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## Dispute Over Customary Forest Between The Toba Batak Indigenous Community And PT Toba Pulp Lestari Sustainability

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**ABSTRACT:** Customary forests are forests located in the territory of customary law communities. Customary law communities are groups of people who inhabit an area in the territory of the Unitary State of the Republic of Indonesia and are recognized and protected by the state as long as they are alive and in accordance with developments in the community and do not conflict with the provisions of applicable laws and regulations. The problem that occurred was that a dispute arose over customary forest land between the Batak toba customary law community and PT Toba Pulp Lestari due to the seizure of customary forests by PT Toba Pulp Lestari. The Batak toba indigenous people can only find justice after meeting with the President and also the Ministry of Environment and Forestry through the action of walking to the independent palace.

**Keywords-** Customary Forest, Indigenous Peoples, PT Toba Pulp Lestari

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### I. INTRODUCTION

Customary law communities are groups of people who live in a region within the territory of the Unitary State of the Republic of Indonesia, whose existence is recognized and whose rights are respected by the State. State recognition of customary law communities is regulated in the provisions of Article 18B paragraph (2) of the Constitution of the Republic of Indonesia. The State recognizes and respects the existence and rights of customary law communities, if the existence of the customary law community is still alive and in accordance with the development of life in society and its existence is in accordance with the principles of the Unitary State of the Republic of Indonesia as stipulated in the Constitution.

The Republic of Indonesia has 1,340 ethnic groups in the territory of Indonesia based on the Central Statistics Agency (BPS) census in 2010. <sup>1</sup>One of the ethnic groups that will be the main topic of discussion in this paper is the Toba Batak Tribe in the North Sumatra Province. The existence of the Toba Batak customary law community is still recognized by the state and government in the North Sumatra region. This recognition is shown by the issuance of Toba Samosir Regency Regional Regulation Number 1 of 2020 concerning the Customary Rights of the Toba Samosir Batak Customary Law Community.<sup>2</sup>

Recognition from the state and from the local government towards the Toba Batak customary law community, shows that the customary rights of the Toba Batak customary law community are also part of what is recognized, protected, maintained and preserved by the state and also the government. Recognition of the customary rights of the Toba Batak customary law community includes customary forests that have been utilized and controlled by the customary community long before Indonesia's independence. The Toba Batak customary law community is one of the 6 Batak tribes in the Sumatra region. The

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<sup>1</sup> <https://indonesia.go.id/profil/suku-bangsa/kebudayaan/suku-bangsa>, Accessed March 8, 2025.

<sup>2</sup>Antonius Bungaran Simanjuntak, 2011, Thoughts on the Batak: After 150 Years of Christianity in North Sumatra., Yayasan Obor Indonesia: Jakarta, p. 58.

tradition of land management for the Toba Batak community has quite strict rules. Land management in the Toba Batak customary law area must be in accordance with customary law and also recognized social norms such as norms of descent, kinship, marriage, and inheritance.<sup>3</sup>

Historically, the existence of the Toba Batak customary law community depends on agricultural land and forests. The customary forests controlled and utilized by the Toba Batak customary law community are used as plantations. In addition, the Toba Batak customary law community still utilizes customary forests to plant frankincense. The frankincense trees are then sold by the customary community which provides enormous benefits to the customary law community. In addition to the frankincense trees sold by the Toba Batak customary law community, the white sap from the manige also has very good quality so that it has a very expensive price. Among the Toba Batak customary law community, the sap from the frankincense tree is also called *sidukapi*.<sup>4</sup>

Since 1983, which was the beginning of the establishment of a PT in the North Sumatra region called PT Toba Pulp Lestari. PT Toba Pulp Lestari or also called PT TPL, was initially named PT Inti Indorayon Utama which is also part of Raja Garuda Mas ( *Royal Golden Eagle Group* ) which is registered in Singapore and its owner is an Indonesian billionaire. PT TPL is a company engaged in the processing of pulp and paper made from trees. The name change from PT Inti Indorayon Utama to PT Toba Pulp Lestari began since the fall of President Soeharto's regime. The name change did not change the type of activities and production of PT TPL.<sup>5</sup>

