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The Recognition and Rights Protection for Batin Sembilan Communities over Customary Territory and Natural Resource Management

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ABSTRACT

Conflicts over land tenure and other sources of natural resources have been persistent for a long time and have led to a process of structural poverty; the loss of local wisdom in managing natural resources; and even the elimination of communities from their living space. Although there are many policies that contain recognition of indigenous peoples' rights, recognition of rights to customary territories has never existed and evictions of the Batin Sembilan community still continue. The specific objectives that researchers want to achieve in this research are to examine and analyze the existence of Batin Sembilan community; and analyze the mechanism of recognition and protection of the community there in managing natural resources. This research combines qualitative research through primary data collection from the field, making observations, while also using secondary data, especially related to government policies, regulations and programs to provide a general understanding of the real conditions faced by the Batin Sembilan community. Based on the results of this research, it is expected to generate findings regarding the mechanism for recognizing and protecting the rights of Batin Sembilan people to customary territories and natural resource management.

Keywords: Customary Territories and Natural Resource Management, Indigenous Peoples, Recognition and Protection of Rights

INTRODUCTION

The existence of customary law communities in Indonesia has clearly existed since ancient times until today. Customary law communities are societal units that have the completeness to be able to stand on their own, which are legal units, ruling units and environmental units based on shared rights to land and water for all members and each member has the same rights and obligations whose lives are communal in nature to which mutual cooperation have a significant role.¹ Customary law communities have a concept that refers to a group of people who live in an area (*ulayat*) where they live and a certain living environment, have wealth and leaders who are responsible to protect the interests of the group (outward and inward), and have a system of law and government.² The existence of customary law communities has been regulated explicitly in the constitution. In Article 18 B Paragraph (2) of the 1945 Constitution, the state recognizes and respects the unity of customary law communities and their traditional rights along with the development of society and the principle of Indonesia as regulated by law.³ The state has an important role to ensure the comprehensive protection of indigenous peoples, both in their political status and their socio-legal reality. Since the beginning of their existence, Indigenous Peoples have possessed public rights and control over the legal, social, cultural, and economic aspects of society.⁴ The Batin Sembilan community is one of the customary law communities in Indonesia. Batin Sembilan means nine tributaries (Bulian, Bahar, Jebak, Jangga, Pemusiran, Burung Antu, Telisak, Sekamis and Singoan), each of which is ruled by nine brothers who are believed to be the ancestors of Batin Sembilan.

The *Suku Anak Dalam* (SAD) Batin Sembilan is administratively located in the 22nd sub-district, in Kunangan Jaya I hamlet, Bungku village, Bajubang, Batanghari. The existence of the Batin Sembilan community as a minority, requires government attention and assistance. The Batin Sembilan community has been banished from their natural habitat for several years, due to the fact that the Batin Sembilan community's customary territory often intersects with corporate interests. Since the 1970s and 80s, several companies or corporations have started to invade the customary territories of the tribes in Jambi. Plantation and forestry companies are the cause of indigenous people being evicted from their customary

¹ Tolib Setiady, *Intisari Hukum Adat Indonesia Dalam Kajian Kepustakaan*, ed. Dr. Riduwan (Bandung: Alfabeta, 2018).

² Dr. H. Abdurrahman, *Draft Laporan Pengkajian Hukum Tentang Mekanisme Pengakuan Masyarakat Hukum Adat* (Jakarta: Pusat Penelitian dan Pengembangan Sistem Hukum Nasional Badan Pembinaan Hukum Nasional Kementerian Hukum dan Hak Asasi Manusia Republik Indonesia, 2015).

³ *Undang-Undang Dasar Negara Republik Indonesia Tahun 1945* (Indonesia, 1945).

⁴ Victor Juzuf Sedubun, "Involvement of Indigenous People In The Utilization of Natural Resources For Investment Activities," *SASI* 28, no. 1 (April 14, 2022): 147, <https://fhukum.unpatti.ac.id/jurnal/sasi/article/view/855>.

territories because indigenous people mostly live in forests that are company concession areas.⁵ The first company that received a logging concession permit in the forest which is the customary territory of Batin Sembilan community is PT Asiolog. Then followed by an oil palm plantation company called PT Bangun Desa Utama which cleared land directly adjacent to the PT Asiolog concession area. The presence of these two companies caused Batin Sembilan communities to be displaced from their customary territories. They were forced out of their ancestral lands and moved to other areas outside the area. The unavailability of land to find a source of livelihood led to a change in people's lives from utilizing forest products to picking up company-owned oil palm loose fruits and selling them for daily living expenses.

