

The Resilience of Indigenous Peoples in North Kalimantan to Corporate Investment

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ABSTRACT

Indigenous peoples take advantage of land/forest to fulfill their needs. However, in North Kalimantan, the forest functions are increasingly shifting because corporations intend to manage forest areas that reach 69% of the province's total area, among others, for oil palm plantations. The development of oil palm plantations in North Kalimantan is supported by investments, especially from foreign countries, such as Singapore and Malaysia. Investment funds will influence the progress of oil palm plantations. Although some indigenous peoples have received legal regulations to recognize and protect rights, they still face some impacts, including climate change, environmental pollution, land grabbing, and criminalization. In this case, community resilience is one of the essential capabilities that indigenous peoples must possess, including in North Kalimantan. Indigenous peoples also need various capabilities to anticipate, reduce the impact, and overcome the consequences of corporate development in oil palm plantations. Thus, this article aims to analyze the resilience of indigenous peoples in North Kalimantan in facing investment pressures in oil palm plantations through document review in relevant sources and in-depth interviews with several stakeholders related to indigenous peoples in North Kalimantan. In addition, some previous research has not focused on the resilience of indigenous peoples in North Kalimantan in anticipating or dealing with investment developments that are detrimental to them. The results showed that indigenous people in North Kalimantan had performed resilience by mapping customary lands/territories, monitoring, reporting, and land certificates following legal regulations. Some indigenous people had also referred to the customary law through customary courts, imposing customary sanctions on their members and companies that did not comply with customary norms. Moreover, traditional leaders and institutions have shown an essential role in protecting forests and being the pioneers of agroecology-based economic development.

Keywords: Indigenous people; Resilience; Corporation; North Kalimantan

1. INTRODUCTION

The investment in Indonesia supports the rapid development of industrialization. The realization in the first quarter of 2021 increased by 4.3% compared to 2020 [1], as one of the capitals for economic growth, especially corporations. Corporations use investments as capital stock, which influences the production rate. Land management of the company after the investment inflow leads to land expansion. The reason for land expansion is that Indonesia's

territory still has land potential to increase production yields. The latest data uncovered that the investment movement for companies in the plantation sector is quite large, particularly oil palm plantations. Currently, Indonesia has 8.9 million hectares for oil palm plantations. This land dominance for oil palm plantations continued to fluctuate in 2020. At least 300 thousand hectares have been used for production expansion [2]. The positive trend of oil palm plantations is due to the massive opportunity in the global market, where world consumption of palm oil grows 8-9% per year [3]. Indonesia also accommodates this positive trend with sustainable oil palm plantation schemes, including licensing system, cultivation techniques, worker responsibility, and social community [4].

The land conversion that occurs in Indonesia is more common in the territory of indigenous peoples. The area inhabited by indigenous peoples has a relatively large area of forest or land. The area also has the potential to become a production area. In this case, one of the areas in Indonesia that investors are targeting is North Kalimantan. The investments reached more than 500 billion rupiahs in 2020. The investment is more directed at plantations and forestry. Nunukan Regency and Bulungan Regency are the regions of North Kalimantan that received the most significant investment funds, with up to approximately 200 billion for the 2020 quarter [5]. The government has prepared an investment to North Kalimantan in 2021 from abroad. For the first quarter of 2021, North Kalimantan has received 1.23 trillion rupiahs spread over 246 projects [6]. This investment encourages building a green energy area in North Kalimantan. Besides, Singapore and Malaysia also made the highest investment in Indonesia, namely 53.7% and 15.8%, which focused on oil palm plantations [7].

However, a land conversion often faces problems, especially with indigenous peoples. They are very dependent on the existence of land and forests so that when there is a conversion of land functions, it will have an impact on the lives of indigenous peoples. The most visible impacts are the loss of territory, their identity as indigenous peoples, and global climate change [8]. Indigenous peoples' lives are disrupted due to the loss of their territory, whereas they have the right to manage their land/forests to meet their needs and maintain their culture. This point is also clearly seen in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), which Indonesia has supported and signed [9]. Through UNDRIP, indigenous peoples have the right to obtain preliminary information and decide on an agreement without coercion when their land is used by corporations [10]. This situation occurs in the North Kalimantan region, which faces many challenges from the emergence of corporate developments, specifically after increased investment flow.