PT TPL, which is a large company with raw materials from trees that will be melted to produce pulp, of course requires land to plant trees that will be the main source in PT TPL's industrial activities. The conflict between the Toba Batak customary law community and PT TPL began with PT TPL's unilateral action to clear the Toba Batak customary law community's customary forest and plant eucalyptus trees in the customary forest. At the beginning of the establishment of PT TPL, the raw materials needed by the company were still purchased from the Toba Batak customary law community. The trees sold by the customary law community were frankincense trees as in general customary forests managed and controlled by the community by planting frankincense trees.<sup>6</sup>

PT TPL, which then felt disadvantaged by the system, because the quality of the frankincense trees was not good for processing into paper pulp while the price was very expensive, made PT TPL hold socialization to the Toba Batak indigenous community about planting eucalyptus trees. The plan from PT TPL was initially welcomed by the entire Toba Batak indigenous community, because of the benefits that would be obtained by the community as a result of selling trees to PT TPL. The beginning of the anger of the Toba Batak indigenous community was when PT TPL around 2006 collaborated with the indigenous community represented by 400 families. The collaboration was to use customary forests as part of the eucalyptus tree planting.

Three years since the agreement was made, namely in 2009, PT TPL unilaterally wrote to the Toba Batak indigenous community represented by 400 families. The letter issued

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<sup>3</sup> Marcus Colchester, 2020, "Indigenous Peoples and Toba Pulp Lestari: Restoring Indigenous Territories Through the International Labour Organization", Forest Peoples Programme, July, 2020, pp. 2-4.

<https://www.forestpeoples.org/sites/default/files/documents/Toba%20Batak%20and%20Toba%20Pulp%20Lestari%20-%20bahasa%20indonesia%20v3.pdf>

<sup>4</sup> Eijkemans, 1995, "Profitability or Security : Decision-Making on Land Use Among Toba Batak Peasant in North Sumatra, Indonesia", Nijmeegs Institute Voor Comparatieve Cultuur-en Ontwikkelings studies, Nijmegen, Netherlands.

[https://repository.ubn.ru.nl/bitstream/handle/2066/146083/mmubn000001\\_211248290.pdf](https://repository.ubn.ru.nl/bitstream/handle/2066/146083/mmubn000001_211248290.pdf)

<sup>5</sup> <https://www.tobapulp.com/tentang-kami/>, Accessed March 8, 2025 .

<sup>6</sup> Fernando Tobing, 2022, "Land Dispute Between Batak Indigenous Community and PT Toba Pulp Lestari and Violations of Acts That Violate Forestry Regulations in North Sumatra", Journal of Sui Generis Law, VolII/No-2/April/2022, p. 78.

by PT TPL contained changes to the agreement, namely that if the eucalyptus planted by PT TPL did not produce a minimum of 120 tons per hectare, then every citizen involved in the agreement would receive a fine from PT TPL. PT TPL argued in its letter that when the agreement was made, there was information provided by the Toba Batak indigenous community that the land in the customary forest had a very high level of fertility, so that it would guarantee a very large harvest for PT TPL in the future. The problems between the Toba Batak indigenous community and PT TPL then grew bigger and dragged on until they spread to other sectors.<sup>7</sup>

Based on this background, the case between the Toba Batak indigenous community and PT Toba Pulp Lestari regarding the customary forest dispute is a good topic to analyze by raising the title Customary Forest Dispute Between the Toba Batak Indigenous Community and PT Toba Pulp Lestari.

### A. Formulation of the problem

The problem formulation in this writing is,

1. How could the customary forest dispute between the Toba Batak customary law community and PT Toba Pulp Lestari occur?
2. What steps does the government take to resolve disputes?

### B. Originality of Research

This paper is an original work of writing and is not a result of plagiarism from the writings of other parties. In relation to this, the author will include several previous written works that have similarities with the main theme carried out by the author, but there are some differences. Here are some previous written works:

