


## All Eyes on Papua: Deforestation of Indigenous Forests

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### Abstract

Every development impacts environmental changes, especially the exploitation of forest resources in managing and utilizing forest products, which affects these changes. In other words, exploitation of forest resources is a form of forest destruction. The Awyu Tribe indigenous community, accompanied by the Coalition to Save Papua Traditional Forests, is suing for an environmental permit for PT Indo Asiana Lestari (PT IAL) oil palm plantations. The indigenous people of West Papua firmly reject the plan to clear 36 thousand hectares of forest. If the project is implemented, the traditional forest, their livelihood source, will be lost, and their lives will be threatened. This research method uses a normative legal research approach. Who will search for, collect, and analyze qualitative, primary, and secondary legal materials with the aim of legal practice in the context of legal problem-solving? This approach has prescriptive characteristics, which assess what is right or wrong, appropriate or inappropriate. For the results of this research, a structured and careful framework is needed to handle this conflict. Therefore, the steps taken in conflict resolution must be wise and fair. In addition, conflict resolution policies must be able to take into account the aspirations and interests of local indigenous communities.

**Keywords:** Customary forests; Environmental Permits; Indigenous communities

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### Introduction

Law is part of enforcement for the protection of society, so the law's implementation must provide benefits and uses for the community; do not let the existing law cause unrest in the community. The existence of existing laws in Indonesia is dynamic. It will continue to change along with the development and needs of the law itself, emphasizing and strengthening public awareness in the life of the nation and state to understand and understand the existence of the law along with the law enforcement tools themselves in it, meaning that the law is ideal and fulfills legal needs.<sup>1</sup>

Forests are a gift from God Almighty, bestowed upon the Indonesian nation as a priceless gift of natural wealth that must be thanked. Therefore, forests must be managed and utilized with noble morals in the context of worship as a manifestation of gratitude to God Almighty. To be categorized as a forest, a group of trees must have crowns that are dense enough to stimulate natural pruning by

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<sup>1</sup> Muhammad Asro, 'Kewenangan Mahkamah Konstitusi Dalam Undang-Undang Dasar Negara Republik Indonesia Tahun 1945', *ADLIYA: Jurnal Hukum Dan Kemanusiaan*, 11.2 (2019), 151-64 <<https://doi.org/10.15575/adliya.v11i2.4857>>.

shading the branches and materials at the bottom and producing piles of materials and producing piles of organic material/litter that have been decomposed or not yet decomposed on mineral soil. In addition, in the forest ecosystem, other elements are associated with small plants and various forms of fauna life, among others.<sup>2</sup> For this reason, in its position, the forest, as one of the determinants of the life support system, must be preserved. The constitutional basis of Article 33 paragraph (3) of the 1945 Constitution reads: "The earth, water, and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people."<sup>3</sup>

As is known, every development impacts environmental changes, especially the exploitation of forest resources in the context of management and utilization of forest products, which causes the effects of these changes. In other words, exploitation of forest resources is a form of forest destruction. However, forest destruction in this form is not classified as an illegal act because the forest damage is through a structured and systematic mechanism that goes through a mature planning or management process by considering efforts to protect the forest itself, such as by reforestation or regular logging with the Indonesian selective logging system (TPI) and so on.<sup>4</sup>

Like the research that the author raises about All Eyes on Papua, which echoes on social media to voice the ongoing land conflict in Papua, the Awyu indigenous people, accompanied by the Coalition to Save Papua's Indigenous Forests, sued PT Indo Asiana Lestari (PT IAL) for an environmental permit for a palm oil plantation. The indigenous people of West Papua strongly reject the plan to clear 36,000 hectares of forest. If the project is realized, the customary forests that have been a source of livelihood for them will disappear, and their lives will be threatened. The reason is that the loss of the Papuan jungle for PT IAL's oil palm plantation project will eliminate 25 million tons of CO<sub>2</sub> emissions. The amount of emissions is equal to contributing 5 percent of the carbon emission level in 2030. The impact is certainly not only in Papua but also throughout the world.<sup>5</sup>

The land of Papua is home to more than 250 ethnic groups, with all land recognized as belonging to indigenous communities. Like the rest of Melanesia, ethnic groups in Papua are organized into clans with deep spiritual connections to the land, plants, and animals. Clan lands are part of their identity and a source of food and other basic needs.<sup>6</sup> The basic principles behind certain norms, rules,

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<sup>2</sup> Sukadji Sarbi, 'Kerusakan Hutan Dan Lingkungan Hidup Dari Pembangunan Dan Pertumbuhan Penduduk (Studi Kasus Di Kabupaten Polewali Mandar)', *Jurnal Pendidikan PEPATUDZU*, 13.2 (2017), 193-204.