One of the land conflicts between the corporate and the indigenous people of North Kalimantan happened in the Sebuku Sub-district area, Nunukan Regency. In this case, the Dayak Agabag indigenous people still have not received compensation rights from PT. KHL (abbreviation's name of a corporate) that has been operating since 2004. The company engaged in oil palm plantations has cultivated land belonging to indigenous peoples. In fact, in 2009, the community began to demand the settlement of their land cases. During the settlement process, indigenous peoples experienced inappropriate things, such as threats to criminalization. Seventeen indigenous Dayak Agabag were arrested for allegedly stealing palm oil from the company at the end of 2020 [11].

Many studies have discussed the relationship between indigenous peoples and investment. It can be found in a study by Brigitta Hauser-Schäublin on "*Adat and Indigeneity in Indonesia*," which included various journals discussing the condition of indigenous peoples

in Indonesia, such as indigenous peoples in international law and some cases of indigenous peoples in Indonesia [12]. Also, Anita Chandra et al., discussed community resilience in terms of health security [13]. Afterward, Ary Wahyono et al., focused their study on the resilience of fishing communities in the face of climate change [14]. Meanwhile, Subair et al., highlighted the resilience of the fishing community in maintaining survival [15]. Besides, Syuryani in "*Eksistensi Hak Ulayat Masyarakat Hukum Adat dalam Masa Investasi* [The Existence of Ulayat Rights of Indigenous Law Peoples in the Investment Period]" [16], emphasized customary lands affected by land conversion during the investment period. In addition, Dian Cahyaningrum researched the use of customary land used by investment [17]

However, some research above has not focused on the resilience of indigenous peoples in North Kalimantan in anticipating or dealing with investment developments that are detrimental to them. Since indigenous peoples in North Kalimantan depend on natural resources, some lands are not registered as indigenous peoples. Thus, obtaining recognition is a big challenge in facing investment development in Indonesia. Moreover, Indonesia currently focuses on encouraging investment. It is undoubtedly a threat to indigenous peoples and environmental changes if indigenous knowledge related to an environmental perspective is not followed. For this reason, this study seeks to answer: how is the resilience of indigenous peoples in North Kalimantan in dealing with corporate investment? Therefore, to understand the resilience of the indigenous peoples of North Kalimantan in facing corporate expansion, this phenomenon was analyzed using a framework that refers to the resilience concept. In addition, this study's objective is to determine indigenous peoples' resilience in the face of investment developments targeting the dislocation of their place.

2. METHOD

This study used qualitative methods to analyze events related to the problem formulation. This study also employed two kinds of data: primary and secondary. Primary data were obtained by the authors directly without any second or intermediary argument so that the data obtained guaranteed the argument originality. The data from the in-depth interview were gathered from several stakeholders, such as representatives of advocates for the indigenous people of North Kalimantan and *Perhimpunan Pembela Masyarakat Adat Nusantara/PPMAN* (Association of Defenders of the Indigenous Peoples of the Archipelago), who understood traditional values in dealing with investment developments and one of the public officials at Tanjung Selor, Bulungan Regency. Meanwhile, the secondary data were obtained by the authors from existing sources. The data could be reports or documents issued by the government/institution/company. The data analysis technique that the authors used was qualitatively descriptive, referring to the Miles and Huberman model with three activity flows: data reduction, presentation, and conclusion.

Moreover, this study utilized the resilience concept to analyze the condition of indigenous peoples facing investment development in North Kalimantan. Resilience is a concept developed to cope with the changes that happened. This process is expected to support sustainable development to maintain and create a prosperous social, economic, and ecological system. Also, it is an effort to maintain the desired development path without sacrificing natural damage in the future [18]. Therefore, resilience can be understood with three concepts: resistance, recovery, and adaptivity. The first concept, resistance, is the system's ability to deal with disruptions without making significant changes to the system. Second, recovery is more

directed to the ability of the system to recover its essential functions so that it can survive the changes. Third, adaptivity is more directed to developing new structures based on local and international interactions to readjust environmental changes [19].

