



## Journal of Human Rights and Peace Studies

journal homepage: <https://www.tci-thaijo.org/index.php/HRPS/index>



### Decision-Making in the Indigenous Group: A Case Study of Papua

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#### ARTICLE INFO

#### ABSTRACT

##### **Article History:**

*Received: 31-Dec-2020*

*Revised: 25-May-2021*

*Accepted: 28-Jun-2021*

##### **Keywords:**

*Indigenous Peoples,  
Land Rights, Decision-  
Making, Investation,  
Cultural Rights.*

Papua is one of the provinces in Indonesia that has the privilege of running the local government and development through the enactment of Special Autonomy which one of the purposes is the guarantee of respect and protection toward the basic rights of the Indigenous Peoples of Papua. Since then, various projects for the utilization of natural resources in Papua have been planned and implemented that carried out in the customary territories of the indigenous peoples with limited participation in the decision-making process to determine the land utilization. Indigenous peoples' efforts to take back land rights have been made for several attempts that mostly produce non-favorable results. But there is also the case of indigenous peoples that successfully reclaim their right to land. This research aims to explain the process of decision-making made by indigenous peoples in Papua, specifically in the Tablasupa Village, regarding the mining plan of Company X in their area and also to find out the extent of whether the process happened can contribute to the enjoyment of indigenous peoples' rights to land.

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## Introduction

Papua province has been known as one of the regions with special characteristics in Indonesia, this situation cannot be separated from the dynamics of the conflict that has been going on for a long time. Starting with the political conflicts related to identity and integration processes, the use of violence during the conflict which resulted in the failure of the development process which is ultimately resulted in the economic discrimination and marginalization toward the Papuan people (Widjojo et al., 2010). Dynamic of conflicts generate a need for a dynamic and comprehensive approach of handling. Indonesian government then gave the Papua Province, now divided into Papua and West Papua Provinces, in which there are 40 districts and two municipalities, the Special Autonomy in order to accelerate the development, to fulfil the rights of the people in Papua and to ensure that governance and development aimed at improving community welfare can be carried out with the respect of human rights.

Safa'at (2012) explained that the constitutional basis for Special Autonomy for Papua is Article 18B of the 1945 Constitution which states that the state recognizes and respects regional government units that are special and special in nature regulated by law, namely the second highest regulation after the constitution. It is recognized that the management and utilization of natural wealth products are not used optimally to improve the standard of living of indigenous people, resulting in the emergence of gaps both among Papuans and between Papua and other regions in Indonesia. This happened because of past policies that were centralized by ignoring the special conditions that existed in Papua. The policies that have been implemented in Papua not only ignore aspects of the welfare of the Papuan people, but also deny the basic rights of indigenous people and deny the reality of differences of opinion regarding the history of the unification of Papua with the various problems it faces.

One of the urgencies for the implementation of Special Autonomy is that there was less recognition and respect toward the rights of indigenous peoples which contributed 48% of population in provinces of Papua and West Papua by the 2010 (Elmslie, 2017). Therefore, this regulation is based on the values that guarantee the respect and protection toward the

fundamental rights of the Indigenous Peoples of Papua within the implementation of any development projects that will be implemented in the region of Papua Province (Indonesian Act on Special Autonomy for the Papua Province, 2001). The guarantee is emphasized through policy regarding the protection and management of natural resources of the indigenous peoples in Papua. The policy does not only recognize the existence of indigenous peoples in Papua but also regulates any efforts of natural resource utilization to be done while ensuring the participation and protection of the rights of indigenous peoples. This effort includes the regulation on the transfer of rights that must be made with consent from the indigenous peoples (Papua Special Regional Regulation on the Protection and Maintenance of Natural Resources of the Papuan Customary Law Community, 2008).

