A Resistance for Protecting Indigenous Rights: The Case Study of the Samin Community in Sukolilo Village, Pati, Indonesia __||

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Abstract

Like other indigenous peoples around the world, the Samin community in the Sukolilo village is now facing the same challenges due to the development projects of cement industries in Indonesia. Despite these realities, the Samin farmers choose to protest peacefully against such a destructive development project. Examining the indigenous farmer's peaceful resistance for protecting their livelihood and tradition in the Sukolilo village against cement factories, this paper explores the protection of indigenous peoples right in Indonesia against a development project in Sukolilo village, located in the Pati district, Central Java.

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Keywords: Samin community Central Java, Sukolilo village, cement industries, peaceful protest, indigenous people's rights, peaceful resistance

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Introduction

Indigenous peoples are recognized around the world due to its distinctive variety of cultural, linguistic and other differences. Besides their linguistic, cultural and other difference, indigenous people's histories of oppression, racism, marginalization and dispossession of ancestral land and territories are a common picture and well documented in different countries across the world (Aiken & Leigh, 2011). Among the diverse causes that drive indigenous to a vulnerable position, development is one of the most pressing issues of the present time. The need for development for prosperous human life is undeniable. However, all the development projects may not bring similar benefits to all people living in the country. Consequently, who has to pay for development projects and who are the beneficiaries is an important issue of debate.

Like other indigenous peoples around the world, the Samin community in the Sukolilo village is now facing the same challenges due to the development projects of cement industries in Indonesia. Despite these realities, the Samin farmers choose to protest peacefully against such destructive development project. Examining the indigenous farmer's peaceful resistance for protecting their livelihood and tradition in Sukolilo village (see Figure 1) against cement factories, this research

explores the protection of indigenous peoples right in Indonesia against a development project in Sukolilo village, located in Pati District, Central Java².

At the same time, the research will address the principle of human rights-based approach to development for the durable solution of the problem and propose recommendations to address the situation by the Indonesian government and other duty- bearers of the country.



Figure 1. Location of the study area: Omah Kendeng, Sukolilo village, Pati, Central Java. Source: Google Map.

The Samin Community against Cement Factory

In 2005, the Indonesian Government in collaboration with the PT. Semen Gresik³ planned to establish cement factories in the Kendeng Mountain range areas (Crosby, 2009). The mountain

² Research for this paper was carried out in Sukolilo village of Pati, Central Java. I am grateful to the Faculty of Social and Political Sciences, Universitas Gadjah Mada for arranging field visit and firsthand information about the Samin peoples.

³ PT Semen Gresik is the largest cement producer in Indonesia.

is a source of limestone that is an essential element for producing cement. As a result, the company proposed to establish factories in the nearby areas of the mountain. Notably, numerous natural springs, caves, underground rivers, a rich variety of plants, birds, and animals are living in this Mountain range areas (Rakhma et al., 2012). At the same time, there are many villages including Sukolilo situated in that mountain range area. Eight villages, namely Kedumulyo, Misik, Gadudero, Sukolilo, Sumbersuko, Kasiyan, Tompegunung and Baturejo, will be affected by the cement factories establishment (Crosby, 2009). Most of the communities of those villages are peasants who depend on the springs of the Mount Kendeng for the cultivation of their land. The Sumber Lawang spring is the largest spring in Sukolilo on which cultivation of 4,000 hectares of rice fields is fully depended (Rakhma et al., 2012). Therefore, Kendeng Mountain is the source of their livelihood.

