Legal Status of Indigenous Land Rights in Indonesia's Mining Investment Policy

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Abstract. Investment policies in the mining sector in Indonesia always give birth to conflicts between community members and mining companies. The conflict is generally related to the control of land or land of indigenous peoples designated for mining areas. Conflicts occur due to the control of customary land by mining companies without regard to local indigenous peoples' rights to their ancestral lands. One of the fundamental problems of the conflict between indigenous peoples and mining companies is the weak status of ownership of customary land rights claimed by indigenous peoples, so it is very difficult for indigenous peoples to claim losses of customary land rights intended for mining exploration. The legal status of customary land rights does not have strong legitimacy due to the conditional provisions on the requirement of the 1945 Constitution regarding the presence of indigenous peoples and the Agrarian Law which are oriented towards the public interest when mining investments are put into practice in Indonesia.

Keywords: Indigenous peoples, indigenous land rights, mining investment.

1 Introduction

Investment policies in the mining sector in Indonesia always give birth to conflicts between community members and mining companies [1]. These conflicts are generally related to the control of land or community land designated for mining areas, especially the land of native peoples in some regions where mining investment is carried out. Some examples of cases that show the existence of of indigenous peoples in some areas such as the conflict between the Karunsi'e indigenous community and PT Vale Indonesia regarding the issue of mining land ownership in East Luwu Regency [2]. Conflicts involving native populations and mining companies in Podi Village, Tojo Una-una Regency, Central Sulawesi [3]; conflicts in Central Weda District, conflicts in Central Halmahera-North Maluku, and conflicts in Murung Raya, Central Kalimantan [4]. These conflicts occurred due to the control of customary land by mining companies disregarding the indigenous peoples' rights to their own customary land that have been owned for generations which were then forcibly used for the benefit of mining investment.

Observing the various conflicts that arise in the utilization of customary land for investment purposes, it is evident that the position and status of indigenous communi-

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ties are very weak. This weakness is due to the fact that the legitimacy of traditional land rights lacks formal foundation within the national legal framework. Nevertheless, in the perspective of the national court system, the status of customary land rights in Indonesia falls under the scope of the customary law regime known as the unwritten law regime [5], which, unlike the generally known legal forms consisting of two categories, written or positive law [6] and unwritten law. Customary law (including customary land law) is considered as unwritten law [7] (unstatuta law) in the Indonesian legal system and has developed based on fundamental values, including the following [8]:

1. Individuals are part of a community with respective functions aimed at maintaining and sustaining the community's cohesion.
2. Each person in the community aspires to the collective well-being of the community.
3. In this customary perspective, individual interests are difficult to distinguish, as the order exists within the universe.
4. Customary norms, according to this perspective, do not require enforcement through coercion to be effective.

It emphasizes that the applicable agrarian law for land, water, and airspace is the customary law, provided that it does not conflict with the national and state interests based on the unity of the nation, Indonesian socialism, and the regulations stipulated in this law with other legislation. This is in reference to the legal status of customary land as a component of the customary law regime, as stated in Article 5 of Law No. 5 of 1960 concerning Basic Agrarian Principles (UUPA).

Thus, the state of law of customary land ownership as an unwritten law recognized as part of the Indonesian legal system holds the same status and recognition as written law in the form of regulations that form the juridical basis for regulating mining investment policies in Indonesia. If any customary law is relevant to the legal status of customary land must be implemented as part of the legal rules to be considered in every mining investment policy in Indonesia, in addition to written regulations. However, in reality, recognition of the status of customary land rights is often neglected, leading to the constant threat of indigenous communities' rights over traditional lands being lost in every implementation of mining investment in Indonesia.

The author is deeply interested in the aforementioned issue and aims to conduct further research on fundamental questions about how the legal status of customary land rights is constructed as part of the unwritten law regime in the country's legal framework within the framework of regulating and implementing mining investments in Indonesia. This study is essential to examine the position of indigenous communities, who consistently become victims of the loss of their rights over customary land and the environment during each mining investment implementation in the region. Despite the existence of indigenous communities with their established legal norms governing legal relationships and rights over natural resources before the presence of the state or government, they are consistently marginalized in the execution of mining investments in their areas. They do not receive proper recognition and fair treatment from the government and mining companies that exploit the resources in their territories.

