

CONFLICTS AND CHALLENGES IN ESTABLISHING INDIGENOUS FORESTS IN NORTH TAPANULI DISTRICT, INDONESIA

Rytha Tambunan^{1*}, R. Hamdani Harahap², Subhilhar³, Irfan Simatupang⁴

^{1,2,3,4} Doctoral Program in Development Studies, Universitas Sumatera Utara, Dr. T. Mansur No.9, Padang Bulan, Medan

*Email: ritha1@usu.ac.id

ABSTRACT

This study examines the conflicts and challenges in recognizing and establishing indigenous forests in North Tapanuli District, Indonesia. Indigenous forests are integral to the socio-cultural identity and livelihood of the Toba Batak community, yet their recognition often clashes with governmental and corporate interests. Using a qualitative ethnographic approach, the research explores the dynamics of legal pluralism, socio-political conflicts, and administrative barriers that hinder the recognition process. Data were collected through in-depth interviews with key stakeholders, focus group discussions (FGDs), and participatory observations to understand the perspectives and experiences of the indigenous Batak Toba community. Secondary data were gathered from legal documents, prior research, and archival records. Findings reveal that customary forests hold significant cultural and spiritual values but face exploitation by corporations and lack of adequate legal and administrative support. The study underscores the importance of strengthening the legal capacity of indigenous communities, fostering inclusive and transparent processes, and encouraging collaboration between the government, corporations, and indigenous peoples. Policy recommendations are provided to ensure equitable and sustainable management of indigenous forests, emphasizing human rights and cultural diversity.

Keywords: Community, Conflict, Customary Forest, Customary Law, Forest Management, Identity, Socio-Culture.

INTRODUCTION

Indonesia is an agricultural country that has abundant forest resources, an important part of the social, economic and cultural life of the community, especially indigenous peoples. The Basic Agrarian Law (UUPA) No. 5 of 1960 is an important legal basis that emphasizes land as a means of social justice. However, the implementation of UUPA often encounters various challenges, especially regarding the recognition of indigenous peoples' rights to customary forests. The Constitutional Court (MK) Decision No. 35/PUU-X/2012 became an important turning point, changing the legal status of customary forests from part of the state forest to belonging to indigenous communities (Hidayanti et al., 2021). However, implementation in the field is still characterized by conflicts and multidimensional challenges. For indigenous peoples, forests are not only economic resources, but also

Proceeding 2nd Medan International Economics and Business

Volume 2, Issue 1, 2024

“Human Resource Transformation and Collaborative Innovation to Build Independent and Competitive Business in the Digital Era”

symbols of cultural and spiritual identity. In North Tapanuli Regency, the Toba Batak community views customary forests as part of the concept of “**bona pasogit**”, which reflects a strong attachment to ancestral lands. Bona pasogit is not only land as an asset, but also as a representation of ancestral heritage, clan honor and generational sustainability (Komnas, 2016). Vergouwen (2004) asserts that land in Toba Batak society has high social value, where each clan views ancestral heritage land as a symbol of honor and social legitimacy. However, claims to customary forests often clash with the interests of the government and large corporations such as PT Toba Pulp Lestari (TPL). Since the New Order era, massive concessions have been granted to companies, ignoring the rights of indigenous communities who have traditionally managed these forests. Agrarian conflicts in Indonesia, including in North Tapanuli District, have their roots in legal pluralism. National law often overrides customary law, which has been the basis for communal land and forest management. Ginting (2012) states that the recognition of customary rights is conditional, where indigenous communities must fulfill administrative requirements that are often difficult to reach. This results in systematic marginalization of indigenous peoples' rights.