Consequently, the proposed establishment of cement factories was rejected by the local people of the Mount range area as it will cause a severe impact on their livelihood. They fear cement factories would cause environmental damages, in particular, natural springs would dry up leading to drought in that area. Among the other communities, Sedulur Sikep community in Sukolilo, Pati, is in the forefront against the cement factory establishment (Crosby, 2009) since 2006. Sedulur Sikep community, also known as the Samin community, has a long history of different culture, language, religious beliefs, and tradition from those of the ordinary Indonesians. Accordingly, they profess their own beliefs and live in this area even before the beginning of the Dutch colonization of the country. More than that, their bonding with the Kendeng Mountain is an inevitable part of their culture

and tradition. Therefore, the Samin with other villagers of the area founded Jaringan Masyarakat Peduli Pegunungan Kendeng (JMPPK or Community Network for the Care of Kendeng Mountains) in order to protect the Mountain areas from any exploitation by the cement factories.

Ten years have passed since they first protested against the factories until today. Without causing any disturbance to the general public, they are struggling in innovative and peaceful ways. The Samin farmers wore their straw hat (see Plate.1) and cemented their feet into the boxes as a means of their resistance against the cement factories. However, in between this time they faced much suppression both by the agent of the cement factories and the local administration units. Some of the farmers even faced unlawful arrests and detention by the police. However, and perhaps inevitably, any violence could not stop them as they have successfully filed a case against the company. They filed an appeal after the earlier verdict of the State Administration High Court in Surabaya stood in favor of the factories. To date, the cement factory's operation is suspended until the environmental assessment (KLHS) for Mount Kendeng is completed (Sapiie, 2017).



Plate 1. The straw hat as a means of protest. A slogan 'Tolak Pabrik Semen' (or reject the cement factory) is written in their straw hats. Source: Picture was taken during the field visit in Sukolilo, Pati.

The Samin as Indigenous People

Before delving into the human rights violations of the Samin people as indigenous people,⁴ with the protection they have under international laws, it is still important to define indigenous people as there is no well-accepted definition of the term "indigenous." The widely cited definition is given by the Convention Concerning Indigenous and Tribal Peoples in Independent Countries 1989 under Art. 1(1)⁵. The definition states that the indigenous peoples are those

⁴ The paper reviews some background information about this community. They are also called a tribal population; in Indonesia, the Samin are known as Adat peoples.

whose social, cultural and economic conditions are distinct from the other nations of the country, and their status is regulated by their customs or traditions; most countries with indigenous communities, nevertheless, dismiss this broad concept of indigenous status.

More importantly, the indigenous peoples are groups who are traditionally identified as descendant of the original inhabitants of lands with which they share a strong spiritual bond (Wiersma, 2005). Therefore, understanding of the term indigenous peoples is important because the definition itself reveals their bonding with their traditional land, culture, and identity. As their subsistence livelihood is attached to their land, without their ancestral land, they cannot exercise other human rights at all. Thus, protection of indigenous people rights can only be ensured when their right to land is guaranteed.

Despite this legal recognition under international norms, the practice of Indonesia is different. Typically, the state denies the claims of indigenous status and tries to assimilate these groups' cultures with those of other groups. Bakker & Moniaga (2010, p. 189) point out that the Indonesian government defines many adat communities as

⁵This Convention applies to: (a) tribal peoples in independent countries whose social, cultural and economic conditions distinguish them from other sections of the national community, and whose status is regulated wholly or partially by their own customs or traditions or by special laws or regulations; (b) peoples in independent countries who are regarded as indigenous on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonisation or the establishment of present state boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions.

'isolated communities' known as masyarakat terasing. Certainly, the tendency of the government reveals its unwillingness to recognize indigenous peoples. Nevertheless, the Second Amendment of the 1945 Constitution in 2000 recognized the individual adat law communities 'if they still alive' under Article 18 B (2) of the Constitution with the condition that it will not affect the unitary character of the state and nationalism. This Article actually narrows down the space for otherwise broad indigenous identities which will be discussed later in this paper.