<sup>3</sup> Petrik Felix Sitepu Imanuel, Ojak Nainggolan, and Besty Habeahan, 'Pertanggungjawaban Pidana Pelaku Penebangan Hutan Tanpa Izin Yang Dilakukan Secara Bersama-Sama (Studi Putusan Nomor 51/PID.B/LH/2017/PN.BYW)', *PATIK: Jurnal Hukum*, 2017.

<sup>4</sup> Fuzi Narindrani, 'Upaya Masyarakat Dalam Pencegahan Dan Pemberantasan Pembalakan Liar Di Indonesia', *Jurnal Penelitian Hukum De Jure*, 18.2 (2018), 241 <<https://doi.org/10.30641/dejure.2018.V18.241-256>>.

<sup>5</sup> Balqis Fallahnda, 'Apa Itu All Eyes on Papua Dan Kenapa Viral Di Medsos?', *Tirto.Id*, 2024.

<sup>6</sup> Greenpeace, *Stop Baku Tipu: Sisi Gelap Perizinan Di Tanah Papua* (Amsterdam, 2021).

treaty provisions, legislative acts, or court decisions. As policies that contain the existence of indigenous peoples in order to provide justice for indigenous peoples themselves. However, often, the expected justice needs to be realized correctly. Justice related to protecting the civil rights of the parties, in the context of protecting the rights of indigenous peoples, is fundamental. Indigenous peoples have the right to participate in managing customary forest areas. An established rule that alludes to customary forests is defined as forests located in the area of indigenous communities that serve as the primary source of improving their welfare.<sup>7</sup> However, the existence of Indigenous peoples is often forgotten when policymakers or decisions do not recognize the existence of Indigenous peoples themselves, resulting in conflicts that lead to the filing of lawsuits by Indigenous peoples to obtain justice for their rights.<sup>8</sup>

Several factors are behind this conflict, including traditional ownership, regional development interests, differences in perception, limited information, and government involvement. The Awyu Indigenous People consider that they have the right to claim the area that has been managed for generations. In contrast, the company considers that they have the right to develop the area as an interest in regional development.<sup>9</sup> National and local governments have an important role in land use decision-making, believing that it can support economic development and generate revenue. Moreover, oil palm investors usually do not focus on the value of timber but on the development of forested land through plantations.<sup>10</sup>

As quoted from the article *All Eyes On Papua: Has Indonesia's Legal Umbrella Protected the Sustainability of Indigenous Peoples?* According to Arvin Rumbiak and Benedikta Tiara Suryaningtyas, Journalistic Staff of LK2 FHUI, the state recognizes the existence of indigenous peoples and their traditional rights constitutionally in Article 18B Paragraph (2) of the 1945 Constitution. This confirms that the article is a state recognition of indigenous peoples' unity and traditional rights. As well as to protect the blood of the homeland in Indonesia, the customary rights regulated by the Government are an essential thing for Indigenous peoples as stipulated in Law No. 5 of 1960 concerning Basic Regulations of Agrarian Principles as long as their existence still exists, as well as the conclusion of Article 3 Jo Article 58 of the UUPA which recognizes the validity of customary rights or other rights that are not contradictory and as long as no regulation regulates specifically.<sup>11</sup> Therefore, they recognize the forests in indigenous peoples'

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<sup>7</sup> Dewi Surya Hanung Septya, Handayani Rachmi Ketut Ayu Gusti I, and Najicha Ulfatun Fatma, 'Kedudukan Dan Perlindungan Masyarakat Adat Dalam Mendiemi Hutan Adat', *Legislatif*, 4.1 (2020), 80.

<sup>8</sup> Gelu Ola Klemens, Yohanes Saryono, and Kosmas Ebu, 'Legal Implications Of Constitutional Court Decision Number 35/Puu-X/2012 On The Existence Of Customary Law Peoples, 2023, Hlm.411', *Comserva*, 5.1 (2023), 411.

<sup>9</sup> Devita Putri and others, 'Menguak Persoalan Hak Ulayat Suku Awyu Dengan PT Indo Asiana Lestari', *Jurnal Hukum Dan Kewarganegaraan*, 3.8 (2024), 47-55.

<sup>10</sup> Devita Putri and others.