On the other hand, the process of recognizing customary forests requires the involvement of various stakeholders, such as the Ministry of Environment and Forestry (MoEF), local governments, and customary institutions. However, often the interests of these actors conflict, creating obstacles in the recognition process. The MoEF revealed that in North Sumatra there is potential for 47,596 hectares of customary forest, but the designation process is often characterized by conflicts between indigenous communities and concession-holding companies. Constitutional Court Decision No. 35/PUU-X/2012 provides a stronger legal basis for indigenous communities to claim rights to customary forests. The ruling states that customary forests are no longer part of state forests, but belong to indigenous communities. However, the implementation of this ruling at the local level has often not gone smoothly. Strict verification requirements and conflicts of interest between the government, companies and indigenous communities are major challenges (Putri et al., 2017). In North Tapanuli Regency, the Toba Batak indigenous community has long claimed customary forests that are now under PT TPL's concession. Massive demonstrations in 2021 demonstrated the high demand of indigenous communities for recognition and establishment of customary forests. However, this process is often hampered by a lack of political will from the local government and the strong influence of large companies (Lubis & Sari, 2024). Furthermore, customary forests in North Tapanuli are not only an economic resource, but also an arena for political economy conflict. Forest tenure by large companies reflects power imbalances involving state and non-state actors. Resosudarmo et al. (2012) state that natural resource management in Indonesia is often dominated by corporate economic interests, overriding the rights of local communities. In addition, legal pluralism adds complexity to the process of recognizing customary forests. On the one hand, national law provides a formal legal framework; on the other hand, Toba Batak customary law has deeply rooted rules and norms. This situation creates a clash between national and customary regulations, which affects the process of customary forest recognition and management (Myers et al., 2017). This study seeks to explore the conflicts and challenges in establishing customary

Proceeding 2nd Medan International Economics and Business

Volume 2, Issue 1, 2024

“Human Resource Transformation and Collaborative Innovation to Build Independent and Competitive Business in the Digital Era”

forests in North Tapanuli District, focusing on socio-cultural dynamics, legal pluralism and conflicts of interest. The study also aims to provide a deeper understanding of how the Toba Batak community interprets customary forests as part of their identity and life. Through holistic analysis, this study is expected to provide relevant recommendations for the recognition and management of customary forests that are more equitable and sustainable.

METHODS

This research uses a qualitative approach to explore in depth the conflicts and challenges in establishing customary forests in North Tapanuli Regency. The method used is ethnography, which allows researchers to understand the views and experiences of indigenous peoples directly. This approach focuses on reconstructing how indigenous peoples interpret land and forests as part of their socio-cultural identity. Data collection was conducted through in-depth interviews with indigenous leaders, local government and other stakeholders, as well as through Focus Group Discussions (FGDs) to explore more complex issues. In addition, participatory observations were conducted to directly understand the daily lives of Toba Batak customary law communities, including their practices in managing customary forests (Sari et al, 2023). Secondary data was obtained from legal documents, previous research reports, and archives related to tenurial conflicts in the region. Data analysis was conducted descriptively-analytically, by classifying findings into key themes such as conflict dynamics, legal barriers, and policy implementation challenges (Parinduri et al., 2024). Through this method, the research aims to provide in-depth insights into the factors influencing the recognition and management of customary forests in North Tapanuli District. The results are expected to contribute to efforts to formulate more inclusive and sustainable policies in customary forest management in Indonesia.

RESULTS AND DISCUSSION

Socio-Cultural Conflict in the Recognition of Customary Forest

Customary forests in North Tapanuli Regency play a very significant role in the lives of the Toba Batak indigenous people. For them, the forest is not just a natural resource, but also a spiritual space that is part of their cultural identity. The forest is not only cultivated to fulfill the needs of daily life, but is also an integral part of the social system, belief values, and community structure that has been passed down from generation to generation. Therefore, claims to customary land and forests by the Toba Batak community are not only related to economic aspects but also related to the cultural and spiritual rights inherent in their lives (Tambunan, 2023). Customary forests have a very high symbolic value for the Toba Batak community. Forests are managed by Indigenous peoples since their ancestors are believed to be sacred places, which are part of the principle of bona pasogit (hometown) that connects them to their ancestors, as well as being a guarantor of community welfare in the future. In the view of indigenous peoples, the management and maintenance of these forests is carried out harmoniously and sustainably, to ensure that future generations can enjoy the same benefits. However, recognition of these rights often clashes with other interests, especially from the government and large corporations that see forests as economic resources

Proceeding 2nd Medan International Economics and Business

Volume 2, Issue 1, 2024

“Human Resource Transformation and Collaborative Innovation to Build Independent and Competitive Business in the Digital Era”

that must be managed for development and financial gain. One concrete example is the conflict between the Toba Batak indigenous community and PT Toba Pulp Lestari (TPL), a company that has forest management concessions in the area (Harianja et al., 2021). This conflict dates back to the New Order era when government policy granted forest management licenses to large companies without considering the rights of Indigenous peoples who have long managed and maintained the forest. In 2021, the Toba Batak indigenous community organized a large demonstration to demand recognition of their rights to the customary forest now controlled by TPL. The demonstration reflected the growing tension between the two parties who have different claims to the natural resources. According to Ginting (2012), forest management based on economic interests often ignores the existence of indigenous peoples, who have a deeper cultural and spiritual connection with nature. This shows an imbalance in natural resource management, where the cultural and social rights of indigenous peoples are often marginalized in favor of short-term economic gains.