Before Special Autonomy exists in 2001, and even after its implementation that supposedly brings more protection for indigenous peoples, various projects for the utilization of natural resources in Papua have been planned and carried out. For instance, the land clearing for palm oil plantations in Nabire Regency, timber as forest utilization activities in Merauke Regency, and mining plans in Jayapura Regency. These resource utilization activities are carried out in the customary territories belong to the indigenous peoples, and the processes were carried out, resulting in the violations of the rights of indigenous peoples to their land. This violation is seen in the form of limitation or even blocking indigenous peoples' access to their land for practicing any daily activities and cultural rituals, such as cultivating and praying, that are usually carried out in the area.

The efforts to take back land rights have been made for several attempts by the indigenous peoples. However, external mechanisms are less likely to produce favorable results. For example, in the case of the Yerisiam Gua indigenous people in Nabire, an attempt to reclaim it through a legal process was rejected due to procedural reasons. As well as the Marind indigenous people in Merauke who did not have time to submit a response to one of the business licenses that the government had given to the company due to the lack of time.

However, there is also case of indigenous peoples that successfully reclaim their right to land. Indigenous peoples of Tepra-Yewena which lives in the Tablasupa village area once carried out efforts to rights reclaiming on their customary lands, and they succeeded in

defending their territories by using decision-making mechanisms following the existing customary mechanism. This is the case of indigenous peoples' conflict related to the mining plan once occurred in Tablasupa Village in Depapre District, Jayapura Regency, Papua Province. The violations of the rights of this community of indigenous peoples started when Company X came in the middle of 2011, bringing a Regent Decree on Mining Business, which has been released by Jayapura Regent in 2009.

This study aims to answer two research questions. First, how can the decision-making process of indigenous peoples in Tablasupa village conducted regarding the mining plan in their area? The second question is how can the claims for land rights be achieved by exercising the right to culture? The research is limited to a particular place and time of case and issues discussed. The case studied in the research specifically happens in Tablasupa Village in 2011 - 2012. The indigenous groups in Papua are very large in number and have their own uniqueness in each group, but can be largely divided into seven customary areas where the leadership and problem-solving mechanisms tend to be similar in each ethnic group (Mansoben, 1995). Regarding the issues, this study only discussing the decision-making process as the mechanism of reclaiming indigenous peoples' right to land. This research aims to explain the process of decision-making made by indigenous peoples in Papua, specifically in the Tablasupa Village, regarding the mining plan of Company X in their area and also to find out the extent of whether the process happened can contribute to the enjoyment of indigenous peoples' rights to land.

## **Literature Review**

### **Decision-Making**

The decision-making process in a community is described as a choice among several modes of actions to change or maintain an institution or facility within the community in which an authoritative person or group makes this choice within an institution in the community (Rossi, 1957). Decision-making also defined as an act or opinion of choice that can be regarded as a mental (cognitive) process, which resulting in the selection of course of action among

alternative scenarios (Das, 2012). It is also a process in which individuals and groups identify, combine, and integrate information to choose one or several possible courses of action (Lesmana, 2014). These definitions explain that decision-making as a process that can be taken by an individual or group that including analyses and choosing the action that will be done. The decision-making process done by the indigenous group of Tepra-Yewena Yosu was carried out in *para-para adat*, namely an official forum for indigenous peoples to discuss and determine their position and steps they will take to resolve any matters that are occurring in their community (Magdalena Awi, 2013).

Initially, *para-para adat* was only attended by men, elders, and persons who had positions in the traditional structures. But over time, *para-para adat* carried out by involving more representatives such as women, young people, and persons who are considered experts in their specific fields. Indigenous Peoples can even involve the role of people from outside the particular indigenous communities if their presence is considered important in the discussion and is carried out strictly if they got the permission from the leaders of the tribe (6, 2019).