<sup>11</sup> Adonia Ivonne Laturette, 'Penyelesaian Sengketa Hak Ulayat Pada Kawasan Hutan', *Sasi*, 27.1 (2021), 102 <<https://doi.org/10.47268/sasi.v27i1.504>>.

territories as their own, not the state's. Unfortunately, some of the above regulations fail to protect indigenous peoples as a whole. As a result, as happened to the Awyu tribe, their recognition was only given in 2023 through the Boven Digoel Regency Regional Regulation Number 2 of 2023, so since then, they have only had a solid legal basis to fight as indigenous peoples affected by the Tanah Merah Project.<sup>12</sup>

So, in the case above, according to the author in this study, adopting the theory of Dean G. Pruitt and Jeffrey Z. Rubin, which states that disputes are perceptions of differences in interests or a belief that the aspirations of the conflicting parties cannot be achieved simultaneously. Therefore, problem-solving is needed to find alternatives that benefit both parties.<sup>13</sup> Then, this study was conducted to provide a critical and analytical view of the Government's decision to make a policy on licensing the logging of trees from customary land in Papua. It will also be analyzed from the point of view of law enforcement theory. It also contributes knowledge about forests and forestry, as well as the impacts that can result from forest destruction, and the law regarding this must be known. Also, this study contributes to advocating that the Government and Indigenous peoples work together to ensure that customary rights are respected and plantation activities are carried out in a sustainable and environmentally responsible manner, such as mediation to resolve problems and management of land rights certificates. So this is what underlies the author to conduct a search related to the phenomenon that occurred; based on the background above, the author wants to study with the title " **All Eyes on Papua: Deforestation of Indigenous Forests.**"

## Research Problems

Based on the main thoughts that have been described in the background of the problem, the author can put forward the formulation of the problem:

1. What are the legal considerations regarding clearing Papua's Indigenous Forests?
2. Conflict resolution regarding the clearing of Papua's Indigenous Forests?
3. What methods and efforts can be carried out by the Government regarding the clearing of Papua's Indigenous Forests?

## Research Methods

This writing uses normative legal research methods. This will search, collect, and analyze qualitative legal materials, as well as primary legal materials and secondary legal materials, with the aim of legal practice in the framework of legal problem-solving. This approach has prescriptive characteristics, which assess something right or wrong, appropriate or inappropriate. The data required in this writing are secondary legal materials (secondary sources or non-authorities) conducting

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<sup>12</sup> Laturette.

<sup>13</sup> Dean Pruitt and Rubin Z, *Konflik Sosial* (Yogyakarta, 2004).

literature studies on various literature journal papers related to how the science of the rule of law and democracy.

## Discussion

### 1. What are the legal considerations regarding the clearing of Papua's Indigenous Forests?

In granting forest use permits, state authorities must adhere to the principle of "respecting and upholding human rights," according to MPR Decree No.IX/MPR/2001 on Agrarian Reform and Natural Resource Management. Taking this MPR Decree into account, the action taken by the state is tragic and ironic. It once again shows how inefficient our legal system is and how the people it is supposed to protect are always helpless, blamed, and ultimately victimized.<sup>14</sup>

Upon thorough examination, it became clear that some aspects of earlier agrarian conflict analysis were valid. For example, according to Maria SW Sumardjono, many agrarian conflicts are caused by humans. This is due to the cultivation of land into plantation or forestry areas, violations of land reform laws, attempts to acquire land for development, and various civil issues. The transformation of patterns from the post-independence phase to the New Order period is another aspect that must be considered regarding the characteristics of agrarian conflict. In the post-independence period until the end of the 1960s, conflicts mainly occurred in rural communities, involving sharecroppers and landlords. In contrast, from the 1980s until its peak during the New Order regime, conflicts shifted to include conflicts between locals and landowners.<sup>15</sup>

Indonesia is a pluralistic nation with various ethnic groups and cultures, and recognizing its customary forests and forest areas indicates the Government's commitment to defending the welfare and rights of customary law communities within the framework of the Unitary State Government system.<sup>16</sup> Indonesia contains 120 million hectares of tropical forests in various conditions.<sup>17</sup> According to data from the Ministry of Forestry, Indonesia has 120.3 million hectares of forest. 20.5 million hectares are conservation forests, 33.5 million are protected forest areas, and 66.3 million are production forests. So, for the above facts, there is a land conflict in Papua. The Moro clan and Awyu indigenous people, accompanied by the Coalition to Save Papua's Indigenous Forests, are suing PT Indo Asiana Lestari (PT IAL) for an environmental permit for a palm oil plantation. The Awyu indigenous people strongly reject the plan to clear 36,000 hectares of forest. The following factors influence this situation:

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<sup>14</sup> Efendi Pariangan, *Hukum Agraria Di Indonesia* (Jakarta: Raja grafindo Persada, 2018).

<sup>15</sup> Marzuki S, *"Konflik Tanah Di Indonesia."* (Pusat Studi HAM Universitas Islam Indonesia, 2023).

<sup>16</sup> Kemenko Bidang Kemaritiman dan Investasi, 'Penetapan Status Hukum Adat', 2021 <<https://jdih.maritim.go.id/id/penetapan-status-hutan-adat>>.

