

Protection of the Rights of Indigenous Peoples in Natural Resources Management

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Abstract

The protection of indigenous peoples' rights in the management of natural resources has become a crucial issue in environmental and agrarian law in Indonesia, particularly in the context of increasing pressure from large-scale natural resource exploitation. Indigenous communities possess a long-standing relationship with their customary territories and natural resources, which is reflected in traditional management systems based on local wisdom, cultural values, and sustainable environmental practices. These systems have contributed significantly to the preservation of ecosystems and biodiversity. However, in practice, the rights of indigenous peoples are frequently marginalized due to overlapping regulations, weak legal recognition, limited participation in decision-making processes, and the expansion of extractive industries and development projects. This study aims to analyze the legal protection afforded to indigenous peoples in the management of natural resources and to evaluate the effectiveness of its implementation within the existing legal framework. The research employs a normative juridical method using statutory and conceptual approaches to examine relevant constitutional provisions, legislation, and legal doctrines. The findings indicate that legal protection has been formally recognized under the 1945 Constitution of the Republic of Indonesia and Law Number 32 of 2009 on Environmental Protection and Management. Nevertheless, its practical implementation remains constrained by inconsistent law enforcement, institutional weaknesses, and conflicts over land and resource tenure. Therefore, stronger legal recognition, effective law enforcement, and inclusive governance are essential to ensure the protection of indigenous peoples' rights while promoting equitable and sustainable natural resource management.

1. Introduction

Indonesia is a country endowed with abundant natural resources and remarkable cultural diversity, including numerous indigenous communities distributed across its archipelago. Indigenous peoples maintain a profound and inseparable relationship with the natural environment that encompasses social, cultural, economic, and spiritual dimensions. In their daily lives, these communities manage natural resources through customary institutions and local wisdom that have been transmitted across generations. Such traditional resource management systems are not merely oriented toward resource utilization but also emphasize environmental conservation, ecological balance, and the

sustainable use of natural resources. From the perspective of environmental law, this demonstrates that indigenous peoples play a vital role as guardians of the environment by preserving ecosystems through customary practices that are consistent with the principles of sustainable development.

Despite their significant contribution to environmental stewardship, indigenous communities have increasingly become marginalized within the context of modern development. The expansion of natural resource exploitation by corporations, combined with government policies that often prioritize economic interests over customary rights, has generated agrarian conflicts, environmental degradation, and

the erosion of indigenous peoples' traditional rights. These conditions reflect an imbalance between economic development objectives and the protection of indigenous communities. As argued by Emil Salim (1986), development that neglects environmental and social dimensions inevitably generates far greater ecological and social costs in the future. Consequently, natural resource management should not merely pursue economic growth but must also promote social justice, environmental sustainability, and the protection of indigenous rights.

From a constitutional perspective, the recognition of indigenous peoples is firmly established in Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which affirms that the state recognizes and respects indigenous customary law communities and their traditional rights, provided that they continue to exist and are consistent with societal development and the principles of the Unitary State of the Republic of Indonesia. Furthermore, Article 33 paragraph (3) of the Constitution stipulates that the land, water, and natural resources contained therein are controlled by the state and shall be utilized for the greatest prosperity of the people. These constitutional provisions demonstrate that the state bears the responsibility to regulate and protect the equitable utilization of natural resources while ensuring the recognition and protection of indigenous peoples' rights within the national legal framework.

From a theoretical standpoint, the legal protection of indigenous peoples is closely associated with the concept of *hak ulayat* (customary communal land rights) as developed by Ter Haar (1939), who emphasized the collective rights of indigenous communities over their

customary territories and the natural resources contained therein. This concept recognizes that customary rights constitute an integral component of Indonesia's pluralistic legal system and should therefore receive legal protection. In addition, the concept of sustainable development introduced by the World Commission on Environment and Development (1987) highlights the necessity of balancing economic development, social equity, and environmental protection. Within this framework, indigenous communities are regarded as key actors in achieving sustainable natural resource governance because their traditional knowledge and customary values inherently support the conservation and sustainable use of environmental resources.

