



Legal Protection of Indigenous Peoples and Traditional Communities in Indonesia from The Perspective of The Social Environment

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Abstract. Legal protection for indigenous peoples and traditional communities in Indonesia has become a crucial issue in the context of a dynamic social environment. Indigenous and traditional communities have inherent rights to the land, culture, and natural resources that support their lives. However, modernization and industrial development often threaten the survival of these rights. This article aims to analyze the effectiveness of legal protection for Indigenous and traditional communities in Indonesia from a social-environmental perspective, particularly in relation to the utilization and conservation of natural resources and community welfare. The analysis is conducted by highlighting existing legal and regulatory policies, as well as the role of the government, social institutions, and non-governmental organizations (NGOs) in providing legal protection. This research uses a normative juridical approach with a case study method in several regions in Indonesia that have indigenous and traditional communities in Indonesia. The results show that although various regulations and policies have been implemented to protect the rights of indigenous peoples and traditional communities, their implementation in the field still faces many challenges. There is a gap between legal regulations and practical realization that makes indigenous peoples vulnerable to land conflicts, environmental degradation, and social discrimination. The government and relevant agencies tend to focus on economic and development interests, which are often at odds with the principles of social and environmental sustainability for Indigenous peoples. However, in some areas, interventions by NGOs and international organizations have had a positive impact in raising awareness of indigenous peoples' rights and encouraging their participation in decision-making. This research recommends strengthening policies to be more inclusive and improving monitoring and enforcement mechanisms at the local level so that the protection of indigenous peoples can be realized more effectively and sustainably.

Keywords: Custom, Legal Protection, Traditional, Social Environment

1. Introduction

Indonesia is a country with a very diverse cultural wealth, reflected in the existence of indigenous peoples and traditional communities spread throughout the archipelago. Indigenous peoples have a close relationship with the environment, managing natural resources wisely based on local wisdom passed down from generation to generation. In the midst of rapid development dynamics, indigenous peoples face various challenges, including protecting their rights to land, forests, and other natural resources that are an integral part of their lives.

The legal protection of indigenous peoples in Indonesia has been regulated by various laws and regulations, both nationally and internationally. Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia recognizes the existence of customary law communities as long as it does not conflict with the public interest and laws and regulations.

However, the implementation of these norms is often not optimal, so that indigenous peoples often experience marginalization in decision-making related to natural resource management.

From a social-environmental perspective, Indigenous peoples play an important role as guardians of ecosystem balance. Their local wisdom can provide sustainable solutions to various environmental issues, including biodiversity conservation and climate change mitigation. However, environmental pressures caused by natural resource exploitation, land conversion, and development policies often ignore the contributions of indigenous peoples and even threaten their survival.

This context is in line with the findings of Nurul Fajri Chikmawati who highlighted that although the economic rights of traditional communities have been accommodated in the management of Coastal Areas and Small Islands (WP3K), recognition of the existence of indigenous peoples and local wisdom is still unclear, thus potentially triggering conflict and hampering the effectiveness of the management of this strategic area.

Nurul Fajri Chikmawati, with the theme Management of Coastal Areas and Small Islands in Indonesia (In the Perspective of Legal Protection for Economic Rights of Traditional Communities) the results of the study explained that the rights of traditional communities, especially economic rights, have been accommodated in the management of Coastal Areas and Small Islands (WP3K) from the planning stage to supervision. However, the obligation of the government and local governments to recognize the existence of Indigenous peoples, traditional communities, and local wisdom is not explicitly regulated in the form of recognition, which has the potential to cause conflict in its implementation and make the recognition ineffective as a reference for WP3K management. In addition, strict and indiscriminate law

enforcement is needed, considering that WP3K has strategic value in social, economic, cultural, and national defense and security aspects.

Furthermore, Hayatul Ismi conducted research on the theme of Recognition and Legal Protection of Indigenous Peoples' Rights to Customary Land in the National Law Reform Efforts. The results of the study explain that land is a fundamental asset for the Indonesian nation, especially for indigenous peoples who have land rights based on customary law. Although recognized through Law No. 5 of 1960, the recognition is limited and conditional, with the unavailability of complete information about the boundaries of customary law areas that include land rights.

This research has a novelty by focusing on the perspective of the social environment in the legal protection of indigenous and traditional communities, in contrast to Nurul Fajri Chikmawati's research, which focuses on WP3K management and the economic rights of traditional communities and Hayatul Ismi's research which discusses the legal recognition of customary land in national legal reform. This research expands the discussion by integrating social-ecological dimensions and local wisdom as strategic elements in the protection of indigenous peoples.

The issue of legal protection of indigenous peoples is also closely related to human rights. Rights to land, forests, and natural resources are not only economic rights but also social, cultural, and spiritual rights inherent in the identity of Indigenous peoples. Therefore, efforts to provide adequate legal protection need to consider various dimensions, including the social, cultural and ecological aspects that shape the lives of indigenous peoples in a holistic manner.

This study aims to analyze the legal protection of Indigenous peoples and traditional communities in Indonesia with a social-environmental approach. This research will explore how existing regulations provide space for the protection of Indigenous people's rights, as well as identify challenges and obstacles faced in their implementation. In addition, this research seeks to provide recommendations for building a more inclusive and sustainable legal protection model.