On August 7, 2007, the Ministry of Forestry revoked PT Asiolog's Forest Concession Rights (HPH) license by issuing Decree 272/Menhut-II/2007. This triggered the Batin Sembilan community to return to their ancestral land after 30 years of displacement. They opened fields and planted gardens in the Simpang Macan Luar area. However, the conflict returned with the presence of PT Restorasi Ekosistem Indonesia (PT REKI), which obtained an Industrial Plantation Timber Forest Product Management Business License (IUPHHK-HTI) in the former PT Asiolog area. The total area of PT REKI's concession license reached 98,555 hectares.⁶ This area is named *Hutan Harapan* which is the home of Batin Sembilan community.

The inclusion of PT REKI has led to dualism in claiming the Simpang Macan Luar area, which has been inhabited by Batin Sembilan community. They are prohibited from farming and building houses. The Batin Sembilan community has been struggling for the rights to their customary territory, accompanied by some organizations, several meetings were held with PT REKI and an MoU was produced which ended the conflict between the Batin Sembilan community and PT REKI.⁷ The contents of this memorandum of understanding are that the Batin Sembilan community may occupy managed land within the PT REKI concession forest, the construction of houses must not be permanent, management and land clearance must not use fire.

The community may plant life trees, utilize non-timber forest products, they are prohibited from cutting wood for commercial purposes and are not allowed to sell land. The Batin Sembilan community living in *Hutan Harapan*, which is PT REKI's concession area, is only recognized for its existence and there is no recognition of matters relating to land ownership. Other problems faced by the

⁵ Wahyu Nugroho, "Konstitusionalitas Hak Masyarakat Hukum Adat Dalam Mengelola Hutan Adat: Fakta Empiris Legalisasi Perizinan," *Jurnal Konstitusi* 11, no. 1 (2014): 109–129.

⁶ Tabah Arif Rahmani et al., "Evaluating the Feasibility of Oil Palm Agroforestry in Harapan Rainforest, Jambi, Indonesia," *Forest and Society* 5, no. 2 (September 2021): 458–477.

⁷ Jonas I. Hein, *Political Ecology of REDD+ in Indonesia: Agrarian Conflicts and Forest Carbon* (New York: Routledge, 2019).

Batin Sembilan community come from encroachers who come from outside, who also claim forest areas and also the threat of opening coal mining roads adds to the series of problems faced by the Batin Sembilan community in struggling for rights to their customary territories.

Moreover, the conflicts over land tenure and other sources of natural resources have been persistent for a long time and have led to a process of structural poverty; the loss of local wisdom in managing natural resources; and even the elimination of communities from their living space. Although there are many policies that contain recognition of indigenous peoples' rights, recognition of rights to customary territories has never existed and evictions of the Batin Sembilan community still remains the same. Based on previous descriptions, this research is conducted to examine and analyze the existence of Batin Sembilan community and the mechanism of recognition and protection for Batin Sembilan community in managing natural resources.

RESEARCH METHODOLOGY

This type of research uses a type of non-theoretical research or often referred to as empirical research. Empirical research is a research type that involves the collection of first-hand data through experimentation or observation.⁸ It is based on empirical evidence gained through qualitative or quantitative methodology. Because this type of research uses empirical research, the collection, processing, and research activities are conditions related to the legal protection of Batin Sembilan community rights.⁹ This research combines qualitative research by collecting basic data in making observations, and using additional data specifically related to government policies, regulations and plans to provide a thorough understanding of the actual situation faced by the Batin Sembilan community compared to national policies. The main data used are the results of direct interviews with institutions authorized to protect the rights of the Batin Sembilan community. Meanwhile, the secondary data used comes from legislation and supporting books related to the research topic. The data collected through the interview method with the Batin Sembilan community, the customary chief, the local government and the Ministry of Environment and Forestry were then analyzed descriptively qualitatively. All data collected is then sorted and classified, interpreted and served in a systematic description.

⁸ Ina Rosmaya and Mochammad Rafly Tjahjadi, "The Investigation of Criminal Negligence Against Victims of Kanjuruhan Tragedy," *IUS POSITUM: Journal of Law Theory and Enforcement* 2, no. 4 (2023): 1–13.

⁹ Dr. Mukti Fajar Dewata Nur and Yulianto Achmad, *Dualisme Penelitian Hukum Normatif & Empiris* (Yogyakarta: Pustaka Pelajar, 2013).

