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## **THE VIOLENCE IN CONFLICT OF NATURAL RESOURCES TENURE RIGHTS- COMPANIES VS TRADITIONAL COMMUNITIES IN INDONESIA**

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### **ABSTRACT**

Over the past 12 years, the escalation of violence in conflicts arising from disputes over natural resource management rights between corporations and indigenous communities has become a growing concern across all regions of Indonesia. This abstract introduction highlights the urgent need to address the rising tensions and clashes associated with the competing claims to and utilization of natural resources in the country. Therefore, this study aimed to analyse the causes of violence and conflict resolution over natural resources using an empirical legal study with a socio-legal approach adopted through a case study in Bengkulu Province, Indonesia. Informants for the study were selected using a snowball sampling technique, ensuring a diverse and representative range of perspectives. Secondary data was obtained through a literature study by tracing information from journals, books, and the internet, and data analysis was carried out qualitatively. Furthermore, an analysis was performed on the findings

of other studies concerning instances of violence in conflicts related to forest and mining resources. This research found that (1). The violence occurred because the company did not respect the customary community's natural resource control rights. (2). However, violence can be stopped through violence or mediation (3). Resolution of violence in conflict can only be done through mediation. The authors recommend that: (1). The practice of resolving violence in conflicts of rights over natural resources through mediation needs to be strengthened by the government to realize justice for all. (2). In indigenous communities, apart from state law, the legal landscape is still heavily influenced by customary law and religious law.

**Keywords:** Companies, conflict, indigenous peoples, natural resources, tenurerights, violence.

## INTRODUCTION

Natural resources are an essential requirement in human life, maintaining their significance across generations. The need for land endures to meet housing, business, and daily societal and state needs, including the requirements for the deceased. Conflicts on land were infrequent due to the extensive availability of land when the population was less dense. However, as populations grew and urbanization expanded, the demand for land intensified, leading to heightened conflicts over its ownership and usage. This article acknowledges the historical importance of natural resources while emphasizing the evolving dynamics that have given rise to contemporary challenges in managing land-related conflicts. The abundance of natural resources did not necessitate discussions about matters of justice and injustice in managing these resources. Currently, the global population is experiencing increased density. According to the official UN website, the world's population reached 7 billion, 7.4 billion, and 7.7 billion people in 2011, 2016, and 2020, respectively. Projections suggest that by 2030 and 2050, the population is expected to expand to 8.5 billion and 9.7 billion people, respectively (Gischa, 2020).

One of the contributing factors to conflicts arising from the management of natural resources is the widespread phenomenon of people losing ownership and control due to actions taken by employers and authorities. As industries and governments pursue resource development projects, local communities often find themselves

dispossessed of their land and resources, leading to grievances and disputes. This conflict is pervasive across various regions, prompting the formation of organized movements among groups of individuals who have been deprived of their rights to own and manage these natural resources.

Movements around the world involved in the wave of control over natural resources have become a force that suppresses the government. The late 1980s and 1990s were marked by the maturation of a new movement of landless peasants and rural workers who organized and undertook actions to expropriate or reactivate abandoned land. This movement has brought problems to the national and international levels in controlling, occupying, and cultivating abandoned lands, resulting in loss of life and arrests. These movements are proliferating in Brazil, Paraguay, Bolivia, Honduras, Nicaragua, South Africa, Zimbabwe, Indonesia, Thailand, and India. In Brazil, more than one million people have seized 8 million hectares of land through the actions of the Landless Labour Movement (La Via Campesina, 2008). Similar tendencies were also seen in Indonesia after the 1998 reform movement.

Conflicts over the control of natural resources in Indonesia from 2000-2019 are very concerning because they are almost evenly distributed in all provinces. Throughout 2016, there have been at least 450 natural resource conflicts involving 86,745 heads of households. The conflict concerns controlling and owning 1,265,027 hectares of land (Dewi Kartika, 2016). The conflicting parties involve local communities pitted against corporations, farmers opposing companies, and indigenous peoples in confrontation with corporate entities.

Generally, conflicts are caused by different views on the legal status of ownership of natural resources. Communities retain hereditary and informal tenure rights based on customary law, while companies control natural resources based on a formal regulatory system. This clash of legal perspectives often leads to disputes over land and resource ownership, contributing to the escalation of conflicts between various stakeholders. The 1960 Basic Agrarian Law (BAL) provides regulations and does not fully align with the complete tenets of customary Law.