Based on the foregoing discussion, the protection of indigenous peoples' rights in natural resource management constitutes a fundamental issue in Indonesian environmental law. Although constitutional and statutory provisions formally recognize these rights, significant challenges remain in their practical implementation. Weak law enforcement, overlapping regulatory frameworks, limited legal recognition of customary territories, and persistent conflicts over land and natural resources continue to undermine the effectiveness of legal protection. Therefore, this study is essential to examine the legal protection afforded to indigenous peoples and to evaluate the effectiveness of its implementation in promoting equitable, environmentally sustainable, and socially just natural resource management in Indonesia.

2. Literature Review

2.1 Environmental Law Theory

According to Munadjat Danusaputro

(1980), environmental law comprises the entirety of legal regulations governing the relationship between humans and the environment to ensure the preservation of environmental functions. Koesnadi Hardjasoemantri (2005) further asserted that the primary objective of environmental law is to regulate human activities in order to prevent environmental pollution and degradation. In its development, environmental law serves two principal functions: preventive and repressive. The preventive function is implemented through regulatory instruments such as environmental permits, Environmental Impact Assessments (EIA), and the establishment of environmental quality standards, whereas the repressive function is exercised through the enforcement of administrative, civil, and criminal sanctions against environmental violations. In the context of indigenous peoples, environmental law functions not only as a regulatory mechanism but also as an instrument for protecting traditional rights in the management of natural resources (NR), thereby promoting a balance between development interests and environmental conservation.

2.2 Indigenous Peoples' Rights Theory

Ter Haar (1939) argued that indigenous peoples possess *hak ulayat* (customary communal land rights), namely collective rights over a specific territory that is utilized for the common benefit of community members. These customary rights encompass the control, utilization, and management of natural resources located within customary territories. Hazairin (1970) emphasized that *hak ulayat* constitutes an integral part of the customary legal system and, therefore, must be recognized and protected by the state. Within the framework of national law, the

recognition of indigenous peoples' rights is also reflected in various statutory regulations, including the Basic Agrarian Law of 1960. Conceptually, the protection of indigenous peoples' rights extends beyond legal aspects to include social, cultural, and economic dimensions. Therefore, the recognition and protection of *hak ulayat* are essential to ensuring justice and the sustainable management of natural resources based on local wisdom.

2.3 Sustainable Development Theory

According to the World Commission on Environment and Development (1987) in the report *Our Common Future*, sustainable development is defined as development that meets the needs of the present generation without compromising the ability of future generations to meet their own needs. This concept emphasizes the importance of maintaining a balance among economic growth, social justice, and environmental protection. In the context of natural resource management, sustainable development requires that natural resources be utilized prudently while considering the environmental carrying capacity and ecological resilience. This principle is consistent with the perspective of Emil Salim (1986), who emphasized that development must be environmentally oriented in order to prevent environmental degradation that would adversely affect future generations. In relation to indigenous peoples, the concept of sustainable development has strong relevance because the natural resource management practices based on local wisdom that have long been implemented by indigenous communities fundamentally reflect the core principles of sustainability.

3. Research Methods

This study employs a normative

juridical research method (doctrinal legal research), which focuses on examining legal norms, principles, doctrines, and statutory regulations governing the protection of indigenous peoples' rights in the management of natural resources in Indonesia. Normative juridical research is appropriate for this study because it emphasizes the analysis of legal provisions and legal concepts rather than empirical observations, with the objective of evaluating the adequacy and effectiveness of the existing legal framework in safeguarding indigenous peoples' rights and promoting sustainable natural resource governance.

