

State Recognition of the Imbo Putui Customary Forest, Kampar Regency, Indonesia

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Abstract. This study began with the empirical fact that in 2019, the state recognized and legalized the Imbo Putui customary forest in Kenegerian Petapahan, Kampar Regency. Based on these empirical facts, this study aimed to explore the strategies adopted by the Kenegerian Petapahan indigenous people in obtaining recognition and legality from the state and the challenges faced in fighting for recognition from the state. The research method used was a qualitative approach. Data collection was carried out through in-depth interviews and documentation studies. The results of this study indicated that the strategy adopted by the Kenegerian Petapahan indigenous people was to collaborate with various parties, especially with Non-Governmental Organizations, the Petapahan village government, and the local government of Kampar Regency. Finally, this collaboration was carried out to map the customary territories and customary forests of Imbo Putui, identify customary history, and conduct policy advocacy.

Keywords: customary forest, state recognition, collaboration, policy advocacy

1 Introduction

The issue of indigenous peoples in Indonesia seems to have found its momentum again in the era of regional autonomy. Recognition of indigenous peoples and customary forests in Indonesia is based on the revision of Law Number 41 of 1999 concerning Forestry and Constitutional Court Decision Number 35/PUU-X/2012. The impact of the policy change has made indigenous peoples have a "new enthusiasm" in legalizing the customary forests they manage. Furthermore, the regent's authority to determine the existence of indigenous peoples, customary territories and customary forests is contained in Law Number 23 of 2014 concerning Regional Government and Minister of Home Affairs Regulation Number 52 of 2014 concerning Guidelines for the Recognition and Protection of Indigenous Peoples.

This research was motivated by the successful recognition of the Imbo Putui customary forest in Kenegerian Petapahan. The process of acknowledging customary forests and indigenous peoples is difficult for the Government to approve. It has been more or less 19 years since the

enactment of the regional regulation, recognition from the state of indigenous peoples and their customary rights has still not been obtained. However, during that period it was not without struggle or effort in obtaining state legality. This is evidenced by the acknowledgment of the customary forest and indigenous peoples of Imbo Putui, which is the first time this has occurred in Riau Province in 2020. Of course, this acknowledgment has gone through various dynamics and a long struggle. So, it is interesting to see how the process of struggle carried out by these indigenous peoples.

A study on the recognition of customary forests was previously conducted by Fisher et al. who reviewed MK35 implementation through a local regulation involving the Kajang Custom community of Bulukumba, South Sulawesi [1]. The focus of the study in this study was the involvement of multi-stakeholders in the recognition of the Kajang customary forest. Furthermore, a study conducted by [2] explain how institutional activists expand their campaigns and support state recognition, namely through coalitions with state officials and taking advantage of the conditions leading up to the election [2] . Next, a study conducted by Myers et al. discussed the impact of MK35/2012 on customary forest claims made by indigenous peoples and groups that use forests [3].

Meanwhile, this study seeked to explain the strategies adopted by the indigenous people of Petapahan Village in fighting for the Imbo Putui customary forest and the challenges faced in recognizing the Imbo Putui customary forest. The Imbo Putui customary forest has been recognized by the state through SK.7503/MENLHK-PSKL/PKTHA/KUM.1/9/2019, dated 17 September 2019 with an area of 251 hectares. The Imbo Putui customary forest is located in Petapahan Village RT003/001, Tapung District, Kampar Regency, Riau Province. The customary law community is located in the Kenegerian Petapahan area with daily livelihoods of farming, rice fields, gardening, (rubber & palm oil), and farming [4].

2 Method

This study used a qualitative approach. Qualitative research is an approach to understanding the meaning that occurs in individuals and groups in a social problem [5]. A qualitative approach with a case study method was chosen to analyze and explore the strategies of indigenous peoples in fighting for the Imbo Putui customary forest with the strength of various data sources. The research data were obtained from informants' information. They were the representatives of the local government of Kampar Regency, namely the Department of Environment and Forestry, Petapahan Village Government, Bahtera Alam activists, traditional leaders, and management of the Imbo Putui customary forest. The primary data were combined with secondary data in the form of policies, reports, minutes of meetings, and photo documentation relevant to the focus of this study. The analysis used was an interactive method, namely the analytical model used both at the time of field data collection and after the data were collected based on data reduction, data presentation, verification and conclusion drawing [6]. The data collected were analyzed using theories relevant to the focus of the study so that they could answer research questions.