## Indigenous Peoples

The term indigenous peoples is not rigidly defined toward every indigenous group all over the world. This is because the definition and characteristics of one indigenous group are not necessarily suitable for the use in defining or describing other indigenous groups. There are some definitions and explanations related to indigenous peoples. Thontowi (2015) describes indigenous peoples as a group of people who share the same feelings, living in one place, having their social institutions, traditional leadership and traditional justice that are recognized by the group, also they have customary laws and governing rights and obligations on material and immaterial goods. These shares characteristics are determined by genealogy or geological factors. Another description of indigenous peoples says that they have distinct languages, cultures, social, and political institutions that may vary from mainstream society (Sarivaara et al., 2013). Mostly, indigenous peoples also share common experiences in terms of discrimination, language loss, and also marginalization.

Other descriptions on indigenous peoples saying they are as distinct groups where a larger population grown up around their original place exerts political dominion over the original people (Jacobs, 2019). However, in general, (Castellano, 2008) also explained the customary community as the descendants of those who inhabited a country or a geographical region when the people of different cultures or ethnic origins arrived. With the characteristics that are generally possessed by indigenous peoples, which are they display a resolve to maintain and adapt their heritage and historical links to their territories and associated natural resources. Castellano's definition is pointing the elements said in previous definitions, which explains that indigenous peoples as the community that already exists in some specific geographical area as well as they have characteristics within their group that show the link of their history and their territory. These characteristics of indigenous peoples are consistent with the conditions found in the Tepra-Yewena Yosu indigenous group, where they have inhabited the Tablasupa area since the predecessors also have the history and access to use and manage their customary territories.

### **Rights of Indigenous Peoples**

The rights of indigenous peoples are recognized and guaranteed through various international and national regulations to the local level of government of Indonesia. At the international level, the rights of indigenous peoples are regulated in ILO Convention number 169 of 1989 as well as the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) 2007. Unfortunately, Indonesia has only been a signatory to UNDRIP and has not ratified the ILO Convention 169 yet. UNDRIP provides minimum standards for the survival, dignity, and well-being of the indigenous peoples (Art. 43). It is also mentioned in Art. 4 of UNDRIP that indigenous peoples have their rights to autonomy or self-government in matters related to their internal and local affairs which allow indigenous peoples to decide and using their system in maintaining their groups and in Art. 3, which stated that indigenous peoples could freely determine their political status and pursue their economic, social and cultural development.

Nationally, Indonesia recognizes the rights of indigenous peoples as contained in several of the country's regulations, including the Constitution of the Republic of Indonesia 1945 article 18B No. 2 (Republic of Indonesia, 2002) which states that the State recognizes and respects the indigenous peoples along with their traditional rights. Moreover, the Indonesian Act No. 39 of 1999 regarding Human Rights Art. 6 no. 2 stated that the cultural identity of indigenous peoples, including rights to customary land, is protected, in line with the current development. This regulation describes the customary land as the condition that is required to identify a community as the indigenous peoples.

The idea of legal pluralism also could accommodate the land rights of indigenous peoples that having basic problems in most national states law (Elsana, 2018). In this context Papua has Special Autonomy that could give contribution as the regulation that give more space related to the specificity of indigenous peoples to be accommodated in state regulations. This particularity, among others, is through cultural representation, customary laws that live in the community is recognized as formal law (Safa'at, 2012).

## **Right to Culture**

The right to culture is mentioned in the international treaties as well as at the national level in Indonesia. Internationally, the right to culture is recognized under UN declarations and covenants. In the Universal Declaration of Human Rights (UDHR) Art. 27, it is stated that everyone has the right to participate in the cultural life of the community, to enjoy the arts and share in scientific advancement, and its benefits (United Nations, 1948). Moreover, UNESCO (Art. 5, 2001) explains that all persons have the right to participate in the cultural life of their choice and conduct their cultural practices, subject to respect for human rights and fundamental freedoms.