1. Fernando Tobing, Law Study Program, Faculty of Social Sciences, Ganesha University of Education with the title "LAND DISPUTE BETWEEN BATAK CUSTOMARY COMMUNITY AND PT TOBA PULP LESTARI AND VIOLATIONS OF ACTIONS THAT INFLECT FORESTRY REGULATIONS IN THE NORTH SUMATERA REGION". The problems studied in his paper are
  - a. Why does the existence of customary land often cause problems between individuals, communities and groups, and groups of people and other community groups?
  - b. Why has the customary land dispute between the Batak indigenous community and PT Toba Pulp Lestari not yet been resolved?The results of the research in the paper show that customary land often raises problems because there are parties who try to harm several aspects of the lives of the Batak Traditional Village community and also oppress the residents of the traditional village. Then the cause of the dispute between the Toba Batak indigenous community and PT TPL has not found a bright spot because the litigation and non-litigation efforts carried out were unsuccessful. The reason for these efforts being unsuccessful is because proof related to land ownership by the Batak indigenous community is very difficult.
2. Ray Amanthoro Saragih, Rosnidar Sembiring, Suhaidi, Syarifah Lisa Andriati, Master of Law, University of North Sumatra with the title "Legal Analysis of Control and Management of Customary Forests by the Batak Indigenous Community in Humbang Hasudutan Regency, North Sumatra". The problems studied in the paper are
  - a. What is the history of the Pandumaan Sipituhuta community and the form of management of the Pemancing Haminjon customary forest?
  - b. How is the Tenurial conflict?
  - c. How is the government's effort to provide legal protection for the Batak indigenous community in Pandumaan Sipituhuta?

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<sup>7</sup> Sandrayati Moniaga, Enny Soeprapto, Dian Andi Nur Aziz, & Eko Cahyono, 2016, Agrarian Conflict of Customary Law Communities Over Their Territory in Forest Areas., National Human Rights Commission of the Republic of Indonesia: Central Jakarta, pp. 8-9.

The results of the research in the paper show that de jure recognition of the existence of customary law communities has been included in existing regulations. De facto the state has not provided protection to customary law communities, therefore the Pandumaan Sipituhuta community is struggling to gain recognition from the state. Legal protection efforts made by the Government are the issuance of Constitutional Court Decision No. 35 / PUU-X / 2012 and the Issuance of the Determination of the Tombak Haminjon Customary Forest covering an area of - +2000 hectares, through the Granting of SK MENLHK 5082 in 2021 .

3. Lasron P Sinurat, Faculty of Cultural Sciences, Gajah Mada University, Yogyakarta, with the title "Customary Land Rights: The Pandumaan - Sipituhuta Indigenous Community Movement During the Reformation Era". The problem studied in this writing is How is the resistance of the Pandumaan - Sipituhuta Indigenous Community against PT TPL?

The results of the research in this writing show that the Pandumaan-Sipituhuta indigenous community movement uses the cultural identity of the Toba Batak community as a tool for its struggle. The long journey of the Pandumaan-Sipituhuta indigenous community's struggle for their customary land cannot be separated from various violence and intimidation from various parties. In fact, a number of figures involved in the conflict were arrested and imprisoned by the police. At the end of 2016, President Joko Widodo, through the Minister of Environment and Forestry, determined and released the Pandumaan-Sipituhuta customary land covering an area of 5,172 hectares from the PT. TPL concession. In early 2019, the customary land was legalized as a customary forest belonging to the Pandumaan-Sipituhuta customary law community by the Regional Government.

The differences between the three previously explained papers and the paper that will be done by the author are, this paper will focus on discussing how the conflict between the Toba Batak indigenous people and PT TPL could occur and how the government made efforts to resolve it, then this paper does not only focus on one case, namely the Pandumaan - Sipituhuta indigenous people, but will discuss several cases that occurred between the Toba Batak indigenous people throughout North Sumatra and PT TPL.

## CHAPTER II

### DISCUSSION

#### A. Literature review

##### 1. Review of Customary Forest Disputes

###### a. Definition of Dispute

Dispute in the Big Indonesian Dictionary or called KBBI is a difference of opinion, quarrel, argument, dispute and also disagreement that occurs between individuals with individuals, individuals with groups and also groups with other groups.

<sup>8</sup>Article 6 of Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution regulates that disputes or also called differences of opinion, can be resolved by the disputing parties through various means either by alternative dispute resolution such as mediation, consultation, negotiation, conciliation or by expert assessment, and can also be resolved by litigation, namely in the District Court.

