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# Indigenous Peoples' Rights and the Use of Natural Resources: Rethinking the Project of Rempang Eco City

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# Indigenous Peoples' Rights and the Use of Natural Resources: Rethinking the Project of Rempang Eco City

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**Abstract.** The agrarian conflict on Rempang Island involving indigenous people and the government has resulted in legal uncertainty. The land status that overlaps with the Rempang Eco City project has led to several human rights violations. This research aims to find out the status of land in Rempang and the protection of local Indigenous people in relation to the construction of the Rempang eco-city that occurred in the area. This research uses normative legal research by analyzing it through literature study. The results of this study show that from the aspect of legality, the land in the Rempang Island area has not been designated as customary land or state land. Management rights derived from customary land so far can only be assigned to customary law communities that have been recognized for their existence. Protection and enforcement of the rights of Indigenous peoples are carried out through the mechanism of establishing communal rights to the land of Indigenous peoples and communities in certain areas can be done by forming an inventory team of control, ownership, use, and utilization of land.

**Keywords:** rights, Indigenous peoples', rempang eco-city.

## 1. INTRODUCTION

The Eco-City development program is a National Strategic Project (PSN) government located on Rempang Island, Batam Region, Riau Islands. Rempang Island covers an area of around 16 hectares and is divided into two sub-districts: Sembulang and Rempang Cate. Then this island consists of 16 (sixteen) old villages inhabited by around 7,512 residents. A researcher from the History Department of the Regional Research Center at the National Research and Innovation Agency (BRIN) stated that the Rempang traditional community is composed of three indigenous tribes that have long inhabited Rempang Island: the Sea People, the Land People, the Galang Malay Tribe, as well as immigrants [1].

The Rempang Eco City program focuses on investments that are the spearhead of development and aims to improve the economy on a regional and national scale. Moreover, the location for the construction of Rempang Eco City is close to Singapore and Malaysia as Special Economic Zone areas (ZEK). It is hoped that it will provide fiscal incentives and facilities for investors. The evolution of this region is anticipated to facilitate advancement in enhancing the residents' quality of life through initiatives like fostering micro, small, and medium-sized enterprises (UMKM), engaging local manpower, ensuring fair development, and promoting sustainable investments, besides that, through the Eco-City Development Program, it can become a New Economic Engine in Indonesia.

Containers labeled national strategic projects (PSN) This means that any project that is included in the PSN list will receive full privileges, from land acquisition to licensing. The enactment of the Job Creation Law also strengthens this. So it is not uncommon for conflicts of interest to arise between officials and those in power, resulting in the eviction of communities. Of course, it is not easy, especially for indigenous peoples who have to prove their land ownership status. In fact, with just a certificate owned by people who have never even visited

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the land, they are seen as more powerful than residents who have lived on and managed the land for tens or even hundreds of years from generation to generation.

Under the pretext of "public interest", eviction of residents who do not have legal land in the form of a certificate is often carried out without a humane approach. The government's main target is not to discuss or dialogue about the impact of the project on residents, but rather to complete land acquisition for the project. Human relations with land are not as simple as trade relations with price determination through predetermined compensation. Traditional communities such as those on Rempang Island view people's relationship with the land as a relationship of life because the land is a source of shared life.

Control over the natural resources in Indonesia is intricately connected to and will consistently be constrained by the stipulations outlined in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (UUD). This provision explicitly states that "Earth, water, and the natural resources within them are under the jurisdiction of the state and are to be utilized for the utmost benefit of the populace". The statements articulated within this Article establish the legal and philosophical groundwork for the administration of natural resources, which is implemented holistically for the welfare of the Indonesian population [2].

