

Democracy under Threat: Study of the Implementation of the Rights of Indigenous Peoples to the Management of Natural Resources in Riau Province

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Abstract

This article discusses why the failure to fulfill indigenous peoples' rights in managing natural resources in Riau Province will pose a threat to democracy. The empirical phenomenon in Riau Province showed that even though regulations in recognition and protection existed, conflicts in forest management and land belonging to indigenous peoples continued to occur. This study uses qualitative research methods by collecting data through interviews and documents. The results show that the non-fulfillment of indigenous peoples' rights in managing natural resources will lead to injustice, discrimination, and economic inequality. It will ultimately have implications for the decline in the quality of democracy and the government regime's legitimacy. The implementation of indigenous peoples' rights in managing natural resources in Riau Province is limited to democratic rhetoric. The conclusion in this study is that violations of indigenous peoples' rights will contribute to democratic de-consolidation.

Keywords

Democracy; The Rights of Indigenous Peoples; Democratic De-consolidation; Natural Resources

INTRODUCTION

The implementation of human rights is the foundation of a democratic

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state. According to [Nino \(1996\)](#), it would create a citizenry educated and engaged in governance politics. Thus, it would lead to a more robust and more stable society that would better protect human rights are characteristics of deliberative democracy. The same argument is expressed by [Goodhart \(2005\)](#), which states that an essential principle in a democracy is recognizing and protecting human rights. Furthermore, [Goodhart \(2005\)](#) explains democracy as human rights (DHR) defines democracy as a political commitment to universal emancipation through securing the

equal enjoyment of fundamental human rights for everyone.

Furthermore, [Landman \(2018\)](#) more concretely explains the relationship between democracy and human rights, based on the same principles of accountability, individual freedom, integrity, inclusive and equal participation, and conflict resolution without violence. Meanwhile, [Plattner \(2019\)](#) emphasizes that fighting for human rights is necessary for the future of democracy. If the people's rights are not fulfilled, what will happen is pseudo-democracy.

The issue regarding the implementation of human rights today is an issue that has developed at the local, national, and global levels. One of the human and civil rights that has received critical attention is implementing indigenous peoples' rights. The 1989 International Labor Organizations (ILO) Convention concerning indigenous peoples in independent countries has formulated the recognition and protection of indigenous peoples' fundamental rights. Moreover, the [United Nations \(2007\)](#) declared the recognition and safety of the rights of indigenous peoples as stated in the United Nations Declaration on the Rights of Indigenous Peoples. One of the indigenous peoples' rights is explained in Article 26 paragraph (1). Indigenous peoples have the right to the lands, territories, and resources they have traditionally owned, occupied, or otherwise used or acquired.

Based on the ILO Convention 169 concerning Indigenous Peoples and UNDRIP in 2007, countries worldwide

are expected to follow these provisions fully, including Indonesia. The position of indigenous peoples in Indonesia has been legally recognized by the 1945 Constitution (UUD 1945) article 18 B paragraph (1). The article states that the state recognizes and respects indigenous peoples and their legal rights if they are still alive and following community development and the Unitary State principles. The Republic of Indonesia, which is regulated by law. Moreover, the formal affirmation of the rights of indigenous peoples is stated in Law Number 39 the year 1999 concerning Human Rights, Article 6 paragraph (1), which recites "In the context of upholding human rights, differences and needs in indigenous peoples must be noticed and protected by law, society and government".

According to the policy, the government is obliged to recognize and respect indigenous peoples' rights and is also obliged to fulfill these indigenous peoples' constitutional rights. Nonetheless, the implementation of the protection of indigenous peoples' rights has not been fully realized.

