Meliau River, Deras River, Tamalun River, Sikotan River, Sago River, Turbid River and Cupang Duo River. All of these rivers depend on the people who live around the river and the indigenous people who live in Baru Pelepat Hamlet. Besides being used to meet their clean water needs, they are also used for agricultural and fisheries purposes.

Looking at the various situations and conditions in Indonesia, both in terms of existing legal arrangements and the application in the life of the nation and state, it can be concluded that the application of FPIC is needed to guarantee the customary rights of indigenous peoples to their water resources. The contribution of indigenous peoples as holders of power in their customary territories requires guarantees and legal certainty from the state. Where the application of FPIC must be carried out with a correct, honest and transparent communication approach so that it is easily accepted by indigenous peoples. Communication between the state and indigenous peoples must be carried out in two directions in a balanced manner with equal positions so that each party feels comfortable in interacting to find an agreement. This relationship is commonly referred to as an interdependent relationship so that all parties benefit in their respective interests.

If the government and activity actors realize the important role of the existence of indigenous peoples as part of an activity to be carried out, of course the government and activity actors will pay attention to the interests of indigenous peoples with all their rules, customary norms and culture. Respect for the rights of local communities, in this research, namely indigenous peoples, should be a

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consideration in making policies so that the activities carried out are in accordance with the expectations of the community. In a business context, this will form a long-term partnership system and provide benefits to both parties.

The application of FPIC can be a motivation that encourages and strengthens partnership relationships in sustainable development. This relationship positions indigenous peoples and other interested parties as equal and synergizing with each other. The business or project activities, of course, in this case, have been designed in accordance with the principles and rules that apply in indigenous peoples. application of FPIC must be able to guarantee that a communication approach is implemented to indigenous peoples to obtain operating licenses without any elements of coercion, violence, and manipulation of the intended indigenous peoples. What is also important in the application of FPIC is that the focal point is not only obtaining the consent or permission of indigenous peoples, but also how to maintain the consent or permission of the community by ensuring that the principles in the right to FPIC are maintained, of course by involving the role of the government, companies or third parties and the community.

The implementation of FPIC must be truly carried out by providing freedom for the Community in the implementation of the FPIC process, including:

a. Free to agree or not through a structured decision-making process;
b. All processes must be free from coercion, unbiased and free from bribery;
c. Indigenous peoples have the right to assent and are free to negotiate the terms of assent;
d. The location, time, and language are carried out in accordance with the consent of the Community;
e. Any information submitted must be done transparently and objectively;
f. All Indigenous Peoples have the right to participate without exception;
g. If negotiations break down, the rightsholder's position remains strong and another party must be available as an independent source to obtain additional information, mediate and strengthen the rightsholder's position;
h. Consent is not given without consensus.

Thus, it can be said that consent does not mean only agreeing or disagreeing, but rather leads to a process of how negotiations with Indigenous Peoples occur so as to produce an agreement or disagreement. *Good* communication must be based on the *good will* of each party in establishing mutually beneficial cooperation, by ensuring a balance in *symmetrical two-way communication.* The government or business actors must inform everything regarding the activities that will be carried out and the consequences that will be caused so that this information can be used as a basis by indigenous peoples in making decisions or providing prerequisite conditions related to their approval. Therefore, community participation is very important in influencing policy making, so a good public relations management process is crucial in implementing FPIC.

Simply put, in the context of FPIC implementation, the government or new business actors will process themselves to obtain permission to become residents in the area where they will operate. The process of obtaining permission must be conducted in good faith, ensuring that prospective residents or entities align with the environment, customs, culture, and interests of the local community. This means that any external party seeking to engage with indigenous communities whether for development projects, resource utilization, or settlement must respect local traditions and social structures. This principle aligns with the Free, Prior, and Informed Consent (FPIC) framework, which requires transparent communication, mutual respect, and voluntary agreement before any actions affecting indigenous lands or resources take place. This process of FPIC implementation is the first step to establishing a long-term oriented relationship. Burke calls this a psychological contract, a contract between indigenous peoples and the government or business actors in which each party has expectations that must be realized through cooperation [27].

The existence of a business or project that has reached agreement and become part of the community, must then be followed up with continuous adaptation in order to realize social

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responsibility. This is because the right to FPIC requires the government as a business actor or project or third party to carry out policies and activities in a legally, socially and culturally appropriate manner and be able to accommodate the interests of indigenous peoples with their rights. In addition, in implementing FPIC, business actors must also prepare a good *environmental risk management* plan, and this plan must be socialized and approved by indigenous peoples before the project operates.

The process of implementing and or applying FPIC is certainly local, because it depends on the social, cultural aspects of indigenous peoples and various interests in the place where indigenous water resources are located. This diversity will certainly become a technical challenge in the application of FPIC, because FPIC in its implementation also depends on the peculiarities of the culture of communication, coordination, and consensus of indigenous peoples. However, because the FPIC mechanism has generally lived in various local cultures or indigenous peoples in Indonesia with the motto "where the earth is trodden there the sky is upheld", the implementation of FPIC will not experience significant obstacles. To overcome this, FPIC socialization must be carried out with contextual language and presentation according to local social cultural conditions. The FPIC process must also be facilitated by parties who are believed to have credibility in the community and are accepted by interested parties.

## 4. Conclusion

Indigenous peoples' customary rights to water resources are often overlooked by the application of the State's Right to Control (HMN). This conflict is caused by the weak legal recognition and protection of indigenous peoples' customary rights, which is often only a formality without real implementation. Therefore, various cases such as the exploitation of water resources by private parties and government infrastructure projects, have caused negative impacts on indigenous peoples, such as loss of access to water resources, environmental degradation, and socio-economic losses.

FPIC is an important mechanism that enables Indigenous Peoples to be directly involved in Decision-making related to the management of water resources in their territories. The implementation of FPIC includes the freedom of Indigenous Peoples to accept or reject projects based on clear and transparent information. To strengthen the protection of indigenous peoples' customary rights to water resources, it is important to do the following:

1. Explicit recognition of FPIC in Indonesian positive law
2. Formulation of regulations that integrate the principles of FPIC in the management of natural resources, especially water resources for indigenous peoples.
3. Strengthening the capacity of indigenous peoples through legal education and involvement in development planning

The implementation of FPIC not only ensures the protection of Indigenous Peoples' rights, but also creates a sustainable, equitable and democratic water management framework by involving all stakeholders equally.

## Transparency:

The authors confirm that the manuscript is an honest, accurate, and transparent account of the study; that no vital features of the study have been omitted; and that any discrepancies from the study as planned have been explained. This study followed all ethical practices during writing.

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