The concept of the right to control the state originates from customary law. For indigenous peoples, objects such as water, land, science, and other natural resources are considered a common interest which prioritizes the principle of protecting common interests and upholding social functions [3]. The formulation of the 1945 Constitution, which is strong in intergalactic ideas, provides the view that the state is one unit with the interests of citizens transformed into the interests of the state. This means that the state is a single entity that always has the virtue of exercising its rights solely for the prosperity of the people. Then there is the issue of how the "state" exercises its rights and whether the strategic development of Rempang Eco City will indeed lead to the prosperity of the people as stated in Article 33 of the 1945 Constitution.

Based on this analysis, the author wants to know the status of the land in Rempang and how local Indigenous communities are protected regarding the development of the Rempang eco-city that is taking place in that area.

## 2. RESEARCH METHOD

The research method used in this writing is a type of normative legal research by analyzing it through literature study. This approach was chosen to understand in depth the dynamics of agrarian conflict on Rempang Island, especially regarding the legal status of land and the rights of local communities [4]. Sources of literature in this research include national and international laws and regulations, scientific journals, books, legal dictionaries, and other literature relating to the legal issue of agrarian conflict regarding the development of Rempang Eco City which involves the rights of Indigenous peoples who live in the Rempang Island area.

## 3. RESULT AND DISCUSSION

### I. Status of Land Impacted by the Development of Rempang Eco City

Rempang Island must face the complexity of problems rooted in various policies. Through Presidential Decree Number 41 of 1973 concerning the Batam Island Industrial Area, the Batam Island Industrial Area Development Authority Agency received management rights (HPL) directly from the President to plan the allocation and use of land in all areas located on Batam Island. Whether it is allocated to carry out their duties or hand over part of the land to a third party with use rights according to articles 41, 42, and 43 of the UUPA [5]. What this means is that granting land to investors is sufficient with rental rights only and not ownership rights. On September 29, 1986, through the Decree of the Minister of Forestry Number 307/Kpts-II/1996, the Rempang area was designated as a forest area. Meanwhile, in 1992 during Soeharto's leadership, based on Presidential Decree Number 28 of 1992 concerning the Addition of the Working Environment Area to the Batam Island

Industrial Area and its Designation as a Bonded (*bonded zone*) Business Area, there was an additional work environment area for the Batam Island industrial area which included Rempang Island and Galang Island [6].

Although the Status Quo relates to Rempang Land Use Management based on Decree No. 29 of 2002 by the government in the form of Cultivation Rights has been granted, apparently, this still creates overlapping land ownership due to unclear use of land boundaries between local communities and the Batam Authority. The transformation of the Batam Authority into the Batam Concession Agency (BP Batam) in 2007 aimed at overseeing the Rempang and Galang regions. This transition is further supported by Government Regulation Number 5 of 2011, which focuses on the Batam Free Trade Zone and Free Port. According to the regulation, BP Batam is responsible for the management and development activities in the Batam and Galang areas. The majority of the land on Rempang Island is categorized as forest land under the jurisdiction of the Ministry of Environment and Forestry. Consequently, the indigenous communities inhabiting this area for many years lack official land ownership documentation.

The ambiguous status of the land on Rempang Island was initiated by the initiation of the Rempang Eco City project, established on 26 August 2004 by PT Makmur Elok Graha (MEG) and the Batam City Government, known as the Exclusive Integrated Tourism Area (KWTE). Nevertheless, the progress of this development was halted, leading to the abandonment of the land which was then occupied by residents. In terms of land ownership documentation, the issuance of land rights certificates by the National Land Agency for these areas is still pending, even though some families have resided on Rempang Island for centuries, dating back to two hundred years. The legality of the land they inhabit is still an unresolved [7]. The development project was stopped and then revived in 2023 with the title Rempang Eco City. Residents on Rempang Island began receiving summonses from the Bareleng Police, Riau Islands Police, and the Attorney General's Office in July – August on charges of illegally residing on development land. The basis for this accusation is that the land status in the area is conversion production forest (HPK). Apart from causing legal and social uncertainty, the Rempang indigenous community also experiences inequality in the use and access to land resources.

