

INDIGENOUS PEOPLES EXISTENCE STUDY IN THE DEVELOPMENT OF THE NEW CAPITAL CITY NUSANTARA (IKN), INDONESIA

ABSTRACT

The impact of the construction of the Nusantara Capital City (IKN) on the indigenous community is significantly felt, with findings showing that this development overlooks the rights of the indigenous community. Despite aiming for progress, the indigenous community feels marginalized and concerned about the sustainability of their livelihoods. The purpose of this research is to understand the existence of the indigenous community in the face of the onslaught of the IKN development and the protection of the rights of the indigenous community. The research method used is qualitative with a descriptive approach. Data collection techniques include observation, documentation, and interviews with relevant parties. The results of this research indicate that the existence of the indigenous community is threatened due to the IKN development's lack of attention and disregard for the protection of the rights of the indigenous community, such as threats to their living space, ambiguity regarding customary land rights, and ambiguity in regulations specifically concerning recognition, protection, and respect for the rights of the indigenous community.

Keywords: Indigenous Community, regulation, development, Capital City Nusantara

INTRODUCTION

The traditional way of life that is characteristic of Indonesia is no longer so dominant as an identity, because modernisation has brought changes in the social structure of society, both in urban and rural areas, as well as among indigenous peoples. Social development and change occur as a result of changes in geography, culture, social structure, and ideology due to new discoveries (Muhammad, 2019). Since the enactment of Law No. 32/2004 on Regional Government, many positive aspects are expected in the enactment of the Law. Including the expected implementation of regional autonomy because the life of the nation and state has been very centralised. Regional Autonomy can indeed bring positive changes in the regions in terms of regional authority to regulate themselves. This authority is a hope because the centralised system of government tends to dictate that local governments follow the policies of the central government. As a result of this centralised policy, the community demands and fights against various policies that are detrimental to the local community.

However, various cases have proven that development continues the spirit of colonialism by seizing indigenous peoples' land, marginalising and destroying indigenous peoples' production patterns and political order. This then made the indigenous peoples' movement emerge and strengthen (Pratiwi et al., 2020). Indigenous peoples are traditional communities that come from the descendants of indigenous people living on a particular island or region. Members of this community have strong spiritual ties and also have cultural, social and economic differences that are different from the majority of the population in the place or island where they live (Wiersma, 2005). One of the main characteristics of a community is that the group existed in a region before the region was officially recognised as part of an independent state (Wiersma, 2015; Zain et al, 2015).

The Indonesian government officially proposed on 26 August 2019 to relocate the national capital from Jakarta to East Kalimantan, under the name of the Capital City of the Archipelago (IKN). The area includes parts of two regencies, namely Penajam Paser Utara (PPU) and Kutai Kartanegara. In 2019, the total area was set at 180,000 hectares, which then increased to 256,000

hectares the following year, equivalent to six times the area of DKI Jakarta Province. The location of IKN is not only vacant land owned by the state but also connected to various aspects. Among them, the area is currently a Forestry Cultivation Area (KBK), which has the potential to result in the relocation of local residents who live in residential and agricultural land around IKN (Hidayat, 2022) including indigenous communities who have traditionally maintained customary rights to their land, also called indigenous peoples (Lestari & Sukisno, 2021). (Lestari & Sukisno, 2021). Therefore, this research was conducted to examine the existence of indigenous peoples as a result of the development of IKN. Protection of the existence and interests of indigenous peoples must be guaranteed by law, as mandated in Article 18B paragraph (2) of the 1945 Constitution which states "The State recognises and respects the Unity of Indigenous Peoples and their traditional rights as long as they are still alive in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia."

2. RESEARCH METHODS

The research was conducted using a qualitative approach with descriptive methods. According to Creswell (2008), qualitative research is a process of understanding conducted through a method of finding out in search of meaning from social or humanitarian problems.

Data and information were collected through a literature review that has relevance to the study of moving the national capital to IKN. With data in the form of narratives sourced from interview activities, observations and literature studies. The qualitative research data analysis process is carried out during the data collection process until the research report is completed. In addition, data collection is also supported in the form of books, journals, the internet. The data that has been collected will be analysed, so that it is expected to be produced in the form of a research report.