Therefore, the main challenge in recognizing and establishing customary forests in the North Tapanuli District is the pluralism of existing laws in Indonesia. Indonesia adopts a plural legal system, where different forms of law apply simultaneously, namely state law, customary law, and religious law. In customary forest management, this often leads to clashes between the more formal state law and customary law, which is local and deeply rooted in the traditions of Indigenous communities. The Basic Agrarian Law (UUPA) No. 5 of 1960 regulates the management of land and natural resources in Indonesia, but in practice, many policies do not take into account the existence of customary rights to land and forests. The Toba Batak indigenous people have a very strong customary law system regulating the utilization and management of their forests. This customary law is not only related to the management of natural resources but also includes social rules that regulate relationships between community members and nature itself. However, recognition of these customary rights is often hindered by the state legal system, which prioritizes formal and procedural legality. In the context of customary forest recognition, central and local governments often feel hampered by the incompatibility between state law and customary law. Constitutional Court (MK) Decision No. 35/PUU-X/2012, which recognizes that customary forests are no longer part of state forests, provides a stronger legal basis for indigenous communities to claim their rights to customary forests. Nonetheless, the implementation of this ruling at the local level still faces many challenges. The process of recognizing customary forests requires administrative verification that is often difficult for Indigenous communities to access. According to Lubis & Sari (2024), indigenous peoples often do not have the resources to fulfill the complex administrative requirements for claiming customary forests. This exacerbates existing injustices, as indigenous peoples who have been protecting and managing customary forests are prevented from obtaining formal recognition from the state.

Dynamics of Conflict of Interest: Government, Corporations, and Indigenous Peoples

Conflicts over customary forest management in North Tapanuli Regency not only involve indigenous communities and the government but also involve large actors such as

Proceeding 2nd Medan International Economics and Business

Volume 2, Issue 1, 2024

“Human Resource Transformation and Collaborative Innovation to Build Independent and Competitive Business in the Digital Era”

corporations that have an interest in managing natural resources in the region. One of the most striking examples is PT Toba Pulp Lestari (TPL), which has a concession to manage forests in an area that was previously a Toba Batak customary forest area. The company utilizes forest resources for the pulp and paper industry, which contributes significantly to the regional economy while causing environmental damage and violating the rights of indigenous communities (Tambunan, 2023). The conflict is further complicated by the local government's divided interests between supporting the rights of indigenous peoples and maintaining good relations with large companies that contribute to local revenues. Local governments are often in the difficult position of having to weigh up supporting indigenous peoples and maintaining economic stability driven by corporate investment. As stated by Resosudarmo et al. (2012), dependence on large corporate investments often leads local governments into conflicts of interest to the detriment of indigenous peoples. Meanwhile, while indigenous peoples have legitimate rights under customary law, they often do not receive adequate support from local governments to fight for these rights. Most indigenous communities do not have sufficient access to the legal and political resources needed to fight for their claims to customary forests. This exacerbates social and economic inequalities, with indigenous peoples, who have traditionally depended on forests for their livelihoods, at risk of losing access to these resources due to policies that favor corporate interests. Although the Constitutional Court ruling No. 35/PUU-X/2012 provides stronger legal recognition of indigenous peoples' rights to forests, the implementation of this policy at the local level still faces many challenges. One of the biggest challenges is the complex and often non-transparent verification procedures. The administrative processes required to submit claims to customary forests often make it difficult for indigenous communities to fulfill the requirements set by the government. Many indigenous communities do not have access to legal services or the administrative know-how necessary to make claims for their rights (Mubarok & Jayabalan, 2023).