<sup>17</sup> Hastuti Hesty, 'Faktor-Faktor Penyebab Penebangan Kayu Hutan Tanpa Izin (Illegal Logging)'. Perencanaan Dan Pengembangan Hukum,' *Pusren Press*, 1.15 (2006).

a. Traditional ownership:

The Awyu Indigenous people have a strong interest in the area. They have traditional rights passed down from generation to generation, and they claim the right to organize and control the area.

b. Regional Development:

PT Indo Asiana Lestari is interested in regional development, both for business and social purposes. It claims that it has the right to develop the area, including the right to change its structure and regulate the use of its natural resources.

c. Differences in perception:

The Awyu indigenous people and the Limited Company have different views on what constitutes customary law. However, the Awyu believe that their customary rights cover all aspects of life, including environmental, cultural, and economic.

d. Limited information:

Limited information about customary law and community interests can influence the occurrence of harm. If a company does not understand the community's customary rights and interests, it may take actions that are not in line with its interests.

e. Government involvement:

Government involvement in protecting customary rights can affect the occurrence of harm. When governments do not understand local communities' customary rights and interests, they may take sides and increase conflict.<sup>18</sup>

Customary forests are forests owned by clans, rulers, or ancestors. They are managed jointly (communally) within a customary territory unit with its own customary institutional system and rules. In this case, indigenous peoples have the right to manage their customary forests without the assistance of the state or Government. After the Constitutional Court's decision, the authority to control and manage is in the hands of indigenous peoples, and their constitutional rights can be restored.<sup>19</sup> It has been established based on the Regulation of the Minister of Environment and Forestry of the Republic of Indonesia Number 9 of 2021 concerning Social Forestry Management to implement the provisions of Article 247 of Government Regulation Number 23 of 2021 concerning the Implementation

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<sup>18</sup> D Putri and others, 'Menguak Persoalan Hak Ulayat Suku Awyu Dengan PT Indo Asiana Lestari .', *Causa: Jurnal Hukum Dan Kewarganegaraan*, 3.8 (2024), 11-20.

<sup>19</sup> Pramono Dwi Susetyo, '5 Hambatan Pengakuan Hutan Adat', *Bahteralam.Org*, 2023 <<https://bahteraalam.org/2023/02/20/5-hambatan-pengakuan-hutan-adat/>>.

of Forestry. Customary forests are defined as forests located within the boundaries of communities that follow customary law and serve as the main means to improve their welfare.

Customary forests that have been the source of life for the Awyu tribe in Boven Digoel, South Papua, and the Moi tribe in Sorong, West Papua, are threatened with loss due to land clearing for oil palm plantations in Bumi Cenderawasih. Three losses will arise if this conflict continues. The presence of the palm oil company PT IAL can destroy the forest, which is a source of livelihood, food, water, medicine, culture, and knowledge for the Awyu and Moi indigenous peoples. The losses are:

- a. Loss of living space for indigenous peoples living with nature.
- b. The customary forest is also a habitat for endemic Papuan flora and fauna, so Indigenous peoples can lose the biodiversity that exists in the natural forest.
- c. the clearing of this vast forest will result in the release of carbon emissions. This will contribute to Indonesia's carbon release, exacerbating the climate crisis. PT IAL's operations are feared to trigger deforestation, releasing 25 million tons of CO<sub>2</sub> into the atmosphere. This could exacerbate the impact of the climate crisis in the country.<sup>20</sup>

This shows that PT IAL not only violated the rights of indigenous peoples but also violated existing laws and regulations. The recognition of customary forests in Indonesia involves establishing customary forests for indigenous peoples. This is important because indigenous peoples have rights to manage forests in their territories that are linked to culture, race, and religion.<sup>21</sup> Constitutional Court Decision No. 35/PUU-X/2012 establishes customary forests as rights forests, not state forests, and customary law communities are recognized as customary forest owners.<sup>22</sup> Constitutional Court Decision No. 35/PUU-X/2012 confirms customary forests are no longer state forests but within customary territories. This is a declaration of the presence and acceptance of Indigenous Peoples' governance of Indigenous Forests, which has been practiced for generations and has given rise to their tenure rights (Constitutional Court Decision No. 35/Puu-X/2012).<sup>23</sup>

The state should guarantee that everyone has the right to a good and healthy environment as part of human rights. This guarantees everyone who has a claim to a good and healthy environment that legal procedures, with legal protection

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<sup>20</sup> Dhanya Defara, 'All Eyes on Papua: Tiga Kerugian Jika Hutan Adat Tak Dikembalikan Ke Suku Awyu Dan Moi', 2024.