2 Research Method

An approach of research known as normative legal was utilized in this study, aiming to examine the legitimacy of traditional land rights within the context of mining investment policies in Indonesia through normative analysis. The primary data sources consist of secondary legal materials, including the 1945 Constitution, the Mining Law, the Basic Agrarian Law, and other secondary and tertiary legal authorities. Data analysis is conducted descriptively and qualitatively, and conclusions are drawn deductively.

3 The legal standing of traditional land rights under Indonesian law.

Ter Haar describes communities governed by customary law as "orderly groups with their own governance, possessing material and immaterial assets" in his book "Beginselen en stelsel van het Adatrecht." [9] Furthermore, provides a relatively long description of customary law communities, claiming that they are societal units, just like villages are in Java, marga are in South Sumatra, negeri are in Minangkabau, kuria are in Tapanuli, and wanua are in South Sulawesi [15]. These units have the completeness to stand independently, with a unified legal system, unified authority, and a shared living space based on everyone's access to common land and water rights. [10]

The brief explanations from these experts affirm that the existence of indigenous communities constitutes societal units with a unified customary legal system, capable of standing independently, possessing unified authority, and a unified living environment centered on everyone in the community having equal access to land and water. This indicates that the legal status of indigenous communities' accustomed land rights at the beginning of Indonesia's independence was very strong.

After revisions were made to the Constitution of the Republic of Indonesia in 1945, the recognition of the legal standing of communities governed by customary law was controlled. The 1945 Constitution's explanation mentions "the legal alliance of the people," referring to communities governed by customary law prior to Indonesia's declaration of independence. It further states, " within the borders of Indonesia, there are approximately 250 self-governing territories and ethnic communities, such as villages in Java and Bali, negeri in Minangkabau, dusun and marga in Palembang, and others. These territories can be regarded as special regions because they still use their original systems. All state rules pertaining to these unique territories will take into account their original rights because the Republic of Indonesia respects their perspectives.

After amendments were made to the 1945 Constitution, the explanation section was removed. The 1945 Constitution's body then included the legal justification for communities with customary law. The existence and rights of communities with customary law are supported by three key clauses of the 1945 Constitution. Article 18B

paragraph (2), which provides the following: " As long as they are still alive, in accordance with societal development, and in accordance with the principles of the Unitary State of the Republic of Indonesia, as established by law, the state acknowledges and protects the unity of communities governed by customary law as well as their traditional rights." According to paragraph 3 of Article 28I, "Traditional communities' rights and cultural identities are respected in harmony with the advancement of civilization and time."

Based on the above provisions, it can be understood that the existence of customary law communities and their rights over land, water, and the environment are subject to conditional clauses. According to Satjipto Rahardjo, as quoted by Hendra Nurtjahyo and Fokky Fuad, there are four juridical clauses that serve as criteria for the presence of communities with customary law [11]:

a. whenever they are still alive,
b. according to how civilization is progressing,
c. based on the tenets of the Unitary State of the Republic of Indonesia,
d. governed by law.

The conditional provisions regarding communities with customary law, as defined under Article 18B of the 1945 Constitution are further implemented in several regulations that deal with the existence and interests of communities governed by customary law, as well as their legal claim to natural resources including water, land, and forests. The Law No. 6 of 2014 concerning Villages (Undang-Undang Desa) [12] states that unification of customary law Communities must have a territory and uphold at least one or a mixture of the traditional rights that are still in effect of the following elements: a) a community whose members share a sense of togetherness; b) traditional governance institutions; c) traditional wealth and/or assets; and/or d) customary legal norms.

Furthermore, the Explanation of Legislation No. 41 of 1999's Article 67 concerning Forestry declares that the existence of communities governed by custom is recognized if, they actually fit certain criteria, including: a) their culture is still present in the form of a community (rechtsgemeenshap); b) there is a clear customary territory; c) there are customary institutions and legal mechanisms, especially traditional justice systems that are still obeyed; and d) to support their daily requirements, they continue to gather forest products in the nearby forested areas.