RESULT AND DISCUSSION

The Existence of Batin Sembilan Community in Managing Natural Resources

The Batin Sembilan community is one of the indigenous communities living around *Hutan Harapan*. Recognition and rights protection of indigenous peoples, including the Batin Sembilan community, is crucial as they have existed long before Indonesia was constituted. However, these traditional rights must conform to the principles and ethos of Indonesia through normative requirements in legislation. *Hutan Harapan* is the first production forest area in Indonesia that is managed to restore its ecosystem, known as ecosystem restoration. PT REKI, as the manager of *Hutan Harapan*, collaborates with various community groups living in and around *Hutan Harapan*, including the Batin Sembilan Community, to strengthen efforts to restore and protect *Hutan Harapan*. PT REKI also seeks to increase the economic potential of forests through ecotourism, research, education and training for sources of financing forest ecosystem management, poverty alleviation (welfare) of the community; and revenue for local and central governments. In addition, PT REKI also protects forests from various interruptions, such as illegal logging, forest encroachment, forest fires, animal hunting, pests and diseases, soil and water conservation and other interruptions.

Recognition and rights protection of Batin Sembilan community is an important issue related to the sustainability of their lives. The Batin Sembilan community is an indigenous group that lives around *Hutan Harapan* and is highly reliant on forest products. Recognition of indigenous peoples' rights, including the Batin Sembilan community, is regulated in Article 18B Paragraph (2) of the 1945 Constitution which states that the state recognizes and respects the unity of customary law communities. However, this recognition must conform to the principles and ethos of Indonesia through normative requirements in laws and regulations. Protection of the rights of the Batin Sembilan community includes protection of their rights to natural resources and customary territories. They have the right to utilize natural resources in *Hutan Harapan* and manage their customary territories. This protection is important to ensure the sustainability of their lives and maintain the balance of the ecosystem in *Hutan Harapan*. The following are some of the rights of Batin Sembilan communities within PT REKI's *Hutan Harapan*:

1. The Right on Natural Resources

The Batin Sembilan community uses *Hutan Harapan* by taking non-timber forest products, such as rattan, jernang fruit (dragon blood), sialang honey, jelutong sap, resin, and medicinal plants.

2. The Right to Manage Indigenous Areas

Working in partnership with PT REKI, the Batin Sembilan community received certainty about the location and boundaries of their

management area, and benefits from forest governance and utilization for economic, social, and ecological purposes.

3. Collaboration with PT REKI

Four Batin Sembilan community groups have signed a Memorandum of Understanding (MoU) with PT REKI, which regulates joint activities to protect *Hutan Harapan* from illegal logging, poaching, oil mining and burning. PT REKI also receives forest products taken by the Batin Sembilan community, such as damar and sialang honey, with a higher price than if sold to residents outside *Hutan Harapan*.

4. Conflict and Tenurial Complaints

The Batin Sembilan community has been struggling to obtain recognition and protection of their customary land rights, with assistance from advocacy organizations, such as the CAPP Foundation. PT REKI has attempted to accommodate conflict resolution with the Batin Sembilan community, including through re-mapping of disputed land.

These rights allow the Batin Sembilan community to be involved in the management of natural resources in *Hutan Harapan* and gain economic, social and ecological benefits from the area. The Batin Sembilan community in *Hutan Harapan* has various natural resources that they use for their daily lives and livelihoods. The following are some of the natural resources they have and how they manage them:

1. Non-Timber Forest Products

The Batin Sembilan community uses non-timber forest products such as rattan, jerenang, sialang honey, jelutong sap, resin, and medicinal plants. These products are not only used for daily needs, but also have economic value that can be sold to buyers.

2. Shifting Agriculture

The Batin Sembilan community practiced shifting agriculture as one of their ways of managing natural resources. Shifting agriculture is a traditional farming method in which land is logged and burned for planting, then abandoned to restore soil fertility before being used again.

3. Hunting and Fishing

Hunting and fishing are also part of the Batin Sembilan community's way of managing natural resources. They hunt animals such as deer and make them a source of food. In addition, they also fishing in the river to fulfill their protein needs.

4. Medicinal Plant Collection

The Batin Sembilan community has traditional knowledge of medicinal plants that grow in the forest. They collect these medicinal plants for use as traditional medicine.

5. Honey Harvesting

Sialang honey is one of the forest products produced by the Batin Sembilan community. This honey is produced by sialang bees that live in sialang trees in the *Hutan Harapan* area.