3. RESULTS AND DISCUSSION

A. The Existence of Indigenous Peoples

In the IKN area, which originates from the Paser Penajam Utara and Kutai Kartanegara districts of East Kalimantan Province, there are indigenous communities that have lived for generations. According to data from the Alliance of Indigenous Peoples of the Archipelago (AMAN), there are around 20,000 indigenous peoples spread across 19 customary groups in North Paser Penajam District and 2 in Kutai Kartanegara District (Mantaelan, 2022).

According to Bumi Foundation's identification (Bappenas, 2020), based on the distribution of community groups, the majority of indigenous communities in the IKN area are the Dayak, Paser, and Kutai Kartanegara tribes. The Dayak tribe is the largest ethnic group on the island of Kalimantan. In addition to these three tribes, there is a Bajao tribe that lives more in villages in the south of Balikpapan Bay, Mahakam Delta, and Penajam Coast. Eksistensi Masyarakat Adat

The existence of indigenous peoples is a clear illustration of a plural state, the existence of which is not seen through differences in frequency between communities that uphold each other's principles of life, which clearly have many striking differences. The distinctiveness of each indigenous community is the highest price of an identity built by the indigenous community itself, and with various authentic forms (Farakhiyah & Irfan, 2019).

The erosion of the existence of indigenous peoples in the IKN area is a concern due to their lack of involvement in the IKN relocation process. Although the head of state has invited several indigenous leaders, their presence has been rejected because they are considered not representative of all indigenous peoples. These figures were considered too elitist and indigenous peoples felt that their voices were not being heard. They felt as if they were ignored and there was insufficient coordination with traditional leaders or local figures. As can be seen, they do not get adequate information (Kbr.id, 2022). Indigenous peoples in the IKN region have inherited

traditions in various aspects of life, including economic, social, and cultural. One of the priorities is the protection of indigenous peoples' rights. The success of development depends on empowering communities through their active participation and contribution.

Indigenous peoples, as one of the vulnerable groups, need to be given primary attention, especially when there are issues of access to customary land, which can make them vulnerable. Protection of their lands (such as forests, farmlands and other resources), which are their lifeblood, should be a priority (Firdaus et al., 2013). They face challenges with resilience, using their hereditary knowledge to adapt to changes while maintaining their traditional values. And through collaborative intergenerational efforts and legal battles, they seek to protect the lands, forests and rivers that are an integral and essential part of indigenous peoples' lives and cultures. The development of the archipelago's capital city should not be measured solely in terms of physical infrastructure, but also in terms of the social, cultural and environmental impacts it generates.

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B. Protection of Indigenous Peoples' Rights

Article 21 of Law No. 3 of 2022 on IKN has in principle regulated that the management of space and land in the IKN area pays attention to and provides protection for the communal rights of indigenous peoples. However, the law has not yet regulated in detail the mechanisms and procedures for recognising the land rights of indigenous peoples with evidence of diverse land ownership evidence. This has led to scepticism among indigenous peoples regarding the potential loss of land due to conversion for the development of IKN.

From the state's perspective, indigenous peoples are seen as groups of customary law communities and/or traditional communities that among them have a connection of origin/geneological connection, have an awareness of territoriality and natural resources in the the region as a space to live, have a leadership and social system, as well as the existence of a common perspective on social identity that refers to the same norms and values (Regulation of the Directorate General of Culture Regulation No. 3/2018).The state's efforts in recognising the existence and traditional rights of indigenous peoples is strengthened through the Director General of Village Administration Circular number 189/3836/BPD dated 30 August 2021, which in principle instructs the leadership of the City or District to take steps to protect and recognise indigenous peoples. Based on the circular, steps that need to be taken by the City or Regency government are to identify the existence of indigenous peoples, verification and validation, and then if through the verification and validation process evidence is found that a community is a customary law community, the City or Regency government is expected to issue a stipulation regulation.