The seizure of natural resources, which includes land, forest, and natural resources owned by the community, continues to be encountered on the ground. Data from the National Inquiry of the National Human Rights Commission (2016) shows that in the 2012-2014 period, the number of complaint files at the National Commission on Human Rights related to the issue of Indigenous and Tribal Peoples (MHA) was 117 complaint files in 2012, 113 complaint files in 2013, and

213 files in 2014. Meanwhile, [HuMa \(2018\)](#) explained that in 2018 there had been 326 natural resource and agrarian conflicts in indigenous peoples' territories dominated by the forestry and plantation sectors. Furthermore, the [Agrarian Reform Consortium \(2019\)](#) released that in 2018 Riau Province contributor to natural resource conflicts in Indonesia. Riau Province from 2014 to 2018 has consistently been in the five most prominent areas where natural resource conflicts have occurred. The battle that occurred in Riau Province included the struggle for indigenous peoples' economic rights to ownership of their natural resources.

Research on indigenous peoples' rights, particularly in natural resource management, has been previously studied by scholars with various perspectives, first, in the conflict perspective ([Purba, 2011](#); [Bachtiar, 2017](#); [van der Muur, 2018](#)). Second is protecting indigenous peoples' rights ([Bakker & Moniaga, 2010](#); [Wright, 2011](#); [Thontowi, 2015](#); [Bachtiar & Fitriani, 2017](#); [Sinabutar et al., 2015](#); [Ismi, 2014](#)). Despite all, indigenous peoples' rights from a social and political perspective ([Potter & Badcock, 2004](#); [Tyson, 2011](#); [Asrida, Amin & Marta, 2018](#); [Afrizal, 2013](#); [Marta et al., 2020](#)).

Regarding the research classification, there is still limited research that discusses indigenous peoples' rights in natural resource management using a democratic perspective. The implementation of human rights is a fundamental norm in democracy. Therefore, this research aims to explain why the failure of

indigenous peoples' rights in natural resource management in Riau Province will pose a threat to democracy. The civil and economic rights of peoples in managing natural resources are human rights that must be fulfilled.

RESEARCH METHOD

This research uses a qualitative approach. According to [Creswell \(2014: 4\)](#), this qualitative approach aims to explore and understand the meaning of individual and group actions in every social problem and phenomenon. Therefore, this research interprets the wonders of indigenous peoples' rights in natural resource management in Riau Province. Collecting data in this research use interviews and documents. Interviews were conducted with local governments, CSOs such as the Riau Archipelago Indigenous Peoples Alliance (AMAN), Walhi, Jikalauhari, and Walhi, Riau Customary Institution (LAM), and traditional leaders in Riau Province. Simultaneously, the data comes from documents, specifically research journals, reports, minutes of meetings, and articles in the mass media and online media.

Furthermore, the collected data will be validated using the triangulation method. Triangulation in this research aims to understand the phenomenon in depth with alternative data validation using multiple data sources. Data analysis in this research begins with data collection, data organizing, and data interpretation. The interpretation of this qualitative data analysis uses a relevant theory; hence, it can explain the threat of democracy in implementing

Figure 1. Riau Customary Territory Map

Source: Riau Malay Customary Institution (2018).

indigenous peoples' rights in natural resource management in Riau Province.

RESULTS AND DISCUSSION

The existence of indigenous peoples in Indonesia has experienced a revival since the post-Soeharto era. [Henley and Davidson \(2008\)](#) explain that there are several reasons for the revival of post-Suharto indigenous peoples due to (i) the contribution and development of the discourse on indigenous peoples at the international level; (ii) pressure and discrimination against indigenous peoples by the New Order regime; (iii) open political space during the reform period; and (iv) the ideological legacy of customary law thinkers in the colonial period. The strengthening of democracy and decentralization in Indonesia gives indigenous peoples hope to have rights to natural resources in their territories.

For the time being, the term indigenous peoples in Indonesia are quite diverse, particularly customary law communities, traditional communities, remote indigenous communities, indigenous people, and indigenous peoples. Nevertheless, in 1999 through the Indigenous Peoples Congress of the Archipelago, I (KMAN I) defined indigenous peoples as communities living based on their ancestral origins over a customary area, which has sovereignty over land and natural resources, socio-cultural life, which is regulated by customary law and established institutions that manage the sustainability of the community's life.