3. RESULTS AND DISCUSSION

Overview About North Kalimantan

North Kalimantan has become a new province in Indonesia since 2012. Previously, the North Kalimantan region was part of East Kalimantan. Through Law Number 12 of 2012, the North Kalimantan region consists of five administrative areas with four regencies and one municipality: Bulungan Regency, Malinau Regency, Nunukan Regency, Tana Tidung Regency, and Tarakan City. The provincial capital of North Kalimantan is located in Tanjung Selor, Bulungan Regency. In addition, North Kalimantan has an area of approximately 75,467.70 km² and is directly adjacent to Sabah and Sarawak of Malaysia.

The separation of provinces aims to facilitate government policies in managing natural resources and protecting people at the border. North Kalimantan covers many natural resources in their forest area. It reaches approximately 69% of the province's area of 4.5 million hectares. Also, North Kalimantan is included in Borneo's heart, which has 6% of the world's biodiversity [20]. Besides, the economic level of North Kalimantan before being separated from East Kalimantan, including areas with Gross Regional Domestic Product (GRDP), was relatively high in Indonesia with an annual average of 400-500 million rupiah [21]. This area also improves in the exploitation of oil, natural gas, coal, oil palm plantations, pulp, and the primary commodities, contributing to the province's GRDP [20]. Meanwhile, after North Kalimantan became a new province, the average GRDP reached more than 60 billion rupiahs [22].

Meanwhile, the total population of North Kalimantan is 701,814 people [23]. From those numbers, the Bulungan, Tidung, and Dayak indigenous peoples are the original ethnic group in North Kalimantan. These indigenous people still live with the traditional culture and traditions they believe in, even though massive technological advances and globalization have been developed. One local wisdom of the Dayak people in North Kalimantan in maintaining the genetic resources of forest plants is the mixed cropping pattern. Indigenous peoples use this method to increase land and forest productivity [24]. Then, in its development, one of the indigenous peoples in Long Jalan, Malinau Regency, North Kalimantan, has obtained forest rights in the form of a village forest covering an area of 18,891 hectares through decree number SK.1548/MenLHK-PSKL/PKPS/PSL.0/3/2021 [25]. Therefore, the authority is under the indigenous peoples' responsibility; if there are parties who intend to utilize the customary land, it must be with the approval of the indigenous peoples.

Investment Developments in the Customs Territory of North Kalimantan

The potential of North Kalimantan provides opportunities for investors to invest. Since becoming a new province, the government has continued encouraging economic development to improve welfare. Several countries have also participated in making investments, such as Singapore and Malaysia. The two neighboring countries made the highest investment in Indonesia, namely 53.7% and 15.8%, which focused on oil palm plantations [7]. Investment offers also entered in 2021 with a value of billions of US\$. The investment utilized a green energy program that requires cooperation with regional SMEs (Small and Medium Enterprises). In addition, the government has attempted to invest quite a large amount of funds into programs that improve people's welfare in the economic field. Efforts have been made to

simplify licensing matters and assist investors in carrying out investment in Indonesia. The government is also trying to provide incentives to investors. This investment development is supported by national legal rules that discuss investment-related, namely Law of the Republic of Indonesia No. 11 of 2020 on Job Creation. Therefore, North Kalimantan's investment realization data has reached 1.23 trillion rupiahs with 246 projects [6].

The ever-increasing investment in Indonesia has given impetus to companies for developing production. Since it is an essential commodity for Indonesia in global trade, it impacts the increasing demand. Indonesia controls the expansion of the palm oil market with Malaysia, with a total production of up to 85-90% of total world production. In 2016, Indonesia produced up to 36 million metric tons of palm oil, 15 million metric tons higher than Malaysia [26]. The market's massive response was followed by Indonesia's land potential, which is still quite large for oil palm plantations, particularly for areas outside Java.

The Impact of Corporate Investment on the Indigenous People of North Kalimantan

With the increasing investment in palm oil commodities, it is undeniable that the economy is improving. The improvement was evidenced by the data for May 2021 that palm oil commodities contributed up to 69.13%, and the export value reached USD 2.25 billion [27]. Due to the high demand for palm oil commodities globally and supported by the ease of production, it resulted in large profits. The expansion of oil palm also creates many job opportunities. However, this development harms indigenous peoples.