Under customary law, ownership of natural resources is based on physical land tenure, while in 1960, BAL was based on proof of

ownership certificates. In customary law, the community acknowledges the individual who holds control over land through customary rights as the rightful possessor, and interference is generally prohibited. However, these natural resources should not be neglected because this action negatively affects the community. Abandoned land will return to customary rights, and other people can control the land for use. The legal gap between the 1960 BAL and customary Law has resulted in conflicts over control of natural resources based on certificates issued by the government (Sufriadi, 2013).

Every country implements a land policy framework and in the case of Indonesia, land rights registration is used, referencing the 1960 BAL. Meanwhile, Malaysia employs a rights registration system known as the National Land Code (NLC). Despite its introduction to the 1960 Basic Agrarian Law, Indonesia has not completed the full implementation of its land registration mandate. Indonesia and Malaysia are actively addressing deficiencies in their respective land registration systems, which are informed by challenges encountered. This necessitates an enhanced role for the two primary stakeholders to streamline administrative processes and foster community involvement, bolstering the efficacy of land registration efforts (Ricco et al., 2022).

The circumstances of indigenous peoples mirror those of the inhabitants of Negeri Sembilan, Malaysia. In Kampung Parit Gong, the Orang Asli community has maintained its commitment to the 'adat perpatih' tradition over an extended period. Noteworthy concerns have been articulated by the Orang Asli residing in Kampung Parit Gong, primarily centered around ensuring their rights to ulayat land and safeguarding these entitlements for generations (Kamilah Wati Mohd et al., 2021).

To attract investors to invest, the New Order government regime adopted a policy of facilitating the supply of natural resources needed by entrepreneurs. The government carries out land acquisition according to the type of business entrepreneurs required. Based on the results of previous studies, the process of procuring natural resources is performed. Even though there is a requirement to obtain an agreement with the owner of the natural resources to be released, deliberations to determine compensation are not based on the approval of the owners of natural resources (Sufriadi, 2011).

During the repressive New Order government regime, conflicts over control over natural resources did not surface due to suppression by the security forces since the New Order government regime ended and was replaced by a democratic government regime in 1998, conflicts over control of the natural resources have merged in various regions.

Land tenure conflicts in Indonesia encompass indigenous communities scattered across nearly all provinces. The persistence of these conflicts can escalate into heightened acts of violence if left unresolved, posing a direct threat to investment and development initiatives. Numerous studies have been undertaken to explore the complexities of conflicts related to the control of natural resources in Indonesia. However, the study that aimed to explain causes and ways to stop and resolve violence in natural resource control conflicts between companies and Indigenous Peoples has not been conducted. This study aimed to explain the causes and ways to stop and resolve violence in natural resource conflicts. The questions are: (1). Why is there violence in conflicts over natural resource control rights? and (2). How is the resolution of violence in conflicts over control of natural resources in Indonesia?

## **METHODOLOGY**

This study was conducted using empirical legal studies through case studies in two districts with different triggers for violence. In the Seluma district, violence by indigenous peoples was in retaliation for those perpetrated by the company. In contrast, in the North Bengkulu district, violence occurred due to the company's delay in completing compensation payments and determining the boundaries of plantation land belonging to indigenous peoples. This study employed a socio-legal approach to examine incidents of violence within conflicts over plantation land tenure in Bengkulu Province, aiming to comprehend the legal norms within the community. Primary data were gathered through interviews with informants selected via snowball sampling. The informants were identified by tracing the involved parties, exploring the factors contributing to violence in conflicts, understanding the motivations for ceasing violence and embracing conflict resolution, and identifying third parties instrumental in resolving the conflicts. Secondary data was obtained by tracing information from journals, books, and the internet using a qualitative approach. A comparison analysis was also carried out on the results of other studies conducted

on conflict violence in mining management in the Nusa Tenggara Province and violence in Forest Management Conflicts in Lampung Province, Indonesia.

## **LITERATURE REVIEW**

### **Natural Resource Concession Rights in Indonesian Law**

The Constitution of the Republic of Indonesia (RI) in 1945 outlines that the earth, water, and natural resources fall under state control and should be utilized to maximize the welfare of the people. This constitutional framework is elaborated in various laws, including the Agrarian Act of the RI in 1960, which delineates that rights to land encompass property and cultivation rights. Property rights, considered the most robust and comprehensive, are hereditary and pertain to Indonesian citizens, regulated further by Government Regulation regarding property rights acquired under customary law. Additionally, the Right to Cultivate grants entitlement to engage in agricultural, fishery, or animal husbandry activities on state-controlled land for up to 25 years, extendable for another 25 years. Cultivation rights are bestowed upon Indonesian citizens and legal entities as per governmental decisions and are subject to state control if unused.