The typical life of indigenous peoples is characterized by a strong relationship with the land and the environment and a value system that determines economic, political, social,

cultural, legal institutions and uses a specific area from generation to generation. Thus, it is clear that every indigenous community has characteristics such as history, tradition, culture, and way of life (Henningfeld, 2009: 15).

The existence of indigenous peoples in Indonesia had existed before Indonesia was formed, indistinguishable from indigenous peoples in Riau Province, which previously consisted of kingdoms such as Kerajaan Siak (1723-1945), Kerajaan Inderagiri (1298-1963) (Suwardi, 2007). Also, other indigenous Riau or Puak Melayu communities such as the Rantau Kuantan, Kampar, Petalangan, and indigenous tribes such as Sakai, Talang Mamak, Akit, Bonai, and the Sea Tribe (Hamidy, 2014). The following is a map of indigenous territories in Riau Province (see figure 1).

According to the map image, can say that almost all areas in Riau Province are customary. The Riau regular community has rights, authority, and sovereignty over natural resources such as land, forests, rivers, and natural resources over their territory. This right is known as Ulayat rights. Indigenous peoples have the authority and rights to benefit from their part and natural resources for their survival.

Legally and formally at the provincial level, policies on recognizing indigenous peoples' rights in natural resource management have been listed in the Riau Province Regional Regulation Number 10 of 2015 concerning Ulayat Land and Its Utilization. However, this policy has an

indispensable weakness, particularly the absence of a map of indigenous peoples' territories in Riau Province; hence, the policy cannot protect indigenous peoples' rights in managing their natural resources.

The protection of the rights of indigenous peoples in managing natural resources according to the Minister of Home Affairs Regulation Number 52 of 2014 concerning Guidelines for the Recognition and Protection of Customary Law Communities requires that policies be made at the district/city level as a legal basis for recognition of indigenous peoples in the area. This policy's substance is to register indigenous peoples' rights to the management of natural resources such as land and forests (Marta et al., 2019). This policy is not yet in existence in Riau Province; thus, indigenous peoples' existence is not legally strong.

Despite the fact with the existing policy instruments, the government must protect and implement citizens' rights, including indigenous peoples' customary rights. This is an advantage of a democratic country as stated by Dahl (2000) that in a democratic country, there is the protection of fundamental rights. This means that democracy guarantees the fundamental rights of citizens. Nevertheless, the indigenous peoples in Riau Province are not sovereign over their constitutional rights in managing natural resources. The arbitrary treatment of the rights of indigenous peoples can threaten the life of democracy.

The threat to democracy occurs due to injustice, discrimination, and

economic disparities experienced by indigenous peoples. They have been living and looking for a living from the natural resources they have for a long time. Nonetheless, these natural resources management has no legal force because there is no district/city level policy to manage these natural resources. The government quickly takes these rights and hands over the management of natural resources such as forests and land to corporations based on permits for forestry concessions and HGU Business Use Rights for plantation companies. The control of companies and corporations over forests and land in Riau can be seen from the power of cultivation space patterns of 78%. Only 22% is allocated for customary forests, community forests, agricultural areas, residential areas, and community plantations. Indigenous peoples no longer have the space to utilize their natural resources because the companies and corporations have already granted management permits on their territory.

This injustice is felt by the Batin Beringin Sakai customary community in Bengkalis Regency, whose area of 7,128 ha is controlled by PT. Arara Abadi, on which there is an oil palm plantation (Jikalahari, 2015). Moreover, according to one of the Sakai traditional leaders who stated: "The conflict with PT. Arara Abadi has tormented indigenous people, and we have felt injustice for a long time" (interview with Datuk Darus, March 25, 2018).

The same thing is felt by the Talang Mamak indigenous people who feel uncertainty and inequality in land and

forest tenure. Previously, government and local government policies have favored business interests and prioritizing investment rather than protecting indigenous peoples' rights. Indigenous peoples do not have property rights and control rights over natural resources in their areas, even though these are the basic rights of indigenous peoples. The effects of globalization and neoliberalism have indirectly led to fundamental changes in the control of natural resources. Land and forest belonging to indigenous peoples in Riau Province were turned into oil palm plantations. Zubir (2018) explains that plantation capitalism causes anomalies in society, including weakening ownership rights to land and other natural resources of indigenous or indigenous communities. Plantation development and forestry licensing are carried out solely for economic orientation. Unfortunately, these economic benefits are not felt by the indigenous people in Riau Province.

