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Complexity of Conflict and Resolution in the PT. HMBP 2023 Case Related to the Failure to Realize Plasma Plantations and Its Impact on Indigenous Communities from the Perspective of Criminal and Civil Law

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Abstract: The conflict between PT. HMBP and the indigenous community of Bangkal Village in Central Kalimantan reflects the complexity of agrarian issues that simultaneously involve aspects of both criminal and civil law. The problem began with PT. HMBP's failure to fulfill its obligation to develop plasma plantations covering 20% of the total managed land, as mandated by Government Regulation No. 26 of 2021 and Central Kalimantan Provincial Regulation No. 5 of 2011. Tensions peaked in October 2023 when the community staged a blockade of 1,175 hectares of land outside the company's concession (HGU), which led to clashes with security forces and resulted in fatalities. This study uses a normative juridical approach by examining relevant laws and regulations as well as principles for the protection of indigenous peoples' rights. The analysis reveals potential violations of criminal law, both in terms of the repressive actions by authorities and the company's negligence in fulfilling its legal obligations. From a civil law perspective, PT. HMBP could be sued for breach of contract and unlawful acts that harmed the community. Furthermore, violations of human rights particularly the right to land and the right to life, emerge as key concerns, calling for the involvement of the National Commission on Human Rights (Komnas HAM) and the application of restorative justice approaches. This study recommends regulatory reinforcement, enhanced mediation roles by local governments, and stronger protections for indigenous rights in the context of agrarian conflicts. It emphasizes the importance of fair, accountable, and human-centered law enforcement in resolving similar disputes in the future.

Keywords: Agrarian Conflict, Plasma Plantations, Indigenous Communities

Abstrak: Konflik antara PT. HMBP dan masyarakat adat Desa Bangkal di Kalimantan Tengah mencerminkan kompleksitas masalah agraria yang melibatkan aspek hukum pidana dan hukum perdata secara bersamaan. Masalah ini bermula dari kegagalan PT. HMBP dalam memenuhi kewajibannya untuk mengembangkan perkebunan plasma seluas 20% dari total lahan yang dikelola, sebagaimana diatur dalam Peraturan Pemerintah Nomor 26 Tahun 2021 dan Peraturan

Daerah Provinsi Kalimantan Tengah Nomor 5 Tahun 2011. Ketegangan mencapai puncaknya pada Oktober 2023 ketika masyarakat melakukan blokade terhadap 1.175 hektar lahan di luar wilayah konsesi perusahaan (HGU), yang berujung pada bentrokan dengan aparat keamanan dan mengakibatkan korban jiwa. Studi ini menggunakan pendekatan yuridis normatif dengan menganalisis undang-undang dan peraturan yang relevan serta prinsip-prinsip perlindungan hak-hak masyarakat adat. Analisis menunjukkan potensi pelanggaran hukum pidana, baik dalam bentuk tindakan represif oleh pihak berwenang maupun kelalaian perusahaan dalam memenuhi kewajiban hukumnya. Dari perspektif hukum perdata, PT. HMBP dapat digugat atas pelanggaran kontrak dan tindakan ilegal yang merugikan masyarakat. Selain itu, pelanggaran hak asasi manusia—terutama hak atas tanah dan hak atas kehidupan—menjadi perhatian utama, yang mengharuskan keterlibatan Komisi Nasional Hak Asasi Manusia (Komnas HAM) dan penerapan pendekatan keadilan restoratif. Studi ini merekomendasikan penguatan regulasi, peran mediasi yang lebih kuat oleh pemerintah daerah, dan perlindungan yang lebih kuat bagi hak-hak masyarakat adat dalam konteks konflik agraria. Studi ini menekankan pentingnya penegakan hukum yang adil, akuntabel, dan berorientasi pada manusia dalam menyelesaikan sengketa serupa di masa depan.