3 Results and Discussion

In general, the entire region in Kampar Regency is a traditional region where the traditional people live and make a living. Kampar customs are sourced from Ashaul Hikayat, Pancaran Curai, Muara Takus Kingdom, heritage received by Datuk Raja Dibalai, Pucuk Andik Nan 44 Kampar [7]. Policies regarding customary forests do experience dynamics and dilemmas where local governments have not yet made policies to protect and recognize the existence of indigenous peoples rights [8]. One of the customary rights owned by indigenous peoples in Kampar Regency is customary forest. Although, Kampar Regency has a local regulation that regulates customary rights, namely Perda Number 12 of 1999, for more than a decade, there has not been any single customary forest recognized by the government.

Recognition of indigenous peoples and customary forests in Kampar District is being seriously pursued by the local government. In 2018, the Regional Government of Kampar Regency issued Kampar District Head Decree Number 660//DLH-IV.2/32 concerning the Establishment of the Registration Team for the Determination of Customary Law Communities, Customary Territories, and Customary Forests in Kampar District. This team is chaired by the Regional Secretary of Kampar Regency and involves various elements such as the Kampar Regency Customary Institution, the Kampar Indigenous Peoples Alliance of the Archipelago (AMAN), the Pelopor Sehati Foundation, WRI Indonesia and academics. In 2018, the Kampar Regency Government established the Kenegerian Petapahan customary law community and the Imbo Putui customary forest through the Kampar Regent's Decree Number 660-491/X/2018. The struggle for recognition of customary forests has gone through various dynamics in it. Based on observations and analysis of the secondary data obtained, it was found that the strategies adopted in obtaining the recognition of the Imbo Putui customary forest were as follows.

3.1 Strengthening the existence of *adat* in Petapahan Village

Petapahan Village, also known as Kenegerian Petapahan, is a customary law area located in Tapung District, which has customs that have been passed down from generation to generation. The meaning of Petapahan comes from two different words, namely "hermitage" which means a place for people to be imprisoned because this place used to be used as a place for people to be imprisoned from Muara Takus. While the second meaning is derived from the word "fish tapah" which is a fish that lives in a national river.

The success of the recognition of the Imbo Putui customary forest cannot be separated from the common consensus built by the indigenous community. This is one of the social capitals which is the strength and basis of participation and collaboration. The values that live and develop in indigenous peoples, namely custom based on *syara'* and *syara'* based on the Qur'an. This means that indigenous peoples in Kampar Regency are very religious and all behavior of indigenous peoples cannot conflict with the teachings of Islam. Concretely, the values that become social capital for the recognition of Indigenous Peoples and customary forests are "*tali bapilin tigo, tigo tungku sajoghangan*" which means a trinity consisting of elements of custom, government and religion. The beginning of its history was built by Datuok Siberani who came from the Kampai Tribe. Until now, the existence of *adat* is still firmly held by Datuk Majo Indo as Datuk Pucuk in Kenegerian Petapahan. Furthermore, in Kenegerian Petapahan there are several tribes which can be explained as follows.

- a. The Domo tribe came from the Muara Takus kingdom with their tribal chief titled Datuk Majo Indo (Majo Indo comes from the word Maharajo Indo / Hindu).
- b. The Peliang tribe who came from Minangkabau with their tribal chief had the title Datouk Suro Dirajo (Totan King of Deliberations).
- c. The Peranakan tribe came from Bugis with their tribal chief titled Datuok Setia Pahlawan.
- d. The Kampai tribe originated from Kampar, with its chief having the title Datuok Tenaro.
- e. The original Malay tribe, which is also called the Malay tribe and the head of the tribe has the title Datuk Senaro
- f. The tribe that came from Siak and its origin was an Arab descendant of the Prophet. Male and female members of the tribe are given the predicate Said and female Syarifah.

The existence of custom in Kenegerian Petapahan is getting clearer with the role of *adat* institutions in the administration of government. This can be proven by the establishment of the Decree of Ninik Mamak in Petapahan Village Number 001/141/Ktps/Pth-Tp/2014 concerning Imbo Putui in Petapahan Village. Based on the decision, it was stated that Imbo Putui is the forest of the indigenous people of Kenegerian Petapahan which has been around for a long time and must be preserved. If there are parties who take wood or plants in forest areas except for household purposes and are used in making fish cages, they will be given customary sanctions. The history of custom, custom organization, custom territories, custom communities, and custom laws that are still alive and thriving in Kenegerian Petapahan is a strong reason for the government and local governments to make policies to protect custom communities and the custom forests they manage.