In this context, the paper considers that the Samin community is an indigenous community as they can be identified distinctly from the other nationals of the country due to their culture, language, and belief system (see Plate. 2). The Samin have their own religious ethics which focuses on mysticism, sexual power, passive resistance, and the primacy of the nuclear family (Rakhma et al., 2012). They believe in hard work, honesty, non-violence and brotherhood and sisterhood of people; transfer of land for profit, for example, is prohibited in their community as the land is used only for cultivation. Therefore, their bonding with the land where they live is also a part of their culture and tradition.



Plate. 2 People of the Samin community. Samin men cover their heads with batik headbands and wear trousers of knee length; the women wear long-sleeved blouses and batik skirts. This picture was taken during the discussion with them in Sukolilo village.

Development–Induced Human Rights Violations in Sukolilo: A Threat to Indigenous Rights

There is no denial of the fact that development is necessary for the underdeveloped regions. Nevertheless, development should be sustainable without causing any harm to others specifically those who are poor, marginalized in society. Apparently, the construction of the factories in the Kendeng Mountain range areas has multiple consequences on the human rights of the indigenous communities.

Firstly, the indigenous people have strong traditional and practical ties with the land⁶ they live on. However, the construction

⁶ Article 36 of the Law No. 39 of 1999 on Human Rights guarantees the right to own property of everyone and Article 6(2) guarantees specifically land rights of the indigenous people.

of cement factories in their land is certainly a threat to their traditional values, identity, and way of life. Consequently, dispossession will not only affect their land rights but also disturb cultural and traditional values. More than that, the cement factories will cause a threat to the life of the Samin people as their survival could be hampered if the natural springs of the Mount Kendeng dry up. Again, construction of any factories in the mountain range area that feeds the indigenous people will cause a risk to their living and violate their right to life⁷ In addition, the impact of the factory on the subsistence right of the indigenous peoples cannot be ignored as they have a different way of living and livelihood compared to people in the cities. Therefore, the establishment of factories could hamper their right to livelihood⁸.

Secondly, every person has the right to choose their own profession, and no one shall be forced to change one's occupation. The Governor and the cement factories are claiming that the construction of cement factory will give the community new job opportunities by ignoring the fact that the factory construction in their locality will severely affect the traditional livelihood of the farmers. Consequently, it will cause the violation of their right to work⁹ if they are forced to change their traditional farming.

⁷ Law No. 39 of 1999 on Human Rights (guarantee of the right to life of everyone under Article 9).

 $^{^{\}rm 8}$ A rticle 40 of the Law No. 39 of 1999 on Human Rights guarantees the right to an adequate standard of living for everyone.

⁹ Article 38 of the Law No. 39 of 1999 on Human Rights guarantees the right to free choice of employment and the right to just conditions of work for everyone.

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Thirdly, the indigenous people have the right to participate in the use, management, and conservation of their ancestral lands. In the case of Sukolilo village, there was no participation of the community in the process of this development project which causes the violation of their right to participation ¹⁰. Equally, it is the duty of the government to take prior informed consent of the indigenous communities regarding any project that might have severe consequences on their culture and tradition (E/C.12/IDN/1 2014, p.13). However, the Samin farmers had not got opportunities to express their opinion on the development policy when it was first planned in 2005. Thus, they are deprived of their right to freedom of expression .

Fourthly, the Samin and other village peoples will be discriminated from the other citizens of the country if the factories are built in their ancestral land without their permission. The degree of advantages is much higher for the other region than the indigenous groups. Consequently, it will be a discriminatory project for the indigenous communities while depriving their equal rights¹².

Fifth, as mentioned earlier, the Samin farmers were detained and arrested arbitrarily by the police. Suppression by the government and other institutions causes severe violation and a threat to their freedom from arbitrary arrest and detention. Thus, the Samin's indigenous rights violation can be framed as a series of interconnected human rights issues that can no longer be neglected by the Indonesian government.

 $^{^{10}}$ Right to participation has been guaranteed in Article 43 of the Law No. 39 of 1999 on Human Rights.