Kata Kunci: Konflik Agraria, Perkebunan Plasma, Masyarakat Adat

INTRODUCTION

The conflict case between PT. HMBP and the indigenous community of Bangkal Village reflects a complex tension between corporate interests and the rights of local communities. Since 2006, PT. HMBP has been operating in the area with a significant land area; however, the realization of the 20% plasma plantation, which is the company's obligation, has not yet been fulfilled. This failure has caused dissatisfaction among the indigenous people, who feel that their rights have been neglected (BBC News, 2023). The tension peaked in October 2023, when clashes occurred between the community and security forces, resulting in fatalities and injuries (Redaksi InfoSAWIT, 2023). This incident highlights the importance of law enforcement and the protection of community rights in the context of economic development.

Legally, the obligation to develop plasma plantations by plantation companies is regulated in various regulations (Shevy, 2024). Law Number 39 of 2014 concerning Plantations states that plantation companies with business licenses are required to facilitate the development of community plantations around them amounting to at least 20% of the total cultivated plantation area (Supriadi, 2019). This provision is reinforced by Government Regulation Number 26 of 2021 concerning the Implementation of the Agricultural Sector, which emphasizes that plantation companies receiving business licenses for cultivation are required to facilitate the development of community plantations amounting to 20% of the land area (Citra, 2021). This facilitation must be implemented no later than three years after the land is granted Cultivation Rights (HGU). Failure to fulfill this obligation may result in the revocation of the company's business license (Pardamean, 2024).

At the regional level, Central Kalimantan Provincial Regulation Number 5 of 2011 concerning Sustainable Plantation Business Management also regulates the obligation of plasma plantation development (Alfrisandi, 2021). Article 18 paragraph (3) states that plantation companies are required to facilitate the development of community plantations of at least 20% of the total cultivated plantation area (Pulungan, 2024). This regulation shows the local government's commitment to ensuring that plantation companies contribute to the welfare of the local community. However, the implementation of this regulation often faces challenges, especially in terms of supervision and law enforcement. The lack of transparency and

accountability from companies, as well as weak supervision from local governments, can hinder the realization of plasma plantations.

In the context of PT. HMBP, an analysis of the location permit, Plantation Business Permit (IUP), and Cultivation Rights (HGU) owned by the company becomes important (Runtulalo, 2023). These documents can provide information regarding the company's obligation to facilitate the development of plasma plantations (Yogatama, 2023). If it is found that PT. HMBP has violated the provisions stipulated in these permits, then the company may be subject to administrative sanctions, including the revocation of its business license. In addition, the community can file a legal lawsuit against the company on the grounds of default or unlawful acts. This step can be an effort to demand corporate accountability and fight for the rights of the community.

PT. HMBP's failure to realize the plasma plantation does not only have legal implications but also causes significant social impacts. The indigenous community of Bangkal Village feels that their rights have been ignored, which triggers tension and conflict with the company. This situation is worsened by repressive actions from security forces, which led to clashes and casualties (Tempo, 2023). This incident shows that injustice in the distribution of economic benefits can trigger serious social conflict. Therefore, it is important for companies and the government to ensure that economic development does not sacrifice the rights of local communities.

The importance of criminal and civil legal analysis in understanding the complexity of this conflict cannot be ignored. From a criminal law perspective, acts of violence committed by security forces against the community can be categorized as human rights violations (Toule, 2022). Meanwhile, from a civil law perspective, PT. HMBP's failure to fulfill the obligation to develop plasma plantations can be considered a breach of contract. This analysis can assist in formulating fair and sustainable conflict resolution strategies. In addition, a restorative justice approach can be an alternative in resolving agrarian conflicts, focusing on restoring relationships between the parties involved (Nurnaningsih, 2022).

The role of the government in supervising and enforcing the obligation of plasma plantation development is crucial. Central and local governments must ensure that plantation companies comply with applicable regulations (Abidin, 2023). This can be done through strict supervision, compliance audits, and enforcement of sanctions against violating companies (Manurung, 2020). In addition, the government also needs to provide effective complaint mechanisms for the community to report violations committed by companies. These steps can help prevent conflicts and ensure that economic development aligns with social justice.

