



Implementation of Policy Guidelines for the Recognition and Protection of Indigenous Peoples in Intan Jaya Regency

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Abstract

This research aims to determine the implementation of policy guidelines for the recognition and protection of customary law communities in Intan Jaya Regency. And to find out the factors that support and hinder the implementation of policy guidelines for the recognition and protection of indigenous peoples in Intan Jaya Regency. This research uses descriptive research with qualitative methods, with the research location being carried out in Intan Jaya Regency. Types and Sources of Data according to research using primary data sources and secondary data. Data analysis techniques are data reduction, data presentation and drawing conclusions/verification. The research results show that the implementation of the Policy Guidelines for the Recognition and Protection of Indigenous Peoples in Intan Jaya Regency still faces various challenges, including a lack of understanding among government officials regarding the importance of recognizing the rights of indigenous peoples and a lack of resource support. Supporting factors for the implementation of the Policy on Guidelines for Recognition and Protection of Indigenous Peoples in Intan Jaya Regency include the commitment of the regional government and the active participation of indigenous communities in the policy formulation process. On the other hand, factors inhibiting the implementation of the Policy on Guidelines for the Recognition and Protection of Indigenous Peoples in Intan Jaya Regency include conflicts of interest, weak coordination between agencies, and a lack of clear law enforcement mechanisms. These findings suggest the need to increase the capacity of the apparatus, strengthen cooperation between regional governments and indigenous communities, and develop more effective regulations to support the protection of the rights of indigenous communities.

Keywords: Indonesia Policy Implementation, Recognition and Protection, Indigenous Peoples, Intan Jaya, Papua

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1. Introduction

Indonesia is rich in natural resources. Natural resources are everything that comes from nature that can be used to meet the needs of human life, which includes not only biotic components, such as animals, plants, and microorganisms, but also abiotic components, such as petroleum, natural gas, various types of metals, water, and soil (Munaf, 2016; Kansil, et.al., 2003). In the 1945 Constitution in Article 33 paragraph 3, it is explained that "The earth and water and the natural resources contained therein shall be under the control of the state and shall be used for the greatest prosperity of the people".

In addition to natural resource management, one of the efforts to improve the welfare of the community is to cut the span of control of government services, namely by regional expansion, so that government services are much more efficient and effective. The object of natural resource management and the construction of government buildings is land (Huda, 2019). In Intan Jaya Regency, there is no certified land, it still belongs to the communal

community which has certain boundaries according to the keret or clan area, as the results of LPPM Uncen's research in collaboration with the Intan Jaya Regency Government in 2019 which mapped government public facilities located in the customary area of the community in Sugapa District. Since its establishment through Law Number 59 of 2008 concerning the Establishment of Intan Jaya Regency in Papua Province, government facilities and public services have been built on community customary land without going through the government land acquisition process as applicable laws and regulations. The rights of indigenous peoples are set aside in favor of development and greater regional interests.

With the presence of Intan Jaya Regency, it has not had a significant impact on indigenous peoples in the region, one of the indicators is the lack of government support for indigenous peoples in the form of regulations, one of which is regional regulations on the recognition and protection of indigenous peoples. This is important to protect the rights of indigenous peoples against regulations that threaten their existence and damage the ecosystems on which indigenous peoples still depend for their livelihoods from nature.

The government through the Minister of Home Affairs issued a policy, namely Permendagri Number 52 of 2014 concerning Guidelines for Recognition and Protection of Customary Law Communities. The purpose of Permendagri No. 52/2014 is to recognize the existence of a community as a customary law community. In Permendagri Number 52 of 2014 concerning guidelines for the recognition and protection of indigenous peoples, Article 4 concerning Recognition and protection as intended is carried out through stages, namely: 1). Identification of indigenous peoples; 2). Verification and validation of indigenous peoples; and 3). Determination of customary law communities.