3.2 Developing partnership with other organizations

A partnership is a form of governance in which there is participation and involvement, democracy, and effective service [9]. Meanwhile, in a different language stated by Ansell & Gash, the partnership which they call a collaborative platform is an interaction between organizations in the program with the competencies and resources to support the success of the program [10]. Through a good partnership between the government and actors outside the government, all resources will be collected in the recognition of the Imbo Putui customary forest. The Kenegerian Petapahan indigenous people in collaboration with the Petapahan Village Government are trying to build communication with various civil society organizations such as (the World Resources Institute (WRI) Indonesia, Alliance of Indigenous Peoples of the Archipelago (AMAN) Kampar, Pelopor Sehati Foundation and Bahtera Alam.

These organizations have great concern in this regard, WRI, AMAN Kampar, and Bahtera Alam assist the Petapahan village government and indigenous peoples in fighting for their constitutional rights. The assistance activities carried out by the non-governmental organization are assisting in identifying customary history, customary territory, customary institutions/customary structures, customary law, and assets or customary objects. In this identification section, the urgency of mapping customary areas is very large considering that it requires accuracy in determining the area so that not only valid information is needed but also technical competence in mapping the customary area.

Another role of non-governmental organization is to participate in compiling the documents needed in the application of customary forests and at the same time to be important actors in advocating the policy of recognizing Imbo Putui's customary forests. Specifically, regarding policy advocacy, non-governmental organization have long approached the Regent, the Environment and Forestry Service, and the Kampar Customary Institution (LAK). These

actors have a strategic role in the recognition of the Imbo Putui customary forest. The following is a map of the Imbo Putui customary forest following government policy:

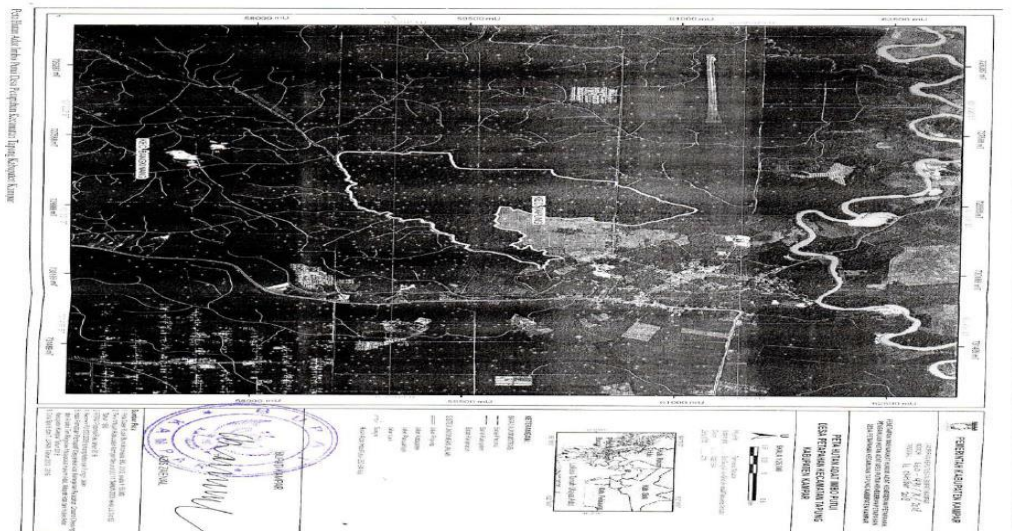


Fig.2. Map of the customary forest of Imbu Putui, Petapahan

Internally, the Petapahan village government and indigenous peoples always coordinate and ask for directions from the local government of Kampar Regency both in terms of setting regulations and in building networks with the Central Government or this case the Ministry of Environment and Forestry. Another collaboration is by utilizing political parties in parliament in voicing the rights of indigenous peoples. The involvement of political parties in parliament is important to push for the issuance of a District Head Decree regarding the recognition of indigenous peoples and Imbo Putui customary forest.

The network that was built to support the successful recognition of customary forests was also carried out by collaborating with universities, namely Riau University and Sultan Syarif Qasim State Islamic University. Elements of higher education or academics are needed in conducting scientific research and studies to analyze the existence of indigenous peoples and customary forests as documentation material when submitting customary forest proposals. Several academics from the university were also appointed as the Imbo Putui indigenous peoples and customary forest registration team.