At the national level, the State of Indonesia is mentioning in the Constitution Art. 28I (Republic of Indonesia, 2002) that identities of the cultural and traditional community are respected in harmony with the times and civilizations. More specifically, in Papua, Special Autonomy also covers concerns on the specificity of cultural conditions in Papua. This policy

becomes one of the bases for the indigenous peoples to be able to enjoy the results of development fairly based on the rights that be seen in the existing cultural values and practices within the community.

## **Right to Land**

The right to land is mentioned in the UNDRIP (United Nations, 2007), saying that indigenous peoples have the right to the lands, territories, and resources which they have traditionally owned, occupied, or otherwise used or acquired. Even though it is not available yet to find the right to land in the international codification of law, but the condition of landlessness can threaten people from enjoying some fundamental human rights (Wickeri & Kalhan, 2010). This is due to the importance of having land for some groups such as indigenous peoples where the land ownership commonly being the condition for them to be recognized as the indigenous group, such as mentioned in the national regulations on indigenous peoples. The land also gives people access to enjoy their cultural and social rights as well as to their resources.

Indonesia itself has the regulations regarding land mentioned in the Agrarian Basic Law No. 5 of 1960 which recognize the existence of indigenous peoples and their ownership of land even though in this regulation the rights of indigenous peoples to the land itself are limited by conditions not to conflict with national interests (Anantya, 2019). Other regulations regarding the right to land are also mentioned in Special Regional Regulation of Papua No. 23 of 2008 regarding Indigenous Peoples *Ulayat* and Individual Rights to Land. Among the indigenous peoples in Papua, in the majority, the land is owned communally and also there is a fundamental understanding that land is always being used to explain community relations such as kinship, power, leadership, resources, rituals, and spirituality so that indigenous peoples have very strong inner ties to their land (Deda & Mofu, 2014). The land is owned communally also becomes the reason why the land itself is being used as a source of identity for an indigenous group so that they can be called an indigenous community along with all the rights and obligations that follow this status.



## Methodology

The approach that is used in this research is a case study approach that allows the researcher to examines information specifically related to the decision-making process carried out by the indigenous peoples in Tablasupa village regarding mining activities conducted by Company X that happened in 2011 - 2012. A case study can be described as one of the research methods that allow the researcher to examine data for a specific context such as small geographical areas or a limited number of individuals as the research subject (Zainal, 2007). The case study approach has distinctive features such as bounded in terms of time and space, could involve single or collective cases, and can be used to examine any event, process, program, or individual (Cresswell, 2007). The case study approach is being used within this research to get the sequence of events in the resettlement of the case in the Tablasupa indigenous peoples. Explanations are sought to be obtained regarding the connection of each event that contributes to the decision-making process and how the process could successfully resulting in the restoration of the right to land of indigenous peoples.

Methods of data collection in this research are interviews, a study of the documentation, and observation. The interviews were conducted on seven persons which consist of indigenous peoples from the Tablasupa village and the NGO staff who were involved in assisting the indigenous group during the conflict and reconciliation process, both groups have female and male represent in the interview. Interviewees were chosen with consideration of their involvement from the beginning of the event to the completion of the case. The reason for this selection is to get complete and objective information from each group that contributes to the decision-making process through the local custom mechanism. Studies are also conducted on documentation and publications related to this case, as well as the observation on the people's kinship and values. These are to triangulate primarily to collect data related to the government's response to community advocacy cases.

The analysis for the case study is done by making a detailed description of the case and its setting (Cresswell, 2007). Analysis of the data in this research also using detailed descriptions within the context of the events. The descriptions are grouped based on the

dynamics of indigenous peoples' movements since the beginning of the conflict until the settlement. The events being seen to contribute to the exercising of indigenous peoples' right to culture and the impact on the enjoyment of their right to land.

Ethical considerations in this study are based on the research questions that were conducted by maintaining confidentiality and dignity so it would not create an impression of hostility between the groups from the past or not to give the impression that participants and their groups are being judged by their behavioral (their thought, attitude and act) choices in the past. Interviews are also conducted by ensuring that the sensitive information provided does not endanger participants from the community by taking the interview with free, prior, and informed consent principles.