The aforementioned conditional provisions state that customary law communities and their traditional rights are considered to be one if: a) their existence is acknowledged based on the current laws as a reflection of the ideal values in contemporary society, both general and sectoral laws; and b) the substance of these traditional rights is acknowledged and respected by the members of the respective customary law community and the general public [13]. Additionally, if it does not interfere with NKRI's existence as a political and legal entity, and if: a) it does not threaten NKRI's sovereignty and integrity; and b) the essence of its customary legal norms is in accordance with and does not conflict with prevailing laws and regulations, then the unity of customary law communities and their traditional rights is declared in accordance with the principles of the Unitary State of the Republic of Indonesia (NKRI).

The aforementioned laws show a change in the legality of indigenous groups' existence as well as their rights to land, water, forests, and customary rights. The conditions outlined in the statutes determine whether or not indigenous communities will exist. As a result, if communities that practice customary law over time fail to uphold the legal criteria, their continued existence may be in jeopardy.

The conditional provisions concerning the presence of communities with customary law are also regulated in Law No. 5 on Fundamental Agrarian Provisions, 1960. Although the formation of the Agrarian Law explicitly states that the primary source is customary law for its formulation, the Agrarian Law itself provides a weak status the presence of traditional land rights. As mentioned in Agrarian Law's Article 3, the fulfillment of ulayat rights and comparable rights of communities under customary law, as long as they continue to be real, must be consistent with the interests of the nation and the state, founded on national unity and must not conflict with more stringent rules and regulations.

The application of conditional provisions referring to the Constitution of 1945 and basic agricultural law concerning the recognition of the existence of communities governed by custom (as long as they continue to be in place and do not conflict with laws or regulations) [14] reinforces customary law's subjection to state law, which Griffiths referred to as weak legal pluralism, [16] where customary law applies if recognized by the state. In other words, the continued existence of communities governed by customary law and the exercise of their traditional rights depend greatly on the fulfillment of the requirements established by the state, namely that they be still extant, in step with contemporary society, in accordance with NKRI's founding principles, and subject to legal regulation.

The above provisions indicate that the Indonesian government is not aligned with the desires of the international community, which emphasizes the acknowledgment of indigenous communities' existence and their customary rights. In accordance with international law, Article 2 of the UN Declaration on the Rights of Indigenous Peoples assures that "indigenous peoples are equal to all other people" and protects their rights to existence, equality before the law, and the right to self-determination. It acknowledges the critical need to uphold and support the inherent rights of indigenous communities, particularly their rights to land, territory, and resources, which derive from their political, economic, social, and cultural institutions, as well as their religious traditions, histories, and philosophies.

The recognition of the existence of indigenous communities is very clear, especially concerning any policies adopted by the government, including policies regarding land use for mining, which must respect and honor the existence and rights of indigenous communities [20]. The State must engage and work with indigenous groups to acquire their free, prior, and informed consent before approving any project that impacts their lands, territories, or other resources, according to Article 32(2) of the UN Declaration.

The UN Declaration places a strong emphasis on the importance of involvement in balancing the State's interests in national development with respect for the rights of indigenous groups. This is consistent with how international development organizations now tackle problems involving indigenous people. In truth, these institutions

have demonstrated a marked change in attitude from initially focusing only on mitigating the losses brought on by development projects to now being interested in offering various forms of participation for affected indigenous communities to ensure that they can benefit from these projects.

3.1 How indigenous land rights are governed by law in mining investments

When compared to the interests of mining investments in Indonesia, the conditional recognition provided by the 1945 Constitution and other laws and regulations regarding the existence of communities governed by customary law, their traditional rights, and rights to natural resources demonstrates the weak legal status of indigenous land rights.