A. Mukti Arto in his book entitled "Seeking Justice, Criticism, and Solutions to Civil Court Practices in Indonesia", provides an explanation of disputes. According to A Mukti Arto, disputes arise because of a problem in society and there are two things that cause the problem, such as the difference between *das sollen* and *das sein* and the difference between what is desired and what happens. A Mukti Arto argues that when a dispute is within the scope of the legal order, the dispute is called a legal dispute which has an impact on the settlement that can be brought to court and some that are not brought to court.<sup>9</sup>

###### b. Definition of Customary Forest

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<sup>8</sup> <https://kbbi.kemdikbud.go.id/entri/Sengketa> , Accessed March 8, 2025.

<sup>9</sup> A. Mukti Arto, 2001, Seeking Justice, Criticism, and Solutions to Civil Court Practices in Indonesia, Pustaka Pelajar: Yogyakarta, pp. 28-32.

Customary forests in the provisions of Article 1 number (6) of Law Number 41 of 1999 concerning Forestry formulate the Definition of customary forests as forests located in the territory of indigenous communities. The same thing is also formulated in the provisions of Article 1 number (4) of the Regulation of the Minister of Environment and Forestry concerning Customary Forests and Rights Forests Number P.21/MENLHK/SETJEN/KUM.1/4/2019, customary forests are interpreted as forests located in the territory of indigenous legal communities.

**2. Review of the Toba Batak Customary Law Community**

**a. Definition of Customary Law Community**

Article 1 number (10) of the Regulation of the Minister of Environment and Forestry concerning Customary Forests and Rights Forests Number P.21/MENLHK/SETJEN/KUM.1/4/2019, defines customary law communities as community groups who have lived in certain geographic areas for generations due to ties related to ancestral origins, strong similarities in their relationship to the environment, and similarities in the value systems that regulate the economic, political, social and legal sectors.

**b. Understanding the Toba Batak Customary Legal Community**

Article 1 number (10) of Toba Samosir Regency Regional Regulation Number 1 of 2020 concerning the Customary Rights of the Toba Batak Customary Law Community, formulates the definition of the Toba Batak customary law community as a community group that is part of Indonesian citizens who have their own characteristics that are their distinctive features.

The Toba Batak customary law community has a distinctive characteristic of living in groups harmoniously according to Batak customs. The Toba Batak customary law community has a very strong relationship with the land and the environment and a value system that determines the political, social, cultural and legal economic institutions and lives by utilizing a certain area from generation to generation.

**3. Review of PT Toba Pulp Lestari**

PT Toba Pulp Lestari Tbk (“Company”) was established in accordance with Domestic Investment Law No. 6 of 1968 in conjunction with Law No. 12 of 1970 based on deed No. 329 dated April 26, 1983 from Misahardi Wilamarta, SH, a notary in Jakarta. The deed of establishment has been approved by the Minister of Justice of the Republic of Indonesia in his decree No. C2-5130.HT01-01 TH.83 dated July 26, 1983, and was announced in the State Gazette of the Republic of Indonesia No. 97 dated December 4, 1984, Supplement No. 1176.

**B. Theoretical basis**

**1. Theory of Justice**

Justice according to John Rawls is the fulfillment of equal rights to basic liberties . Rawls believes that justice is a value that is non-negotiable, so it must be realized in the midst of community life without having to sacrifice the interests of other communities. However, if you have to sacrifice other interests in order to avoid greater injustice, then that is understandable.

Rawls argues that justice will be something good when a condition is created that is maximally beneficial and *reasonable* for everyone, including the weak parties ( *maximum minimimum* ), thus creating what is called justice for everyone.<sup>10</sup>

**C. Analysis**

**1. Customary Forest Dispute Between Toba Batak Customary Law Community and PT Toba Pulp Lestari Could Happen**

The Toba Batak customary law community is known as a customary community that has a close relationship with land and the environment, because it considers land as the beginning of human life and also as the final resting place of humans. Philosophically, the Toba Batak customary law community, when someone dies must be buried in the ground and

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<sup>10</sup>Zainal Arifin Mochtar & Eddy OS Hiariej, 2021, Basics of Legal Science: Understanding Legal Rules, Theories, Principles and Philosophy., Red & White Publishing: Yogyakarta, pp. 335-337.



as much as possible the land that becomes the burial place is land that is in their own hometown.<sup>11</sup>

The actions of PT TPL which always provoke and also threaten the Toba Batak customary law community by giving a warning letter to the community that the customary forest that has been controlled by the community is owned by PT TPL. PT TPL also cut down the community's frankincense trees and replaced them by planting eucalyptus trees in order to meet the raw materials for production at the PT TPL company. The Toba Batak customary law community feels that PT TPL's actions are violations that seriously harm the Toba Batak customary law system and have oppressed several Toba Batak community leaders.