The consideration for choosing the object of indigenous peoples is that although indigenous peoples have carried out resistance and campaigns both individually (group by group) and collectively by utilizing public space and mass media, they are always at risk (Pradhani, 2021; Davidson, et.al, 2010). The rights of indigenous peoples that have not received state protection include three things, namely customary rights, natural resource rights, and intellectual property rights. The lack of protection is not only because there is no legal umbrella that specifically protects indigenous peoples, but even with the existing legal umbrella, enforcement is still weak (Haris, et.al., 2024; Sumampouw, 2020). These two factors have so far made indigenous peoples marginalized and disenfranchised that violations of indigenous peoples' rights are often found, including: violations of the right to ownership, the right to adequate food and nutrition, the right to a decent standard of living, the right to take part in cultural life, the right to self-determination, the right to enjoy the highest attainable standard of physical and mental health, and many more (Munandar, 2019).

In order for communities within customary areas in Intan Jaya Regency to be able to exercise their rights as customary communities, there needs to be recognition from the government in accordance with applicable laws and regulations. In recent years, the government has issued regulations that provide opportunities for customary law communities to be recognized and protected in addition to those mentioned above. These regulations require the active role of local governments to recognize and protect indigenous peoples. Pathways that can be taken to recognize and protect the existence of indigenous peoples, namely: Permendagri No. 52/2014 on Guidelines for the Recognition and Protection of Customary Law Communities.

In Papua Province Regional Regulation Number 5 of 2022 concerning Recognition and Protection of Indigenous Peoples in Papua Province Article 4, the scope of content material of the Provincial Regional Regulation consists of:

- a. arrangement for the existence of customary law communities;
- b. customary territories and boundaries;
- c. recognition and protection of customary law communities;
- d. rights and obligations of customary law communities;
- e. utilization of land and natural resources;
- f. data collection of customary law communities;
- g. customary justice;
- h. government obligations and responsibilities;
- i. funding; and
- j. guidance and supervision.

Thus, the purpose of this study is to analyze the extent to which the policy of recognition and protection of indigenous peoples has been implemented by the Regional Government of Intan Jaya Regency as well as to identify obstacles and opportunities in the process of legalizing indigenous peoples' rights to their customary land. The research also aims to evaluate the involvement of indigenous peoples in decision-making related to natural resource management in their territories and assess the effectiveness of existing regulations, both at the national and regional levels, in providing real legal protection for the existence, identity and welfare of indigenous peoples. Thus, the results of this research are expected to be the basis for policy recommendations that are more equitable and inclusive.

2. Literature Review

2.1. Policy Implementation

Implementation boils down to activity, action, action, or the mechanism of an implementation system that is not just an activity, but a planned activity and to achieve the objectives of its activities. Furthermore, the implementation process is very complex due to being influenced by several models to simplify it (Winarno, 2008; Wahab, 2002; 2003). Then related to the implementation model, Ali & Alam (2012), which states that a model can be interpreted as a theory, a thought process that can be used to solve a problem, a policy model is a policy theory, which means that the model can be used to solve a particular policy problem.

The first model is the classic model, which is the model introduced by the duo Donald Van Meter and Carl Van Horn (Winarno, 2008; Wahab, 2002; 2003). This model relies that policy implementation runs linearly from public policy, implementors, and public policy performance.

2.2. Costumary Law Communities

The concept of customary law communities was first introduced by Cornelius Van Vollenhoven. Ter Haar as a student of Cornelius Van Vollenhoven explored more deeply about customary law communities. Ter Haar gave the following definition, customary law communities are organized groups of people, settled in a certain area, have their own power, and have their own wealth in the form of visible and invisible objects, where the members of

each unit experience life in society as a natural thing according to nature and no one among the members has the thought or tendency to dissolve the bonds that have grown or leave in the sense of breaking away from the bonds forever (Husein Alting, 2010).

The form and structure of the legal community which is a legal alliance, its members are bound by territorial and genealogical factors. According to the understanding put forward by legal experts in the Dutch East Indies era, what is meant by a legal community or territorial legal community is a fixed and orderly community, whose members are bound to a certain area of residence both in worldly terms as a place of life and in spiritual terms as a place of worship of ancestral spirits (Hilman, 2003).