In managing these natural resources, the Batin Sembilan community maintains their traditional practices and knowledge systems. They also have an important role to enforce the conservation of forests and natural resources in *Hutan Harapan*. Although they are faced with external pressures and challenges, they continue to strive to maintain and utilize the forest sustainably. In addition, there are also obstacles in integrating the functions of central and local government institutions in the recognition of indigenous peoples. Overcoming these obstacles requires cooperation between the government, PT REKI, and the Batin Sembilan community. One of the efforts that has been made is the strategic partnership between PT REKI and the Batin Sembilan Community in the management of *Hutan Harapan*. It is expected that through this partnership, the rights of Batin Sembilan communities can be recognized and protected, while maintaining the sustainability of the ecosystem in *Hutan Harapan*.

PT REKI has partnered with the Batin Sembilan community in *Hutan Harapan* through several ways. First, PT REKI has signed partnership agreements with four Batin Sembilan community groups. This agreement provides the Batin Sembilan community of certainty about the location and boundaries of the management area, and the benefits of forest governance and utilization for economic, social and ecological purposes. Similar partnerships are also open to other Batin Sembilan communities that depend on the forest and live in *Hutan Harapan*.

Second, PT REKI partners with various community groups living in and around *Hutan Harapan*, including the Batin Sembilan indigenous community, to strengthen efforts to restore and protect *Hutan Harapan*. This strategic partnership is accompanied by community empowerment, both from social and economic aspects.

Third, PT REKI also receives forest products taken by the Batin Sembilan community, such as resin and sialang honey, with a higher price than if sold to residents outside *Hutan Harapan*.

Fourth, PT REKI has established a “community warden” by involving the Batin Sembilan tribe. In order to protect biodiversity, *Hutan Harapan* realizes the importance of involving local communities in conservation efforts. By involving the Batin Sembilan tribe, two community groups were involved, which are the Kelompok and Simpang Macan Luar groups.

The last, there are 13 Batin Sembilan groups that have signed a memorandum of understanding (MoU) with PT REKI. This MoU is a form of partnership in the forestry sector, which allows Batin Sembilan groups the freedom to protect the forest by maintaining ecology and gaining economic benefits from non-timber forest products. Through this partnership, PT REKI and the Batin Sembilan community can collaborate in maintaining and using *Hutan Harapan* for mutual benefit. There are some obstacles in the partnership between PT REKI and Batin Sembilan community in *Hutan Harapan*, such following below:

1. High costs in ecosystem restoration concessions

Hutan Harapan management requires high costs for ecosystem restoration and biodiversity protection.

2. Tenure conflicts and customary forests

The Batin Sembilan community claimed that they had been in the forest area before PT REKI obtained the concession permit, so they considered the area as their private property. This triggered a conflict over land in *Hutan Harapan*.

3. Encroachment and land struggles

Encroachment occurred in *Hutan Harapan* in the 2007-2010 period when many logging companies returned permits. Encroachers consisted of locals, migrants, land speculators, local elitists with political agendas, and massive agrarian reform activists. This encroachment destroys the livelihoods of the Batin Sembilan community.

4. The involvement of Batin Sembilan community

PT REKI has attempted to involve the Batin Sembilan community in the management of *Hutan Harapan*, but there are still obstacles in ensuring effective and sustainable involvement.

5. The impact of palm oil industry

The development of oil palm plantations around *Hutan Harapan* created intense conflict with the Batin Sembilan community. The loss of most forest functions due to the expansion of oil palm plantation company operations has resulted in drastic changes in the types of consumption commodities at the household level.

In overcoming these obstacles, PT REKI and the Batin Sembilan community need to continue to collaborate in protecting and using *Hutan Harapan* for mutual benefit.

The Recognition and Rights Protection for Batin Sembilan Communities over Customary Territory and Natural Resource Management

The Batin Sembilan community is a group of indigenous people who have long inhabited lowland forest areas in central Sumatra, especially on the border of

Jambi and South Sumatra. They have local wisdom in managing forests and utilizing non-timber forest products such as rattan, honey, jelutong sap, and medicinal plants. However, the customary territories and natural resources where the Batin Sembilan community lives are degraded due to rampant forest encroachment and conversion of forest areas into large-scale plantations. This has an impact on the decline in the quality of life and the loss of traditional livelihoods of the Batin Sembilan community. Therefore, adequate recognition and protection of Batin Sembilan community rights to their customary territories and natural resources are needed. This article will discuss the mechanisms for recognizing and protecting Batin Sembilan indigenous peoples' rights based on national and international legal frameworks.