The Forestry Act of 2009 delegates the granting of forest utilization rights through permits to individuals, cooperatives, Indonesian privately-owned enterprises, and state or regionally owned enterprises. Furthermore, the Indonesian Mineral and Coal Mining Act of 2009 stipulates that mining concession rights are conferred through mining business permits, building on regulations established by the Mining Act of 1967. These legislative provisions collectively form the legal framework governing the control and utilization of land, forestry, and mineral resources in Indonesia.

Enterprises that exercise rights over the utilisation of natural resources may incite conflicts with indigenous communities when they fail to uphold and acknowledge the rights held by customary law-based societies historically governed through customary rights.

### **Violence in Conflict: Causes and Resolution**

Dahrendorf (1968) argued that society has two faces, namely conflict and consensus. Therefore, sociological theory should be divided into

conflict and consensus theories. Conflict theory analyses conflicts of interest and the use of violence to bind people together in the face of stress. Meanwhile, consensus theory examines the value of integration in society. The conflict has a structural source, namely the power relations that prevail in the social structure, showing a pattern of superordination and subordination relationships. Furthermore, it may occur between groups holding authority positions and subordinate groups with specific interests.

Fisher (2001) explained that the causes of conflict are (a) polarisation, mistrust, and ongoing hostility between different groups in society (b) incompatible positions and different views on the conflict by the parties to the conflict (c) basic human needs, whether physical, mental, or social, that are not met or hindered (d) threatened identity is often rooted in losing something or unresolved past suffering (e) problems of inequality and injustice, such as social, cultural, and economic problems and (f) incompatibility of means of communication between different cultures.

Camara (1979) introduced the concept of a cycle of violence in which the propagation of violence leads to its escalation. This concept serves as a reminder that the initial form of violence is often rooted in injustice, giving rise to subsequent acts. It may materialize as widespread rebellion or resistance against existing injustices, serving as a secondary form of violence. This secondary violence has the potential to escalate into state-sponsored violence, implemented with the aim of maintaining public order.

Ade Saptomo (2010) stated that conflict can be seen in 3 stages, namely (a) pre-conflict, (b) conflict, and (c) dispute. The precursor to conflict emerges when an individual or a collective perceives an effect inflicted by another individual or group. This precursor, referred to as pre-conflict, may not invariably escalate into a full-blown conflict when the aggrieved party elects to endure the incurred loss or defers the confrontation, awaiting an opportune moment. Conversely, the progression from pre-conflict to full-fledged conflict occurs when those aggrieved find it untenable to bear the injustice and instead voice their grievances to the opposing party involved. The transition to an overt conflict is contingent on the opposing party's response to the aggrieved party, and the handling might facilitate an autonomous resolution between the conflicting entities. However, an inadequate response from the conflict's opponent prompts the conflict to manifest overtly and become a matter of public awareness. External parties begin

to engage actively with the prevailing inequity or discord. A conflict assumes the nomenclature of a dispute when legal mechanisms, such as a court, are employed to mediate and redress the conflict.

The engagement of a third party within a conflict can transpire through the instigation of the conflicting parties or their advocates (Nader & Tood, 1978). Disputes or conflicts can lead to acts of violence to impose will on the opponent of the conflict. At the conflict stage, acts of violence occur when the opponent does not respond well to complaints from the aggrieved party. At the dispute stage, acts of violence occur when the dispute cannot be resolved or the resulting settlement decision is considered unfair by the aggrieved group.

Pruitt and Rubin (2004) proposed five conflict resolution strategies: (a) contending, namely trying a solution preferred by one party over another, (b) yielding lowers the ideals of people and accepts less than desired; (c) problem-solving, namely looking for alternatives that satisfy the aspirations of both parties, (d) drawing, which is selecting to leave the conflict physically and psychologically, and (e) inaction. Nader and Tood (1978) proposed seven ways to resolve disputes: (a) lumping, (b) avoidance, (c) coercion, (d) negotiation, (e) mediation, (f) arbitration, and (g) court.

According to Chambliss and Seidman (1971), there are two goals to be achieved in dispute resolution. The focus naturally shifts towards mediation and the adoption of compromise strategies when the objective is to facilitate the eventual harmonious coexistence of the disputing parties following the resolution of their differences. Conversely, when the primary aim involves the enforcement of regulations, resorting to a judicial settlement through a court may be the preferred course of action (Rahardjo, 2009).

The resolution of conflicts through mediation and compromise, as per the cultural values of the community, reflects a specific approach deeply rooted in legal culture. Legal culture encompasses two key sets of values: procedural and substantive. The utilization of mediation and compromise as a method of conflict resolution is distinctive due to its alignment with the prevailing cultural values within society, making it a conceptually supported approach. Procedural values in compromise and peace are a bridge to achieving substantive values in the form of justice (Warassih, 2005) in the theory of legal pluralism



put forward by Griffiths (1986), state, people, and religious laws are applied in society.