Furthermore, the role of other institutions is the media or the press. The media plays a role not only as a provider of information or reporting on the existence of indigenous peoples and the Imbo Putui customary forest but also as a party that participates in socializing policies closely related to the protection of indigenous peoples and customary forests. Based on the explanation above, the following is the framework of the alliance built by the indigenous peoples in the recognition of the Imbo Putui customary forest:

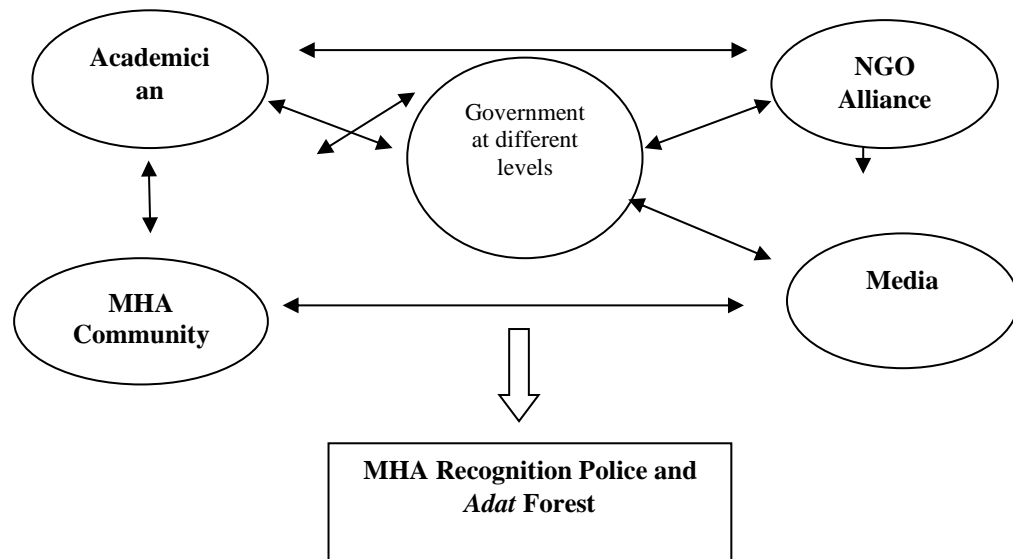


Fig. 3. The Framework for the Alliance of Indigenous Peoples in Recognition of Imbo Putui's Indigenous Forests

3.3 Advocacy of indigenous people recognition policy

The regulation on the recognition and protection of indigenous peoples has been confirmed in the Minister of Home Affairs Regulation Number 52 of 2014 with identification, verification, and validation by a team formed by the Regional Government of Kampar Regency. In the end, the existence of the Kenegerian Petapahan indigenous people and the Imbo Putui customary forest was determined through a Regent's Decree. However, the struggle to get the legalization of the local government and the central government is not easy. There must be a strategy to make the Imbo Putui customary forest recognized by the state. The strategy is to first legalize the legal subject, namely the indigenous people of Kenegerian Petapahan, and after that only legalize the object, namely the customary forest. The legalization of the indigenous peoples of Kenegerian Petapahan following the Regulation of the Minister of Home Affairs Number 52 of 2014 aims to recognize the identity and constitutional rights of indigenous peoples (individual and collective) for inclusive social protection toward prosperity [11]. This condition is the basic capital for indigenous peoples and the alliance networks formed to formulate strategic steps for the recognition of indigenous peoples and customary forests. Of course, the policy-making process cannot be separated from policy advocacy efforts.

The policy advocacy process carried out by the organization is carried out with input, activity, and outcome strategies[12]. The inputs referred to in this policy advocacy are indigenous peoples and NGOs using existing resources such as knowledge, skills, and relationship capital with other parties in carrying out inventories, and identifying the requirements for recognition of indigenous peoples and customary forests. Different capabilities coupled with a strong relationship with local and central governments make NGOs central actors in advocating this policy. This condition also applies to the case of Indonesia in general, where NGOs have a

major contribution to the issuance of legalization policies for indigenous peoples and customary forests [13].