Impeccably, in a democratic country, the government must empower people from social, economic, and cultural aspects. Alexander and Wezel (2011) explained that democracy is a type of empowering regime since it provides personal rights, political rights, and democracy to empower the socio-economic and cultural context of society. Socio-economic empowerment is manifested at a high economic level, while social empowerment means values and habits that motivate people to exert their rights, emphasizing freedom, participation, and equality.

The life of indigenous people in Riau Province is still in the poverty line. [Indriani \(2019\)](#), in his report explains that poverty that occurs in Riau Province is in rural areas caused by the impact of land industry permits. This means that the existing land has been controlled by corporations and indigenous peoples only as laborers and has seen its natural resources overtaken and exploited.

Indrani's explanation is compelling if you look at the Riau Provincial DPRD Special Committee (Pansus) facts regarding monitoring and land licensing that there are approximately 1.8 million hectares of illegal oil palm plantations Riau Province. Concurrently, at least 595 forestry's, plantation, and mining companies have seized indigenous or local communities ([Fitria, 2018](#)).

Simultaneously, another fact is that the majority of the operational areas of permits for plantation companies and the forestry sector issued by the government overlap with those of indigenous peoples. This condition causes indigenous peoples to slowly but surely be expelled from their territories. This fact shows that the deprivation of indigenous peoples' rights to the management of their land and forests by corporations is carried out both legally and illegally has impacted indigenous peoples' welfare.

As a matter of fact, it is not uncommon for the deprivation of natural resources of indigenous peoples using violent means ([National Inquiry of the National Human Rights Commission, 2016](#)), such as what was

done to the Sakai indigenous people, the Talang Mamak indigenous people, the indigenous peoples in Kuantan Singing, the Kenegerian Senama Nenek indigenous people, and the Kenegerian Kuntu indigenous peoples.

More than that, the injustice felt is from the control of natural resources and indigenous peoples who feel ecological injustice. This ecological injustice refers to the impact resulting from companies' operations that obtain permits over indigenous peoples' territories, damaging the environment and existing ecosystems. The chairman of the Indigenous Peoples' Dense Council (MKA) of the Malay Customary Institution (LAM Riau) stated that "environmental damage to the territory of indigenous peoples is carried out by the company, for the reason that the indigenous people will maintain their forests and natural resources with their local wisdom" (interview with Datuk Sri Al Azhar, March 16, 2018).

Environmental damage to customary forest areas in Riau has been carried out by companies that have obtained forestry and plantation sector permits. Deforestation and forest and land fires are the biggest contributors to environmental damage in indigenous peoples' territories. Apart from that, environmental pollution from factory waste also occurs in indigenous peoples' areas. This condition is inversely proportional if indigenous peoples manage the forest and land resources. According to their needs, indigenous peoples will protect and conserve forest, land, river, and sea resources with their local wisdom. Natural resources for

indigenous peoples are the source of their life and cultural identity.

Therefore, indigenous peoples in Riau continue to struggle for injustice and discrimination in natural resource management. Indigenous peoples collaborate with NGOs to fight for the rights of indigenous peoples in their regions by advocating for policies on the protection and recognition of indigenous peoples' rights. Nevertheless, recognizing their constitutional rights in managing natural resources has not yet been established by local governments. The Constitutional Court Decision Number 35 the Year 2012 has provided opportunities for indigenous peoples to legalize customary forests. Nonetheless, there are still a few customary forests in Riau Province that the government has legalized until now. This recognition and legalization are crucial for indigenous peoples' survival to provide legal certainty in managing natural resources. This contradicts the ease with which grant companies and corporations permit to manage land, forests, and natural resources on customary areas. [Eyes on the Forest \(2018\)](#) managed to reveal 10 out of 33 companies based on the 2016 Special Committee for Land findings that had violated forest areas' permits. Most of these forest areas belong to indigenous peoples. For the time being, the Advisory Board of the Riau Archipelago Indigenous Peoples Alliance (AMAN) stated that "mapping of the customary territories, Ulayat lands, and customary forests of Talang Mamak has been carried out, but there has been no

stipulation of the Ulayat rights of indigenous peoples by the local government" (interview with Gilung, February 14, 2018).