It can be understood that the general provisions regarding Law No. 5 of 1960 Concerning Basic Agrarian Provisions has jurisdiction over land usage and ownership rights. Although without further explanation, the Agrarian Law recognizes the ownership of customary land due to its clause that "cultural land ownership will be recognized as long as it does not contradict the interests of the state." Since the enactment of mining laws in 1967 until the current amendment to the Mining Law in 2020, because mining can provide exports, add foreign cash and state revenue, the government has a strong tendency to see it as a crucial national priority. Therefore, in cases of land use or mining, landowners (indigenous communities) are not given alternatives other than surrendering their land to mining investors according to the government's wishes.

Mining investments have been given high priority from the Law No. 11 of 1967 until the current Amendments to Law No. 4 of 2009 are addressed in Law No. 3 of 2020 concerning Mineral and Coal Mining. The Mining Law grants the authority of Mining Business Licenses to the central government with the capacity to override land ownership issued by other institutions, as stipulated in the Agrarian Law. As a result, the weakly regulated ownership of customary land is at the lowest level of recognition by the government responsible for mining development and the mining industry.

The mineral industry is currently being pursued as a significant source of international investment and foreign currency. Land utilization for mining investments is given significant importance as a result. The government claims that the fact that mining is one of the goals to obtain foreign cash and added value for Indonesia's growth justifies the high priority of land usage for mining. The Mineral and Coal Mining Law has undergone significant changes as a result of the government's efforts to encourage more investment in the mining industry. Through mining business licenses (IUP) or special mining business licenses (IUPK), these modifications confirm that the government has the authority to designate a region or parcel of land as a mineral site for both exploration and mining operations. Mining firms are not required to hold land use permits in order to access exploration and mining areas, including land or customary land in areas of customary law communities.

The following describes how the Agrarian Law No. 5 of 1960 regulates land rights and ownership, in contrast to the laws mentioned above:

a. Ownership rights;
b. Exploitation rights;
c. Rights to build;
d. Usage rights;
e. Rights to lease;
f. Rights to develop;
g. Rights to assemble wood goods;
h. Other rights, such as those of the indigenous community, are not covered by the aforementioned rights.

Every person or organization engaged in land usage must be in possession of one of the aforementioned land rights, as per Agrarian Law No. 5 of 1960. The Agrarian Law does not, however, directly address the use of land for mining. As a result, the Mining Law—which stipulates that legitimate IUP/IUPK holders have the right to seize land regardless of its ownership category—is the only legal framework governing the use of land for mining. Landowners who refuse to turn over their property to those who have mining permits risk breaking the law. Articles 162 and 164 of the most recent edition of the Mineral and Coal Mining Law, which are frequently used to prosecute communities or activists opposed to mining, prescribe criminal penalties for anyone interfering with or interrupting mining operations. This incident shows that there is no other option for indigenous tribes other than giving up their land and being forcibly removed from the mining sites due to the government's strict repressive policies and high mining priorities.

The state has jurisdiction over the land, water, and natural resources that are contained inside, according to the 1945 Constitution. The Agrarian Law No. 5 of 1960 states that state sovereignty over land includes the power to monitor land usage and upkeep as well as to oversee the legal ties that connect people to land, water, and airspace. Within the framework of rules governing land, water, and airspace, this law also governs the legal ties between people. The Agrarian Law permits the transfer of land ownership from the government to private entities as well as between private corporations. On the other side, the Mining Law prohibits the transfer of mineral ownership. Although private companies are tasked with producing mineral resources, the government nevertheless retains control of the minerals. Combining these two provisions suggests that, despite the transferability of surface ownership, the government may transfer any area for the development of minerals. Owners of land, especially indigenous people, are unable to assert any ownership rights since they lack vertical sovereignty over it. Additionally, the government asserts that the constitution, which specifies that the state controls minerals, gives it the authority to develop those resources.