## **RESULTS**

### **Cases of Violence in the Conflict of Cultivation Rights in Bengkulu Province**

Violence are present within the conflict regarding cultivation rights between indigenous communities and companies in Bengkulu Province. These instances have appeared in specific geographic locations and involve different indigenous groups. Specifically, the conflict unfolds between two indigenous population, situated in Seluma and the other in North Bengkulu Regency. The indigenous groups find themselves in contention with the Sandabi Indah Lestari Company. This conflict traces its origins to the acquisition of land owned by the Way Sebayur Company by the Sandabi Indah Lestari Company through a 2011 auction. The company's ownership of the land had been dormant for many years and was due to expire in 2012. As a result, indigenous communities in these two distinct locations have farmed significant portions of this land.

#### ***Violence in the Conflict of Cultivation Rights between Indigenous Peoples in Seluma Regency and the Sandabi Indah Lestari Company***

The Way Sebayur Company obtained land rights for cultivation from the Government of Indonesia in 1987. The land granted covers an area of 2,812 hectares, located in the customary forest area of 5 villages (Tumbuan et al.) in Seluma Regency, Bengkulu Province. The company has only succeeded in planting oil palm in a small part of the area, and the rest has been abandoned. The Way Sebayur Company's ownership of this land came to an end on December 31, 2012 (Simbolon, 2011).

The previously unutilized tract of land, which is the property of the Way Sebayur Company and dates back to 2004, was made available for communal cultivation under the auspices of a formal communication, specifically Letter Number 700/II/BPP 2004, extended by the Office of the Bengkulu Governor. According to the message, 511 household heads from five different villages in the Seluma Regency

of Bengkulu Province planted oil palm trees on an empty plot of land given to the Way Sebayur Company for cultivation (Pakpahan, 2011). Subsequently, ownership of the land was effectively transferred to the Sandabi Indah Lestari Company, accomplished through a public auction conducted on February 9, 2011. During the same year of acquisition, the construction of a facility was initiated at the very location previously designated for cultivation.

Conflicts ensued when the community converged on the premises of the company camp to voice their unequivocal dissent against the Sandabi Indah Lestari Company. The company's response to the objection was far from amicable but led to the forceful uprooting of thriving oil palm plantations owned by residents. This unwarranted eviction triggered widespread outrage among the numerous farmers who held rightful ownership of these plantations. The culmination of this distressing situation transpired on September 29, 2011, when a multitude of disgruntled farmers equipped with menacing weaponry assembled at the company's camp. Subsequently, they proceeded to incinerate two units of the company's bulldozers, destroy thousands of oil palm seeds, and set ablaze three motorbikes under the possession of company personnel. The scale of destruction was substantial, involving the conflagration of two company guard posts, multiple buildings, and various structures owned by employees. The deliberate incineration extended even to the company's diesel fuel reserves, including approximately ten drums of diesel transport tanks emblazoned with the Pertamina insignia. Moreover, the arson extended its impact to five wheelbarrows designated for seed transportation and the tents that catered to the accommodation needs of company leaders and staff members. Despite the presence of security personnel, the onslaught of irate residents wielding sharp implements proved insurmountable. Meanwhile, local law enforcement authorities, represented by the Bengkulu Police, took proactive measures by deploying a platoon of police personnel to the conflict zone to reinstate and maintain security (West-Seluma Police et al., 2011).

The Seluma Regent started making efforts to stop the violence in disputes over land for oil palm plantations between the Sandabi Indah Lestari Company and indigenous peoples in Seluma Regency. On December 28, 2011, the Regent of Seluma held a meeting with both parties to the conflict to mediate. In this meeting, the Seluma Police Chief and elements from the Bengkulu Province Land Agency were also present.

The Head of the Bengkulu Province Land Agency Office, Binsar Simbolon, offered two solutions to mediate the conflict. First, the company provides land to farmers, which will be handed over to the Seluma Regency. Second, compensation is provided to farmers who do not want to accept the gift of land, the amount of which will be calculated together.

The farmer, represented by the Chairman of the Farmers Association, rejected the two options offered because the land used by the community was Way Sebayur Company land and was declared abandoned by the Bengkulu Provincial Government in 2004. The land of the community has become their property, not because of a gift from the Sandabi Indah Lestari company. Furthermore, the meeting failed to agree on what was offered by the Head of the Provincial Land Agency. The Seluma District Government agreed with the company and farmers that conflict land was the status quo and prohibited both parties from carrying out activities on conflict land (Suhadi, 2011).