Indigenous peoples are groups of people who have a group feeling, wealth or heritage/customary objects, applicable customary law rules, and specific areas [5]. Therefore, the use of land that corporations increasingly need shifts the territory of indigenous peoples. It is because Indonesia does not yet have the law of the rights of indigenous peoples. Also, only some places have legal clarity regarding land ownership. The lack of legal support for indigenous peoples has resulted in land conflicts. In addition, environmental damage cannot be avoided by the development of palm oil companies. The process of massive logging of trees, destruction of mangrove forests, and eviction of customary lands are the problem points of the investment.

Meanwhile, one of the external conflicts between indigenous peoples and companies was felt by the Dayak Agabag indigenous people in Nunukan Regency, North Kalimantan. The uncertainty of land experienced by the Dayak Agabag indigenous people threatened them with criminalization. The Dayak Agabag indigenous people were considered to have stolen oil palm from the land of PT. KHL. However, according to Mr. Maulana as an advocate from the Association of Defenders of the Indigenous Peoples of the Archipelago, who accompanied the indigenous Dayak Agabag community, companies took rights from indigenous peoples. Concerning this, pro-investment parties in oil palm plantations tried to threaten or coerce indigenous peoples to resolve land disputes.

On the other hand, the company felt entitled to manage land recognized by indigenous peoples. The land belonged to HGU (cultivation rights) of land, so indigenous peoples had no right to protest until they took the produce from the plantation. In addition, corporations have also tried to provide CSR (Corporate Social Responsibility) to indigenous peoples, such as plasma plantations. Nevertheless, the CSR provided by the company did not go well. Mr. Maulana said that CSR's ambiguity was about the ambiguous allocation, and the development of plasma plantations for indigenous peoples was also not working. Plasma plantations intended to replace customary land used by the company have become a vital area.

Therefore, the pattern of land grabbing led to demonstrations, criminalization actions, and compulsion in some areas. According to Mr. Maulana, internal conflicts could also occur due to different views on the arrival of investment in their area. The difference is more to the economy where indigenous peoples prefer to sell their land/forests and get a good offer from the company. However, some indigenous peoples believe that if the land can be cultivated by themselves, it will benefit them more.

Nature's relationship with indigenous peoples and companies provides a different picture. Indigenous peoples try to take care of nature because nature provides for their needs. Meanwhile, nature's relationship with companies is capitalistic, with economic improvement as the primary goal. Therefore, the destruction of nature is no longer in the company's interest. The schemes that emerge from the use of land by companies are exploitative. It has an impact on the destruction of biodiversity. This pattern of relationship will undoubtedly violate the rights of indigenous peoples. Indigenous peoples have the right to get their nature back without damaging nature [23].

The Resilience of Indigenous Peoples in Facing Investment Development

Resilience can be defined as absorbing or adapting to changes without losing their identity. Meanwhile, resilience society refers to people who face threats or disturbances from social, economic, and physical changes [24]. The importance of having this resilience capability is a way for indigenous peoples to survive the changes. It is undeniable that indigenous peoples are important actors protecting the environment, especially forests. It is because the forest is like a mama (mother) who can provide for all the needs of indigenous peoples. Therefore, indigenous peoples continue to survive the changing or converting land/forest.

The concept of resilience offers three concepts that can provide a detailed description of the attitude of indigenous peoples in dealing with corporate development. First, the concept of resistance refers to the ability of a system to keep running even though there are challenges/problems that they need to face. Second, the recovery concept understands that the environment will continue to evolve and change, so recovery capabilities are needed after a problem occurs. Third, the concept of adaptivity is more directed at creating new structures to deal with changes in their environment; this concept also emphasizes co-evolution [24].

Further, the concept of resilience is offered to answer the challenges of natural changes in the scope of indigenous peoples. Massive development has a significant impact in destabilizing the life of indigenous peoples. They also cannot be separated from their place because they provide the foundation for identity, belief, knowledge, livelihood [29]. Therefore, the struggle between development and conservation is still a common topic that needs to be resolved without destroying natural vegetation or stopping development. The most important thing is to prevent deforestation due to industrial activities to save nature and the needs of indigenous peoples [30].