The existence of indigenous land rights is increasingly losing legitimacy as the Government revises the Mining Law for Minerals and Coal with the pretext of promoting investment. The impact is significant and threatens the existence of Indigenous Communities and their ancestral territories as an inseparable entity. Article 1 letter 28a formulates a new definition of Mining Legal Area, encompassing land, sea,

underground areas in the Indonesian archipelago, land below water bodies, and the continental shelf. This entire coverage includes the living spaces of Indigenous Communities, and there is no further explanation regarding exceptions to the implementation of this provision. This will undoubtedly further legitimize the seizure of ancestral territories in the mining sector, leading to the loss of living spaces and the identity of the Indigenous Communities themselves, as seen in conflicts between the Cek Bocek Indigenous Community and PT. Newmont Nusa Tenggara (now PT. AMNT); the Indigenous Community in Murung Raya Regency, Central Kalimantan, and the firm that mines gold PT. Indomuro; and the exploitation of Hutan Akejira as the living space of the Tobelo Dalam Indigenous Community by two nickel mining giants: PT. Weda Bay Nikel and PT. Indonesia Weda Bay Industrial Park.

The above conditions depict the highly exploitative nature of mining law towards mining resources to pursue maximum economic gains, thus disregarding environmental interests and the rights of nearby communities in terms of their economic, social, and cultural development. Acknowledging indigenous rights, including indigenous land rights, within Indonesia's mining legal structure is very weak, unlike other countries. For instance, in the Philippines, the existence of indigenous communities is strongly acknowledged through Republic Act No. 8371 of the Philippines in 1997, known as the Indigenous Peoples' Right Act (IPRA). Moreover, mining regulations in the Philippines are closely linked to the indigenous community system. Article 16 of the Philippine Mining Act of 1995 states: " No ancestral land may be made accessible for mining activities without the prior approval of the relevant indigenous cultural community." The Free, Prior, Informed Consent (FPIC) process must be undergone by companies as the initial step to initiate mining processes. Indigenous communities have the authority to decide whether mining activities are approved or not. Additionally, indigenous groups have a claim to at least 1% of the gross output from mining operations conducted on their ancestral lands, as stated by this statute.

The aforementioned justifications and descriptions make it clear that when compared to mining investments that are portrayed as serving the public interest, indigenous land rights have very poor legal standing. Firstly, the weak position and status of indigenous land rights stem from being classified as unwritten law under customary law, while regulations concerning mining investment are written law, which shows the dominance of the state in governing laws that impose limitations on customary law and its traditional rights. Secondly, the national development policy orientation by the government is more biased towards foreign investment in the mining sector rather than supporting indigenous empowerment and strengthening legal rules regarding natural resource rights as part of national cultural development. As a result, both the customary law regime and the Agrarian law that governs land ownership status for national interests must submit to the mining law regime that is oriented towards economic growth. This imbalanced bias results in distortions in the implementation of national development. Communities' rights to their ancestral lands and other types of land rights are frequently given up for mining investment interests.

Basically, the indigenous land regime and the Agrarian Law are meant to safeguard and regulate land ownership, includes indigenous communities' rights, for the benefit of the development and wellbeing of the country. These laws recognize the signifi-

cance of ancestral lands to indigenous communities and acknowledge their traditional rights over these lands. However, when it comes to mining activities, the legal framework takes a different approach. The mining legal regime is primarily focused on exploiting natural resources, particularly minerals, for economic purposes and national revenue generation. The priority is given to mining investments and maximizing the extraction of mineral resources.

This misalignment between the indigenous land regime, the Agrarian Law, and the mining legal regime leads to imbalances and conflicts in the implementation of national development policies. The interests of mining companies, which aim to extract and profit from mineral resources, the rights and interests of indigenous communities are frequently overshadowed. The end effect is that indigenous groups' land rights and other traditional rights over their ancestral lands are repeatedly jeopardized and sacrificed to make room for mining investments.

In practice, indigenous communities often find themselves in vulnerable positions when it comes to negotiating with mining companies and government authorities. Their voices and concerns may be overlooked, and they may not have a meaningful say in the decisions regarding the use of their ancestral lands for mining activities. As a consequence, the social, cultural, and economic well-being of these communities may be significantly affected. Furthermore, the pursuit of mining investments may lead to environmental degradation and social disruptions in areas where indigenous communities reside. The extraction of minerals can cause deforestation, water pollution, loss of livelihoods, and displacement of communities, which further exacerbates the negative impact on indigenous rights and traditional ways of life.