The Rempang issue focuses on the property and natural resources sector which involves issues of government investment interests, land rights, and human rights. As a solution to the problems that occur, policymakers are involving alternative compensation for communities affected by the Rempang Eco City development project by providing housing located in the Tanjung Banon area or temporary housing with a living cost of IDR 1,200,000 per person. In this case, development plans of various types on Rempang Island certainly require the eviction of residential areas so that residents leave the area. However, indigenous peoples consider this to be unfair because their human rights have been violated and they still want to defend their hometown. Apart from having deep historical and cultural value, Rempang Island is a source of livelihood for its residents. So the construction of Rempang Eco-City could create a threat to the loss of identity and sustainability of traditional communities in the area [8].

The jurisdiction of the State in the regulation of land as outlined in Article 2 paragraph (2) of the UUPA signifies that the State oversees and executes the distribution, utilization, provision, and preservation of land, water, and space, subsequently establishing and controlling the legal connections between individuals and land, water, and space, in addition to establishing and managing legal connections between individuals and legal actions concerning land, water, and space. Although Management Rights (HPL) are not explicitly addressed in the UUPA, they were previously recognized as authority over state land and were governed by Government Regulation No. 8 of 1953 about the Management of State Lands. Subsequently, with Minister of Agrarian Regulation No. 9 of 1965 regarding the Execution of Conversion of Management Rights over State Land, it underwent a transition to Management Rights.

Provisions articulated in Article 1 paragraph (3) of Government Regulation No. 18 of 2021 regarding Management Rights, Land Rights, and Ownership Rights over Flat Units elucidate that Management Rights encompass control rights vested by the state, with a portion of the implementation delegated to the holder of such rights. Moreover, Article 137 delineates that "Management rights stemming from customary land are vested in customary law communities", and subsequently, Article 4 clarifies that designating customary law rights as management rights serves as a means of acknowledging customary law communities. Notwithstanding, conflicts persist between governmental entities and communities, which are instigated by discriminatory practices in regulations and governmental actions that marginalize, weaken, or nullify the legal standards of indigenous communities.

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From a legal perspective, the issuance of the Land Management Rights (HPL) certificate for Rempang Island, which is owned by BP, has not been granted by BPN due to the unclear land status or the existence of an ongoing unresolved dispute. Apart from that, Article 11 paragraphs (1) and (3) of Government Regulation Number 18 of 2021 concerning Land Registration states that HPL originating from Ulayat Land and State Land must be registered at the Land Office and provided with proof of ownership in the form of a certificate [9].

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So far, the recognition of the customary land in the Rempang Island area is unclear, whether the status of the land is designated as customary land, state land, or not. Indeed, the assignment of management rights from customary land is limited to those customary law communities that have received official recognition. The validity of customary law rests on three key factors: the presence of individuals affiliated with customary law communities, the establishment of shared ownership of customary land, and the acknowledgment of traditional leaders by the respective community. Nevertheless, the government has yet to fully realize the potential of this acknowledgment.

In other words, there are indications that the government needs to carefully consider the consequences of developing Rempang Eco-City from a social perspective, namely social relations with fellow citizens, environmental losses, namely ties to the land that has been part of the heritage from generation to generation, as well as significant consequences for marine ecology, local, and of course economic losses. So far, development has only focused on economic benefits without considering the negative things that arise, such as how intensive sand mining will result in sand supplies running out. The country will not grow if it only repairs environmental damage caused by development projects, because it will cost a very large amount of money.

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### II. *The rights of Indigenous Peoples to control natural resources on Rempang Island*

A customary law community (*adatrecht gemeenschap*) is an organized human unit, settled in a certain area, has a ruler, and has customary wealth, both tangible and intangible, where each member has a normal life according to natural nature. The concept of petuanan territory, which is currently better known as ulayat rights, is the rights of Indigenous peoples to control and manage territories or rights communally. Customary law communities in the Rempang area are deemed to have fulfilled the elements as stated above.

