



## A GEOPOLITICAL PERSPECTIVE ON THE OWNERSHIP CONFLICT OF INDIGENOUS FORESTS IN KINIPAN VILLAGE

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### ABSTRACT

This study aims to see how geopolitics views customary land conflicts in the village of Kinipan involving PT. Sustainable Sustainable Palm Oil and Indigenous Peoples. This study uses a literature review approach in research, with sources obtained from books, scientific articles, and current facts. The results showed that the sovereignty of the Kinipan customary forest area was PT. Sawit Lestari Mandiri, although Indigenous Peoples can also obtain customary forest rights through certain regulations stipulated by the government regarding recognition as Indigenous Peoples and designation of an area as customary forest. The Kinipan Customary Law Community does not fulfill the requirements to have territorial sovereignty of the Kinipan customary forest in the perspective of Nationalist theory, but in the perspective of the Static Theory through regulation recognition as a customary law community, indigenous peoples in Kinipan can own the forest as a place to live and survive.

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### INTRODUCTION

Territorial sovereignty in forest management in Indonesia raises problems when there is a conflict of interest with the existence of indigenous peoples who depend on their traditional territories in the form of forests or other landforms that they have occupied for generations and are managed using customary law. When dealing with government or private projects, Indigenous Peoples often have to give in, and if they fight, they face discrimination.

Claims on state forests often make indigenous peoples' lives uncomfortable. The takeover is often used as an excuse to justify demands that the change is in the common interest and entirely for the good of the community itself (Murschetz, 2020). However, in some cases, the state has denied the legitimacy of the pre-existing property rights system over land and other land-based natural

resources. The state has defined a new network with these production facilities. Residents who live in forests or farmers who rely on forests are more disadvantaged than benefited from the state's centralized control over forest reserves or forest plantations (Escalona Ulloa & Barton, 2020; García & Mulrennan, 2020).

Based on Law No. 32 of 2009, the Customary Law Community is defined as a group of people who live for generations in a geographical area because of the same ancestral ties, a strong relationship with the environment, and because the rules of values that control legal, political, social, and economy (Najicha et al., 2021). Territorial sovereignty in day-to-day forest management becomes a debate when discussing who has the right to manage. Law No. 41 of 1999 related to forestry has long attached the

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management of various resources in the forest to the community.

Customary law [Kashwan et al., \(2021\)](#) from there, we can see that state law has recognized the existence of indigenous peoples as one of the parts that have the right to manage forest resources even though it has to go through specific regulations when a group wants to be designated as an Indigenous People. Problems in establishing customary law, such as agrarian conflicts themselves, are suspected of having occurred due to the fragility of the government's political will to recognize the existence of indigenous and tribal peoples. Thus, strong political will from the central and regional governments in issuing regulations for the official determination of a legal community can occur, including establishing customary forests, which are very useful for preventing agrarian conflicts in the future ([Laako & Kauffer, 2022](#); [Mattalia et al., 2022](#)).

Conflicts over ownership, management, and control of a territorial area have long been a discourse in geopolitical studies. In several places in the world, indigenous peoples can live autonomously using customary law and their resources, not being influenced by the state in managing their territories. This can be studied in geopolitics regarding who has the right to be the holder of territorial sovereignty, where there are two views. The first view assumes that the state is the holder of authority, while the second view views that the people are the holder of sovereignty.

One case that has emerged in the Indonesian public regarding agrarian conflicts is the conflict of interest between PT. Sawit Mandiri Lestari with the Kinipan Indigenous People regarding managing the Kinipan customary forest. On the other hand PT. SML has obtained an exploration permit from the government ([Tuslian, 2021](#)). On the other hand, the kiripan forest is a place that indigenous peoples had depended on for generations long before the state existed. So this will become a research question in how geopolitics views the conflict over ownership of customary forests in the village of Kinipan and who is the holder of territorial sovereignty

of the Kinipan typical forests, whether the familiar law community or PT. SML?

## MATERIALS AND METHOD

The research method used is the case study method. This method is part of the qualitative research method. It uses descriptive data analysis methods, namely research focused on a particular case and analyzed carefully until it is complete. In this study, the data collection method used was a literature study. The analysis technique used is data reduction obtained from books, articles, and facts found.

## RESULT AND DISCUSSION

### Static Theory

According to Richard Foley in [Najicha et al., \(2021\)](#), the static theory views a state as having sovereignty over an area if the state can create and maintain social order and improve the welfare of the people living in the state's territory. The static theory justifies that the state's demands for territorial sovereignty are only based on the government's ability to meet performance criteria and formal legitimacy ([Barratt & Klarin, 2022](#); [Sotirov et al., 2020](#); [Tuslian, 2021](#)). The past is not an appropriate benchmark, but it is a known fact that state policies have affected the future of groups in authority ([Myers et al., 2021](#)).

Regarding the gap between expectations and the construction of utilitarian theory, [García & Mulrennan, \(2020\)](#), states that the right to live and the right to be part of the population is sufficient if the individual lives in a place and is represented by country. When considered with the demands for integral territorial sovereignty rights, these rights are less burdensome. Therefore Stilz has three criteria if an individual has the right to live, namely:

1. Someone who has lived in the area continuously until now and has succeeded in empowering the area they live in.
2. Establishing a structure of social relations requires official provisions in the area of residence to be relied on.
3. The position of a new individual or community in an area does not

marginalize the old community from its residence.