To achieve the research objectives, this study adopts two complementary approaches:

a. Statutory Approach

The statutory approach is conducted through a comprehensive examination of constitutional provisions, legislation, and other relevant legal instruments concerning environmental protection, agrarian law, and the recognition of indigenous peoples' rights. This approach enables the researcher to analyze the consistency, hierarchy, and legal implications of the applicable regulatory framework governing natural resource management and the protection of customary rights.

b. Conceptual Approach

The conceptual approach is employed to examine legal doctrines, theories, and scholarly perspectives related to environmental law, indigenous peoples' rights, customary land rights (*hak ulayat*), and sustainable development. This approach provides a theoretical foundation for interpreting statutory provisions and assessing the legal principles underlying the protection of indigenous communities in the management of natural resources.

The data sources used in this research

consist of primary legal materials, secondary legal materials, and tertiary legal materials. The primary legal materials include the 1945 Constitution of the Republic of Indonesia (UUD 1945), Law Number 32 of 2009 concerning Environmental Protection and Management, and Law Number 5 of 1960 concerning Basic Agrarian Principles (Basic Agrarian Law). These legal instruments constitute the principal sources for analyzing the legal recognition and protection of indigenous peoples' rights within Indonesia's environmental and agrarian legal framework. The secondary legal materials comprise scholarly books, peer-reviewed journal articles, and other academic publications that provide theoretical and analytical perspectives on environmental law, indigenous peoples, and sustainable natural resource management. Meanwhile, the tertiary legal materials include legal dictionaries, encyclopedias, and other reference materials that support the interpretation and clarification of legal terminology and concepts employed throughout the study.

4. Results and Discussion

4.1 Legal Protection of Indigenous Peoples in Natural Resource Management

The legal protection of indigenous peoples in the management of natural resources (NR) in Indonesia has been normatively established through various statutory regulations. Constitutionally, such recognition is stipulated in Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which affirms that the state recognizes and respects indigenous customary law communities and their traditional rights. Furthermore, Article 33 paragraph (3) of the 1945 Constitution provides that the state's

control over natural resources must be exercised for the greatest prosperity of the people, including indigenous peoples as an integral part of the Indonesian population. At the statutory level, such protection is also provided under Law Number 32 of 2009 concerning Environmental Protection and Management, which recognizes public participation in environmental protection and conservation.

The strengthening of legal protection for indigenous peoples has been further clarified through Constitutional Court Decision Number 35/PUU-X/2012, which declared that customary forests (*hutan adat*) are no longer classified as part of state forests but instead belong to the territories of indigenous customary law communities. This landmark decision represents a significant milestone in recognizing the rights of indigenous peoples over natural resources, particularly in the management of customary forests. From the perspective of Environmental Law Theory (Danasaputro, 1980; Hardjasoemantri, 2005), this legal protection reflects the dual function of law as both a regulatory mechanism and a protective instrument for maintaining a balance between human interests and environmental sustainability. Consequently, the legal recognition of indigenous peoples constitutes an essential element of environmental governance that seeks to harmonize the utilization of natural resources with the preservation of ecological integrity and customary rights.

4.2 Challenges in the Implementation of Legal Protection

Although the legal protection of indigenous peoples has been formally recognized within the Indonesian legal framework, its implementation continues to encounter numerous obstacles. One of the primary challenges is the persistence of

agrarian conflicts arising from overlapping claims among indigenous communities, government authorities, and private sector actors. Such conflicts frequently emerge due to competing interests over land ownership, customary territories, and the exploitation of natural resources. In addition, overlapping regulatory authority between the central and regional governments has created legal uncertainty regarding the governance and utilization of natural resources, thereby weakening the effective protection of indigenous rights.

Another significant challenge is the limited administrative recognition of indigenous communities, which often serves as a prerequisite for obtaining legal protection. Many indigenous communities have yet to receive formal recognition from the government, making it difficult for them to exercise and defend their customary rights through legal mechanisms. Furthermore, the predominance of economic interests—particularly in the mining, plantation, and forestry sectors—frequently overrides the protection of indigenous peoples' rights. As a result, development policies and resource exploitation often prioritize economic growth at the expense of social justice and environmental sustainability.

