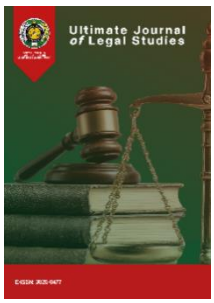
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Human Rights Violations in the Indigenous Peoples' Land Conflict Against PT Toba Pulp Lestari

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ABSTRACT
This study examines human rights violations arising from the longstanding land conflict between indigenous communities in North Tapanuli and Toba Regency and PT Toba Pulp Lestari. The conflict extends beyond overlapping land claims and industrial plantation forest concessions, as it also affects the communities' rights to land, a healthy environment, cultural identity, and personal security. This research employs a normative legal method using statutory, conceptual, case, and historical approaches. It examines national legislation, international human rights instruments, relevant court decisions, and institutional documentation to identify the forms of violations and assess the state's responsibility to respect, protect, and fulfill human rights. The findings indicate that the conflict involves multidimensional human rights violations, including the loss of customary territories, environmental degradation, threats to cultural identity, intimidation, and the criminalization of community members and human rights defenders. These violations affect civil and political rights, economic, social and cultural rights, as well as the collective rights of indigenous peoples. The study also finds that weak legal recognition of customary territories, overlapping forest claims, pro-investment policies, limited community participation, and the inadequate application of the Free, Prior, and Informed Consent principle contribute to the persistence of the conflict. The state's obligations remain inadequately fulfilled, particularly in recognizing customary forests, protecting communities from corporate-related harm, and providing effective remedies. This study argues that a human-rights-based approach is necessary, including formal recognition of customary territories, meaningful community participation, independent mediation, environmental restoration, compensation, and consistent protection of indigenous peoples' rights.
Keyword: Agrarian Conflict, Human Rights, Indigenous Peoples, Land Rights, PT Toba Pulp Lestari.

ABSTRAK
Penelitian ini mengkaji pelanggaran hak asasi manusia dalam konflik lahan berkepanjangan antara masyarakat adat di Kabupaten Tapanuli Utara dan Kabupaten Toba dengan PT Toba Pulp Lestari. Konflik tersebut tidak hanya berkaitan dengan tumpang tindih klaim lahan dan konsesi hutan tanaman industri, tetapi juga berdampak pada hak masyarakat atas tanah, lingkungan hidup yang sehat, identitas budaya, dan rasa aman. Penelitian ini menggunakan metode hukum normatif dengan pendekatan perundang-undangan, konseptual, kasus, dan historis. Analisis dilakukan terhadap peraturan nasional, instrumen HAM internasional, putusan pengadilan yang relevan, serta dokumentasi kelembagaan untuk mengidentifikasi bentuk pelanggaran dan menilai tanggung jawab negara dalam menghormati, melindungi, dan memenuhi HAM. Hasil penelitian menunjukkan bahwa

konflik tersebut menimbulkan pelanggaran HAM multidimensional, meliputi hilangnya wilayah adat, kerusakan lingkungan, terancamnya identitas budaya, intimidasi, serta kriminalisasi masyarakat dan pembela HAM. Pelanggaran tersebut mencakup hak sipil dan politik, hak ekonomi, sosial dan budaya, serta hak kolektif masyarakat adat. Penelitian ini juga menemukan bahwa lemahnya pengakuan hukum atas wilayah adat, tumpang tindih klaim kawasan hutan, kebijakan pro-investasi, terbatasnya partisipasi masyarakat, dan belum diterapkannya prinsip Persetujuan atas Dasar Informasi di Awal Tanpa Paksaan secara memadai turut memperpanjang konflik. Kewajiban negara belum terlaksana secara optimal, terutama dalam pengakuan hutan adat, perlindungan masyarakat dari tindakan yang merugikan oleh korporasi, dan penyediaan mekanisme pemulihan yang efektif. Oleh karena itu, diperlukan pendekatan berbasis HAM melalui pengakuan formal wilayah adat, partisipasi masyarakat yang bermakna, mediasi independen, pemulihan lingkungan, pemberian kompensasi, serta perlindungan hak masyarakat adat secara konsisten.
Kata Kunci: Hak Asasi Manusia, Hak Atas Tanah, Konflik Agraria, Masyarakat Adat, PT Toba Pulp Lestari.