Recognition from the local government is crucial to protect the Talang Mamak indigenous people's rights in managing natural resources. Companies cannot be arbitrary when the government has legally recognized the rights of indigenous peoples. Heretofore, what has happened has been grabbing indigenous peoples' lands on the government's pretext of permits granted. This condition is experienced by the indigenous people of Talang Mamak, Riau, whose land was "seized" by PT. Bukit Batabuh Sei Indah (PT. BBSI) in 2003, PT. Kharisma Riau Sentosa Prima, and PT. Selantai Agro Lestari (PT. SAL) in 2008. Not only land grabbing, but the company's operations also resulted in ecological damage, particularly the destruction of forests and their ecosystems. This forest destruction occurred in the Sungai Tunu Forest, covering 104,933 hectares, the Durian Cacar Forest covering an area of 98,577 hectares, and the Kelumbuk Tinggi forest 21,901 hectares ([Gilung, 2012](#)).

Furthermore, natural resources for indigenous peoples are their identity and as a source of their economy and livelihood. Meanwhile, this imbalance in ownership and control of natural resources causes indigenous peoples to live in poverty. Indigenous people only work as laborers in their regions, while companies and corporations enjoy indigenous peoples' natural resources. As a form of disappointment with the

prevailing conditions, Patih and Batin Talang Mamak in 2013 made an announcement which included:

“The confiscation of customary territories through government permits to investors in plantations, mining, and industrial plantations has caused us to lose our livelihoods which have resulted in the impoverishment of our lives and implications for the destruction of our social structures and cultural threats. Our customary territories have been transformed into oil palm plantations, mining areas, and acacia plantations”.

Fukuyama (2011) argues that poverty and socio-economic inequality that occurs will not bring political stability to a country. Therefore, it is necessary to take strategic steps to overcome the problem of injustice. One of the measures currently being taken by the government is to provide recognition and certification of management rights to customary communities in Riau for their ancestral forests and lands. Notwithstanding, customary forest certification in Riau has only been carried out in Imbo Putui customary forest for Kenegerian Petapahan covering 251 hectares and Kenegerian Kampa customary forest area of 156.8 hectares. Based on the certification carried out by the government for this customary forest, the customary community gets legal access to managing natural resources in the forest area. However, when viewed from the extent of the customary regions

in Riau, the number of certified typical forests is still very minimal.

Customary communities that have not received customary forest certification can still exercise their rights in managing natural resources in their customary territories. Conflict with the corporation cannot be avoided because indigenous peoples' access to their sources of life is closed. Indeed, indigenous peoples have become objects of criminalization, as happened to the Sakai indigenous people and the Kenegerian Siberakun indigenous people in Kuantan Singing Regency, Riau. The company reported the customary community for fighting for the Ulayat rights of their customary communities and demanding management rights over forest and land resources. This action is a form of companies and corporations' efforts to “expel” indigenous peoples from their territory.

The National Inquiry of the National Human Rights Commission (2016) explains that there are several forms of violations of indigenous peoples' rights, specific neglect of indigenous peoples' legal recognition and the eviction and forced displacement of indigenous peoples. Thus, based on these criteria, it can be said that there have been violations of indigenous peoples' rights in Riau, particularly the failure to fulfill their rights in natural resource management. This results in the uncertainty of indigenous peoples' status in managing natural resources and losing their sources of life.

The management of natural resources by indigenous peoples is a

form of economic rights and social and cultural rights fulfillment. Natural resources, both forests, and land have social and cultural value because of indigenous peoples' rights for their communities' survival. Forests, Lands, rivers, and natural resources indicate indigenous peoples' identity and existence within the state.