¹¹ as Article 25 of the Law No. 39 of 1999 on Human Rights guarantees the freedom of expression of the citizens.

¹² Non-discrimination is guaranteed in Art. 3(3) of the Law No. 39 of 1999 on Human Rights.

Finally, after the considerations are justifiable in these contexts, other citizens of the country may argue that development is essential and the right to development is also human rights. Then again, this consideration can only be accepted on the ground that the core human rights are not forgotten (Koji, 2001). Thus, the paper considers the indigenous people's rights to life, subsistence, culture, and identity as more important than development which can be achieved through other sustainable ways by the state.

International Human Rights Norms and Mechanisms Protecting Indigenous Rights

Although the indigenous peoples are distinctive from the other citizens of the country, they have equal human rights like those of other citizens. Accordingly, the international norms protecting human rights are also applicable to them. The development project will affect the right to life, and other subsistence rights of the indigenous peoples as all human rights are interlinked. The right to adequate standard of living has been addressed in a number of International Conventions to which Indonesia is a signatory. Article 25 of the Universal Declaration of Human rights 1948 (UDHR)¹³ guarantees the adequate standard of living rights of all individuals. Similarly, the International Covenant on Civil and Political Rights 1966 (ICCPR) under Article 27¹⁴ and the International Covenant on Economic, Social and Cultural Rights 1966

¹³ Article 25 (1): Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

¹⁴Article 27: In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religions, or to use their own languages.

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(ICESCR) under Article 11(1)¹⁵ guarantees the right of decent living conditions. Therefore, building cement factories will severely hamper the living standard of the indigenous people which is a denial of international obligations by Indonesia as a state party to the above treaties.

Specifically, the state has the obligation to safeguard the right of the peoples concerned to use lands because their subsistence and traditional activities depend on the land. ICESCR Art.1 $(1,\ 2)^{16}$, and Art.11 (1) ensures the subsistence rights of the individuals. Therefore, the state is under obligation to protect the indigenous lands for ensuring their tradition, culture, and identities.

Additionally, all the human rights treaties explicitly emphasize the principle of non-discrimination. The government's policy to construct factories is discriminatory to the indigenous groups of people who are already in a disadvantaged position. The International Convention on the Elimination of All Forms of Racial Discrimination 1965¹⁷ prohibits any kind of discrimination on the basis of race, color,

¹⁵Article 11 (1): The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

¹⁶Article 1 states the followings.

^{1.} All peoples have the right of self-determination. By virtue of that right, they freely determine their political status and freely pursue their economic, social and cultural development.

^{2.} All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

¹⁷It was adopted in 1965 and entry into force 4 January 1969.

descent, or national or ethnic origin which encompasses indigenous people right not to be discriminated. Indonesia as a signatory to the Convention has the obligation not to discriminate against indigenous peoples for the development project. More importantly, the General Recommendation No.23 on Indigenous Peoples (18/08/97) affirms that the discrimination against the indigenous peoples falls under the scope of the ICERD Convention and state should take effective measures to combat all forms of such discrimination.

Furthermore, there are two international instruments of the International Labour Organisation (ILO), which specifically address indigenous and tribal people's rights under Convention No. 107^{18} and Convention No. 169^{19} . The second Convention is the revision of the earlier ILO Convention No.107. Article 2^{20} of the ILO Indigenous and Tribal Peoples Convention No. 169 provides that the indigenous

¹⁸Convention No. 107 concerns the 'Protection and Integration of Indigenous and Other Tribal and Semi-Tribal Populations in Independent Countries'. It was adopted by the International Labor Conference in 1957.

¹⁹Convention No. 169 concerning 'Indigenous and Tribal Peoples in Independent Countries' is a revision of Convention No. 107. It was adopted in 1989 and came into force in 1991. ²⁰Article 2(1) Governments shall have the responsibility for developing, with the participa-

tion of the peoples concerned, co-ordinated and systematic action to protect the rights of these peoples and to guarantee respect for their integrity.