1. Introduction

The conflict between indigenous peoples in North Tapanuli and Toba Regency with PT Toba Pulp Lestari (TPL) is one of the most complex examples of land disputes in Indonesia that have lasted for decades. This conflict is not only about the issue of territorial boundaries or overlapping permits for industrial plantation forest concessions (Hutan Tanaman Industri/ HTI), but also about human rights violations that include the right to land, the right to a healthy environment, the right to cultural identity, and the right to a sense of security from intimidation and violence. Land for indigenous peoples is not just an economic space, but a living space that is integrated with history, belief systems, and socio-cultural sustainability. When customary lands are taken over without consent, communities lose the foundations of their existence, which can ultimately threaten the sustainability of the indigenous groups themselves.

The urgency of this research lies in the increasing intensity of agrarian conflicts between indigenous peoples and corporations that utilize state permits for the exploitation of natural resources. Although Indonesia has a fairly progressive legal framework in the recognition of indigenous peoples such as the 1945 Constitution Article 18B paragraph (2), the Constitutional Court Decision Number 35/2012, the Human Rights Law, and the ratification of international instruments such as UNDRIP (Indonesia did not ratify this international instrument since it is a declaration), its implementation still faces various structural obstacles (*Decision No. 35/PUU-X/2012 on Customary Forests*, 2012; Nations, 2007). The TPL case shows that there is a serious gap between legal norms and reality on the ground. Reports by civil society organizations state that indigenous peoples in various TPL concession areas often experience criminalization, restriction of movement, and intimidation of activists and indigenous leaders when fighting for the rights to their customary territories.

This study is further strengthened by the ineffective conflict resolution mechanism provided by the state. So far, the resolution of agrarian conflicts is still sectoral, slow, and not supported by adequate coordination between institutions. The principle of Free, Prior and Informed Consent (FPIC) that should be the standard in any business activity that impacts indigenous peoples is often ignored. This shows the weak commitment of the state in fulfilling the three main obligations of human rights, namely respecting, protecting, and fulfilling. The state's inability to ensure that companies comply with human rights standards creates space for repeated violations that can ultimately lead to prolonged conflicts and a decline in public trust in the state.

In addition, this research is also related to the increasing global attention to Business and Human Rights (BHR). Indonesia has drafted a National Human Rights Action Plan (RANHAM), but the exploitation of natural resources by large corporations still shows inconsistencies between national policies and implementation on the ground. A special study of TPL conflicts is needed to provide empirical evidence of how corporate practices and weak state oversight can harm the collective rights of indigenous peoples. Thus, this research is expected to make a significant contribution to the preparation of more inclusive policy recommendations in the forestry sector and customary land management.

At the academic level, this study is important because there is still a lack of research that comprehensively links local agrarian conflicts with international human rights theories and principles. Most studies emphasize legal-formal aspects without investigating the social, anthropological, and cultural impacts experienced by indigenous peoples as legal subjects with collective rights. By analyzing the TPL case as an empirical study, this study seeks to fill this gap while providing an academic foundation for strengthening the protection of indigenous peoples in future national policies.

This study investigates the ongoing agrarian conflict involving TPL through a comprehensive human rights lens, examining how violations against indigenous peoples' land, culture, and security constitute legal breaches under both domestic and international frameworks. By evaluating state accountability regarding the obligation to respect, protect, and fulfill fundamental rights in the face of criminalization and environmental degradation, this research analyzes the systemic and structural policy drivers perpetuating these disputes to formulate a sustainable solution rooted in agrarian justice.

2. Methode

This study uses a normative legal research method because the focus of the analysis is directed at the review of laws and regulations, national and international human rights instruments, and other official documents related to the protection of indigenous peoples' rights. The approach used includes a statute approach to review the 1945 Constitution, the Human Rights Law, the Forestry Law, the Constitutional Court Decision No. 35/2012, as well as various regulations on indigenous peoples and forest management. In addition, this research also uses a conceptual approach to understand basic concepts such as indigenous peoples' rights, land rights, agrarian justice principles, and Business and Human Rights (BHR) principles. The case approach is used to analyze the conflict between the indigenous peoples of North Tapanuli and Toba Regency with PT Toba Pulp Lestari as concrete examples of human rights violations, and a historical approach is used to see the dynamics of the development of conflicts and changes in related regulations.