Indigenous communities have the right to participate in decision-making related to development in their territory (Syofiarti, 2022). This participation can ensure that economic development does not sacrifice the rights of local communities. In the case of PT. HMBP, the lack of community participation in the decision-making process may be one of the factors that triggered the conflict. Therefore, it is important for companies and the government to involve the community in every stage of development, from planning to implementation. Meaningful participation can help build trust and create inclusive and sustainable development.

Transparency and corporate accountability in fulfilling the obligation to develop plasma plantations are also important factors. Companies must openly report the progress of plasma plantation development and involve the community in the process (Paulus, 2022). Moreover, companies must also be responsible for the social and environmental impacts caused by their operations. In the context of PT. HMBP, the lack of transparency and accountability can worsen tensions with the community. Therefore, companies need to take steps to improve transparency and accountability in their operations (Pranita Aritonang, 2025).

Resolving the conflict between PT. HMBP and the indigenous community of Bangkal Village requires a holistic and sustainable approach. This approach must include law

enforcement against violations committed by the company and security forces, the restoration of community rights, and the building of harmonious relationships between companies and communities. In addition, a restorative justice approach can be used to restore relationships damaged by the conflict. The government, companies, and the community must work together to create fair and sustainable solutions. These steps can help prevent similar conflicts in the future and ensure that economic development goes hand in hand with social justice.

METHOD

This research uses a normative juridical method, which is an approach that focuses on the study of written legal norms as the basis for analyzing legal events that occur. This method relies on the review of relevant legislation, such as Law No. 39 of 2014 concerning Plantations, Government Regulation No. 26 of 2021 concerning the Implementation of the Agricultural Sector, and Central Kalimantan Provincial Regulation No. 5 of 2011. In addition, this normative approach also examines the new Criminal Code of 2023 as well as other regulations related to indigenous people's rights and restorative justice. Primary and secondary legal materials are analyzed systematically to identify PT. HMBP's legal obligations, the basis for criminal and civil liability, and mechanisms for resolving agrarian conflicts within the context of positive law in Indonesia. This approach was chosen because it can provide a comprehensive overview of the legal structure governing the relationship between plantation companies and indigenous communities, as well as help explain the legal positions of the parties in the conflict. The analysis is conducted qualitatively, emphasizing the interpretation of legal norms and their application to the legal facts that have occurred. Thus, this method not only describes the applicable legal provisions but also evaluates their suitability in practice and provides an argumentative foundation for recommendations for fair and civilized conflict resolution.

RESULT AND DISCUSSION

Overview of Criminal and Civil Aspects in the Case of PT. HMBP in 2023

The acts of violence committed by security forces in response to the blockade action by the indigenous community of Bangkal Village against PT. HMBP's land can be categorized as a criminal offense under the new Criminal Code (Law No. 1 of 2023). Article 595 of the Criminal Code states that anyone who intentionally takes the life of another person shall be subject to a maximum imprisonment of 15 years, or life imprisonment if there are aggravating circumstances. In the context of the PT. HMBP conflict, the unarmed community was peacefully protesting to fight for their rights to plasma plantations but was met with the repressive force of security officers. The incident that resulted in the death of a young man and injuries to others raises serious questions about the proportionality and legality of the use of force. Such violence reflects an abuse of power that may be prosecuted criminally if proven to have violated legal procedures.

Excessive use of force may also be associated with Article 598 of the Criminal Code concerning torture or inhumane treatment by state officials toward detained or controlled individuals (Pravidjayanto, 2024). If it is proven that officers exceeded the limits in handling the residents who blocked the land, such acts could be subject to criminal charges. In addition to the officers, there is also the potential for corporate criminal liability attached to PT. HMBP if the violence was part of an indirect policy intended to protect corporate interests. The new Criminal Code, in Articles 45 through 48, also regulates corporate criminal responsibility, including if a crime occurs due to the orders or negligence of senior corporate officials. Thus, criminal analysis does not stop at the perpetrators in the field but also touches on the power structures behind the actions.