### **Dynamics of the Conflict**

Indigenous peoples of Tablasupa Village were alienated from their lands when the company entered. Right after the detachment, it is immediately closed the community's access (3, 2019). Reclaiming efforts are carried out in various ways, such as by asking directly to the company to stop their activities or by holding meetings with the local government, namely Jayapura Regency House of Representative as well as the Acting Regent of Jayapura Regency. Since the beginning, the community chooses not to take legal action, for example, by filing a lawsuit against the government for releasing the mining license without at least disclose the EIA made for this or reporting the company to the law enforcement officers at least for trespassing. Legal advocacy was not taken because of the concerns in the community that this step would not succeed and risked it would take a longer time, which means the longer they would lose their access to the land and anything inside of the area (3, 2019). This belief refers to a situation where from the beginning, the security forces, namely Indonesian National Police and the Army, have been involved in protecting company assets by guarding the security post where this situation automatically severed community access to their land. Although finally, after the increase in conflict, the community had reported a case of land grabbing by Company X to the Police, no further action was taken.

Secondly, the community did not get access to official documents regarding mining licenses held by company (Interviewee 4, personal communication, 2019), as well as the government's attitude which from the beginning had been in contradictory from one to another office for example between the agencies in the Regency Government contradicts where the statement of the head of the service does not give a mining permit in a buffer zone of a conservation area while the regent himself issues a mining permit in that area (Mampioper, 2008). After seeing this, indigenous peoples become pessimistic about legal steps that will be able to restore their rights to land within the desired time. Also, at the time of the case, the mechanism for claiming public information could not yet be carried out in Papua Province because although the regulation had been in place since 2009, Act No. 14 of 2008 about public information disclosure, but in 2011 the mechanism in the local level had not yet been formed such as information and documentation management officials or commission of information in Papua Province. These conditions indicate the existence of the state siding with companies through government policies and the attitude of the security apparatus. This pattern often arises when there are conflicts between indigenous peoples who are dealing with investments in their territories as found by Elsam's research (2020).

Therefore, the step chosen by indigenous peoples is to use their traditional mechanism that has been around for a long time, namely the decision-making mechanism in the *para-para adat* (Interviewee 4 & Interviewee 6, personal communication, 2019). *Para-para adat* mechanism begins by inviting various related parties to discuss on a selected place that parties are agreed on it, then people from each party come to convey their aspiration so they can find joint solutions and steps of their problem-solving. When the *para-para adat* is implemented, some people do not attend regularly, and some are present but do not carry out the decisions of the meeting. For example, when the community asks Company X to suspend their mining activities until a company official is present and explains the plan of its activities directly to the community and conducts a discussion regarding compensation, this is conveyed to the customary groups but not heeded by the company. They continue to explore without conducting discussions with the public.

Also, the relationship between the community itself is getting tense, where some of *Ondoafi* in Tablasupa are showing a strong tendency toward two opposing community groups. One *Ondoafi* of Tablasupa was in the group that supported the entry of the company. At the same time, another Tablasupa's *Ondoafi* was supporting the movement from the group who are refusing the company's activities that being done without discussion with indigenous peoples. Although the third *Ondoafi* has a different personal view from the community groups who refuse, he chose to voice the aspirations of his people considering his responsibility as a protector is to ensure justice, maintaining kinship, and ensure certainty for the future for his people (Interviewee 3, personal communication, 2019).

*Ondoafi* himself is not the owner of all land in his territory, he only has the right to regulate the use of the land following the territories of the clans under it (Interview 6, 2019). *Ondoafi* as the chief of the tribe. It is not necessarily identical structure in each of the indigenous groups, but in general, it has the same features and distribution of roles. *Ondoafi's* role is as a protector for his community. One *Ondoafi* has a specific role and working area that could be different from *Ondoafi* in other regions.