The Bengkulu Regional Police successfully mediated the conflict between the Sandabi Indah Lestari Company and the Tani community on January 29, 2012, despite the fact that it has not yet ended. In this mediation, the company pleaded guilty to eviction and destroying farmers' crops, and is willing to render compensation (West-Seluma et al., 2011).

The government of Indonesia is swift in providing guarantees for the certainty of cultivation rights of the company. In October 2014, the National Land Agency of the Republic of Indonesia issued Letter Number 163/HGU.BPNRI/2014, dated October 20, 2014, regarding the Granting of Cultivation Rights to the Sandabi Indah Lestari Company covering an area of 2,204 hectares, a decrease of 508 hectares from the previously owned Way Sebayur Company. Subsequently, the National Land Agency of Indonesia also issued a certificate of ownership of the Sandabi Indah Lestari Company number HGU: 10011, dated November 24, 2014 (Bengkulu Province Land Agency Regional Office, 2019). However, the government pays little attention to guaranteeing the certainty of land rights for farming communities.

The oversight in ensuring the certainty of land rights has led farmers from five villages in Seluma Regency to file complaints with the

Team for the Acceleration of Agrarian Conflict Resolution at the Presidential Staff Office of Indonesia. This team is specifically mandated with expediting the resolution of agrarian conflicts across different regions of the country. The Seluma community's complaint received a response from the team at the Office of the Presidential Staff of Indonesia by visiting the conflict area on March 23, 2018, to ensure data on public complaints. During the visit, members of the team explained that the resolution of conflicts between companies and the community requires coordination and cooperation between the central of regional governments, as well as the National Land Agency. Therefore, the team requested that the Seluma Regency Government form a Team to resolve agrarian conflicts (Iwan Nurdin, 2018). Until January 9, 2019, the forum chairperson had not received certainty on the results of the conflict resolution (Pakpahan, 2019).

### ***Violence in the Conflict of Cultivation Rights Between the People of North Bengkulu Regency and the Sandabi Indah Lestari Company***

The Sandabi Indah Lestari Company acquired the cultivation rights of the Way Sebayur Company in 2011 through a formal auction process. This acquisition included a total expanse of 3,516 hectares situated in the Ketahun District of the North Bengkulu Regency. Many of these hectares remained dormant after the initial procurement in 1987. The (Bengkulu Province Land Agency Regional Office, 2013) indicated that these rights were due to expire on December 31 according to Korumwel's 2013 documentation, the local community was subject to the initiative to cultivate the unused land nearby and turn it into rubber and oil palm plantations. In the same year, the Sandabi Indah Lestari Company also procured the cultivation rights of the Trimanunggal Pacific Abadi Company. This acquisition comprised a land area of 5,812 hectares, positioned contiguous to the Way Sebayur Company's property. Consequently, the consolidated land holdings of the Sandabi Indah Lestari Company aggregated to an impressive 9,328 hectares. The company came across a situation where 918 families from two different villages had claimed and were cultivating the newly acquired land after starting the preparations for the cultivation of oil palm. These villages, namely Simpang Batu Village and Lembah Duri Village, had taken charge of the land for rubber and oil palm planting under the guidance of 918 heads of families, as recorded by Prasetyo in 2013.

The conflict erupted between the Sandabi Indah Lestari Company and the locals in the Ketahun Subdistrict of the North Bengkulu Regency when the company disputed the land's ownership.

The agricultural community expressed their dissent towards the company's requisitions and formally lodged their objections. The leadership responded receptively to the concerns of the community by assuring that appropriate compensation would be provided for the cultivated plantation land. The community engaged in farming activities patiently awaits the materialization of the commitments made by the Company's management. Despite the passage of a year, the company has not fulfilled its pledged obligations. Confronted with the company's failure to honour its commitments, the farming community subsequently approached the leadership of the People's Representative Council of North Bengkulu Regency. The objective is to solicit assistance in facilitating the resolution of the ongoing land dispute (Korumwel, 2013).

The North Bengkulu Regency House of Representatives has fulfilled the request of the community from two villages in the Ketahun sub-district to mediate the conflict with the Sandabi Indah Lestari company. On February 25, 2013, the meeting, was attended by community representatives from two villages and the management. Furthermore, the company agreed to compensate the farming community during the meeting, and individuals who wished to continue cultivating their land were allowed.