^{2 (2)} Such action shall include measures for:

⁽a) ensuring that members of these peoples benefit on an equal footing from the rights and opportunities which national laws and regulations grant to other members of the population;

⁽b) promoting the full realization of the social, economic and cultural rights of these peoples with respect for their social and cultural identity, their customs and traditions and their institutions;

⁽c) assisting the members of the peoples concerned to eliminate socio-economic gaps that may exist between indigenous and other members of the national community, in a manner compatible with their aspirations and ways of life.

people have the right to participate in any development concerned to them. Again, article $13 \, (1)^{21}$ provides that the indigenous lands and territories are important for their cultural values. Thus, the government has the responsibility to coordinate with the people concerned and respect their right to integrity. However, the matter of concern is that Indonesia is not a party to any of the ILO Convention which protects indigenous rights.

Nevertheless, Indonesia is a signatory to the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) 2007. Article 2²² of the said Convention ensures that indigenous peoples are equal to all other peoples. They have the right to existence, of living free of discrimination under international law. Hence, there is no scope to ignore international obligation by saying that there is no protection of indigenous people rights. International laws provide indigenous peoples rights protection both explicitly and implicitly under various international treaties and declarations. Consequently, Indonesia as a member of the international community has an obligation to respect, protect and fulfill the human rights of the indigenous peoples.

Indigenous Peoples Rights and State Obligations to Protect the Samin's Rights at the National Level

The context of Indonesia relevant to the protection of indigenous rights is often discussed yet rarely understood. During

²¹ Article 13 (1): In applying the provisions of this Part of the Convention governments shall respect the particular importance for the cultures and spiritual values of the peoples concerned of their relationship with the lands or territories, or both as applicable, which they occupy or otherwise use, and in particular the collective aspects of this relationship. ²² Article 2: Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular, that are based on their indigenous origin or identity.

the Suharto's regime, there was an official claim that Indonesia is a nation which has no indigenous people, or that all Indonesian are equally indigenous (Li, 2000, p.149). This statement was promoted and supported by the state politically on the ground of nationalism to deny the rights of the indigenous people. Still now, the ideology of the state is to promote developmentalism which requires enhancing development without any consideration of the rights of the indigenous people. Accordingly, the denial of the legal rights of the indigenous peoples who are poor and powerless goes unnoticed under the name of development (Khan, 2012).

Although the Indonesian Constitution²³ recognizes the indigenous identity under Art.18 B (2)²⁴ and Art. 28 I (3),²⁵ the state denies their rights on the basis of the principle of nationalism and unitary state. The case of indigenous peoples of Lore Lindu against the construction of a hydropower plant²⁶ at their ancestral place can be cited here as an example. The dam was opposed by the indigenous communities on the ground of their violation of human rights (Sherman, 2005). Although they won the case against the development project, the government neither accepted nor rejected the notion that they are indigenous peoples at that time. Thus, the political attitude of the state is not to give them any indigenous identity which makes them more vulnerable for claiming their rights.

²³The Constitution of Indonesia 1945.

²⁴The Constitution was amended in 2002 which recognizes the cultural identity and traditional rights of indigenous peoples as a basic human right under article 18B.

²⁵Article 28 I (3) -The cultural identities and rights of traditional communities shall be respected in accordance with the development of times and civilizations.

²⁶Lore Lindu Hydroelectric Power Project was proposed for the electricity of the island of Sulawesi, Indonesia.

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Therefore, the politics of human rights become an issue of discussion when indigenous rights are claimed in Indonesia. Recently, the political ground is shifting as the current president of the country has recognized the rights of the nine indigenous communities to their customary forests. This shift is a big step in seven decades of the independence of the country after the 2013's landmark decision²⁷ of removal of state control on customary forests by the court (Rachman et al. 2013).