### **Nationalist Theory**

The nationalist theory critiques the static theory, which says that viewing the state as the holder of absolute territorial sovereignty rights is inappropriate. The nationalist theory discusses a replacement frame of mind that positions individuals or individual groups of citizens as absolute owners of territorial sovereignty rights with the allegation that a state implementing territorial sovereignty rights is considered a true manifestation of the will of the people. Therefore three basic designs are needed, namely:

1. Things that have territorial sovereignty rights by supporting the capabilities of individual citizens.
2. Things that practically link individual citizens with territorial sovereignty.
3. Interpretation as an entity can separate the rights of territorial sovereignty in the context of individual ownership from other types of rights, such as the right to reside.

Group demands for territorial sovereignty do not meet standards in general, except for groups that have succeeded in conveying the economic value of the land they live on and growing symbolic value. It has the right to demand territorial sovereignty with unique cultural criteria (Butler et al., 2023). No cultural criteria serve as a foundation for all communities, nations, and countries in a culturally diverse international community. Therefore, demands for territorial sovereignty are limited; one cultural criterion cannot be used as a basis for another. The actualization of territorial sovereignty by groups also creates an anomaly. The modern state has generally transformed the land into an industrial economy and is interpreted as a successful development. This turned out to intersect with the aspirations of the indigenous people who prioritize the perfection of nature left by their ancestors.

This event has illustrated the struggle between modernity and the locality of development. Until now, the material opinion to justify group territorial sovereignty rights is contrary to static theory, which is used to

normalize sovereignty based on who is more important in increasing land productivity (Muthee et al., 2022). Colonial nations abused the guarantees of static theory to relinquish native ownership of their lands. However, this argument certainly does not have to be followed because what is the essence of territorial sovereignty, for example, is like a group that has succeeded in building a plantation on a patch of land and is entitled to the fruits of the harvest, and may pass them on to their children and grandchildren.

### **A Geopolitical View of Conflict over Ownership of Indigenous Forests in the Village of Kinipan**

Kinipan is in Central Kalimantan Province, a small village inhabited by Indigenous Peoples from the Kinipan Dayak Tribe. Since 2015, the Indigenous Peoples there have made various efforts to gain recognition by establishing customary forests over their territory. Various kinds of documents needed have been prepared. The Kinipan forest fulfills various requirements when certification is carried out by the Customary Territory Registration Agency (BRWA) to be recognized as a customary forest.

PT. Sawit Mandiri Lestari (SML) is an oil palm plantation company that does business on the customary land of Kinipan. The existence of PT. SML caused rejection from the Indigenous People, who considered the Kinipan customary forest a sacred place that could not be destroyed. The Kinipan Traditional Leaders, the Village Government, and community leaders vehemently refused. However, the Lamandau local government has not responded positively to the company.

This land ownership conflict can be studied using a geopolitical approach. In the Static Theory, there is what is called the right to live, and the author can consider this right to life as a government regulation regarding the recognition of a group as a Customary Law Community to obtain the right to live in a particular area or to designate a forest area to become an Indigenous forest (Escalona Ulloa & Barton, 2020; Ho, 2022; Mattalia et al., 2022). Stilz has three criteria if an individual has the right to reside, namely:

1. Someone who occupies an area on an ongoing basis until now and has succeeded in empowering the area he occupies. When talking, indigenous peoples in Kinipan have occupied customary lands for generations.
2. Reference in building a social structure comes from the legal rules of the area where the group lives. The customary law held by the Kinipan Indigenous People to manage customary forests can be implemented after they gain legitimacy in the form of recognition as a customary law community from the government.
3. The existence of new groups or individuals in a place does not trigger the displacement of old communities from their places, and the presence of the indigenous people of the Kinipan does not drive out other community groups who lived earlier, bearing in mind that the Kinipan people existed before oil palm companies or other groups with interests.

Then the author examines customary forest ownership disputes from the perspective of Nationalist Theory. Although this theory departs from the notion that it is the people who have the right to have sovereignty over an area, where one of the crucial issues raised in the Nationalist theory is an explanation of what matters can support the capabilities of individual citizens to be able to have sovereign rights over territories.

Have the Kinipan Indigenous people succeeded in promoting the economic value of the land they live on and can add symbolic value? They have lived in the Kinipan area for a long time, but can they manage resources to improve their standard of living and culture? The answer is no because the Kinipan Indigenous People are not entirely independent; they are still bound by the bureaucracy and receive assistance from the outside government. Furthermore, this is different from the Baduy Tribe in Banten, who reject all forms of outside influence and can live independently without any help. In terms of giving symbolic value, it can be said that various kinds of adat rules of the Dayak Kinipan tribe can give meaning to their attachment to the customary Kinipan forest land.

## CONCLUSION

Based on the description above, because of the conflict over customary land ownership in Kinipan, it is clear that the customary forest belongs to the state, which has granted permits to PT. SML to do the mastery. The Kinipan Customary Law Community does not fulfill the requirements to have territorial sovereignty of the Kinipan customary forest in the perspective of Nationalist theory. However, in the perspective of the Static Theory through regulation recognition as a customary law community, indigenous peoples in Kinipan can own the forest as a place to live and survive.

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### Author declaration

### Author contributions and responsibilities

The authors made major contributions to the conception and design of the study. The authors took responsibility for data analysis, interpretation, and discussion of results. The authors read and approved the final manuscript.

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### Availability of data and materials

All data is available from the author.

### Competing interests

The authors declare no competing interests.

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