The agricultural communities seek unequivocal reassurance regarding the fulfilment of the pledged commitments. During a convened meeting, the farming community formally appealed to the National Land Agency of North Bengkulu Regency to promptly undertake land measurements to establish legal clarity and certainty. In response to the petition, the North Bengkulu Regency Government and the National Land Agency took proactive steps in implementing the accord reached between the company and the community residing in the two villages within the Ketahun District. The objective is to facilitate the execution of the commitments, ensuring a resolution that aligns with the interests of all parties involved (Korumwel, 2013).

On February 27, 2013, the residents of Simpang Batu and Lembah Duri Villages held a meeting with the agenda of reading out the results of the meeting at the North Bengkulu Regency House of Representatives regarding the conflict with the Company, two days earlier. During the meeting, the farming community was disappointed with the attitude of the company's managers, who only repeated their

promises without explaining the efforts to fulfil them. The farming community then made the decision to temporarily halt the activities by closing the road access to the Way Sebayur Company's property (Head of Lembah Duri Village, Ketahun District, North Bengkulu, 2013). Even though the road access closure was being carried out, hundreds of other residents burned the facilities of the Sandabi Indah Lestari Company. Apart from 19 office buildings and employee base camps, residents also burned warehouses, two Taft cars, one truck, and one motorbike. The violent land conflict received police security the next day to maintain the situation in the area (Ketahun et al., 2013).

The violent resolution of the land use rights conflict between the Sandabi Indah Lestari Company and communities from 2 villages in North Bengkulu was initiated by the Governor of Bengkulu and the Regent through mediation on February 23, 2013. The head of the North Bengkulu branch of the Sandabi Indah Lestari company, the Bengkulu Police Chief, the Bengkulu Military Commander, and elements of the Bengkulu Province Land Agency attended the meeting. Under the directive of the Governor of Bengkulu, the management of the company has been mandated to promptly finalize the compensation procedure for the land owned by the farming community. Non-compliance with this directive would lead to the farming community maintaining control over the cultivation of their land, preventing it from being classified as part of the property holdings. The management has clarified that the compensation process for approximately 1,900 hectares, owned by 700 families, has been successfully concluded. The measurement process for an additional 1,200 hectares of land is currently underway, and when the community declines the offered compensation, their land will not be incorporated into the property holdings of the company (Hamsyah, 2013).

The communities residing in the two villages have acknowledged and accepted the proposed method of conflict resolution. Subsequently, they approached the North Bengkulu Regency Government to ensure that the company refrains from displacing the plantations owned by 700 families within the vicinity. In response to the appeals of the community, the North Bengkulu Regency Secretary confirmed that an official agreement had been drafted to address the concerns of farmers. Therefore, the North Bengkulu Regency Government will prevent the company from displacing the land that the farming community has not been compensated for. Conversely, the farming community is

unable to reclaim land that has already been compensated for by the company. Moreover, they are prohibited from initiating cultivation on land owned by the company (Said Idrus Albar, 2015).

### **Cases of Violence in Forest Land Conflicts Between Silva Inhutani Company and Indigenous Peoples in Mesuji, Lampung Province**

Indigenous Peoples in Mesuji Regency, Lampung Province, since 1917- 1918, have established Talang Batu Village, which consists of several hamlets, namely Talang Gunung Hamlet, Tanjung Harapan Hamlet, Setajim Hamlet, and Pelita Jaya Hamlet (Report of the 2012 Joint Fact Finding Team of the National Human Rights Commission of Indonesia). The Dutch colonial government in 1940 determined the forest area in which there were settlements of indigenous peoples. The Dutch colonial government in 1940 determined the forest area in which there were settlements of indigenous peoples. 33,500 hectares are the designated production forest area by the colonial government (Government Forms Joint Team for Human Rights Violations in Mesuji, 2011). After achieving independence, the government undertook the transformation of industrial forest plantation areas into cultivated land. This modified land classification was allocated to the Silva Inhutani Company in 1991. In 1997, the allocation was expanded to encompass a substantial expanse measuring 43,100 hectares.

The native inhabitants of Talang Batu Village asserted that within the scope of the Industrial Plantation Forest allocated to the Silva Inhutani Company by the government, a parcel spanning 7,000 hectares constitutes their traditional forest territory. Additionally, the indigenous community lays claim to 2,600 hectares of land within the same region, citing it as their customary forest land. Tensions surrounding land use escalated as these two indigenous groups contended over land they were cultivating. The Governor of Lampung dismissed this claim, affirming that the designated production forest area is government-owned land (Komang Jaka Ferdian, 2017).