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The presence of traditional rights in Rempang, subject to open investment regulations and under the control of external enterprises, signifies the likelihood of agrarian disputes due to the exclusion of local community concerns in its execution. Regarding regional autonomy, regulations regarding land rights must pay attention to aspects of balance between the roles of the central government and regional governments, which so far have not been achieved well. It is also important to think about the autonomy of customary law communities to be able to regulate and utilize communal land based on their customary law. Agrarian conflict as intended becomes easier when the government's legal policies to protect the rights of indigenous peoples are inadequate.

The inclusion of Indigenous communities in the Indonesian constitution is stipulated in Article 18B paragraph (2) of the 1945 Constitution, which asserts that "The State acknowledges and honors customary law community units and their traditional rights as long as they continue to exist and in line with societal progress and the fundamental principles of the Unitary State of the Republic of Indonesia". It is imperative to note that certain criteria must be met, such as the presence of a community entity (*rechtsgemeenschap*), the existence of traditional leadership institutions, a well-defined legal framework, the presence of enforceable legal mechanisms, and the sustainable utilization of natural resources to cater to everyday necessities. Recognition from the state which in its implementation is empowered to Swatantra regions and customary law communities is likely to remain in line with national interests and the provisions of Regional Regulations, as well as higher Laws and regulations. This is because, from a political perspective, national interests also mean national unity so it is a priori that customary rights must not conflict with national interests.

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Thus, recognition of indigenous communities is also regulated in Article 28I paragraph (3) which states "Cultural identities and rights of traditional communities are respected in line with developments over time and

44 civilization." The affirmation of the rights of Indigenous peoples is also contained in the contents of the Indigenous Peoples Bill, *firstly*, indigenous peoples have the right to receive protection for their customary territories (article 19 letter a), *secondly*, customary communities that have been determined to have the right to customary territories that they have owned, occupied and managed for generations (article 20), *the three* indigenous communities have the right to participate in determining planning, development and sustainable use of their customary territories according to local wisdom (article 21), the four indigenous communities have the right to benefit from the implementation of national development (article 24), and the five indigenous communities have the right to participate in regional government development programs in their customary territories (article 25). This means that indigenous peoples have the right to give aspirations and propose other developments that are to the needs of the relevant customary territory.

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15 The conflict of interests of local Rempang residents and officials occurred because the negotiations they held on September 7 2023 at the construction site did not reach an agreement. So there was the action of throwing plastic cups, stones, and plastic glasses by residents and firing tear gas by the authorities. The conflict that occurred is not limited to just an agrarian issue but also has the potential to cause problems in the form of human rights violations because it is closely related to land rights of customary law communities as well as efforts to relocate and even forcibly evict residents [10].

23 One of the principles in the context of human rights, namely natural rights and inherent is a right that is naturally inherent in each individual by itself and is not given by anyone. Because every human being has natural inherent rights, no one has the right to take them away, including the State[11]. So, in exercising its power and authority, including in formulating or making decisions, the State must pay attention to and uphold human rights. This provision is in line with the principle of the rule of law, that human rights as a fundamental element that provides limits for the state, whether in terms of legislative (rule making), executive (rule executing), or judicial (rule adjudicating) powers, must not violate the human rights of each individual.

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Development in society is an inalienable right or a right that cannot be revoked when viewed from the context of fulfilling rights such as guaranteeing the right to health, the right to food, and the right to political participation. Meanwhile, in terms of relations between the state, business, and human rights, the state must carry out development by prioritizing the fulfillment of the right to a healthy environment [12]. However, there are still several complaints from the public regarding development which results in the loss of communal land, environmental degradation, and even cutting off economic access.

36 One specific action towards achieving the human rights of the Rempang community involves the process of socialization and preliminary dialogues concerning the establishment of Rempang Eco City, to secure community acceptance of the development project [13]. In this way, a balance will be created between the rights of indigenous peoples and the fulfillment of human rights as a mandate and state obligations that must be fulfilled. Fulfilling community rights before a development project takes place can certainly prevent conflicts from arising between the state and the community.