Furthermore, while the central government recognizes the right to customary forests, the implementation of this policy is often hampered by political factors and bureaucratic red tape. Local governments often have different priorities in managing natural resources, leading to policies that do not favor indigenous peoples. As explained by Ginting (2012), although there are policies that support the recognition of customary forests, their implementation often does not translate into concrete actions on the ground. The obstacles to policy implementation are also related to the misalignment between the interests of the government, companies, and indigenous peoples. Local governments that focus on economic development often ignore the socio-cultural rights of indigenous peoples, while large companies with political and economic power often receive better treatment in the licensing process. This leads to structural injustices that disadvantage indigenous peoples, who have been the guardians and conservationists of their forests.

Recommendations for Conflict Resolution and Recognition of Indigenous Forests

In the face of conflicts and challenges in the recognition of customary forests in North Tapanuli District, there are several strategic steps that can be taken to ensure that the rights

Proceeding 2nd Medan International Economics and Business

Volume 2, Issue 1, 2024

“Human Resource Transformation and Collaborative Innovation to Build Independent and Competitive Business in the Digital Era”

of indigenous peoples are recognized and protected and to achieve sustainable solutions. These recommendations cover legal, social, and policy aspects that are more inclusive and justice-based.

Strengthening Indigenous Peoples' Legal Capacity and Knowledge

One of the main challenges faced by indigenous peoples is their lack of knowledge and access to the legal system, both customary and state law. While Toba Batak customary law has an important place in forest management, the state legal system often does not recognize or take into account long-standing customary rules. Strengthening the legal capacity of indigenous communities is therefore a crucial first step to ensure that they can fight for their rights more effectively. Legal training and extension programs should be introduced to indigenous communities to improve their understanding of their customary land and forest rights, as well as the legal procedures that must be followed to obtain formal recognition of their customary forests. This could involve an introduction to relevant laws and regulations, such as the Basic Agrarian Law (UUPA) No. 5 of 1960 and the Forestry Law, as well as Constitutional Court rulings recognizing indigenous peoples' rights to customary forests (Bedner & Arizona, 2019). In addition, indigenous peoples need to be equipped with practical skills in terms of drafting administrative documents required for customary forest claims. This includes the preparation of traditional evidence, petitioning, and making official reports and requests to the central and local governments. With this legal capacity building, indigenous peoples will be better prepared and able to deal with the complex and convoluted bureaucracy in the process of filing claims to customary forests.

An Inclusive and Transparent Process for Indigenous Forest Recognition

It is important to emphasize that the process of recognizing customary forests must be conducted inclusively and transparently. So far, complex and unclear administrative procedures have often been a barrier for indigenous peoples to obtain official recognition of their customary forests. Therefore, the government needs to reform and simplify existing procedures, to make them more accessible to indigenous peoples who largely lack access to legal and administrative resources. The verification process of customary forest claims should involve the active participation of indigenous peoples. The government should provide space for them to be directly involved in every stage of the recognition process, from data collection, and surveys, to field verification. Decisions on customary forest recognition must be based on the principles of social justice and respect for the cultural rights of indigenous peoples. This aims to avoid potential abuse of power by more powerful parties, such as large companies or groups with economic interests (Jamin & Hermawan, 2024). Furthermore, local governments also need to have greater capacity to carry out their obligations in managing customary forests. Special training is needed for local government officials to understand the rights of indigenous peoples and appropriate ways to facilitate the recognition of customary forests. With clear regulations, transparent procedures, and close supervision, the process of customary forest recognition can be implemented fairly and by human rights principles.

Proceeding 2nd Medan International Economics and Business

Volume 2, Issue 1, 2024

“Human Resource Transformation and Collaborative Innovation to Build Independent and Competitive Business in the Digital Era”

Strengthening Legal Protection of Indigenous Peoples' Rights

Legal protection of indigenous peoples' rights to customary forests must be a top priority for the government. Since the issuance of the Constitutional Court decision No. 35/PUU-X/2012 recognizing that customary forests are no longer part of state forests, many steps must be taken to ensure the implementation of the decision at the local level. This strengthening of legal protection should cover two main aspects, namely protection from exploitative threats and unfair policies. First, protection from exploitative threats. In this case, large corporations such as forestry, plantation, and mining companies that have licenses in areas claimed by Indigenous peoples should be required to communicate and negotiate with Indigenous peoples to obtain their legitimate permits or agreements. Local governments must ensure that natural resource management policies do not harm indigenous peoples and recognize their rights to customary forests (Thamrin et al., 2024). Second, there is a need to strengthen the protection of customary rights that have been recognized by the state. This can be done by strengthening existing legal mechanisms, such as the recognition and protection of customary land and customary forests in more specific and detailed regional regulations (Perda). The government also needs to develop policies that allow indigenous communities to manage and utilize their customary forests sustainably, without threats from outsiders that could damage their environment and culture.