Then, the community has formed Team 16, which is 16 representatives of each *Keret*, the group of a family name, where the mandate is given in the *para-para adat* and has met with the company to discuss strategic steps (Interviewee 7, personal communication, 2019). But not for a long time, Team 9, whose members were nine persons from Team 16, emerged without any prior notice to the community. Team 9 was proven to have had several meetings with the company without involving other members of Team 16. The contents of the meeting were not shared with all villagers. The agenda of the meeting was also not known. Unequal distribution of information and negligence of collective agreements are the cause of increased conflict between indigenous peoples. Environmental conflicts often occur because of unequal distribution regarding outcomes or perceived outcomes of environmental degradation and the process that cause the degradation itself (Walton & Barnett, 2007).

The practice of formation and work of Team 9 is indicated as a practice of corporate manipulation of indigenous peoples, where Colchester and Mackay (2004) state that extractive industries have been found to manipulate people divide communities and promote

individuals, who may not have traditional authority as leaders, to represent his community. This situation also be seen that members of Team 9 from the start did not entirely contain representatives from those who had a strong position in traditional structures but rather those who were trusted to have good communication and facilitation skills. Besides, some members of the community were also proven to be lured by companies with high salaries and fees if they wanted to join Company X. Still, some receive anonymous threat letters if they continue to reject the presence of the company (Aliansi Demokrasi Untuk Papua, 2013).

This condition made the community more and angrier so that they sending threats to stop the company's activities by using a war mechanism that involved physical contact and the use of sharp weapons (Interviewee 1, personal communication, 2019). This threat was conveyed several times, but it still did not make the company stop its activities (Interviewee 4, personal communication, 2019). Until finally, the community groups who refused, then went to the company to do the destruction, burning heavy equipment and guard posts. Even though at the time of the destruction, some other community groups supported the entry of the company, who were on guard due to fears of an attack on them. Burning was also carried out on the houses of *The Great Ondoafi*, which is the highest rank of *Ondoafi* within a tribe, who were considered not carrying out his duties properly as protectors of the group.

Even though the arson attack on *Ondoafi*'s house was not acceptable to the indigenous community in general, both groups that were support and reject the company, because the action was seen as a form of community disappointment toward the protection from customary leaders. However, this action was considered as a symbolic act and being understood and as a form of anger from the community who did not get protection from their own tribe (Interviewee 6, personal communication, 2019). The arson was carried out preceeded by an early warning as an effort to minimize casualties and losses that may be caused if it turns out the act of burning is no longer inevitable. This action was carried out not with the aim of damaging kinship instead, this action was seen as a means to restore relations. The existing mechanism and built up in indigenous communities, including the dispute mechanism, is an effort of indigenous peoples to maintain their customary order and maintain the existence and kinship between them. The use of this mechanism is not carried out with

the aim of breaking up their kinship for otherwise, the dispute mechanism is used as an alternative to solving problems in order to restore the kinship itself (Strathern, 1985).

The arson was inflicted as a form of conflict escalation had an impact on the tenuous relations between the indigenous peoples (Interviewee 3, personal communication, 2019). School activities, health services at the community health center, and routine worship in the village were disrupted. This condition disturbed the people who then conveyed the problem to the Acting Regent, both those who refused and those who accepted the company. The concern of society is on the relationship among themselves. This concern then raises the awareness that the presence of the company in their midst at such a time will only worsen the situation so that they asked the Acting Regent to facilitate the company to exercise restraint and give indigenous peoples time to reconcile.