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The international legal instrument that regulates the rights of customary law communities is contained in Article 8 paragraph (2) letters a and b *United Nations Declaration On The Rights of Indigenous People (UNDRIP)* which states that "states must provide effective mechanisms to prevent and redress:...(b) any action that has the aim or effect of confiscation of their land, territory or resources (c) any form of forced population movement that has the aim or as a result of violating or harming their rights". Referring to the provisions of this article, the State is given the obligation to prevent and correct all actions that cause usurpation of the rights of customary law communities from actions that cause usurpation of the rights of Indigenous peoples, especially in matters relating to land and that cause customary communities to suffer from actions that cause the people who had been in the area for generations had to move [14].

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29 In addition, article 10 of UNDRIP emphasizes that customary law communities have the right to refuse forced relocation or eviction from their customary territories. Relocation can only be carried out if there has been free, prior, and informed consent from the Indigenous community and there has been an agreement regarding fair compensation. This way we can create justice for both parties.

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55 Rights to land by Indigenous peoples in the provisions of article 26 of UNDRIP explain that every customary law community has the right to land and/or the right to own land that they have acquired, occupied, and used traditionally. So the state is obliged to provide recognition, respect, and legal protection for the rights of local indigenous communities.

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1 One of the provisions in ILO Convention 169, namely Article 14 reads “the rights of ownership and possession of the peoples concerned over the lands which they traditionally occupy shall be recognized. In addition, measures shall be taken in appropriate cases to safeguard the right of the peoples concerned to use lands not exclusively occupied by them, but to which they have traditionally had access for their subsistence and traditional activities”. The State is given the obligation to recognize the rights of customary law communities so that if the State does not recognize them, it means the State will violate the rights of customary law communities.

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48 In line with the provisions in Article 18 of the UUPA that for the public interest, land rights can be revoked by providing adequate compensation, therefore people affected by land vacancy due to investment in the Rempang Eco City development project should be given compensation or commensurate compensation. From a human rights perspective, government statements regarding unilateral relocation or vacating of land tend to ignore human rights principles. Among them is a guarantee of protection for adequate housing which is carried out without prior community consensus which should be in line with Article 28 D paragraph (1) that "every individual has the right to be recognized, to receive guarantees, protection and fair legal certainty, and to be treated equally." before the law" [15].

Legal protection constitutes an endeavor aimed at safeguarding human rights from potential harm inflicted by external entities. Such safeguarding endeavors ultimately seek to guarantee individuals' ability to fully exercise all legal rights conferred by the State. Legal protection efforts include two types, namely preventive and repressive. Preventive efforts as a step to prevent conflict from arising can be carried out by prioritizing deliberation and outreach to the community before land relocation is carried out for the construction of Rempang Eco City. Meanwhile, repressive legal efforts in terms of dispute resolution can be realized in the form of providing compensation. However, even this compensation becomes complicated in determining the nominal amount that must be given.

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39 The protection and enforcement of the rights of customary law communities is contained in Article 6 paragraphs (1) and (2) of the Human Rights Law which explains that the law, society, and government are obliged to protect, respect, and pay attention to all the rights of customary law communities, including land rights. ulayat, the cultural identity of traditional law communities which includes all the rights that are inherent and firmly held by traditional law communities in real terms.

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11 The mechanism for recognizing the customary law community's customary land rights has been regulated in ATR/BPN Ministerial Regulation No. 5 of 1999 as amended into ATR/BPN Ministerial Regulation No. 9 of 2015 and then ATR/BPN Ministerial Regulation No. 10 of 2016 concerning Procedures for Determining Communal Rights on Land of Traditional Law Communities and Communities in Certain Areas.