These conditions indicate that the implementation of legal protection has not yet fully reflected the principles of justice embodied in the legal framework. From the perspective of Sustainable Development Theory (WCED, 1987), this situation illustrates an imbalance among economic, social, and environmental interests. Sustainable natural resource governance requires these three dimensions to be integrated harmoniously. However, the current implementation demonstrates that economic considerations continue to dominate policy-making, while the rights of

indigenous peoples and environmental conservation remain insufficiently protected.

4.3 The Role of the State in Protecting Indigenous Peoples' Rights

The state plays a fundamental role in ensuring the protection of indigenous peoples' rights through its regulatory, supervisory, and law enforcement functions. As the holder of authority over natural resources as mandated by the 1945 Constitution of the Republic of Indonesia, the state bears the responsibility to ensure that the utilization of natural resources does not undermine the rights and welfare of indigenous communities. This responsibility may be fulfilled through the formulation of policies that are responsive to indigenous interests, the strengthening of legal recognition for customary communities, and the effective enforcement of laws against violations of indigenous peoples' rights.

According to Satjipto Rahardjo (2000), law should function as a tool of social engineering, serving as an instrument for creating social transformation toward justice. Within this perspective, environmental law and agrarian law should not merely exist as normative legal provisions but should provide tangible and effective protection for indigenous peoples through consistent implementation and enforcement. Therefore, the state must ensure the harmonization of legal regulations, strengthen the institutional capacity of law enforcement agencies, and actively involve indigenous communities in decision-making processes concerning natural resource management.

Furthermore, meaningful participation by indigenous peoples in the formulation and implementation of policies related to natural resource governance is

essential to achieving procedural and substantive justice. Such participation enhances transparency, accountability, and inclusiveness while ensuring that customary knowledge and local wisdom are integrated into environmental governance. These measures contribute to the realization of sustainable natural resource management that respects indigenous rights and promotes long-term environmental conservation.

In conclusion, the protection of indigenous peoples' rights in natural resource management depends not only on the existence of legal provisions but also on the state's commitment to implementing and enforcing those laws fairly, consistently, and effectively. Such commitment is indispensable for achieving equitable and sustainable natural resource governance while safeguarding the constitutional and customary rights of indigenous peoples.

5. Conclusions

The protection of indigenous peoples' rights in the management of natural resources (NR) constitutes an integral component of efforts to achieve sustainable development. Normatively, the recognition of indigenous peoples has been guaranteed through various legal instruments, including the 1945 Constitution of the Republic of Indonesia, Law Number 32 of 2009 concerning Environmental Protection and Management, and the Constitutional Court Decision Number 35/PUU-X/2012. Nevertheless, the practical implementation of such legal protection remains far from optimal due to several persistent challenges, including agrarian conflicts, overlapping regulatory frameworks, weak administrative recognition of indigenous communities, and the predominance of economic interests over the protection of

customary rights. These challenges continue to hinder the effective realization of legal certainty, social justice, and sustainable natural resource governance. Therefore, a strong commitment from the state is required to ensure that the legal framework functions not merely as a normative instrument but also as an effective mechanism for protecting the rights of indigenous peoples while promoting equitable and sustainable natural resource management.

The government should strengthen the recognition of indigenous peoples through clear, consistent, and harmonized legal regulations while accelerating the administrative recognition process for indigenous customary law communities. Legal enforcement should be implemented firmly, consistently, and fairly to provide effective protection for the constitutional and customary rights of indigenous peoples. Furthermore, greater participation of indigenous communities should be encouraged in the formulation of public policies and decision-making processes related to natural resource management to ensure that such policies are more inclusive, participatory, and socially just. In addition, stronger collaboration among the government, law enforcement agencies, and indigenous communities is essential to establish sustainable natural resource governance that not only protects environmental integrity but also maximizes the welfare and prosperity of society as a whole.

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