PT. HMBP could be implicated in a criminal case for neglecting the obligation to establish plasma plantations as regulated in Government Regulation No. 26 of 2021 and Law

No. 39 of 2014 on Plantations. This neglect is not merely a breach of contract in civil terms, but can also be considered a serious omission with widespread impacts on surrounding communities, especially indigenous peoples. In the criminal context, such an act may be linked to environmental and economic crimes, as set out in Article 110 of the Criminal Code concerning neglect of obligations that affect public order or the broader public interest. If it is proven that the company deliberately avoided fulfilling plasma plantation development with significant adverse impacts on the community, the elements of a criminal act may be fulfilled. This broadens the paradigm that administrative violations in the plantation industry can have criminal implications when they cause systemic harm and infringe upon public rights.

From a civil law perspective, indigenous communities have a strong basis to file a lawsuit against PT. HMBP for breach of contract as regulated in Article 1239 of the Civil Code. The company has failed to fulfill a legal obligation clearly stated in its business license and related regulations requiring the development of plasma plantations equal to 20% of the concession area. This failure has caused economic and social harm to the community, which should have benefited from the plantation's yield. A breach of contract lawsuit can aim to compel performance, seek compensation, or demand revocation of the business license if it is proven that the company has continuously defaulted. Moreover, moral considerations and good faith can also be factored in when assessing the company's legal liability.

In addition to breach of contract, the community can also file a lawsuit on the grounds of an unlawful act (*onrechtmatige daad*) under Article 1365 of the Civil Code. The neglect of plasma plantation development and exploitation of land beyond the boundaries of the land use rights (HGU) without fair compensation may be deemed a violation of indigenous peoples' rights, who are part of customary law communities protected by law (Gorby, 2023). These actions result in material and immaterial damages that can be legally quantified. This lawsuit may include claims for compensation, restoration of land rights, and cessation of the company's activities in the disputed area. In practice, civil courts may also consider whether the company's actions align with principles of social justice and protection of vulnerable communities.

The rights of indigenous peoples are protected by various national and international legal instruments. Article 18B paragraph (2) of the 1945 Constitution affirms that the state recognizes and respects traditional communities and their customary rights. In the context of the PT. HMBP case, the rights to communal land, a decent livelihood, and a healthy environment are fundamental rights that have been violated. Violations of these rights affect not only physical and economic well-being but also the dignity and cultural identity of the community. These rights are not merely normative aspects but are rooted in the long history of land tenure by indigenous communities, which must be preserved by the state.

The violent actions that resulted in the loss of life of an indigenous community member also constitute a violation of the right to life as guaranteed by Article 28A of the 1945 Constitution and Article 6 of the International Covenant on Civil and Political Rights (ICCPR), which Indonesia has ratified. The disproportionate actions of law enforcement in handling peaceful protests reflect a grave violation of human rights principles. The state has an obligation to conduct independent investigations, prosecute perpetrators, and provide remedies to victims and their families. In international practice, a state's failure to prevent and address violence against vulnerable groups is often categorized as impunity, which leads to a crisis of trust in the rule of law. The PT. HMBP case illustrates how human rights violations can stem from agrarian conflicts that are not addressed fairly and preventively.

The National Human Rights Commission (Komnas HAM) has a strategic role in resolving agrarian conflicts such as the one between PT. HMBP and the indigenous community of Bangkal Village. This institution can conduct monitoring, investigations, and mediation between the disputing parties. The restorative justice approach developed by Komnas HAM serves as an important alternative in conflict resolution, emphasizing the restoration of social

relations and the fulfillment of victims' rights, rather than merely formal punishment. Restoration in this context not only means material compensation but also recognition of customary rights, cultural protection, and guarantees that the conflict will not recur. As an independent institution, Komnas HAM provides a channel for communities to seek justice outside the formal legal mechanisms that are often slow and biased.