3. Methods

The type of research used is descriptive research with qualitative methods, namely this research is designed with qualitative methods, deepening information is carried out by processing secondary data obtained from informants, media, similar research results, various contextual and relevant documents. Qualitative research is a case study approach using a descriptive method model, which reveals various facts (Arikunto, 2017). This research was conducted in Intan Jaya related to the Implementation of Policy Guidelines for the Recognition and Protection of Indigenous Peoples in Intan Jaya Regency.

In accordance with the research, using primary data sources and secondary data. This research uses instruments in the form of interview guidelines, stationery, and recording devices that will be used to find primary data. According to Miles and Huberman (2014), there are several steps in analyzing data, namely data reduction, data display, and conclusion drawing or verification.

4. Results and Discussion

4.1. Implementation of Policy Guidelines for the Recognition and Protection of Indigenous Peoples in Intan Jaya Regency

The implementation of the Policy Guidelines for the Recognition and Protection of Indigenous Peoples in Intan Jaya Regency, as stipulated in Permendagri No. 52/2014, has been an important step in ensuring that the rights of indigenous peoples are recognized and protected. Within this framework, the local government has sought to implement these guidelines through the drafting of local regulations that support the recognition of indigenous peoples and the establishment of dialogue mechanisms that involve indigenous peoples in decision-making processes.

4.1.1. Policy Measures and Objectives

Based on the results of the study, it shows that policies taken to recognize the existence of indigenous peoples and protect the rights of indigenous peoples, especially land and cultural rights, are strategic steps to increase public awareness of the importance of customary rights. In its implementation, the government seeks to encourage active community participation in decision-making processes that have an impact on the lives of indigenous peoples. The hope of this policy is not only to protect the rights of indigenous peoples, but also to strengthen the cultural identity of indigenous peoples, thus creating a more inclusive and equitable environment. Thus, this policy is expected to be a bridge to unite various interests, strengthen

the relationship between indigenous peoples and the government, and encourage respect for cultural diversity in Intan Jaya Regency.

4.1.2. Resources

Based on the research results, the importance of financial resources in supporting the implementation of programs listed in the Policy Guidelines for the Recognition and Protection of Indigenous Peoples is evident. Without adequate budget support, essential activities such as training, seminars, and advocacy will face significant obstacles, potentially hampering efforts to improve the capacity and understanding of indigenous peoples regarding their rights. These financial limitations can reduce the overall effectiveness of policy implementation, thus not delivering the expected impact. Therefore, allocating sufficient and well-targeted budgets is crucial to ensure that policy objectives can be achieved and provide optimal benefits for indigenous peoples in Intan Jaya Regency. Thus, increasing the allocation of financial resources is key to encouraging active community participation and strengthening the sustainability of programs designed for the protection of indigenous peoples' rights.

4.1.3. Characteristics of Implementing Agents

Based on the results of the study, it shows that the motivation of implementers plays an important role in the successful implementation of the Guidelines for the Recognition and Protection of Indigenous Peoples Policy. The high commitment of implementers to the protection of the rights of indigenous peoples is a key factor that influences their level of proactivity in carrying out their duties. When implementers feel motivated, the Government tends to be more active in conducting socialization and advocacy on the rights of indigenous peoples, as well as trying to build good and trusting relationships with indigenous peoples. This dynamic not only strengthens the success of policy implementation, but also creates a supportive environment for indigenous peoples to voice their needs and aspirations. With a strong relationship between the implementer and the community, policy objectives can be achieved more effectively, because the implementer can respond to the needs of the community more precisely and quickly, so that the protection of their rights can be optimally realized.