Cooperation between Government, Indigenous Peoples and Private Sector

To resolve conflicts and challenges in customary forest management, close cooperation between the government, indigenous peoples, and the private sector is required. This cooperation aims to create synergies in natural resource management that are equitable, sustainable, and beneficial to all parties. The government must act as a facilitator and mediator who can facilitate dialogue between indigenous communities and companies that have licenses in customary forest areas. The private sector, in this case, forestry or plantation companies operating in areas that overlap with customary forests, must also play an active role in supporting the recognition of customary forests. Large companies can cooperate with indigenous communities in the form of partnerships for community-based forest management. In this case, the company is expected to not only see the forest as a short-term economic resource but also pay attention to long-term sustainability and the welfare of indigenous peoples who depend on the forest. In addition, the government can also encourage the creation of partnership programs that can support the economy of indigenous peoples without damaging the forest ecosystem. For example, community-based forest management programs that prioritize the principles of environmental sustainability and economic empowerment of indigenous peoples. This cooperation must be based on the principles of justice, mutual respect, and equality between all parties involved.

Policy Formulation Based on Human Rights and Cultural Diversity

To create sustainable management of indigenous forests, policies implemented by the government must reflect respect for human rights and cultural diversity. Policies that favor indigenous peoples must recognize that customary forests are not only natural

Proceeding 2nd Medan International Economics and Business

Volume 2, Issue 1, 2024

“Human Resource Transformation and Collaborative Innovation to Build Independent and Competitive Business in the Digital Era”

resources but also an integral part of the social, cultural, and spiritual lives of indigenous peoples. Therefore, recognition of customary forests must be placed in a broader context, which includes aspects of social, cultural, and environmental rights. Human rights-based policy-making should also ensure that all forest management processes are conducted with the active participation of indigenous peoples and that their rights are respected and protected throughout the process. The policy should be inclusive and take into account the social and cultural dynamics present in Indigenous communities, as well as create space for dialog and impartial dispute resolution.

CONCLUSION

This research reveals that the recognition of customary forests in North Tapanuli Regency is very important to maintain the sustainability of fair and sustainable natural resource management. Customary forests have a vital role for the Toba Batak Indigenous community, both from social, cultural, and economic aspects. However, while there is a legal foundation supporting indigenous peoples' rights to customary forests, recognition of these rights remains limited. One of the main challenges is the lack of clarity in legal procedures, indigenous peoples' lack of understanding of their rights, and the mismatch between government policies and indigenous peoples' needs. On the other hand, while some policies exist to recognize indigenous peoples' rights to forests, implementation on the ground is often hampered by economic interests, especially from large companies that control most of the customary forests in the region. The importance of strengthening the legal capacity of indigenous peoples cannot be overlooked. Education and training on their rights to customary lands and forests can help indigenous peoples fight for their rights more effectively. This includes providing information on customary forest claim procedures, which are often difficult for communities to understand. On the other hand, complicated and non-transparent administrative procedures often prevent indigenous communities from obtaining official recognition of their customary forests. Therefore, reforms are needed in the customary forest recognition system that is more inclusive, transparent, and based on principles of justice that involve indigenous peoples in every stage of decision-making. In addition, close cooperation between the government, indigenous peoples, and the private sector is key to overcoming existing conflicts and challenges. The government should act as a facilitator in the dialogue between Indigenous peoples and companies, taking into account the interests of all parties and ensuring that the principles of justice and sustainability are prioritized. Policies based on respect for human rights and cultural diversity are also urgently needed to create more equitable management of customary forests. These policies should encourage the active participation of indigenous peoples in every decision-making process and ensure that they are valued as key stakeholders in customary forest management.