The Toba Batak customary law community who are fighting to defend their customary forest area always get intimidation and actions. This is proven by several customary leaders who were arrested and also imprisoned by the police for fighting for their rights against PT TPL.<sup>12</sup> One of the customary law community leaders who was a victim of violence and intimidation from PT TPL was Oppu (Grandfather) Dimpos Sinambela. Oppu Dimpos, who is a customary law community leader when having a discussion with PT TPL, tried to explain that the customary forest claimed by PT TPL as its land is a customary forest belonging to the Toba Batak customary law community which has long been used as "Jampalan". Jampalan in the Toba Batak customary law community is a place for people who have pets such as buffalo, cows, goats and so on as a place for grazing their pets.<sup>13</sup>

PT TPL then considered that Oppu Dimpos Sinambela had given false information about the existence of the customary forest. After the criminalization carried out by PT TPL, the anger of the Toba customary law community was further inflamed. The Toba community, which in 2006 made an agreement with PT TPL regarding the loan of customary land by PT TPL as a pilot site for planting eucalyptus trees, burned the agreement letters and residents agreed that all elements of society must reject and cannot allow PT TPL to enter the *jampalan area* (customary forest as a place for grazing animals).

In 2009, after the conflict and the assumption by PT TPL that the statement from the traditional figure Oppu Dimpos Sinambela was false and had been processed by law, PT TPL was entitled to the customary forest land that had been planted with eucalyptus trees. PT TPL then unilaterally carried out logging and land clearing in several points in the customary forest area of the Toba community such as in the villages of Pandumaan, Sipituhuta, Simataniari, and Dolok Ginjang. PT TPL's actions received an increasingly angry response from all the Toba Batak indigenous people in several villages.

PT TPL then freely cut down the frankincense trees that were previously planted by the community and replaced them with eucalyptus trees. PT TPL then seized the customary forest inherited from King Sidomdom Barimbing located in Sugapa Village, Silaen District with a total forest cleared by PT TPL of 51.36 Ha.<sup>14</sup> PT TPL in carrying out efforts to seize customary forest land from the Toba Batak customary law community is by taking advantage of the situation, where the customary forest land that has been controlled and planted with frankincense trees by the customary community, does not have a certificate of ownership rights. The Toba Batak customary law community will of course have great difficulty in showing proof of ownership of the customary forest land, while the state does not allow ownership rights either to customary forests or customary land, because its allocation is for the entire customary law community, not for individuals (tribal chiefs or customary leaders).

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<sup>11</sup> Harisan Boni Firmando, 2021, "Traditional Land System in the Batak Toba Community and Its Relevance in the Lake Toba Area", Scientific Journal of Sociology of Religion, VolIV/No-2/December/2021, p. 114.

<sup>12</sup> Lasron P. Sinurat, 2019, "Customary Land Rights: The Pandumaan-Sipituhuta Indigenous Peoples' Movement During the Reformation Era", Al-Qalam Journal, VolXXV/No-03/November/2019. p. 486

<sup>13</sup> Cit., pp. 8-9.

<sup>14</sup> Fernando Tobing, Op.cit., pp. 79-80.

The Toba Batak customary law community then made resistance efforts against PT TPL which had increasingly threatened the lives of the entire community. The Toba Batak customary law community then agreed to carry out protest and resistance actions by forming a community alliance called the Indigenous Peoples Alliance of the Archipelago (AMAN). Through the AMAN organization, the community filed a Judicial Review of Law Number 41 of 1999 concerning Forestry and through the Constitutional Court Decision Number 35/PUU-X/2012 concerning the existence and ownership of customary forests by indigenous communities.<sup>15</sup>

The results of the Constitutional Court's decision on the judicial review conducted by the AMAN Organization against the Forestry Law are as follows:

- a. Law Number 41 of 1999 concerning Forestry has so far included customary forests as state forests, which is a form of ignoring the rights of indigenous peoples and a form of violation of the constitution.
- b. Customary forests are no longer state forests but rather rights forests. The state no longer controls or takes the rights of indigenous communities, except for reasons when they are needed for the public interest.
- c. The holder of land rights is the holder of forest rights
- d. Declaring and Affirming that the community is the holder of Rights, Forests are included in customary rights, the State and government must respect the existence of Indigenous Communities and their customary laws.<sup>16</sup>

The Constitutional Court's decision stated that customary forests are located in the territory of customary law communities and are not part of state forests, so that customary law communities will be free from discriminatory actions or treatments. The Constitutional Court is of the opinion that customary forests are forests belonging to clans, or forests belonging to the ancestors of customary communities so that customary law communities have the right to manage customary forests together in accordance with their customary rules.<sup>17</sup>

The Toba Batak customary law community had previously also made efforts to resist the police who had also criminalized the customary community. The criminalization began with a complaint from PT TPL about several Toba Batak customary communities disturbing PT TPL employees in cutting down frankincense trees and planting eucalyptus trees in the customary forest that PT TPL claimed as its land. In the end, the police arrested Madilaham Lumban gaol, James Sinambela, Sartono Lumban gaol, and Mauisn Lumban Batu. The police action sparked great anger from the customary community. The Toba Batak customary law community who had joined the AMAN organization then resisted by holding a demonstration at the Humbang Hasundutan police station. The customary community requested that the police release the 4 people who were detained and stop criminalizing the customary community who were trying to defend their customary forest area.<sup>18</sup>

The existence of demonstration movements that were continuously carried out by indigenous peoples who were members of the AMAN organization, then the conditions that began to become uncondusive, then the Chairman of the DPRD, Sekwan, several members of the DPRD, Dandim and representatives of 20 indigenous Batak Toba

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<sup>15</sup> Ray Amantharo Saragih, Rosnidar Sembiring, Suhaidi & Syarifah Lisa Andriati, 2023, "Legal Analysis of Control and Management of Customary Forests by Indigenous Communities", Journal of Academic Literature Review, VolII/Issue-03/March.2023. p. 244.

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[https://www.mkri.id/public/content/persidangan/resume/resume\\_Ringkasan%20Nomor%2035.pdf](https://www.mkri.id/public/content/persidangan/resume/resume_Ringkasan%20Nomor%2035.pdf), Accessed March 09, 2025.

<sup>17</sup> Subarudi, 2014, "Customary Forest Management Policy Post Constitutional Court Decision No. 35/PUU-X/2012: A Critical Review", Journal of Forest Policy Analysis, VolXI/No-03/December/2014. p. 211.

<sup>18</sup> Dimpos Manalu, 2007, "Social Movements and Public Policy Changes: The Case of Resistance between the Batak Community and PT Indi Indorayon Utama, in Porsea, North Sumatra", VolXVIII/No-01/2007/ p. 41.

communities and several media crews held a meeting. In the meeting, representatives of the 20 indigenous communities also requested that the indigenous people who had been criminalized be released immediately, and the community requested that the issue be brought by the DPRD to a regional leadership deliberation meeting. However, after the regional leadership deliberation meeting was held, the indigenous people had not yet received clear results regarding the demands they had conveyed. In the end, the masses who were increasingly annoyed vented their frustration by carrying out anarchic actions by throwing stones at the Regent's office and the Humbang Hasundutan Regency DPRD.<sup>19</sup>

## **2. Dispute Resolution Steps Taken by the Government**

Dispute resolution can be resolved in 2 (two) ways as regulated in the provisions of Article 6 paragraph (1) of Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, namely it can be resolved through alternative dispute resolution and also through litigation, namely through the trial process in the district court. In addition, the resolution of disputes that occur within the Toba Batak indigenous community is also regulated in the provisions of Article 1 number (21) of the Toba Samosir Regency Regional Regulation Number 1 of 2020 concerning the Customary Rights of the Toba Samosir Batak Indigenous Law Community, namely by using customary law.