4.1.4. Attitudes/Tendencies of Implementers

Based on the research results, it shows that the attitude of the implementers has a significant influence on the successful implementation of the Guidelines for the Recognition and Protection of Indigenous Peoples Policy. Implementers who show a strong commitment and a deep understanding of the rights of indigenous peoples will be more motivated to carry out government duties properly. With a positive attitude, they tend to be more proactive in conducting socialization, advocacy and interaction with the community, thus creating a better relationship between the government and indigenous peoples. This active engagement is crucial to achieving policy objectives, as committed implementers will go to great lengths to ensure that community rights are protected and realized in practice. Conversely, if the attitude of implementers is less supportive, this can hinder the implementation process, create dissatisfaction among communities, and reduce the positive impact of the designed policy. Therefore, developing positive attitudes and increasing motivation among implementers are strategic steps to strengthen the effectiveness of this policy implementation and provide tangible benefits to indigenous peoples.

4.1.5. Inter-organizational Communication and Implementation Activities

Based on the research results, it shows that implementation activities, including socialization and advocacy, are highly dependent on effective information flow between organizations involved in the implementation of the Policy Guidelines for the Recognition and Protection of Indigenous Peoples. Good communication allows implementers to better understand the needs and aspirations of indigenous peoples, so that the government can respond in a more relevant and targeted manner. Active engagement in this dialogue not only strengthens trust between implementers and communities, but also ensures that various parties, such as local governments, non-governmental organizations, and indigenous peoples' organizations, can share information about each other's roles and responsibilities. With good coordination and deep understanding among all parties, collaboration can take place effectively, so that policy implementation can run smoothly and have a real positive impact on indigenous peoples. In this context, a transparent and consistent flow of information is a key factor that facilitates the achievement of policy objectives, ensuring that the rights of indigenous peoples are optimally recognized and protected.

4.1.6. Economic, Social and Political Environment

Based on the results of the study, it shows that the social environment plays an important role in the implementation of the Guidelines for the Recognition and Protection of Indigenous Peoples Policy, because the norms and values adopted by the community greatly influence the attitude of indigenous peoples towards existing policies. When people understand their rights and feel involved in the decision-making process, support for the policy will increase, thus facilitating its implementation in the field. The interviewees' hope that the economic, social and political environment can support each other shows the importance of collaboration between various parties. With good cooperation and mutual understanding, it is expected that the implementation of this policy will run more effectively, have a positive impact, and meet the needs of indigenous peoples in Intan Jaya Regency. This reflects the understanding that the success of the policy does not only depend on existing regulations, but also on the support and active participation of the community and the synergy between all stakeholders involved. Thus, building social awareness and strengthening community involvement are strategic steps to achieve policy objectives and create a more inclusive environment for indigenous peoples.

4.2. Supporting and Inhibiting Factors in the Implementation of Policy Guidelines for the Recognition and Protection of Indigenous Peoples in Intan Jaya Regency

Supporting factors in the implementation of the policy guidelines for the recognition and protection of indigenous peoples in Intan Jaya Regency include the commitment of the local government in recognizing the existence of indigenous peoples and the support of traditional leaders who have an important role in the policy socialization process.

4.2.1. Supporting Factors

Supporting factors for the implementation of policy guidelines for the recognition and protection of indigenous peoples in Intan Jaya Regency can be seen from several key aspects.

4.2.1.1. History of Indigenous Peoples

Based on the results of the research, it shows that the history of indigenous peoples in Intan Jaya Regency has depth and wisdom that reflects the identity and values of the community that have been preserved for centuries. Prior to government intervention, these communities had already developed a system of norms and values that were traditionally regulated, serving as a guide in daily life. They have independent mechanisms to resolve conflicts and manage natural resources through local wisdom-based approaches. This social system runs in a harmonious and structured manner, reflecting their harmony with nature and the surrounding environment. This long history is an important foundation for the recognition of their rights in the current policy on recognition and protection of indigenous peoples.

4.2.1.2. Customary Law

Based on the results of the research, it shows that customary law in Intan Jaya Regency functions as the main foundation in regulating the social and economic life of the community, including rules on natural resource management, conflict resolution, and ritual procedures that have been passed down from generation to generation. As a system that has long governed the dynamics of indigenous peoples, customary law reflects the local wisdom that binds their daily lives. In the context of implementing policies on the recognition and protection of indigenous peoples, the recognition and accommodation of customary law is very important. Indigenous peoples believe that official recognition of their customary laws is a crucial step to protect collective and individual rights, maintain social balance, and ensure the sustainability of long-standing traditions and cultural heritage.