A comprehensive analysis of the criminal and civil legal aspects in the PT. HMBP case reveals overlapping obligations among the state, the company, and law enforcement in protecting and respecting the rights of indigenous peoples. The company's failure to establish plasma plantations and the occurrence of violence highlight the absence of balanced law enforcement. Legal actions taken by the community must be supported by state policies that are responsive and aligned with social justice. If not handled seriously, this case may set a negative precedent in the resolution of other agrarian conflicts in Indonesia. The legal complexity inherent in this case demands collaboration among legal institutions and human rights protection bodies to achieve a fair and dignified resolution.

Conflict Resolution Mechanism and Law Enforcement Strategy in the Conflict Settlement between PT. HMPB and the Indigenous Community

Restorative justice in the context of agrarian conflict resolution is a legal approach that emphasizes the restoration of social relations damaged by structural inequality, rather than merely imposing sanctions. In the dispute between PT. HMBP and the indigenous community of Bangkal Village, this approach is significant because it addresses the root cause of the problem—namely the inequality in resource control and the neglect of local community rights. This model positions the community not as lawbreakers but as victims of an unjust system—a crucial reorientation in the agrarian legal paradigm. Rather than using a coercive approach that tends to reinforce the dominance of state and corporate power, restorative justice encourages a reconciliation process through the acknowledgment of wrongdoing, equal negotiation, and restitution. This aligns with the theory of progressive law that views law as a tool for social transformation, not merely a mechanism to maintain the status quo. Within this framework, agrarian conflict is treated as a rupture in social relations that requires structural repair, not just formal juridical resolution.

The Regulation of the Attorney General of the Republic of Indonesia Number 15 of 2020 concerning the Termination of Prosecution Based on Restorative Justice provides a legal foundation for an approach that is more responsive to the needs of substantive justice. Although this regulation was initially intended for criminal acts with limited impact, its core principle—achieving justice through active participation of victims and perpetrators and through restitution—has the potential to be normatively extended to structural conflicts such as agrarian disputes. In the case of PT. HMBP, involving the indigenous community, the corporation, and law enforcement in open dialogue could be the starting point for a resolution that does not rely on violence or prolonged litigation. Here, the law functions not as a punitive sword, but as a bridge for reconciliation. Thus, this Attorney General's Regulation is not merely an administrative instrument, but a manifestation of the law's flexibility in adapting to complex social dynamics. This reflects the concept of legal pluralism, where state law must be able to accommodate the values and norms of communities, including indigenous peoples.

The implementation of restorative justice in agrarian conflicts also demands a repositioning of the state's role, especially the prosecution service, not merely as a public prosecutor institution, but as a facilitator of substantive justice. In the context of the PT. HMBP conflict, the state has a constitutional responsibility to protect the rights of indigenous peoples as guaranteed in Article 18B of the 1945 Constitution and the Constitutional Court decisions concerning the recognition of customary land rights. Therefore, the involvement of prosecutors in encouraging dialogue forums between companies and communities is not merely

administrative, but a reflection of the constitutional duty to provide comprehensive justice. A restorative approach mediated by state institutions reduces the likelihood of repression and fosters the creation of sustainable solutions. From the perspective of distributive justice theory, justice is not merely about distributing sanctions or compensation, but about recognizing and reorganizing fair access to resources. Thus, restorative justice in this context is not only a dispute resolution strategy but a path toward a more inclusive and civilized social transformation.

The effectiveness of mediation in the context of agrarian conflict is often hindered by the power imbalance between large companies and indigenous communities. Many mediation processes are formalistic and fail to address the substantive needs of the communities, such as land rights certainty, compensation, and long-term protection. Therefore, mediation must be redesigned as a participatory mechanism, prioritizing the process of listening to and respecting the narratives of the affected communities. Local governments need to build public trust by showing commitment to justice principles, not merely to investment interests. Previous mediation processes must be evaluated openly, involving indigenous leaders, academics, and independent institutions.