Dislocation of indigenous peoples can usually occur when land recognized as customary does not have essential legality. It impacts the freedom of companies and investors to use land/forests whose rights are managed by the government. The dislocation of these places leads to land grabbing and fragmentation of landscapes. Thus, the biggest challenge for indigenous peoples is the difficulty of recognizing customary land or forest so that the expropriation of land/forest functions occurs more quickly. In other words, recognition is needed for the legality of indigenous peoples in protecting their customary territories.

Currently, Indonesia is trying to recognize indigenous peoples, including their territories or customary forests. It is in line with Indonesia's commitment to support and sign the UNDRIP so that it is Indonesia's moral obligation to recognize the existence of indigenous peoples [9]. Indonesia's efforts have been issued on Customary Forest Decrees and Regional Law concerning the recognition and protection of indigenous peoples. Until now, North Kalimantan has issued several regional regulations related to the recognition and protection of indigenous peoples, such as Malinau Regency Regulation Number 10 of 2012 about Recognition and Protection of the Rights of Indigenous Peoples in Malinau Regency and Nunukan Regency Regulation Number 16 of 2018 about the Empowerment of Indigenous People.

However, the partial regulations have not had a maximum impact on the welfare of indigenous peoples. They can still feel the threat from the authorities to criminalization. Not only that, but there are also schemes formed from the conversion of land inhabited by indigenous peoples. The corporation took over the indigenous peoples' land with promises to trust the agreement with the company. The agreement proposed by the corporation to indigenous peoples is the development of plasma plantations and compensation. Nevertheless, the indigenous people have not received the company's promises over time. Therefore, indigenous peoples had difficulty meeting their basic needs. Mr. Maulana stated that they could no longer manage their land/forest so, to meet their needs, they have to become laborers from the company that has taken their land. The irony in North Kalimantan is that indigenous peoples work for companies on their land.

Thus far, the resistance of indigenous peoples to survive in the expansion of investment in the oil palm plantation sector is to carry out advocacy assisted by CSOs/NGOs. One of them is the PPMAN, which seeks justice for indigenous peoples in North Kalimantan. They handled the case that the authorities arrested four indigenous Dayak Agabag communities. PPMAN provides legal assistance and helps promote their land sovereignty and strengthen state policies. It hopes that the state will provide protection and recognition for indigenous peoples.

In addition, customary law is the guideline for indigenous peoples in carrying out their social life. It becomes capital in resolving problems or conflicts. The Indonesian constitution has recognized customary law because of its long existence and success in providing legal services to villages. Field data evidence stated that the Dayak Agabag indigenous people would use customary rules when there is a dispute in their deliberation. In addition, another mechanism is customary court. This customary court is the key to solving problems in indigenous groups. Dolob is an example of the customary court considered a heavenly court for the Dayak Agabag indigenous people. This customary court can resolve land disputes that occur in customary areas. Before implementing customary court, they will agree on a ransom or customary sanctions. Usually, indigenous people will ask for pigs or ancient jars that cost hundreds of millions [25].

Not only forms of resistance through advocacy and customary rules but also indigenous peoples are trying to make changes from agricultural management. Since land management is an essential aspect of dealing with investment expansion in North Kalimantan, they need to adapt to the circumstances. The challenge is that unsustainable land management can be helped by local agroecology-based economies, especially in food security. This method has been implemented in Long Beluah Village, Bulungan Regency, North Kalimantan [26]. Agriculture with agroecological schemes is the indigenous people's resilience in North Kalimantan to

minimize dependence on garden and forest products. It also helps indigenous peoples to deal with climate change because of corporate activities.

Local agroecological mechanisms become a method for indigenous peoples to adapt to environmental changes. The most crucial point is that local agroecological methods can minimize the dependence of indigenous peoples on the use of gardens and forests. This form of local agroecology is not much different from what has been done in Java, namely, the intercropping system. Indigenous peoples grow secondary crops in this method. The system allows for farming in narrow areas and can fulfill needs. Although this form of adaptivity carried out by indigenous peoples in the Bulungan Regency has not provided significant benefits, this system can still be an alternative [26].