<sup>21</sup> Anugrah Nunu, 'Pemerintah Terus Percepat Pengakuan Hutan Adat', *Kementerian Lingkungan Hidup Dan Kehutanan Pejabat Pengelola Informasi Dan Dokumentasi*, 2021.

<sup>22</sup> Avicenna Ruzha Avaya, 'Pengakuan Hutan Adat: Komitmen Negara Terhadap Perlindungan Hak-Hak Masyarakat Hukum Adat Di Indonesia', *HukumProperti.Com*, 2023.

by the courts and other devices, can support. The claim has 2 (two) different functions—first, the right to self-defense against external disturbances that cause harm to the environment. Second is the right to demand an action to preserve, restore, and improve the environment. Thus, the purpose of managing and utilizing natural resources reasonably must be intended to improve the welfare and prosperity of the people.<sup>24</sup> Therefore, they recognize the forests in indigenous peoples' territories as theirs and not the state's. Unfortunately, the above regulations fail to protect indigenous peoples as a whole. As a result, as happened to the Awyu tribe, their recognition was only given in 2023 through the Boven Digoel District Regional Regulation Number 2 of 2023, so since then, they have only had a solid legal basis to fight as indigenous peoples affected by the Tanah Merah Project.<sup>25</sup>

So, in the opinion of the author, the Government in the Papua region also violates Article 59 Paragraph (3) of Law No. 41 of 1999 concerning forestry provisions that have been amended by Law No. 19 of 2004 concerning amendments to the Forestry Law, formulating that "every person is prohibited "to (Law No. 19 of 2004): paragraph b) Encroach on forest areas; And c) Felling trees in forest areas with a radius or distance of up to:

- a. 500 (five hundred) meters from the edge of a reservoir or lake;
- b. 200 (two hundred) meters from the edge of springs and left and suitable rivers in swamp areas
- c. 100 (one hundred) meters from the left and right bank of a river;
- d. 50 (fifty) meters from the left and right bank of a river stream
- e. 2 (two) times the depth of the ravine from the edge of the ravine;
- f. 130 (one hundred thirty) times the difference between the highest tide and the lowest tide from the river bank.<sup>26</sup>

## **2. BPD Constraints in Making Perdes in Dawuhan Kulon Village Conflict resolution regarding the clearing of Papua's Indigenous Forests?**

In Indonesian positive law, the conflict resolution above is regulated by Law Number 5 of 1960 concerning Basic Agrarian Principles and Law Number 39 of 1999 concerning Human Rights. as well as the conclusion of Article 3 Jo Article 58 of the UUPA which recognizes the validity of ulayat rights or other rights that are not contradictory and as long as no regulation regulates specifically.<sup>27</sup> Both laws

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<sup>24</sup> Novita Sari, 'Ratio Legis Hak Sipil Dalam Masyarakat Hukum Adat', *Studi Hukum Modern*, 6.2 (2024), 62-84.

<sup>25</sup> Rumbiak Arvin and Suryaningtyas Benedikta Tiara, 'All Eyes On Papua: Sudahkah Payung Hukum Indonesia Melindungi Keberlangsungan Masyarakat Adat?', 2024.

<sup>26</sup> Fuzi Narindrani, 'Upaya Masyarakat Dalam Pencegahan Dan Pemberantasan Pembalakan Liar Di Indonesia', *Jurnal Penelitian Hukum De Jure*, 19.10 (2018), 517-38.

<sup>27</sup> Laturette.



guarantee indigenous peoples' rights to the land they traditionally use and provide legal protection for these rights.

In resolving the above conflicts, the intervention of the State/central government should show that Indonesia adheres to the concept of a welfare state. The intervention in question has the following legal forms and functions:

- a. To bring order to society;
- b. To prevent and resolve disputes;
- c. To uphold peace;
- d. To regulate the procedures for changing and altering circumstances to implement the ideology.<sup>28</sup>

Instead, the local Government granted a logging license to PT IAL. Local officials and officials only concerned with business are considered the masterminds who make Papuans poor. Sacrificing forests for oil palm plantations is considered a selfish and inhumane act. So, in this conflict case, it should also be necessary to implement several efforts to strategize a justice-based land dispute resolution system as follows:

- a. Strategic state administration needs comprehensive/holistic (multidisciplinary) professionals who cannot be left to product-oriented professionals, and changes in sectoral organizational structures are not based on products (commodities), but organizational structures are based on processes. This minimizes sectoral interests based on products that impact policies made by ministers, which are only the result of one deputy whose duties are products, not processes that require multidisciplinary professionals).
- b. Judicial Aspect: To resolve overlapping land regulations, the "National Land Commission" (NLC) is proposed to be established as an umbrella regulatory body for state land governance. This commission would have regulatory power over state land, which is currently managed segmented by government authorities.
- c. Legislative Strategy: The House of Representatives (DPR) and the President must regulate all policies related to state authority. A dedicated institution is needed to address land disputes. In general, land disputes in Indonesia can be classified into four types of issues:
  - 1) Acknowledgement of land ownership;
  - 2) Transfer of land rights;
  - 3) Imposition of rights; and
  - 4) Occupation of ex-private land.
- d. In handling land disputes, the Government needs to establish a judicial institution specifically dealing with agrarian justice, which is essential for those seeking justice or communities in conflict. This judicial body

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<sup>28</sup> Riyanto Budi, *Pemberdayaan Masyarakat Sekitar Hutan Dalam Perlindungan Kawasan Pelestarian Alam* (Bogor Lembaga Pengkajian Hukum Kehutanan dan Lingkungan, 2010).

should expand and enhance multiple intelligences, including intellectual, emotional, spiritual, and even prophetic intelligence. Therefore, a judicial institution must discover law to achieve social justice based on Pancasila.

In the cases mentioned above, the author of this research adopts the theory of Dean G. Pruitt and Jeffrey Z. Rubin, who assert that a dispute is a perception of differing interests or a belief that the aspirations of the conflicting parties cannot be met simultaneously. Consequently, problem-solving is needed to find mutually beneficial alternatives for both parties. Dean G. Pruitt and Jeffrey Z. Rubin propose a theory on dispute resolution, which includes five approaches:

- a. Contending: attempting to apply a solution preferred by one party over the other.
- b. Yielding: lowering one's aspirations and accepting shortcomings from what was initially desired.
- c. Problem-solving: seeking a satisfactory alternative for both parties.
- d. Withdrawing: choosing to leave the dispute situation, either physically or psychologically.
- e. Inaction: doing nothing.<sup>29</sup>

As mentioned in the theory above, achieving a fair and sustainable resolution requires intensive dialogue and the participation of all parties involved. A deeper understanding of the legal aspects related to land ownership and use is needed. Thus, a suitable framework can be established to address such conflicts in the future, involving all relevant parties sustainably, respecting the rights of indigenous communities, and ensuring environmental sustainability.<sup>30</sup> In addition, involving an independent and objective mediator can be a positive step to ensure that the conflict resolution process is conducted fairly and by applicable laws. Adequately addressing such conflicts in the future by involving all relevant parties in a sustainable manner, respecting the rights of indigenous communities, and ensuring environmental sustainability is essential.<sup>31</sup>

The importance of awareness regarding the need for justice serves as a fundamental basis for designing conflict resolution models. In this context, justice encompasses the equitable distribution of resources and considers the long-term social and economic impacts on both parties. According to the Supreme Court Regulation No. 1 of 2016 on Mediation Procedures in Court, mediation is a method of dispute resolution through a negotiation process to reach an agreement between the parties, assisted by a mediator. Involving an independent and objective

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<sup>29</sup> Pruitt and Z.

<sup>30</sup> Putri T Sari and others, 'Konflik Sengketa Tanah Dan Implementasi Hukum Adat Di Pulau Rempang', *INNOVATIVE: Journal Of Social Science Research*, 4.1 (2023), 946-56.

<sup>31</sup> Khoirul Rosyadi, 'Kewenangan Badan Pengusahaan Batam Pada Pengelolaan Lahan Di Pulau Batam, Pulau Rempang Dan Pulau Galang', *JOURNAL OF LAW AND POLICY TRANSFORMATION*, 1.1 (2016).

mediator can be a positive step to ensure that the conflict resolution process is conducted fairly and by applicable law.<sup>32</sup> In the mediation process, several dispute resolution models are used, including:

- a. Settlement mediation, which aims to encourage a compromise between the demands of both parties in dispute;
- b. facilitative mediation, which seeks to avoid the positions of the disputing parties and negotiate their needs and interests;
- c. transformative mediation, which aims to identify the underlying causes of the dispute;
- d. Evaluation mediation, evaluative mediation, seeks to reach an agreement based on legal rights.<sup>33</sup>

Mediation involves the conflicting parties (the Awyu community and PT Indo-Asiana Lestari) engaging in discussion and deliberation. A mutually satisfactory solution will be achieved with the assistance of a neutral mediator. Furthermore, conflict resolution policies must consider the aspirations and interests of the local indigenous community. PT IAL must also ensure that its plantation activities do not adversely affect the livelihoods of the indigenous people.