The resolution of the dispute between the Toba Batak customary law community and PT Toba Pulp Lestari regarding the customary forest dispute has taken many steps since the conflict occurred until now. The resolution of the conflict between the two parties is as follows:

### **a. Mediation**

At the beginning of the conflict over the Toba Batak customary forest dispute with PT TPL, both parties conducted mediation mediated by the police. The mediation process initially went well and an agreement was reached that the customary forest land used by PT TPL was in the form of rent and payments would be made to the Toba Batak customary community after the eucalyptus harvest season was over. The agreement was still in verbal form, and PT TPL promised to immediately provide a copy of the agreement between the two parties in the near future. However, until the eucalyptus harvest season arrived, PT TPL did not provide a copy of the agreement between the two parties. Then the indigenous community tried to confirm with PT TPL employees who were at the eucalyptus harvest location on the customary forest land, and gave the answer that they did not know about the agreement, and asked for confirmation from the company management.

The Toba Batak indigenous community who felt that they were not appreciated by PT TPL tried to approach the police who were the third party when the verbal agreement was made. The police then tried to summon both parties and gave advice that the agreement be made in written form. PT TPL then unilaterally denied the verbal agreement by stating that PT TPL had suffered losses from the harvest. PT TPL said that one of the Toba Batak indigenous communities had provided false information regarding the fertility of the land where the eucalyptus trees were planted. Based on this reason, PT TPL finally stated its objection to paying for the land used by the indigenous community.<sup>20</sup>

In the end, efforts to resolve the dispute between the Toba Batak customary law community and PT TPL through mediation failed.

### **b. Litigation**

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<sup>19</sup> Suryati Simanujuntak, 2014, "Seizing Haminjon, Seizing Life, Pandumaan-Sipituhuta Against Toba Pulp Lestari.", Sajogyo Institute: West Java, pp. 8-11.

<sup>20</sup> Fernando Tobing, Op.Cit., p. 78.



## Sorbatua Siallagan, kakek yang dituduh 'menduduki' hutan konsesi Toba Pulp Lestari divonis dua tahun penjara dan denda Rp1 miliar



Figure 1 : “Indigenous community leader Ompu Umbak Siallagan, Sorbatua Siallagan was arrested by the North Sumatra Police on charges of “damaging and burning” PT Toba Pulp Lestari’s cultivated land, which overlaps with the community’s customary forest” , source: <https://www.bbc.com/indonesia/articles/cv2yzryd0np0>

The customary forest dispute that occurred between the Toba Batak customary law community and PT Toba Pulp Lestari after experiencing failure in several mediation efforts, finally had to go through the dispute resolution through the court process. One of the many dispute resolutions between the two parties, is the case of a Toba Batak customary figure named Sorbatua Siallgan. Sorbatua Siallagan was charged with land destruction from PT TPL and also burning eucalyptus trees planted by PT TPL on the customary forest land of the Toba Batak customary law community, however the concession permit for the land was held by PT TPL.

After conducting various examination processes in the trial, the Panel of Judges of the Simalungun District Court of North Sumatra sentenced Sorbatua Siallgan as the head of the Toba Batak customary community to a prison sentence of two years and a fine of Rp1 billion.<sup>21</sup> This certainly made the anger of all elements of the Toba Batak customary law community even greater and encouraged them to always fight PT TPL in order to regain their rights.

After various attempts to resolve disputes both through litigation and non-litigation which always harmed the Toba Batak customary law community, on one occasion, precisely on June 14, 2016, the Toba Batak customary law community carried out the "Walking Action to the Merdeka Palace" Movement. This effort was carried out with the aim that the problems faced by the Toba Batak customary law community could be resolved directly by the President who at that time was still held by President Jokowi.<sup>22</sup>

<sup>21</sup> [https://sipp.pn-simalungun.go.id/list\\_perkara/sort/3/VnA2V2VQMHVOWExxbkIGWWFoKyt6Z0xDOS81WHEydmhETIRCUXl1TlhBK3hURGxFNzBpSzIMenpDRmExTktadXJWWk5FRtFHY1lxME5MUFI4a2N6Z2c9PQ=/key](https://sipp.pn-simalungun.go.id/list_perkara/sort/3/VnA2V2VQMHVOWExxbkIGWWFoKyt6Z0xDOS81WHEydmhETIRCUXl1TlhBK3hURGxFNzBpSzIMenpDRmExTktadXJWWk5FRtFHY1lxME5MUFI4a2N6Z2c9PQ=/key), Accessed March 9, 2025.

<sup>22</sup> <https://www.mongabay.co.id/2021/07/30/aksi-jalan-kaki-dari-sumut-ke-jakarta-demi-kelestarian-danau-toba/>, Accessed March 9, 2025.