In summary, the unbalanced alignment between the indigenous land regime, the Agrarian Law, and the mining law system continues the practice of constantly putting the interests of mining investments ahead of the land rights and other rights of indigenous groups. This not only undermines the principles of social justice and human rights but also hinders sustainable and equitable development in the long run.

Additionally, the Government should have developed a policy framework to take into account the social impacts of mining. Typically, social elements of mining are addressed through the constrained avenue of Environmental Impact Assessment (AMDAL). Therefore, social issues only come to light during the environmental mitigation process. As a result, the interaction between indigenous communities and the mining sector has never been a part of social progress. The relationship as a whole is centered around compensation rather than social change. The impression that indigenous communities are liabilities to the mining sector rather than assets for relationships that might be mutually beneficial is a result of the lack of a favorable attitude toward these groups.

One more strategy that extends the distance between mining firms and indigenous peoples is the assumption that the government (both central and regional) will automatically represent the interests of the people or the community. Based on this assumption, mining companies believe it is better to deal with and through government agencies rather than directly engaging with the community. Consequently, the community is always disregarded by mining companies conducting exploration activities in their area.

The construction of national legal development should consider a balanced approach between community rights and investment interests in the mining sector because, in essence, mining investment policies in Indonesia are aimed at maximizing the extraction of natural resources, as required by Article 33 of the 1945 Constitution, for the advancement and welfare of the Indonesian state and its citizens. Therefore, investment policies in the mining sector should not discriminate against the direct interests of the people regarding their indigenous land rights. In this context, in every mining investment policy in Indonesia, the voice and aspirations of the people should be heard and involved to ensure their rights to indigenous land used for mining investment purposes. Often, in the implementation of mining investment, the people become victims of the impacts of natural resource exploitation.

Assuming that the indigenous land ownership system recognizes the legal standing of indigenous land rights, as long as it is within a framework of shared interests, can be a positive corridor for land use for mining activities in the region. In other words, the indigenous land system does not necessarily have to fully accommodate mining exploration activities. However, government actions must respect the existence of indigenous tribes and their customary rights in order to go across that corridor. While necessary, financial compensation is insufficient. Long-lasting land conflicts can be avoided by disregarding cultural values when granting access to and compensating for land.

In order to safeguard indigenous tribes' existence and their traditional rights, a general government policy framework needs to be established to build a positive and Indigenous communities and the mining sector work together in harmony. With a policy framework involving indigenous communities in the decision-making process of mining investments in the region, various legislation pertaining to mining investments can effectively take into account community issues, such as community involvement and development. Even though the mining industry has acknowledged the value of building strong relationships with communities, continuous discussions about social responsibility will make investments risky because they will lead to false views about mining's place in society. Millions of dollars in community development projects carried out voluntarily by mining firms are not well-received by the larger community as a result of ambiguous aims, which serves as an illustration of the impact of the absence of a policy framework.

4 Conclusion

The study's findings suggest that the implementation of mining investments in the area is severely constrained by the legal status of indigenous land rights. The ownership status of indigenous land within the indigenous legal framework lacks strong legitimacy within the mining legal structure, projected as a public interest, as society's way of life transitions from traditional to modern, with a positive-legalistic view. The legal status of indigenous land is further weakened by conditional provisions regarding the ownership of indigenous land by indigenous communities, as regulated in the

1945 Constitution and the Basic Agrarian Law, which clash with the changing times and public interests in every mining investment policy.

The indigenous land regime and the Agrarian Law, which govern the ownership status of land for national interests, must submit to the mining legal regime, which is oriented towards exploiting mining natural resources for economic purposes. This unbalanced alignment results in distortions in the implementation of national development. Indigenous communities' land rights and other rights over land are consistently sacrificed for mining investment interests.