The sources of legal materials used in the research consist of primary, secondary, and tertiary legal materials. Primary legal materials include laws and regulations, decisions of the Constitutional Court, the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), and the UN Guiding Principles on Business and Human Rights (UNGPs). Secondary legal materials are in the form of books, scientific journals, reports of institutions such as WALHI, AMAN, and Komnas HAM, as well as other academic research relevant to agrarian conflicts. Tertiary legal materials include legal dictionaries and encyclopedias. The collection of legal materials is carried out through literature studies of relevant literature and documents. All of these legal materials were analyzed using normative qualitative analysis techniques, namely interpreting and connecting legal rules, human rights principles, and case findings to answer the formulation of problems regarding the form of human rights violations, state responsibility, and structural factors that cause land conflicts with TPL to continue to recur.

3. Result and Discussion

3.1. Categorization of Human Rights Violations in Indigenous Peoples vs. TPL Land Conflicts

The land conflict between the indigenous people of North Tapanuli and Toba Regency and PT Toba Pulp Lestari (TPL) shows that the human rights violations that occur are not only related to the economic rights of the community, but also touch on cultural, ecological, and security rights. Customary land for the Batak people is not just an economic asset, but a living space that contains the value of social identity, ancestry, and the genealogical structure of the clan. When customary territories enter into industrial concessions without the consent of the community, indigenous peoples' rights to land which are collective rights have been violated as guaranteed by UNDRIP Articles 25-26, the Indonesian Constitution Article 18B paragraph (2), and various other international instruments (Nations, 2007). This violation of customary land directly deprives the community's cultural space which is part of the right to cultural identity, which is an integral part of human rights.

In addition to land loss, indigenous peoples also experience violations of the right to a healthy environment. Industrial activities in the form of eucalyptus planting in the Industrial Plantation Forest (HTI) scheme are known to trigger ecological damage, such as declining water quality, depleting fertile soil, and loss of biodiversity. Such environmental damage directly impacts the community's right to a decent standard of living

and the right to health, as guaranteed by ICESCR Articles 11 and 12 (Nations, 1966b). Ecological damage also has an impact on the loss of food, clean water, and traditional ceremonial sources that threaten the sustainability of community life. From a human rights perspective, environmental damage is not only an ecological issue, but a violation of the economic, social, and cultural rights of indigenous peoples ((WALHI), 2021).

Human rights violations in this conflict are increasingly complex due to intimidation, criminalization, and violence against people who defend their land. In a number of reports by civil society organizations, there are cases of arrests, repressive actions by the authorities, and criminalization of community members who refuse to expand the concession area. These actions violate the rights to a sense of security, the right to freedom from intimidation, and the right to freedom of expression and assembly guaranteed by the ICCPR Articles 9, 19, and 21 (Nations, 1966a). In the context of human rights, the criminalization of human rights defenders, especially indigenous peoples' rights defenders, is a serious violation because it silences participation and limits the democratic space of local communities (HAM), 2022).

Overall, the combination of land grabbing, environmental damage, criminalization, and loss of cultural identity makes TPL land conflict a form of multidimensional human rights violation. These violations involve civil and political rights, economic-socio-cultural rights, and the collective rights of indigenous peoples recognized in international instruments and national regulations (OHCHR), 2018). This conflict cannot be seen as just an administrative agrarian dispute, but as a structural issue of human rights violations against vulnerable community groups.

3.2. Failure of the State in Implementing Human Rights Obligations (Respect, Protect, Fulfill)

The state's obligations in human rights are divided into the obligation to respect, protect, and fulfill. In TPL conflicts, these three obligations can be considered not carried out adequately. First, the obligation to respect fails when the state continues to issue concession permits in areas that have customary claims without ensuring the fulfillment of the FPIC principle. The HTI permit, which has been granted since the New Order period and has been extended in several government periods, shows that the state is actually taking actions that are detrimental to indigenous peoples by giving companies unilateral access to customary territories. In the context of human rights, the state should ensure that its policies and actions do not interfere with or undermine the rights of indigenous peoples.