Through this research, it is hoped that a more comprehensive understanding of the importance of legal protection of indigenous peoples from a social-environmental perspective can be realized. In addition, the results of this study are expected to contribute to the formation of policies that support ecosystem sustainability and respect for the rights of indigenous peoples as an integral part of the Indonesian nation. This effort is relevant not only to the local context but also to Indonesia's real contribution to the achievement of sustainable development goals at the global level.

2. Method

This research uses the empirical juridical method, which combines normative legal studies with analysis of facts in the field. This type of research aims to identify and analyze the implementation of legal norms in practice, especially related to the protection of indigenous peoples and traditional communities in the perspective of the social environment. The approaches used include a statute approach to examine relevant regulations, such as Law No. 5 of 1960 and regulations related to coastal area management, and a case approach to analyze conflicts or legal issues that arise in implementing indigenous peoples' rights. The combination of these approaches allows the research to obtain a comprehensive picture of the effectiveness of legal regulation and application in the context of indigenous peoples.

3. Result And Discussion

Legal protection for indigenous peoples and traditional communities in Indonesia has been regulated through various legal instruments, such as the 1945 Constitution, Law No. 5 of 1960 on Agrarian Principles, and Law No. 32 of 2009 on Environmental Protection and Management. However, the implementation of these legal protections still faces various obstacles, especially in ensuring effective recognition and protection of indigenous peoples' rights in natural resource management.

From the perspective of the social environment, indigenous peoples have a strategic role as guardians of a very important ecosystem balance. This role is realized through local wisdom that they have and apply for generations. For example, land rotation systems such as shifting cultivation allow the soil to recover naturally, while custom-based forest resource management preserves flora and fauna. Similarly, customary arrangements for water utilization help prevent conflict between communities and ensure water availability for future generations. All these practices show that Indigenous peoples' local wisdom functions not only as a tool for environmental sustainability but also as part of their cultural identity.

Indigenous peoples' local wisdom provides sustainable solutions to various environmental problems. For example, certain customary traditions that prohibit the cutting of trees in certain areas serve as a form of forest conservation. In addition, traditional rituals that respect nature symbolically teach sustainability values to younger generations. However, these benefits are often not recognized by outsiders, including governments and corporations, so local wisdom-based approaches are rarely integrated in environmental management policies. As a result, the great potential that indigenous peoples have in protecting ecosystems is not fully utilized.

Unfortunately, indigenous peoples' contributions are often threatened by external pressures, such as massive infrastructure development and industrial

exploitation of natural resources. These activities not only damage the environment that is the source of their livelihoods but also weaken the role of indigenous peoples as guardians of the ecosystem. In addition, in many cases, indigenous peoples are victims of evictions or lose access to their customary territories due to land conversion that does not take into account their rights. This condition shows the need for stronger legal protection to ensure that the strategic role of indigenous peoples in maintaining ecosystems can continue.

Recognition of the existence of indigenous peoples, on the other hand, is still partial and not uniform across regions. Some indigenous peoples have gained recognition through local regulations or the legalization of customary lands, but many are still struggling to gain legal legitimacy. The research notes that the lack of clarity on legal recognition procedures often triggers conflicts between Indigenous peoples and third parties, such as the government or companies.

The research also found imbalances in the application of the law. In many cases, indigenous peoples are often the losers in natural resource conflicts due to their weak legal position. This is exacerbated by inequities in law enforcement, where sanctions against violations of Indigenous people's rights are not always strictly enforced. This condition creates inequality in the legal protection that should be given to indigenous peoples.

This research shows that the government and local governments have not been optimal in incorporating local wisdom as an integral part of environmental management policies. Although local wisdom is normatively recognized, in practice, policy implementation often does not involve indigenous peoples directly. As a result, the resulting policies are less relevant to the needs and conditions of indigenous peoples in the field. the importance of strict law enforcement without discrimination. In several cases analyzed, all three. Increased legal recognition, empowerment of indigenous peoples in decision-making, and fair law enforcement are important steps to ensure ecosystem sustainability while protecting the rights of indigenous peoples. Local wisdom-based approaches are also key in realizing more inclusive and sustainable policies.

4. Conclusion

This research confirms that legal protection for Indigenous peoples and traditional communities in Indonesia requires a more comprehensive approach, especially in natural resource management, based on a social-environmental perspective. Although legal instruments such as the 1945 Constitution, Law No. 5 of 1960, and Law No. 32 of 2009 have provided a normative basis, their implementation still faces challenges, such as partial recognition, the weak legal position of Indigenous peoples, and lack of integration of local wisdom in environmental management

policies. Indigenous peoples' local wisdom is proven to provide sustainable solutions to environmental problems, but this potential is often overlooked due to development pressures and exploitation of natural resources. Therefore, strengthening legal recognition, empowering indigenous peoples in decision-making, and fair law enforcement are needed to realize effective protection, while ensuring the sustainability of ecosystems and the welfare of indigenous peoples in Indonesia.

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