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43 In terms of determining the existence of indigenous communities and realizing the recognition and protection of customary law communities, the Regent/Mayor and Governor form an Inventory Team for Tenure, Ownership, Use, and Utilization of Land (IP4T) in which the first step is to identify customary law communities by the government by involving groups. community to find out the history of the formation of legal communities,

customary territories, customary law, property, and customary government systems, *secondly*, verify and validate customary law communities and analyze physical data and juridical data on residential areas where indigenous communities live. Then, if the IP4T Team's report states that there are Indigenous communities, the Regent/Mayor or Governor determines the existence of Indigenous communities and their land through registration as communal rights and constitutively declares the existence of communities in certain areas through a joint decision with regional heads.

#### 4. CONCLUSION

A humane and civilized approach must be the basis for completing the Rempang Eco City development project. Mutual understanding in communication and respect for indigenous peoples who have lived here for generations are unavoidable principles. If relocation action is necessary, it is important to provide certainty regarding the status of rights to the land they live on. With this approach, beneficial fairness between development projects and natural resource conservation can be achieved. Determining the existence of indigenous communities and realizing recognition and protection of customary law communities requires participation from the government to provide guarantees for legal protection of the legal status of indigenous communities as well as communal land which is their main asset. Implementation of Rempang Eco City based on human rights is very necessary, considering that the traditional rights of the community have a close relationship with the development area.

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**Indigenous Peoples' Rights and the Use of Natural Resources: Rethinking the Project of Rempang Eco City**  
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**Abstract.** The agrarian conflict on Rempang Island involving indigenous people and the government has resulted in legal uncertainty. The land status that overlaps with the Rempang Eco-City project has led to several human rights violations. This research aims to find out the status of land in Rempang and the protection of local Indigenous people in relation to the construction of the Rempang eco-city that occurred in the area. This research uses normative legal research by analyzing it through literature study. The results of this study show that from the aspect of legality, the land in the Rempang Island area has not been designated as customary land or state land. Management rights derived from customary land so far can only be assigned to customary law communities that have been recognized for their existence. Protection and enforcement of the rights of Indigenous peoples are carried out through the mechanism of establishing communal rights to the land of Indigenous peoples and communities in certain areas can be done by forming an inventory team of control, ownership, use, and utilization of land.

**Keywords:** rights, Indigenous peoples', rempang eco-city.

### 1. INTRODUCTION

The Eco-City development program is a National Strategic Project (PSN) government located on Rempang Island, Batam Region, Riau Islands. Rempang Island covers an area of around 16 hectares and is divided into two sub-districts: Sembalang and Rempang Cate. Then this island consists of 16 (sixteen) old villages inhabited by around 7,512 residents. A researcher from the History Department of the Regional Research Center at the National Research and Innovation Agency (BRIN) stated that the Rempang traditional community is composed of three indigenous tribes that have long inhabited Rempang Island: the Sea People, the Land People, the Galang Malay Tribe, as well as immigrants [1].

The Rempang Eco City program focuses on investments that are the spearhead of development and aims to improve the economy on a regional and national scale. Moreover, the location for the construction of Rempang Eco City is close to Singapore and Malaysia as Special Economic Zone areas (ZEK). It is hoped that it will provide fiscal incentives and facilities for investors. The evolution of this region is anticipated to facilitate advancement in enhancing the residents' quality of life through initiatives like fostering micro, small, and medium-sized enterprises (UMKM), engaging local manpower, ensuring fair development, and promoting sustainable investments, besides that, through the Eco-City Development Program, it can become a New Economic Engine in Indonesia.

Containers labeled national strategic projects (PSN) This means that any project that is included in the PSN list will receive full privileges, from land acquisition to licensing. The enactment of the Job Creation Law also strengthens this. So it is not uncommon for conflicts of interest to arise between officials and those in power, resulting in the eviction of communities. Of course, it is not easy, especially for indigenous peoples who have to prove their land ownership status. In fact, with just a certificate owned by people who have never even visited

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