The resolution of the conflict between the Awyu community and PT Indo-Asiana Lestari can help prevent similar conflicts from arising through negotiation, mediation, problem-solving, regulatory frameworks, the enforcement of customary law, respect for indigenous rights, management of land tenure certificates, and control over both physical and non-physical rights. It is essential to manage land and water rights, oversee the rights of indigenous communities, enforce customary law, monitor legislation, establish permanent land boundaries, and ensure that land transfers are always conducted in the presence of a Land Deed Official/Notary.

Consideration must be given to factors such as the interests of the indigenous community, corporate interests, and environmental concerns. A satisfactory solution must respect the rights of indigenous peoples and guarantee environmental sustainability. Therefore, several principles are necessary for resolving the disputes above between the Awyu community and PT Indo-Asiana Lestari, including:

- a. Principle of Local Wisdom:

This principle highlights the importance of conservation and protection in conflict resolution. It is applied to environmental management and

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<sup>32</sup> Rosyadi.

<sup>33</sup> Imandia Sulistifani, 'Penyelesaian Sengketa Tanah Melalui Mediasi Di Kantor Pertanahan Kabupaten Karanganyar', 2018.

demonstrates the significance of managing natural resources while considering cultural values and local wisdom.

b. Principle of Good Governance:

This principle prioritizes participation, transparency, accountability, efficiency, and fairness in environmental management. In the event of a conflict, this principle ensures that the management process of natural resources is transparent and participatory, considering the local community's interests.

c. Principle of Regional Autonomy:

This principle acknowledges regional autonomy in managing natural resources and the environment. In conflict resolution, this principle guarantees that the Awyu community has the right to manage the natural resources in their area independently and based on local wisdom.

d. Principle of State Responsibility:

This principle ensures that the use of natural resources benefits the local community's welfare and quality of life. In conflict situations, this principle requires that PT Indo Asiana Lestari utilize natural resources to benefit the local community and not harm the environment.

e. Principle of Integration:

This principle combines various elements or aspects of environmental management. It also ensures that when resolving conflicts, natural resources are managed considering various factors, such as economic, social, and cultural benefits, as well as ecological protection and conservation.

f. Principle of Harmony and Balance:

This principle ensures that in the utilization of the environment, various aspects must be considered, such as economic, social, and cultural benefits, as well as the protection and conservation of ecosystems. This principle also guarantees that various aspects of natural resource management operate harmoniously.

g. Principle of Sustainability:

This principle ensures that everyone is responsible for future generations and the environment.

**3. What methods and efforts can the Government undertake regarding the deforestation of Papua's customary forests?**

In resolving conflicts of this nature, the role of the central Government is crucial. They often act as mediators, fostering reconciliation in a familial manner between the parties involved. The central Government's efforts to prevent such conflicts in Indonesia include several strategies, such as:

a. Negotiation:

The Government can negotiate with indigenous communities to resolve disputes over customary land arising from misunderstandings between both parties. Negotiation is a form of dispute resolution outside of the court system, or non-litigation, conducted by the parties in dispute themselves or their representatives without assistance from external parties. This process involves deliberation or discussion to seek a solution deemed fair by all parties. The outcome of the negotiation is a compromise solution that is not legally binding.<sup>34</sup>

b. Mediation:

The central Government can mediate to assist indigenous communities and other parties in reaching an agreement to resolve land rights disputes. Mediation is conducted based on the agreement of both parties in conflict that their issues will be resolved with the help of one or more expert advisors or a mediator. The third party providing this assistance must be neutral (impartial) and independent, meaning either party cannot influence the. Resolving land disputes that have not been registered through mediation is the most appropriate alternative for non-litigious dispute resolution to be used by mediators.

c. Solving problems:

The Government can resolve this issue through regulation, mediation to reach agreements, and better management of indigenous rights to avoid conflicts.

d. Land regulations:

The Government can create improved land regulations to ensure that Indigenous rights are protected and to prevent disputes. Land regulations consist of a series of laws, policies, and regulations governing all aspects of land use, ownership, management, control, and utilization in a country. In

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<sup>34</sup> Gunawang Gunawang and others, 'Tragedi Tanah : Menyelusuri Pelanggaran Hukum Dalam Sengketa Hak Milik', *Jurnal Litigasi Amsir*, 9.2022 (2023), 273-82.