Policy recommendations that should be proposed include strengthening regulations on plantation companies that neglect plasma obligations. Administrative sanctions that have so far been mild are insufficient to deter negligent corporations. Central and local governments must strengthen supervision instruments and periodically evaluate the fulfillment of corporate obligations, including transparent public reporting. Regulations must also clarify the mechanism for revoking business permits if companies are found to be persistently violating rules. Legal firmness in response to violations not only protects community rights but also upholds the state's credibility in managing the agrarian sector.

Strengthening the protection of indigenous peoples' rights must be carried out through a multisectoral and inter-institutional approach. Formal recognition of customary territories must become a priority in spatial planning and business licensing policies. Certification of customary territories and the issuance of legitimate communal rights can prevent unilateral claims by companies over land that has been used by indigenous peoples for generations. Beyond administrative aspects, cultural and social approaches are also important to understand the community's bond with their land. Policies that protect indigenous peoples' rights are not only about recognition but also about restoring dignity that has long been neglected.

The state's alignment in agrarian conflicts cannot stop at the normative level but must be realized through concrete actions. The central government must assign institutions such as the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN), the Ministry of Environment and Forestry, and the Ministry of Home Affairs to collaborate in resolving protracted conflicts such as the PT. HMBP case. The presence of the state must be felt not only when the conflict escalates but also throughout long-term processes such as land redistribution, legal assistance, and community economic empowerment. This cross-sector mechanism is important to prevent the recurrence of similar conflict patterns in the future. Institutional synergy is key to creating a just and sustainable system.

Regional legislative bodies also play a crucial role in overseeing the implementation of plantation policies in their areas. Existing Regional Regulations must be reviewed periodically to ensure their content remains relevant and supports agrarian justice. The Regional House of Representatives (DPRD), as the people's representative, must be active in accommodating public aspirations and following up on corporate violations. The legislative oversight function must not be symbolic but truly used to pressure the executive and companies to act in accordance with the law. Public participation must also be strengthened in regional legislative processes and policy evaluations.

The resolution of the conflict between PT. HMBP and the indigenous community will only be effective if accompanied by a collective commitment from all parties to uphold the principles of justice. Without a paradigm shift in viewing indigenous communities as equal legal subjects, every resolution effort will end in compromises that disadvantage the weaker group. Consistent law enforcement, recognition of land rights, and restoration of violence-related harms must be integrated into a single policy. The hope for justice can only be realized when the voices of indigenous peoples are no longer marginalized in decision-making. This conflict is not merely a legal issue, but a question of how a nation treats its most vulnerable citizens.

CONCLUSION

The conflict between PT. HMBP and the indigenous community of Bangkal Village demonstrates that agrarian issues in Indonesia are not merely about overlapping land claims or administrative negligence, but also about power imbalances, the neglect of local community rights, and weak law enforcement. The failure to fulfill the obligation to develop 20% plasma plantations as mandated by Government Regulation No. 26 of 2021 and Central Kalimantan Provincial Regulation No. 5 of 2011 has become the starting point for escalating tensions that culminated in open conflict and loss of life. This situation reflects a structural failure in the supervision and legal enforcement system within the plantation sector. When communities are not guaranteed equitable legal protection, they are driven to take actions that are met with repressive responses by security forces, resulting in escalations that could have been prevented through fair and dignified dispute resolution mechanisms.

Resolving such cases requires a comprehensive and transformative approach that not only focuses on criminal and civil legal aspects but also on social recovery and strengthening of the legal system itself. Restorative justice, inclusive mediation, and the empowerment of local government roles offer viable pathways toward genuine reconciliation and sustainable livelihoods for indigenous communities in their own territories. Law enforcement must stand on the side of truth and the protection of human rights, not merely on maintaining investment stability. In the future, the state must demonstrate its alignment by tightening sanctions for corporate violations, accelerating the recognition of customary land rights, and building a legal protection system capable of preventing conflict before it arises. When justice is upheld fully and without discrimination, public trust in the law and the state will grow once more as the foundation for equitable development.

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