Next, is the activity of building coalitions and getting involved in local government decision-making in recognizing indigenous peoples. The effective way that NGOs do this is to join the registration team for customary areas and customary forests in Kampar Regency so that they can directly influence the decision-making process. The registration team was issued by the Decree of the Regent of Kampar No. 660/DLH-IV.2/32 concerning the Establishment of the Registration Team for the Determination of Indigenous Law Communities, Customary Territories, and Customary Forests in Kampar Regency. So, through this formal mechanism, it is easier for indigenous peoples who are assisted by NGOs to enter the policy agenda for recognizing the indigenous peoples of Kenegerian Petapahan and the Imbo Putui customary forest.

Finally, the outcome of policy advocacy is the adoption of the aspirations of the indigenous peoples of Kenegerian Petapahan into a policy of determining the indigenous peoples and the Imbo Putui customary forest as ulayat rights that cannot be separated from these indigenous peoples. The next discussion is about the challenges in the struggle to get the status of recognition of the Imbo Putui customary forest. The first challenge is the commitment of regional heads to legalizing indigenous peoples which is still weak. It is known that since the beginning of the reform, namely in 1999, Kampar Regency has had a legal basis for policies regarding customary rights. Although the leadership of regional heads has changed 7 times (definitively and acting regent), the recognition of indigenous peoples in Kampar Regency has not yet been realized.

It was only in 2018, the then Regent of Kampar, Aziz Zaenal, had a strong commitment and real action towards the recognition of indigenous peoples in Kampar Regency. This is marked by the formation of a registration team for indigenous peoples, customary territories, and customary forests whose task is to prepare and deliver technical instructions, identify, verify, make minutes and documentation as well as provide recommendations to the Regent in the determination of indigenous peoples, customary territories and customary forests. Not long after, in 2019, a decision was made to establish the Kenegerian Petapahan as an indigenous people with their territorial areas and the Imbo Putui customary forest as their customary rights.

Next is the challenge of dealing with conflicts of interest in the struggle for economic resources within the customary territory. It is undeniable that the recognition of customary forests must be closely related to economic resources. Conflicts that occur are usually the struggle for forest resources or claims from several parties such as private plantation parties who try to take customary forest management from the hands of indigenous peoples, resulting in the loss of tenure rights of indigenous people [14]. Controlling customary forests and customary territories means controlling economic resources. If customary forest is given to irresponsible owners of capital, it will cause environmental damage due to its unlimited exploitation. This is very different from indigenous peoples if they manage forests with local wisdom so that they can preserve the environment and reduce the rate of deforestation.

4 Conclusion

The state's recognition of the Imbo Putui customary forest is a long struggle that has been traversed with full dynamics in it. This struggle finally yielded a happy result with the issuance of the Decree of the Minister of Forestry and Environment with SK.7503/MENLHK-PSKL/PKTHA/KUM.1/9/2019. The conclusion of our research is that the strategy carried out by the Kenegerian Petapahan indigenous people to gain state recognition is through 3 things. First is strengthening the existence of *adat* in Petapahan Village. Indigenous people in Kampar Regency adhere to *adat* and preserve traditions from generation to generation. This has become a strength in itself for the recognition of indigenous peoples and customary forests. Second is developing partnership with other organizations. Kenegerian Petapahan collaborates with various parties, namely government, non-governmental institutions, academics, media, and the Kampar Customary Institution. The important role of institutions outside the government in recognizing the Imbo Putui customary forest is proof that collaborative governance practices have been carried out. A unified vision, and supported by a strong commitment from the leadership of the Regent, made the recognition of the Imbo Putui customary forest a reality.

Third is advocacy for the recognition of indigenous peoples policies. The policy advocacy process carried out by the organization is carried out with input, activity, and outcome strategies. The inputs referred to in this policy advocacy are indigenous peoples and non-governmental institutions. Next is the activity of building coalitions and getting involved in local government decision-making in recognizing indigenous peoples. The effective way that NGOs do this is to join the registration team for customary areas and customary forests in Kampar Regency so that they can directly influence the decision-making process. So, through this formal mechanism, it is easier for indigenous peoples who are assisted by NGOs to enter the policy agenda for recognizing the indigenous peoples of Kenegerian Petapahan and the Imbo Putui customary forest. Finally, the outcome of policy advocacy is the adoption of the aspirations of the indigenous peoples of Kenegerian Petapahan into a policy of determining the indigenous peoples and the Imbo Putui customary forest as *ulayat* rights that cannot be separated from these indigenous peoples.

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