The initial instance of violence within the context of the forest land conflict transpired through collaborative actions conducted by the company security officer and the police officer. This partnership culminated in the displacement of Talang Batu Village, where domiciles belonging to its inhabitants were forcibly demolished using substantial mechanised equipment. The expulsions executed by the combined

forces of the company security apparatus and police personnel on 10<sup>th</sup> of March, 2010, encountered no opposition. After that, there was another violent incident while a group sent by the Lampung Provincial Government was spreading information and making sure that rules about the community's palm oil forests were being followed. An integrated task force that the Governor of Lampung convened was in charge of this oversight and public awareness initiative. A total of 153 members were drawn from constituents of the Lampung Regional Police, the Lampung Provincial Government, the Head of the Lampung Province Land Agency, and personnel from the Indonesian National Armed forces orchestrated the endeavor. In the course of this operation, 60 representatives of the National Police were engaged in enforcing compliance, only to encounter resistance from the displaced residents. The ensuing confrontation led to the application of lethal force by the police against the community members, inciting the ire of other local inhabitants. This altercation resulted in the injury of one community member, culminating in a fatality. As an act of reprisal, the residents orchestrated the conflagration of 130 corporate residences, a company security outpost, a fuel oil depot, and sundry other storage facilities (Saud, 2011).

The conflict over forest land tenure between the Silva Inhutani Company and the indigenous peoples in Mesuji, Lampung Province, began when the Silva Inhutani Company acquired forest land from the government located in the village and community customary forest. Violence in this conflict occurred when the company and the police carried out evictions against indigenous peoples and met resistance.

### **Cases of Violence in Mining Land Conflicts Between Newmont Company and Indigenous Peoples in West Nusa Tenggara Province**

The Newmont Company acquired the mining area in 1986 in the Batu Hijau forest area, West Sumbawa Regency, covering 550,856 hectares. Exploration activities started in 1996, based on a contract with the Government of Indonesia (Salamudin Daeng, 2010). In 2003, the government expanded the Newmont Company's Mining Area to 119,675 hectares in the Elang Dodo customary forest area. The Elang Dodo Forest is the customary forest of the Lebangkar Village community, which is an ancestral heritage. This forest is a place for



religious rituals for the people of Lebangkar Village. On religious holidays like Eid al-Fitr, people often make tomb pilgrimages. They refused and demanded that the Newmont Company stop mining exploitation in the Elang Dodo Forest area and leave their ancestral land. Demonstrations at the Newmont Company and Sumbawa Regency Government offices showed the demands of the community after taking two Newmont Company employees hostage (Gaung NTB, 2004).

The Sumbawa Regency Government and the Newmont Company conducted negotiations with the people of Lebangkar Village, beginning with the socialisation of mining exploration activities. This meeting was due to differences in perception between the community and the Sumbawa Regency Government regarding the status of the Elang Dodo forest. The government considers the Elang Dodo state forest, while according to the community, the forest is their ancestral land and customary area. The meeting only angered the community by stopping the activities of the Newmont Company. The community set fire to a camp belonging to a Newmont Company sub-contractor who was exploring the Elang Dodo forest area (IMC, 2006).

According to S. Salim (2012), there was a conflict between the community and the Newmont Company because of:

- a. The Balo Tolo land was not recognised by the Sumbawa Regency Government and the Newmont Company because both institutions stated that the status of the land was in the Elang Dodo forest with the function of protected forest, production forest limited, and production forest.
- b. The Labangkar community requested compensation in the form of individual compensation, but the Newmont company did not provide it. Meanwhile, the agreements between the Sumbawa Regency Government and community leaders, village heads, and heads of the Village Consultative Body in Ropang and Lantung District, and Sumbawa Regency, are communal.
- c. The Newmont Company did not employ some residents of Ropang Village, Ropang District, Sumbawa Regency.
- d. The lack of socialisation carried out by Newmont Company in the implementation of mining activities at Elang Dodo Indigenous peoples of Samawa almost entirely desired conflict resolution using customary law.

## **ANALYSIS AND DISCUSSION**

This study aims to analyse: (1) Causes of violence in conflicts over rights to control natural resources and (2) ways to resolve violence over rights to control natural resources;

### **Causes of Violence in Conflicts Over Natural Resource Tenure Rights**

The results indicated that companies involved in conflicts with indigenous peoples obtained natural resource management rights from the government in the previous regime. The Sandabi Indah Lestari Company in Bengkulu Province purchased the Way Sebayur company land, which the Government gave in 1987. The Silva Inhutani company in Lampung Province acquired industrial forest plantation land in the customary forest area in 1991. It expanded in 1997, then the Company Newmont in the province of West Nusa Tenggara obtained mining management rights through a cooperation contract with the Government of Indonesia in 1987, then expanded to the Elang Dodo customary forest area in 2003.