Indonesia as a country that has thousands of tribes that have different characteristics and customs, recognises and respects the unity of indigenous peoples and their traditional rights. The state mandates in the 1945 Constitution of the Republic of Indonesia in Article 18B paragraph (2) which reads "The state recognises and respects the unity of customary law communities and their traditional rights as long as they are still alive and in accordance with the development of

society and the principles of the Unitary State of the Republic of Indonesia, which are regulated by law". The state has guaranteed the existence of customary law communities under the conditions stipulated in the law. The provisions in Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia are strengthened by Article 28I paragraph (3) that cultural identity and traditional communities are respected in line with the development of the times and civilisation (Dewi et al., 2020).

The existence of indigenous peoples is guaranteed in the constitution; however, in practice, their rights are often ignored in favour of progress. IKN authorities need to ensure whether the rights of indigenous peoples have been fulfilled in accordance with current laws, without hindering the progress of IKN development and the rights of indigenous peoples themselves. Therefore, we do not want the fate of indigenous peoples around the IKN area to be marginalised as a result of IKN development that does not take into account the rights and fate of indigenous peoples. There are 3 (three) processes that should be carried out by the Government, namely:

1. Need to evaluate the legitimacy of the policy base that supports the relocation of IKN to Kalimantan Island.
2. consider whether local indigenous peoples will benefit from the relocation of IKN there.
3. consider the precautionary measures taken by the government to avoid the suffering of indigenous peoples due to the development of IKN.

Therefore, at a more operational level, development through the process of community empowerment generally uses an approach, which means that community empowerment is carried out on a community basis. To realise the community empowerment approach, it needs to be supported by a number of steps and actions that can facilitate both the transformation and transition process from the old paradigm to the new paradigm, as well as in elaborating the concept of empowerment as an approach used as a new perspective in more operational activities. According to Soetomo (2011) and Aulia et al (2023), the implementation of the concept and approach of community empowerment needs to be supported by a number of steps and actions, namely: reorientation, social movements, local institutions and capacity building.

Various development projects (in this context, the development of IKN) often intersect with the interests of indigenous peoples. Substantive and participatory measures must be taken (Quane,2005) in order to ensure that the interests of a development work remain in line with the principles of human rights protection. Substantive steps include four things, namely: 1) the purpose of the development work must have legitimacy, 2) ensuring that the results of the work will bring benefits to indigenous peoples, 3) mitigate the potential negative impacts faced by indigenous peoples, and 4) ensure efforts are made to minimise these negative impacts (Quane, 2005).

Yahya's (2018) study proposes an area on the island of Kalimantan as the most ideal location for a new IKN because of the vastness of the island of Kalimantan, its location in the central Indonesia, can stimulate equitable growth, and will be orientated outside-Java and outside-Jakarta. Yahya's study is reinforced by the thoughts of Toun (2018), which explains that the policy of moving IKN to Kalimantan Island needs to be balanced with mitigation and attention to the social-security sector, culture, bureaucratic readiness, and environmental preservation.

These conditions show that recognising the right to territory is a fundamental right that must be respected. In addition, the importance of human rights must be prioritised in granting rights to indigenous peoples. Finally, indigenous peoples must be considered as independent entities that have the autonomy to determine their own existence. If the government and relevant stakeholders understand these things, the impact of the IKN development will certainly be positive for all the people of the Indonesian nation.

The challenge faced by indigenous peoples is the effort to prove their ownership rights over their traditional lands when dealing with other parties who have interests in their traditional lands. The

parties faced by indigenous peoples often have established economic and political positions. The IKN project must truly place indigenous peoples living in IKN areas at the centre of policy.

CONCLUSION

The development of the Capital City of Nusantara (IKN) in East Kalimantan has alarming impacts on indigenous peoples. The government must ensure better protection of indigenous peoples' rights and actively involve them in processes that prioritise indigenous peoples' protection and participation, as well as taking into account humanitarian principles and in accordance with the mandate of the law. The importance of recognition and protection of Indigenous peoples, as one of the vulnerable groups, need special attention, especially in terms of access. The protection of their lands, including forests, farmlands, and other resources that are the source of their livelihoods, must be a top priority. Paying attention to the rights of indigenous peoples and involving them in the process will have a good impact on the welfare of indigenous peoples in the future.

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