REFERENCES

- Bedner, A., & Arizona, Y. (2019). Adat in Indonesian land law: a promise for the future or a dead end?. *The Asia Pacific Journal of Anthropology*, 20(5), 416-434.
- Ginting, D. (2012). Politik Hukum Agraria terhadap Hak Ulayat Masyarakat Hukum Adat

Proceeding 2nd Medan International Economics and Business

Volume 2, Issue 1, 2024

“Human Resource Transformation and Collaborative Innovation to Build Independent and Competitive Business in the Digital Era”

- di Indonesia. *Jurnal Hukum dan Pembangunan*, 42(1), 29-53.
- Harianja, A. H., Sinaga, A. M., Hawari, F. A., & Fauzi, R. (2021). The importance of the utilization of forest fruits in Batak Toba community. *Indonesian Journal of Forestry Research*, 8(1), 1-12.
- Hidayanti, S., Koswara, I., & Gunawan, Y. (2021). The land legal system in Indonesia and land rights according to the basic agrarian law (UUPA). *Legal Brief*, 11(1), 366-378.
- Jamin, M., & Hermawan, S. (2024). Valuing Indigenous Rights Over Forest Governance in Six Asean Member Countries. *UUM Journal of Legal Studies*, 15(2), 585-621.
- Komnas, H. A. M. (2016). Konflik agraria masyarakat hukum adat atas wilayahnya di kawasan hutan. Komnas HAM.
- Lubis, A. S. A. ., & Sari, A. K. (2024). From Forest to Struggle Space: Social Mobilization and Environmental Policy Intervention by the Tano Batak Indigenous People of Sihaporas Village. *Wedy Journal of Multidisciplinary*, 1(2), 10–21. Retrieved from <https://jurnal.literasipublisher.co.id/index.php/wjm/article/view/66>
- Mubarak, A., & Jayabalan, S. (2023). The Relationship Of State Law And Customary Law:: Reinforcement And Protection Of Customary Law In Constitutional Court Judgment. *Jurnal Jurisprudence*, 13(2), 188-204.
- Myers, R., Intarini, D., Sirait, M. T., & Maryudi, A. (2017). Claiming the forest: Inclusions and exclusions under Indonesia’s ‘new’ forest policies on customary forests. *Land Use Policy*, 66 (October 2014), 205–213. <https://doi.org/10.1016/j.landusepol.2017.04.039>
- Parinduri, W. M., Rambe, T. R., Rambe, N., Novianti, Y., Fadly, M., & Regif, S. Y. (2024). Utilisation of Palm Oil Empty Bunches into Organic Fertiliser to Support Net Zero Emission Policy. *Sovereignty Journal of Community Service*, 1(2), 1-8. <https://jurnal.literasipublisher.co.id/index.php/sjcs/article/view/54>
- Putri, S. N. M. M., & Sukirno, S. S. (2017). Implikasi Putusan Mk No. 35/puu-x/2012 terhadap Eksistensi Hutan Adat Masyarakat Kasepuhan Ciptagelar yang Tumpang Tindih dengan Hutan Konservasi Taman Nasional Gunung Halimun Salak. *Diponegoro Law Journal*, 6(2), 1-22.
- Resosudarmo, B. P., Nawir, A. A., Resosudarmo, I. A. P., & Subiman, N. L. (2012). Forest land use dynamics in Indonesia. *Livelihood, the Economy and the Environment in Indonesia*, Yayasan Obor, Jakarta, 20-50.
- Sari, M. P., Wijaya, A. K., Hidayatullah, B., Sirodj, R. A., & Afgani, M. W. (2023). Penggunaan metode etnografi dalam penelitian sosial. *Jurnal Pendidikan Sains dan Komputer*, 3(01), 84-90.
- Tambunan, R. (2023, September). The Process of Recognizing Indigenous Communities and Establishing Customary Forests in North Tapanuli. In *RSF Conference Series: Business, Management and Social Sciences* (Vol. 3, No. 3, pp. 31-37).
- Thamrin, M. H., Saraan, M. I. K., & Nasution, F. A. (2024). Capacity Building and Preparation of Village Regulations in Favor of the Community through Technical Guidance in Buluh Telang Village. *Sovereignty Journal of Community Service*, 1(2), 24-32.
- Vergouwen, J. C. (2004). Masyarakat dan Hukum Adat Batak Toba. *LKIS Pelangi Aksara*.