4.2.1.3. Wealth

Based on the results of the research, it shows that the policy of recognition and protection of indigenous peoples focuses heavily on the recognition of rights to land and natural resources owned by indigenous communities. For indigenous peoples, property, especially customary land, not only functions as a material asset, but also has a very important role in their social and economic life. These lands and natural resources are an integral part of their identity, culture and long-standing heritage of local wisdom. Therefore, the protection of land and natural resources is crucial to avoid encroachment and exploitation that could harm the community. In this effort, the government conducts socialization to provide indigenous communities with an understanding of their rights, so that they realize the value and wealth they have and the importance of maintaining and managing these resources sustainably.

4.2.2. Inhibiting Factors

Factors inhibiting the implementation of policy guidelines for the recognition and protection of indigenous peoples in Intan Jaya Regency are quite complex and diverse.

4.2.2.1. Unclear Customary Territory

Based on the results of the research, it shows that the government of Intan Jaya Regency has collaborated with various parties, including non-governmental organizations and a team of experts, to conduct mapping of customary territories with the aim of creating clarity of boundaries in recognition of the rights of indigenous peoples. This mapping process is essential so that communities have official documents that can prove their land ownership, thereby reducing the potential for conflict caused by unclear territory. In addition, the

government is also conducting socialization to indigenous communities on the importance of land documents and the steps that need to be taken to obtain them.

4.2.2.2. Institutions

Based on the results of the research, it shows that the government realizes that one of the biggest challenges in implementing policies to recognize and protect indigenous peoples is the overlap between customary law and national law. This mismatch often leads to conflict and confusion over the rights and obligations of indigenous peoples, potentially obscuring the principles of justice and equality.

5. Conclusion

The implementation of the Policy Guidelines for the Recognition and Protection of Indigenous Peoples in Intan Jaya Regency is crucial to protect the rights of indigenous peoples. Despite facing challenges such as unclear territory and overlapping laws, collaboration between the government and the community can create equitable solutions. Policy measures and objectives in the implementation of the policy on guidelines for the recognition and protection of indigenous peoples in Intan Jaya Regency are important to protect the rights of indigenous peoples. Resources in the implementation of policy guidelines for the recognition and protection of indigenous peoples in Intan Jaya Regency are very important for policy success. Human, financial and information resources support the recognition of indigenous peoples' rights in territorial management. The characteristics of implementing agents in the implementation of policy guidelines for the recognition and protection of indigenous peoples in Intan Jaya Regency are very important for policy success. The attitudes / tendencies of the implementers in the implementation of the policy guidelines for the recognition and protection of indigenous peoples in Intan Jaya Regency greatly influence the success of the policy. Inter-organizational communication in implementing activities in implementing policy guidelines for the recognition and protection of indigenous peoples in Intan Jaya Regency is also decisive. Likewise, the economic, social and political environment in the implementation of policy guidelines for the recognition and protection of indigenous peoples in Intan Jaya Regency.

Supporting and inhibiting factors for the implementation of policy guidelines for the recognition and protection of indigenous peoples in Intan Jaya Regency also need to be considered. Supporting factors include: the history of indigenous peoples in recognition and protection policies in Intan Jaya Regency. The history of interaction and struggle of indigenous peoples is the basis for formal recognition, allowing the government to formulate relevant policies. Customary law in the implementation of policies for the recognition and protection of indigenous peoples in Intan Jaya Regency is also an important reference. As well as property, in the policy of recognition and protection of indigenous peoples in Intan Jaya Regency which is also a driving factor. On the other hand, inhibiting factors include unclear customary territories, which affect the implementation of policies on recognition and protection of indigenous peoples in Intan Jaya Regency. In addition, institutions in the implementation of policies guiding the recognition and protection of indigenous peoples in Intan Jaya Regency are also a challenge.

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