Second, in the obligation to protect, the state must ensure that third parties, including corporations, do not commit human rights violations against the community. But in reality, the acts of repression, intimidation, or criminalization that occur involve the apparatus or are carried out without adequate state intervention. Weak law enforcement against companies in cases of environmental destruction or social conflict shows the absence of state protection for indigenous peoples. The state also failed to provide an effective and intimidation-free complaint mechanism so that people did not have a safe space to submit human rights complaints (OHCHR), 2004).

Third, the failure to fulfill can be seen from the state's slowness in formally recognizing customary territories through the determination of customary forests as mandated by the Constitutional Court Decision 35/2012. Although the ruling has made it clear that customary forests are not state forests, implementation has been slow. Many indigenous communities in the Tapanuli region have not received legal recognition, leaving them vulnerable to land grabbing. The state has also not provided adequate policy, administrative, or budgetary support to facilitate the strengthening of customary institutions and mapping customary territories ((AMAN), 2020). Without the fulfillment of these obligations, indigenous peoples remain without effective legal protection and conflicts continue to recur.

Thus, the state not only fails in one aspect of human rights obligations, but in all three aspects at once. The country's lack of seriousness exacerbates the vulnerability of indigenous peoples and makes human rights violations in TPL conflicts a structural problem rooted in public policy and state administrative practices (HAM), 2022).

3.3. Structural and Policy Factors that Prolong Conflict and Human-Based Resolution Models

The conflict between indigenous peoples and TPL cannot be separated from structural factors that have long been rooted in Indonesia's legal system and agrarian policy. One of the main factors is the overlap of regulations and forest area claims. For decades, customary territories in Tapanuli were categorized as "state

forests" without historical verification of their use and control by indigenous peoples. The forestry paradigm that places the state as the sole owner of forest areas results in indigenous communities not being recognized as rights holders, making it easier for the state to grant concession permits to companies. Such a legal structure weakens the position of indigenous peoples and increases the potential for human rights violations.

In addition, the HTI industrial licensing process is often carried out without meaningful participation from indigenous peoples. In many cases, the public consultation conducted is only a formality and does not meet the requirements of the FPIC. This lack of participation is contrary to international human rights standards as well as the principles in Law No. 32 of 2009 concerning Environmental Protection and Management that emphasize community participation ((KPA), 2021). The power imbalance between large companies and local communities makes people's voices unheard, so that conflicts that arise are inevitable.

The conflict is also exacerbated by economically oriented development policies and the disregard for the rights of indigenous peoples. The state prioritizes the interests of investment and industrial growth over the protection of indigenous peoples as legal subjects who have collective rights. Without specific regulations that protect indigenous peoples (for example, the Indigenous Peoples Bill has not yet been passed), indigenous communities are in a space that is legally vulnerable to discrimination and criminalization. This condition reinforces the structural factors that cause conflicts to continue to recur.

To resolve conflicts comprehensively, a settlement model based on agrarian justice and human rights principles is needed. The settlement model should include formal recognition of customary territories, demarcation of customary territories, full application of FPIC principles throughout the industrial permit process, and independent mediation-based dispute resolution mechanisms. In addition, ecological recovery and compensation for the socio-economic losses of indigenous peoples need to be prioritized so that justice is truly achieved ((FAO), 2016). A human rights-centered approach not only resolves disputes, but also restores the dignity and collective rights of communities as rightful owners of customary territories.

3. Conclusion

The conflict between indigenous peoples in North Tapanuli and Toba Regency and PT Toba Pulp Lestari is a violation of a number of human rights, especially the rights to land, the environment, and cultural identity. The main factors of the conflict include pro-investment government policies, weak legal protection for customary lands, and the non-application of the FPIC principle in granting concession permits. The government has a constitutional responsibility to protect indigenous peoples from human rights violations and ensure that economic development does not cause social suffering. Settlement steps that can be taken include facilitating independent mediation between indigenous peoples and PT TPL, legal recognition of customary territories through official maps and regional regulations, environmental rehabilitation and compensation for affected residents, law enforcement against perpetrators of violence and criminalization of residents, and the strict application of FPIC principles in every industrial project in customary territories.

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