On the other hand, balancing human activities and nature is crucial in dealing with climate change. Applying indigenous peoples' knowledge to predict, prevent, and adapt to natural changes can also enhance resilience. They usually carry out established traditions before using land/forest and not carelessly clearing land [33]. Local wisdom and indigenous knowledge minimize concerns over developments within indigenous peoples' scope. It absolutely requires a combination of modern technology and indigenous knowledge so that the socio-political-cultural context can build a grand scheme in the relationship between the two [34]. As can be seen, ecotourism may be one solution to the challenges between economic development and nature conservation. Socio-ecological systems also can allow indigenous peoples to mobilize local resources and encourage community welfare [29]. As one of the political officials in North Kalimantan, Mr. Jufri supported it, stating that through the Lumbis River ecotourism program, the government and local/indigenous communities work together to improve the regional economy without destroying natural resources, vegetation, and local wisdom. Afterward, recovery is difficult to do in the former company area. The lands used for oil palm plantations must go through a destructive approach, so it is improbable that they can be reused. Mr. Maulana also said that the destructive approach is a land clearing with massive exploitation. Also, the land will be poisoned before it becomes production land.

Hence, briefly, the forms of the resilience of the indigenous people of North Kalimantan in facing investment developments are customary deliberations, customary courts, advocacy, and adjustment of agricultural methods. These methods can still find loopholes that fail in the process. When the customary deliberation process cannot be carried out properly, they will usually continue to the customary court. Mr. Maulana stated that customary court is a process that indigenous peoples want to avoid because the agreed ransom is costly. Meanwhile, it is impossible for external parties, including companies, to be processed in customary courts. The companies have a reasonably good network among the elite, and there is an attitude of neglect from the government. The company is also not subject to customary rules, so that it is difficult to carry out the customary settlement process. Therefore, customary courts are more influential for the indigenous peoples themselves.

In addition, customary leaders who decide to release customary lands often make decisions without holding customary deliberations. In contrast, the main character of indigenous peoples is collective democracy, so transparency is an essential point in the relationship between indigenous peoples. Meanwhile, indigenous peoples are also disadvantaged during legal advocacy due to the lack of legal evidence. It is because indigenous peoples are very guided by their customary law so that there are no written documents. Then, for local agroecological farming schemes, this requires tenacity so that there are still few who

implement it. In addition, the challenges of corporate development still pose a threat to the system, such as water availability, the commodity that has not provided big profits, knowledge of local agroecological systems, and the lack of consumers for products from local agroecology [26].

From the analysis above, there is a need for internal strengthening in building resilience schemes, especially in releasing customary lands. Customary leaders should have a democratic attitude. The process of decision-making needs comprehensive deliberation. Maximizing the process of releasing customary land will be a necessary form of resilience in the face of investment expansion that requires land expansion. In addition, accelerating the recognition and protection of indigenous peoples will help their legality when facing problems in the legal realm. The main thing is the ratification of the draft law on the rights of indigenous peoples, which is still being processed in the House of People's Representative (DPR).

4. CONCLUSION

Investment as a capital stock in the development of oil palm companies carried some negative impacts on indigenous peoples. The conversion of land that occurred in indigenous peoples' areas impacted cases of unclear land ownership. Likewise, the limitation of this study is that it focused on North Kalimantan indigenous people who needed to face the development of the investment. It affected external or internal conflicts since some processes were not environmentally friendly. Also, some activities might violate the indigenous peoples' rights. Therefore, it needs improvement regarding the resilience of indigenous peoples facing such a condition. Some of the efforts have been made by indigenous peoples in North Kalimantan, such as advocacy assisted by CSOs/NGOs, customary deliberations, customary courts, and implementing agroecology-based economic development. However, indigenous peoples' resilience in facing developments still needs to maximize customary deliberations, especially when releasing customary lands. It is an effort to minimize the loss of their land to the company. The vital thing is the legalization of a draft law on the rights of indigenous peoples. Since this study was only focused on North Kalimantan, it is expected that the recommendations for further research have the scope of other research subjects in the Kalimantan areas. Each indigenous person in a distinctive area usually has different cultures and knowledge; thus, it is necessary to deeply explore indigenous peoples' resilience.

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