Despite the constitutional recognition and international obligations to protect the rights of the indigenous people, the state is disregarding their rights. In addition, the draft law on indigenous rights is still languishing in the Parliament's discussion. However, and perhaps inevitably, the Samin's movement for the protection of their culture and survival has saturated the public sphere because of their passive, non-violent and innovative ways of protest. As a result, it is perhaps ironic that the construction of the cement factories is still suspended by the government. As a signatory of many international Conventions already discussed, Indonesia is under obligation to protect indigenous people's rights at the national level. The international agreements can only apply at the national level when there is national legislation incorporating those international laws. The tripartite obligation to respect, protect, and fulfil [rights] is the benchmark for measuring state's commitment towards indigenous rights. They are as the followings.

²⁷Constitutional Court Ruling 35/PUU-X/2012, May 16th, 2013. In March 2012, AMAN plus representatives of two indigenous communities—the Kuntu and the Kasepuhan Cisitu communities—applied for a judicial review of Forestry Law No 41/1999.

1.The Obligation to Respect the Right of Indigenous People

The state has an obligation to respect the rights of the indigenous peoples which requires not to produce any laws or development policy that violates their rights. The state has an obligation to respect the minimum subsistence rights of all indigenous communities in the country.

2.The Obligation to Protect the Right of Indigenous People

The state must protect the indigenous people from any kind of discrimination and address the issue with an effective legal mechanism. It also includes state obligation to prevent any interference with, alienation of or encroachment upon traditions and customs, land-tenure systems and institutions of the indigenous peoples by third parties for the development and management of resources.

3. The Obligation to Fulfill the Right of Indigenous People

The state's obligation to fulfill rights requires state mechanisms to develop and facilitate indigenous rights by amending existing paradoxical laws, ensuring affordable living condition, increasing diverse opportunities and strengthening social securities of the indigenous people. Therefore, by promoting human rights of the indigenous people, the state can fulfill its obligation towards indigenous peoples.

Thus, in terms of indigenous rights, Indonesia fails to perform its obligation to respect, protect and fulfill the right of the indigenous people.

Human Rights-based Approach to Development: A Viable Solution?

We will not enjoy development without security, we will not enjoy security without development, and we will not enjoy either without respect for human rights.

Kofi Annan (2005)

All over the world, indigenous peoples have been struggling long to maintain their separate existence. According to Wiersma (2005), the fight for access to their traditional land is a central element of that struggle, as it is a fight that will ensure their economic, social, cultural and physical survival. Therefore, much attention has been given to the causes of the violation of their rights without paying heeds to any durable ways to redress the violations. The United Nations Special Rapporteur on the Rights of the Indigenous Peoples 2012 (Stavenhagen, 2013, p. 88), acknowledges the impact of megaproject development on the human rights of indigenous communities and suggests that sustainable development is essential for the survival of the indigenous peoples. Accordingly, sustainable development can only be assured when the human rights-based approach to development has been adopted by the government.

Development and social progress are necessary for the realization of human right as development creates the conditions under which human rights can be realized (Hamm, 2001, p. 1008). However, development should not mean economic development only; rather, it addresses sustainable human development through non-discrimination, participation, and good governance.

The human rights-based approach to development requires the principle of non-discrimination in any development project. According to the human rights approach to development, there should not be any development policy which is discriminatory to others, especially to disadvantaged groups and individuals in a society. Furthermore, the human rights approach to development demand for participation of those concerned in the development policy. It also ensures the free and prior informed consent in relation to the major development projects by the government (Stavenhagen, 2013). The Declaration on the Rights to Development 1986²⁸ also includes equality in sharing the benefits and fairness of distribution, as well as equality in participation. Thus, the participation of the people concerned is necessary as it gives the right to determine their path of development (Sengupta, 2001).