Therefore, as a country that has chosen democracy as a political life system, impeccably recognition of human rights is not only at the regulatory level but can be implemented de facto. Violence against human rights continues. This shows that democracy is merely rhetoric. Rhetorical democracy, according to Hauser, specifically: *A rhetorical democracy is not merely a collection of whatever is said under the banner of free speech, nor is it synonymous with deliberative democracy if that formulation implies a normative standard of rational discourse. Relations that involve conflicts, negotiation, and compromise seldom adhere to philosophers' standards for reaching rationally warranted assent* (Hauser & Grim, 2004: 9).

The implementation of customary community rights in natural resource management in Riau is more than just promises that have been made in legal products and are continuously campaigned by political and government elites. Nonetheless, the realization of these rights has not yet been achieved. Weak political leadership and government in protecting indigenous peoples' rights prove that the commitment to democratic values is inadequate. Commitment to democratic values

according to Fuchs (2007) is a culture that can build a democratic system.

Democracy is no longer functioning and shows low quality when its citizens' basic rights have been deprived. This condition according to O'Donnell (2007) will cause democracy to experience a crisis. In the context of indigenous peoples' rights, the state is unable to provide inclusive social protection. Apart from that, the government has also not been able to carry out the constitution's mandate in managing natural resources for the people's greatest prosperity. Natural resources owned by indigenous peoples have not improved their welfare since their management rights do not rest with indigenous peoples.

Furthermore, the implications of injustice, discrimination, and poverty experienced by indigenous peoples have led to a legitimacy crisis. The legitimacy crisis that can threaten democracy according to van-Beek, Fuchs and Klingemann (2019) occur for the reason of the inability of the political and government elites who are unwilling and unable to carry out the will of the people. This is evidenced by the facts on the field, that indigenous peoples have a slogan that shows a crisis against the government's legitimacy, namely "If the state does not recognize us, then we will not recognize the state". This condition shows that substantively, there has not been a democratic life, despite the quality or quality of democracy decreasing and increasingly threatened by the problem of violations of indigenous peoples' tenure rights.

On the other hand, if the state can protect its citizens' human rights, it will strengthen the government's political legitimacy. This is as stated by [Meckled-Garcia \(2014\)](#) that a country has political legitimacy if it can protect citizens' basic rights.

The threat to democracy or what in other words is called by [Diamond \(2015\)](#), particularly democratic recession, or by [Bermeo \(2016\)](#), who calls the term democratic backsliding, has the same thing: the damage to democracy is caused by not exercising the freedom and rights of citizens. As a fundamental element of democracy, the rule of law cannot run well due to the elite's strong hegemony. The regime has failed to fulfill its obligation to protect indigenous peoples' rights and at the same time "ignore" the deprivation of indigenous peoples' rights and environmental damage in indigenous peoples' territories. The regime's actions have not entirely led to authoritarianism but have contributed to the destruction of democracy and the de-consolidation of democracy.

CONCLUSION

A democratic government provides equal opportunities for every citizen in exerting their constitutional rights, including for indigenous peoples. The indigenous peoples in Riau Province as one of Indonesia's indigenous communities are blessed with abundant natural resources. Nevertheless, the indigenous peoples in Riau Province cannot enjoy their constitutional rights in managing natural resources, indeed if what happens is discriminatory actions,

injustice, and poverty. The commitment of political leadership and government in fulfilling the rights of indigenous peoples is still weak. The political and government elites' behavior shows rejection of the fundamental democratic values, specifically the enforcement of human rights.

Furthermore, threats to democracy also occur in light of the legitimacy crisis against the government regime. The crisis of legitimacy will contribute to the destruction of democracy. The democratic order will become shaky when the rule of law cannot guarantee indigenous peoples' rights. Conflicts will continue to occur if the state is not present to recognize and protect citizens' rights. The reality experienced by indigenous peoples in Riau Province will contribute to the de-consolidation of democracy. Therefore, the ongoing process of democratic de-consolidation needs to be prevented so that the quality of democracy can be maintained and developed.

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