Under the 2007 UN Declaration on the Rights of Indigenous Peoples, indigenous peoples have the right to lands, territories and natural resources that they have traditionally owned, occupied, used or acquired. They also have the right to maintain and develop their political, economic, social and cultural systems. In Indonesia, the recognition of indigenous peoples' rights is regulated in Law No. 5/1960 on the Basic Regulation of Agrarian Principles, which states that customary rights and similar rights of customary law communities as long as according to reality they still exist must be respected. Further recognition is contained in Constitutional Court Decision No. 35/PUU-X/2012 which affirms that customary forests are no longer state forests and customary law communities have the right to manage the customary forest area. Therefore, Batin Sembilan community as a group of indigenous peoples has the right to customary territories and natural resources such as forests and non-timber forest products to fulfill their needs. Based on Law No. 6/2014 on Villages and Home Affairs Ministerial Regulation No. 52/2014, the recognition of customary territories is conducted through several steps, such following below:

1. Indigenous peoples submit a request for recognition to the local government.
2. Local governments identify and verify the existence of indigenous peoples.
3. Local governments stipulate the recognition of indigenous peoples and their customary territories through local regulations.
4. Local governments are obliged to protect, respect, and fulfill the rights of indigenous peoples.

The recognition process must actively involve indigenous peoples in the identification of indigenous territories and the drafting of local regulations. The full participation of indigenous peoples is important to ensure that the recognition of indigenous territories matches the reality in the field. Moreover, indigenous peoples' rights to natural resources are fully governed under the Declaration of the

Rights of Indigenous People (UNDRIP).¹⁰ Protection of indigenous peoples' rights to natural resources is conducted in several ways, such following below:

1. Customary forest designation that authorizes indigenous communities to manage and use forest areas sustainably.
2. Providing access to customary forest areas and natural resources to fulfill daily needs.
3. Involvement of indigenous peoples in the management of state forest areas through partnership schemes.
4. Equitable sharing of benefits from the utilization of natural resources in indigenous territories.

In addition, indigenous peoples also need to be involved in decision-making regarding development plans that affect their customary territories and livelihoods. Free Prior Informed Consent (FPIC) from indigenous peoples must be obtained before decisions are made.

The recognition of Batin Sembilan community rights to natural resources in *Hutan Harapan* can affect government policies related to natural resource management. The recognition of indigenous peoples' rights can strengthen their position in managing natural resources and maintaining their local wisdom. In addition, recognition of indigenous peoples' rights can also strengthen their rights in resisting pressure from parties who want to take over indigenous territories and natural resources. Government policies to accommodate the recognition of Batin Sembilan community rights. The government should take several policies to accommodate the recognition of Batin Sembilan community rights to natural resources in *Hutan Harapan*, such following below:

1. Promote the recognition of indigenous territories and indigenous peoples' rights to natural resources through local regulations that recognize indigenous peoples' rights and provide adequate legal protection.
2. Increase indigenous peoples' participation in decision-making related to natural resource management in their customary territories.
3. Improve indigenous peoples' access to basic services such as education, health, and basic infrastructure.

¹⁰ I Gusti Ngurah Parikesit Widiatedja, "Protecting Indigenous Peoples through Right to Natural Resources: Lesson from the Existence of Navajo Tribe in the United States," *Hasanuddin Law Review* 1, no. 3 (December 31, 2015): 307, <http://pasca.unhas.ac.id/ojs/index.php/halrev/article/view/111>.

CONCLUSION AND SUGGESTION

Conclusion

Recognizing and protecting Batin Sembilan communities' rights to customary territories and natural resource management is an important step in ensuring cultural and ecosystem sustainability in the region. In the context of natural resource management, the traditional knowledge and practices of Batin Sembilan communities can make a valuable contribution to global efforts for nature conservation. In order to achieve recognition and protection of these rights, however, there needs to be close cooperation between the government, the Batin Sembilan community, and other community groups. An open and constructive dialog is needed between all parties involved, prioritizing the principles of equality, justice and sustainability.

Suggestion

Based on research result, the researchers suggest that supporting the creation of clear and concrete policies that recognize the rights of Batin Sembilan community to customary territories and natural resource management, encouraging the active participation of the Batin Sembilan community in decision-making relating to their customary territories and natural resource management, building collaborative efforts between the government, stakeholder institutions, and the Batin Sembilan Community to effectively realize the recognition and protection of the rights of the Batin Sembilan Community. In addition, it also need to encourage further research into the traditional knowledge and natural resource management practices of Batin Sembilan community and integrate them into relevant policies and programs.

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