The construction of national legal development should consider a balanced approach between community rights and investment interests in the mining sector because, in essence, according to Article 33 of the Constitution from 1945, Indonesia's mining investment policies are intended to maximize the exploitation of natural resources for the nation's and its people's growth and welfare. Therefore, investment policies in the mining sector should not discriminate against the direct interests of the people regarding their indigenous land rights. In this context, in every mining investment policy in Indonesia, the voice and aspirations of the people should be heard and involved to ensure their rights to indigenous land used for mining investment purposes.

Bibliography

1. Abdul Hamid Usman, (2020), Perlindungan Hukum Hak Milik atas Tanah Adat Setelah Berlakunya Undang-undang Pokok Agraria, Jurnal Kepastian Hukum dan Keadilan, Volume 1 Nomor 2, Juni.
2. Bernard Steny, (2006), “Pluralisme Hukum: Antara Perda Pengakuan Masyarakat Adat dan Otonomi Hukum Lokal”, Jurnal Pemba- ruan Desa dan Agraria, Vol. 3 No. 3.
3. Dian Cahyaningrum, (2022), Hak Pengelolaan Tanah Ulayat Masyarakat Hukum Adat untuk Kepentingan Investasi, NEGARA HUKUM: Vol. 13, No. 1, Juni.
4. Errico, S. (2007). "The Draft UN Declaration on the Rights of Indigenous Peoples: An
5. Overview". Human Rights Law Review. 7 (4): 741–755. doi:10.1093/hrlr/ngm023.
6. Errico, (2006) ‘The World Bank and Indigenous Peoples: the Operational Policy on Indigenous Peoples (O.P. 4.10) Between Indigenous Peoples’ Rights to Traditional Lands and to Free, Prior, and Informed Consent.
7. Fransiskus Pati Herin, Delapan Orang Jadi Tersangka Kerusuhan di Kawasan Industri
8. Halmahera Tengah, https://www.kompas.id/baca/nusantara/2020/ 05/02/rusuh-di-kawasan-industri-iwip-halmahera-tengah-delapan-orang-jadi-tersangka. Akses tanggal. 23 Juli 2023.
9. Harsanto Nursadi (2008), Hukum Positif di Indonesia dalam Sistem Hukum Indonesia, Universitas Terbuka, Jakarta,
10. Helza Nova Lita, Fatmie Utarie Nasution, (2013), Perlindungan Hukum Masyarakat Adat di Wilayah Pertambangan, Lex Jurnalica Volume 10 Nomor 3, Desember 2013.
11. Hendra Nurtjahyo dan Fokky Fuad, (2010) Legal Standing Kesatuan Masyarakat Hukum Adat dalam Berperkara di Mahkamah Konstitusi, Salemba Humanika, Jakarta.
12. Jufrina Rizal, “Perkembangan Hukum Adat Sebagai Living Law Dalam Masyarakat”, Jurnal Ilmu Hukum Amanna Gappa, Vol. 16 No. 1, Maret 2008
13. Rachman Wiriosudarmo, (2011), Baseline Study and Gap Analysis on Mining in Indonesia, Yayasan Ecomine Nusa Lestari, Jakarta.
14. Ter Haar Bzn, (1950), Beginselen en stelsel van het Adatrecht 1950

15. Hazairin. "Negara Tanpa Penjara," in Hazairin, Tujuh Serangkai Tentang Hukum. Jakarta: Tintamas, 1974
16. AMAN. (2019). Mengarungi Badai Investasi: Catatan Akhir Tahun 2019. http://www.aman.or.id/2020/01/mengarungi-badai-investasi-catatan-akhir-tahun-2019-aliansi-masyarakat-adat-nusantara-aman/
17. Undang-Undang Dasar Negara Kesatuan Republik Indonesia Tahun 1945
18. Undang-Undang No, 5 tahun 1960 tentang Peraturan Dasar Pokok-Pokok Agraria
19. Undang-Undang No. 41 Tahun 1999 tentang Kehutanan Undang-Undang No. 6 Tahun 2014 tentang Desa
20. Nasional, B. P. H. (2015). Draft Laporan Pengkajian Hukum tentang Mekanisme Pengakuan Masyarakat Hukum Adat.