After traveling from June 14th from North Sumatra, on July 27th 2016 the Toba Batak customary law community arrived at the Merdeka Palace and was immediately welcomed by the Minister of Environment and Forestry together with President Jokowi.



Figure 2 : *"The Toba Batak customary law community gives ulos to President Jokowi"*,

Source: <http://indonesiaatmelbourne.unimelb.edu.au>

After holding a meeting with the President and also the Minister of Environment and Forestry, finally the voices and complaints of the Toba Batak customary law community received an answer that was able to provide justice to the Toba Batak customary law community. The government then coordinated with the regional government in North Sumatra regarding the existence of the Toba Batak customary law community, as stipulated in Article 18B paragraph (2) of the 1945 Constitution. The Humbang Hasundutan Regency Government and the Toba Samosir Regency Government then issued Humbang Hasundutan Regional Regulation Number 3 of 2019 concerning Recognition and Protection of Customary Law Communities and Toba Samosir Regency Regional Regulation Number 1 of 2020 concerning Customary Rights of the Toba Samosir Batak Customary Law Community. This confirms that the existence of the Toba Batak customary law community is recognized by the regional government.

The Ministry of Environment and Forestry finally issued a Decree regarding the recognition of the Toba Batak customary forest with a total area of 12,759.69 Ha of customary forest. Recognition of the Toba Batak customary forest is also getting stronger after the Humbang Hasundutan Regency DPRD held a plenary meeting on July 3, 2018. In the plenary meeting, the DPRD stipulated and approved the Regional Regulation on the Recognition and Protection of Customary Law Communities.

On February 1, 2019, the Humbang Hasundutan Regency Government also ratified the Regional Regulation on the Recognition and Protection of the Batak Toba Customary Law Community with Registration number 03/19/2019.<sup>23</sup>

### **3. Theory of Justice in the Case of the Dispute Between the Toba Batak Customary Law Community and PT Toba Pulp Lestari**

The concept of justice as conveyed by John Rawls is the fulfillment of equal rights to basic liberties. Rawls believes that justice is a value that is non-negotiable, so it must be realized in the midst of community life without having to sacrifice the interests of other communities. In terms of dispute resolution which can ultimately be resolved by issuing

<sup>23</sup> Lasron P. Sinurat, Op.Cit., p. 495.

a letter by the Ministry of Environment and Forestry, it shows that justice for the Toba Batak customary law community has been achieved.

Justice is achieved because the rights of the Toba Batak customary law community regarding customary land that has been seized by PT TPL, can be re-controlled by the customary law community. Recognition and protection of customary forests and the Toba Batak customary law community is a major progress made by the government in order to fulfill the ownership rights of customary law communities throughout Indonesia.

### **CHAPTER III**

#### **CLOSING**

##### **1. Conclusion**

The dispute that occurred between the Toba Batak customary law community and the company PT TPL, occurred due to the seizure of customary forest land located in the Toba Batak customary law community area. The seizure was carried out by PT TPL by manipulating the verbal agreement that had been made by both parties. PT TPL then did various ways to continue to control the customary forest belonging to the Toba Batak customary law community, starting with criminalizing Toba Batak customary leaders, cutting down the community's frankincense trees and replacing them with eucalyptus trees. This triggered a prolonged conflict between the Toba Batak customary law community and PT TPL.

Efforts to resolve the dispute have been made, starting from efforts through litigation and also non-litigation. However, in the end all these efforts did not provide justice to the Toba Batak customary law community. After feeling disadvantaged and not getting justice, the Toba Batak customary law community finally held a walking action towards the Merdeka Palace and met directly with the President. After the recognition from the regional government regarding the existence of the Toba Batak customary law community with the issuance of regional regulations on the recognition of the rights of the Toba Batak customary law community, the Toba Batak customary law community finally got justice after the Minister of Environment and Forestry issued a letter regarding the recognition of the Toba Batak customary law community's customary forest covering an area of 12,759.67 Ha.

##### **2. Suggestion**

The government should make a policy that the customary rights of indigenous peoples can be registered for ownership. The registration of ownership aims to provide legal certainty and guarantees to indigenous peoples, so that their rights can be protected properly without intimidation from other parties.

**CHAPTER IV  
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