Accordingly, the people in the underdeveloped region have the right to development. The indigenous people's rights to land include not only the use of land but also the right to participate in the use, management and conservation of the resources attached to land. Therefore, the state can only exploit these resources with their consultations, participation in the benefits, and fair compensation for damages resulting from such activities (Dibley, 2007). Nevertheless, none could assure that resettlement of the people will fully rehabilitate to the standard of living which they were enjoying prior to the development project. Thus, the nexus between human rights and development should be taken into consideration by the state for the protection of the indigenous rights.

²⁸ The Declaration on the Rights to Development was adopted by United Nations General Assembly, Resolution 4/128 on December 4, 1986.

In the context of the Samin people, the Governor and the company without informing them proposed their plan for the construction of the factories. Moreover, the lack of participation of the community people in the policy-making of this development project raised their fear that it will cause environmental damages and their livelihood severely. The governor even without any consultation of the villagers continues to give new permits for factories despite their protest. Thus, this project not only lacks participation and prior informed consent of the communities but also good governance of the administration. It is, therefore, obvious that community people will protest against such project as they do not have any participation in the policy-making which can only be ensured by the human rights-based approach to development. Therefore, development without a human rights-based approach will do nothing but reverse the sustainable livelihood of the indigenous peoples. Hence, the principle of the human rights-based approach to development could be a viable solution for the Samin and other villagers in protecting their human rights as well as development projects concurrently.

Recommendations

Therefore, the human rights-based approach to development requires the following recommendation that should be taken into account for protecting rights of the Samin's and other communities in the Kendeng Mountain range area.

First, the government should ensure the participation of the Samin and other communities in the environmental assessment (KLHS) for Mount Kendeng.

Second, the state should amend all domestic laws that deprive indigenous communities in claiming their identity and other related rights attached to their status.

Third, the state should make strong laws for the protection of the interest of the indigenous communities and effectively implement those laws.

Fourth, the policy level protection of the indigenous communities must be ensured by the government and other related institutions.

Fifth, the notion of nationalism in the constitution should be interpreted with respect for the diversity of other groups of the country.

Sixth, the government should ratify the ILO Convention No.169 which provides for specific protection of indigenous rights.

Seventh, the NGOs and civil societies must raise their voice against any kind of injustice to the indigenous communities.

Concluding Remarks

In sum, the state can no longer ignore the threat of human rights violation of the Samin indigenous community because of the cement factories. In this context, the State should consider that the land rights of the communities are also linked with their right to survive life with human dignity. Any development project causing severe harm to the people concern, no matter small or large groups, might turn into destruction for them. Thus, this issue raises a pertinent question: Why the indigenous, minority or marginalized groups have to sacrifice their land, culture, resources, and identities? Why have they to compromise their rights in the name of national

interest, modernization, economic and social development? That is why Arundhati Roy (1999) rightly pointed out when the Sardar Sarovar Dam²⁹ in India was built that 'large development projects are weapons of mass destruction' for the marginalized communities.

Needless to say, the Indonesian government has a responsibility under national and international laws to ensure the rights of the indigenous peoples without any discrimination. Consequently, the Samin have the absolute right to choose their own priorities over any development projects as long as their rights are concerned in the project. Therefore, the state should promote development in a participatory way that encompasses interests of all groups living on its territory instead of using as a justification to override the rights of indigenous peoples (United Nations, 2007, p. 70). The state must ensure sustainable economic and social development compatible with the indigenous culture.

Accordingly, the Samin have the absolute right to protect their culture and identity converse from any destructive development projects. Therefore, the best available option in this situation is to formulate the human rights-based approach to development by the government and address the claims of the communities living around the Kendeng Mount range areas. Indeed, the human rights-based approach to development requires the establishment of means by which the people concerned can participate in the decision-making process. Hence, it is a challenge for the government to comply with the human rights-based approach to development and ensure the human rights of the indigenous peoples without compromising their human dignity.

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²⁹ The Sardar Sarovar Dam is a gravity dam on the Narmada River near Navagam, Gujara in India.

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