The purpose of reconciliation was conveyed in *para-para adat* and agreed to become a joint plan. After that, a meeting with Company X is carried out by representatives of indigenous peoples agreed by all existing clans and became a unity of indigenous peoples themselves (Aliansi Demokrasi Untuk Papua, 2013). They came up with a common plan of asking the company to stop temporarily until the reconciliation was completed, and the company was required to hold discussions with all residents in the Tablasupa village if they later wanted to resume their mining plan. The plan was then fulfilled by the company, which immediately withdrew its staff and equipment, as well as the security forces that left the guard posts in the company's area. The company agreed to leave after finding out that rejection from the community will still be continued if there is no reconciliation among the community itself. The achievement of this agreement allows the community to return access to their land and secure their land from the possibility of being taken in the same way in the future. The community requested that every company that would enter come and consult first. This agreement with the company was also conveyed to the Acting Regent to be a lesson for the future.

Besides, although the meeting with the company was held in Jakarta, this meeting was based on the principles of openness and compliance with decisions that had been agreed in the customary groups (Interviewee 7, personal communication, 2019). The representatives

were elected through *para-para adat* and again presented the results of the meeting at the same forum. So that in the end, conflicts between indigenous peoples also ended with companies leaving the customary land so that the land returned to the customary group, all of which were achieved by implementing a customary decision-making mechanism that was carried out continuously. Even though on their journey there are people who do not carry out the decision themselves, until the conditions make them re-see that the implementation of decisions made using their customary mechanism should be carried out to ensure the survival of many people, in this case including their own lives as part of indigenous peoples.

The representativeness of groups in the communities such as women, young people, and experts is an advantage of the implementation of the *para-para adat* in this case. High inclusiveness by involving as many members as possible in each of the meetings made the decision of this meeting as a democratic outcome and considered displayed a broader view of interests and impacts. So, the outcome of the meeting is also the decision that is considered the best for indigenous peoples in Tablasupa. The results are also followed up by the wider community so that external parties involved, such as NGOs, governments, and the company show greater respect and try to implement these results.

### **Fulfillment of the Rights**

The indigenous people of Tablasupa are exercising their right to culture by practicing internal mechanisms that have been used for generations, namely *para-para adat*, which is a decision-making mechanism. In its implementation, this mechanism is implemented by involving every element in the community, such as the elderly, men, landowners, *Ondoafi*, women, youth, and experts. This condition is in line with the practice of enjoying rights, wherein the right of everyone to take part in cultural life (ICESCR, 1966., Art. 15).

The enjoyment of the cultural right not only in term of indigenous peoples that are exercising it. The state also recognized it by respecting the decisions made in the *para-para adat*. State recognition shows through the recommendation given by the legislative and local government's effort on implementing the decision made by holding a meeting with the

community and the company, also the government was asking the company to postpone their mining activities. Even at the initial point, police and army as state parties do not show their support toward parliament's recommendation, but after the company agreed to stop the activities, then the police and army also leave indigenous peoples' territory.

## Conclusion

Based on the explanation it might be concluded that indigenous peoples have been neglected in the beginning in terms of access to information. They find it difficult to find out state policies through program plans and to license what will and are being carried out in their customary areas. Even though, lack of access to information is considered a form of violation regarding the right to the information itself. These findings indicate the weakness of the state's alignments towards civil society in this case indigenous peoples, as well as the existence of weak law enforcement in society which has implications for strengthening the practice of discrimination.

Besides, right from the beginning of their movements, indigenous people have chosen not to take legal action to get their land back. Rather they use another mechanism, which is *para-para adat*. There is concern over a process that requires a lot of time and a lack of trust that they will find justice by getting back their land. So, the chosen step is to negotiate with the company openly, with dignity and involving the entire community in the Tablasupa village, especially the owners of land rights. The people took this step but, unfortunately, did not get strong support from the state. Although the Jayapura Regency House of Representatives has issued a recommendation letter supporting the demands of the indigenous peoples, there has been no follow up such as the initiation of a meeting from the district government or the security forces who withdrew from the company's guard post.