The previous authoritarian government was actively involved in providing the land needed by the company. The government was very interested in increasing economic growth through foreign investment. In carrying out the provision of land for the company, the community's rights were ignored to manage natural resources based on customary law. The way companies provide land that ignores community rights is unfair. Indigenous people do not fight back due to pressure, intimidation, and arrest. Indigenous peoples postpone the conflict against injustice, waiting for the right time. (Pruitt & Rubin, 2004).

In the aftermath of the transformation of the democratic power regime in 1998, land conflicts have surfaced between indigenous communities, corporate entities, and governmental bodies across nearly all provinces within Indonesia. This conflict over natural resources unfolds within a dynamic of entities holding authoritative roles, with indigenous peoples assuming a subordinate position. (Dahrendorf, 1968). This is the weakness of authoritarian regimes that do not provide equal treatment between indigenous peoples and corporate entities. The law oppresses groups that are weak politically or socio-economically.

The results of this study indicate that injustice is the main cause of conflicts over natural resource tenure rights. Violence can only stop conflict and cannot resolve conflict.

### **Ways of Resolving Violence in Conflicts Over Natural Resource Tenure Rights**

Violence in conflicts over natural resource management rights can be stopped or resolved through mediation. In a successful mediation, the company must respect and recognize community-owned land and provide compensation for the eviction and destruction of huts and plants belonging to the community by the company. On the other hand, mediation was unsuccessful when the company asked for compensation for damage to the company's facilities as a result of retaliatory violence by the community.

The findings of this study show that the community of customary law holds that all forms of customary law, including religious law, must be on an equal footing with statutory law. A significant revelation within the realm of legal scholarship is the coexistence of state, customary, and religious legal frameworks within nations where indigenous communities reside. This discernment holds considerable value for countries situated in Asia, Africa, and Latin America, where a substantial population of indigenous peoples continues to inhabit these regions (Menski, 2006).

The theoretical significance of this discovery underscores the necessity of conflict management with a meticulous focus on human requirements. Rooted in the theory of human needs, the understanding emerges that conflicts often stem from unmet or impeded fundamental human requirements including physical, psychological, and societal dimensions. Concerns like safety, identity, recognition, participation, and autonomy are important issues that need to be talked about openly between the two sides in order to reach a compromise that meets everyone's basic needs (Fisher, 2001).

The involved parties have two primary avenues for addressing conflicts: direct communication for interest negotiation or the submission of objections by parties who perceive themselves wronged by others. In disputes revolving around natural resource tenure, the presence of a third party is a recurrent factor (Nader & Tood, 1978;

Saptomo, 2010). These third parties are enlisted to aid in identifying and addressing unmet needs by presenting alternatives that cater to the requirements of the involved parties (Pruitt & Rubin, 2004; Fiseher, 2001). Functioning as mediators, these third parties facilitate the formulation of agreements aimed at quelling violence and resolving conflicts among the concerned parties (Saptomo, 2010).

Mediation between parties involved in violence in conflicts over natural resource control rights must be based on the principle of equality. This principle is only possible in a democratic regime of power because the essence of democracy is the recognition of the equality of all people.

The legal implication is that the government needs to reinforce the recognition of customary law community control rights over natural resources according to customary law and religion to fulfil their needs as human beings. Natural resources are a source for fulfilling basic needs for indigenous peoples. Strengthening and legal protection of customary community rights ownership through the administration of rights registration is very important to ensure legal certainty. In addition, a model of conflict resolution outside the court through mediation with a restorative justice approach needs to be continuously developed to achieve justice for all parties.

## **CONCLUSION**

In conclusion, the cause of violence in conflicts over natural resource control between the company and indigenous peoples was injustice. The company did not respect and recognise the rights of indigenous peoples to control natural resources under customary law. Violence in conflicts over natural resource control between the company and indigenous peoples was stopped or resolved properly through mediation to restore justice. This conclusion presents a study finding that contributed to the advancement of legal scholarship. In Indigenous people, the legal landscape includes the state law, the customs law, and the religious law.

Theoretical implications suggest that conflicts ought to be managed by addressing human needs, as posited by the theory of human needs, which asserts that conflict stems from unmet physical, mental, and

social needs. In practical terms, a third party served as a mediator to identify and address these unmet needs by presenting options, ultimately fostering an agreement between the conflicting parties. The resultant agreement achieved through mediation served as a pathway toward realizing substantive justice.

The legal implication was that the government needed to reinforce the recognition of indigenous peoples' control rights over natural resources obtained according to customary and religious law. The conflict resolution model outside the court through mediation using a restorative justice approach should be continuously developed.

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