Indonesia, land regulations aim to ensure fairness in the use and control of land and protect indigenous peoples' rights over their land. The primary objective of these regulations is to prevent land disputes, ensure sustainable land management, and protect the rights of indigenous communities.

e. Respect for Indigenous rights:

The Government can show tremendous respect for Indigenous rights, guarantee these rights, and avoid conflicts.

f. Managing community interests:

The Government can better manage community interests to ensure that Indigenous rights are guaranteed and conflicts are avoided. In this policy, efforts should be made to ensure that land-related policies and actions are taken to serve and protect to serve and protect the rights and welfare of Indigenous communities. In this regard, the Government and relevant institutions must prioritize the needs and rights of Indigenous peoples, particularly in the fair use and management of land resources. For example, in protecting the rights of indigenous communities, the Government must uphold their rights to customary land and respect long-standing land management traditions. This is done to prevent land grabbing, which frequently occurs among indigenous peoples.

g. Managing Indigenous rights:

This context ensures that the traditional and cultural rights recognized over generations by Indigenous communities are protected and respected while guaranteeing that they have fair access to resources, land, and decision-making processes that affect their lives. This involves balancing preserving indigenous traditions with ensuring their rights are acknowledged within the national legal framework amidst modern development. In this effort, the Government can better manage the rights of indigenous peoples to ensure that these rights are protected and conflicts are avoided. For instance, participatory mapping: The Government and indigenous communities often conduct participatory mapping to identify and establish customary land boundaries. This aims to prevent ownership conflicts and clarify the land occupied by indigenous communities. Secondly, prevention of exploitation: The state must also protect indigenous communities from the exploitation of natural resources by third parties, such as large plantation companies, which can damage ecosystems and infringe upon the livelihoods of indigenous peoples.

h. Controlling customary law within Indigenous legal communities:

In this context, it refers to efforts to regulate, supervise, and maintain the implementation of customary law that remains in effect within Indigenous communities. Customary law is a set of rules or norms that have developed over generations within Indigenous communities and are recognized and respected by their members. The Government can better control the customary law of indigenous legal communities, ensuring that indigenous rights are upheld and conflicts are avoided. Therefore, controlling customary law is an essential step in bridging the traditional rights of Indigenous communities with the interests of the state while ensuring that these communities' justice and welfare are maintained. One example of controlling customary law is the protection of communal land rights (communal land owned by indigenous peoples). The state recognizes and protects communal land, but its use remains supervised to prevent misuse or sale to parties outside the Indigenous community. Regulations such as Law No. 41 of 1999 concerning Forestry also govern the relationship between communal land and environmental interests.

i. Controlling laws and regulations:

The Government can better control laws and regulations to protect Indigenous rights and avoid conflicts. Through these efforts, the Government can prevent conflicts over customary land in Indonesia and manage these rights more effectively to avoid disputes and guarantee customary rights.

As some strategies mentioned above suggest, the researcher also recommends that President Joko Widodo ask the Ministry of Environment and Forestry to review various company permits on the land of the Awyu Tribe. The researcher also hopes that President Jokowi will encourage the development of an industry-based economy that does not harm forests, including preventing the conversion of customary forests and protected forests into palm oil plantations. Furthermore, for the Government in Papua that violates Article 59 Paragraph (3) of Law No. 41 of 1999 concerning Forestry, as amended by Law No. 19 of 2004, regarding the violations above, the researcher recommends that the Central Government review violations related to granting land rights without the consent of Indigenous communities.

The Central Government can also invoke Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 concerning the Eradication of Corruption, as well as jurisprudence related to land crimes if the violator is a local government official in Papua who engages in gratification from PT IAL, facilitating the issuance of environmental permits for PT IAL's palm oil plantations. Local governments

should not be pressured solely by investors to seek profit, as the presence of investors must be conducive to a situation without conflict within the community. The aim of investors should be to enhance economic growth without conflicting with the community. Additionally, the Government must be more proactive in monitoring and overseeing reforestation activities carried out by PT IAL to ensure that these activities do not violate the rights of indigenous communities. Furthermore, the central Government and relevant authorities should penalize officials and local governments that grant permits to PT IAL, as prioritizing business at the expense of forests for palm oil plantations is considered selfish and inhumane.

## Conclusion

The above research concludes that efforts are needed to find better solutions that consider the interests of all stakeholders, including the Awyu indigenous community, companies, and local communities. Furthermore, conflict resolution policies must be able to take into account the aspirations of local indigenous peoples. Investors should not pressure local governments solely to seek profit, as the presence of investors must be accompanied by a conducive situation that does not lead to conflict within the community. The investors' goal of economic improvement must not come at the cost of conflict with the community. Additionally, the Government should be more proactive in monitoring and supervising the plantation activities carried out by PT IAL to ensure that these activities do not violate the rights of indigenous peoples.

## Suggestion

Based on the discussions and conclusions, the government should consider the reasons for deciding on a license for logging with the interests of all stakeholders, including the Awyu indigenous people, companies, and local communities, and open constructive suggestions for future evaluations. The government must be more careful and thorough in deciding on the right licensing decision so that it can reflect justice for indigenous peoples and local communities. Then, the researcher will recommend to the government that there is a need for reassessment of the license to grant logging in Papua.

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