Activities continued as usual until then the increasingly divided people felt they were struggling alone. By burning drilling machines, security posts, and *Ondoafi's* house, as symbols of resistance showed by parties deemed not to support the peaceful negotiation efforts that have been sought. Although this step is not entirely acceptable, the majority of people can



understand why there are members who can be so angry. Since the community itself has their own *Ondoafi* of War implying that the traditional problem-solving mechanism could involve some degree of violence with the procedures if it necessary to be done. Also, urgency regarding the importance of negotiations to implemented with dignity is seen through efforts to contain the conflict. So that not to cause casualties even though the threat and anger of the group are increasing. After the conflict, only then will all parties take the issue more seriously and emphasize the importance of this process be resolved peacefully, something that has been an offer of indigenous peoples from the beginning but has long been ignored. When all parties show seriousness to deal with the problem, it is proven that the problem can be resolved without the need for prolonged conflict. Various parties can finally show respect to the process and open up space for discussion to find common solutions.

Also, this process shows that the internal mechanisms of indigenous peoples themselves are quite effective for them to be able to defend their rights. If from the beginning the community has consistently carried out the mechanism according to the capacity that they already have, then the decisions drawn from the *para-para adat* that have carried out well will be able to prevent them from conflict and estrangement among themselves. However, when the mandates from *para-para adat* were not carried out many times, the impact is a great loss for the indigenous group themselves. When the community finally reunited, their request that the company leaves the land could be fulfilled. This situation can be achieved due to condition regarding persons who discuss with the company are recognized to be representing their respective communities. Their demands are also recognized by the state by implementing existing agreements, namely attracting security forces and providing space for the community to focus on restoring kinship relations.

## Recommendation

Learn from the case of indigenous peoples attempts on reclaiming their rights in Tablasupa Village. What shall be recommended are:

1. For the government to respect the processes or decisions that have been made by indigenous peoples, especially when this process is carried out using their customary mechanisms. It is important as a form of respect for the rights of indigenous peoples because the government itself has a mechanism that recognizes and protects these rights through various policies. The government needs to be able to respect the process, to follow up seriously so that it is not too late and breaks into conflict first before being dealt with seriously. The state also needs to be more professional, namely through the security forces to provide a sense of security to the community, provide balanced protection, follows standard operational procedure while dealing with indigenous peoples and not protect the work of companies as they have done in the past. The state of Indonesia also needs to consider to ratify ILO Convention 169 on indigenous and tribal peoples to increase the protection standard and mechanism of the indigenous peoples' rights.
2. Scholars also have drawn attention to the importance of broad stakeholder participation in natural resource management using more democratic approaches to engage and respect as well as providing the needs of stakeholders in the sustainable development plans. One of the proposed theories is co-management, which using steps starting from analyses stakeholder and their relation to each other, lay the customary principles of land, and giving the room for the stakeholders to determine the action of development that will be done (Reggers, et.al., 2013). Moreover, this approach also comes with the mechanism of problem-solving that puts the center of considerations on the customary principles and stakeholders. Which this approach can be an alternative development mechanism to be used by the government to have sustainable development concerning the customary values and indigenous peoples itself. In addition to indigenous peoples, recommendations that can be given are for the community to strengthen its cultural capacity in terms of knowledge so that this ability can be used whenever needed, it could be started with the commodification of customary law so that can be preserved. Especially when it comes to the participation in the sustainable development, indigenous

peoples have potential and needed to be included since the initial stage of developmental planning such as by doing the mainstreaming of traditional values and wisdom which need to be framed within the policies related to developmental planning as well as environmental assessments (Indrawan, et.al., 2019).

3. The capacity building also needs to be made to ensure that there is the institutionalization of the rights of indigenous peoples to be the center of development, including economic development. Because at the end of the day, the existence of these customary rules is one of the keys to the survival of indigenous peoples, together with the safeguarding of the territories and indigenous peoples themselves. It is also important for the community to always try to be in the same position when dealing with development or investment projects. This is because later, they will face and bear all the risks and benefits of the investment and development itself. So as not to be divided and ensure the survival of indigenous peoples themselves.

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