

Legal Protection of the Sakai Indigenous Community's Customary Land Rights in the Dispute with PT. Murini Wood Indah Industry

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Abstract

This study examines the legal protection of the customary land rights of the Sakai indigenous community in the context of a dispute with PT. Murini Wood Indah Industri. Customary rights are the collective rights of indigenous peoples to a specific area that are passed down through generations and have profound social, cultural, and economic significance. However, in practice, the legal recognition and protection of these rights are often unbalanced, particularly when they clash with corporate interests and large-scale development. This dispute case reflects an agrarian conflict influenced by the imbalance of power between indigenous communities and business entities. The study uses a normative-empirical legal method to understand law not only as written norms (law on books) but also as applied social reality (law in action). The results indicate several factors causing the dispute. First, the company cultivated customary land outside the HGU without permits or formal partnerships. Second, the indecisiveness of law enforcement officials and the courts in enforcing legally binding decisions has delayed dispute resolution. Third, the weak recognition and protection of indigenous peoples' rights in the field, despite being normatively guaranteed in the 1945 Constitution, the Basic Agrarian Law, and related sectoral regulations. Overall, legal protection for the customary rights of the Sakai community remains weak, both in terms of formal recognition and dispute resolution mechanisms. This dispute demonstrates the suboptimal implementation of the principle of social justice in natural resource management and the low bargaining position of indigenous communities within the national legal system. Therefore, regulatory strengthening, explicit legal recognition of customary land, and dispute resolution mechanisms that are fair, transparent, and in favor of human rights and local wisdom are needed. This research is expected to contribute to more responsive policies for the protection of indigenous peoples' rights..

Keywords: Sakai Indigenous Community; Legal Protection; Land Disputes

Abstrak

Penelitian ini mengkaji perlindungan hukum terhadap hak tanah ulayat masyarakat adat Sakai dalam konteks sengketa dengan PT. Murini Wood Indah Industri. Hak ulayat merupakan hak kolektif masyarakat hukum adat atas wilayah tertentu yang diwariskan secara turun-temurun dan memiliki makna sosial, budaya, serta ekonomi mendalam. Namun, dalam praktiknya, pengakuan dan perlindungan hukum terhadap hak ini sering tidak seimbang, terutama ketika bertemu kepentingan korporasi dan pembangunan skala besar. Kasus sengketa ini mencerminkan konflik agraria yang dipengaruhi ketimpangan kekuasaan antara masyarakat adat dan entitas bisnis. Penelitian menggunakan metode hukum normatif-empiris untuk memahami hukum tidak hanya sebagai norma tertulis (law in books) tetapi juga sebagai realitas sosial yang diterapkan (law in action). Hasil penelitian menunjukkan beberapa faktor penyebab sengketa. Pertama, perusahaan menggarap lahan ulayat di luar HGU tanpa izin atau kemitraan resmi. Kedua, ketidaktegasan aparat penegak hukum dan pengadilan dalam menegakkan putusan berkekuatan hukum tetap memperlambat penyelesaian sengketa. Ketiga, lemahnya pengakuan dan perlindungan hak masyarakat adat di lapangan, meskipun secara normatif dijamin dalam UUD 1945, UUPA, dan peraturan sektoral terkait. Secara keseluruhan, perlindungan hukum terhadap hak ulayat masyarakat Sakai masih lemah, baik dari pengakuan formal maupun mekanisme penyelesaian sengketa. Sengketa ini menunjukkan belum optimalnya implementasi prinsip keadilan sosial dalam pengelolaan sumber daya alam dan posisi tawar masyarakat adat yang rendah dalam sistem hukum nasional. Sehingga, diperlukan penguatan

regulasi, pengakuan hukum eksplisit terhadap tanah ulayat, serta mekanisme sengketa yang adil, transparan, dan berpihak pada hak asasi manusia serta kearifan lokal. Penelitian ini diharapkan memberikan kontribusi bagi kebijakan yang lebih responsif terhadap perlindungan hak masyarakat adat..

Kata Kunci: Masyarakat Adat Sakai; Perlindungan Hukum; Sengketa Tanah.

INTRODUCTION

The issue of protecting customary land rights is a fundamental issue in Indonesia's agrarian dynamics. Indigenous communities, as groups with distinct social, cultural, and historical identities, possess a strong attachment to their territories. Therefore, customary land is not merely an economic asset but also the basis of social, political, spiritual, and cultural life. In the Riau context, the Sakai Indigenous Community is one such community that has become a focal point in agrarian law discourse due to numerous conflicts with companies-particularly plantation and forestry companies-that utilize land without customary consent. This tension demonstrates an imbalance between state-facilitated development interests and the interests of indigenous communities in maintaining their customary lands.

Normatively, Indonesia has recognized indigenous communities through Article 18B paragraph (2) of the 1945 Constitution, the 1960 Basic Agrarian Law, and various derivative regulations. However, this

normative recognition has not necessarily translated into concrete protection, primarily because the national land law system still relies heavily on administrative mechanisms such as certificates, business permits, and regional spatial planning policies. As a result, communal customary rights are difficult to accommodate within a predominantly individualistic system. In the context of the Sakai Indigenous Community, this problem is exacerbated by the lack of formal recognition from the local government and the lack of legal documentation that can serve as a basis for proving rights in litigation.¹

In practice, indigenous peoples often face significant challenges in proving and enforcing their customary land rights when confronted with other parties holding formal land documents (certificates) or when their customary land is claimed for investment, development, or corporate purposes. These obstacles represent a form of legal uncertainty in Indonesia's agrarian system, where collective customary rights

¹ Arizona, Yance. 2009 "Hak Ulayat: Pendekatan hak asasi manusia dan konstitusionalisme Indonesia." Jurnal konstitusi 6(2): 105-146.

https://www.mkri.id/public/content/infoumum/ejurnal/pdf/ejurnal_Volume%206%20Nomor%202.%20Juli%202009.pdf

often take a backseat to individual rights registered with the state.²

This is reinforced by academic findings that there is still a gap between normative recognition of customary rights and the substantial legal protection available to indigenous communities, especially when agrarian conflicts occur with private parties or the government.³

The Sakai people are one of the indigenous tribes inhabiting Riau Province, possessing customary land rights and customary forests that are still in accordance with applicable law. The Sakai people are an ancient Malay ethnic group whose Malay cultural orientation is based on water. Therefore, this ancient Malay group is referred to as an aquatic community.⁴

Bengkalis Regency is one of the areas in Riau Province with extensive oil palm plantations. For example, the PT Murini Wood Indah Industry palm oil mill is part of the First Resources company. First Resources is a company engaged in oil palm plantations, processing, and marketing of plantation products (crude palm oil and palm kernel).

PT Murini Wood Indah Industry (MWII) owns an oil palm plantation in Bumbung Duri XIII Village, Bathin Solapan District, Bengkalis Regency, Riau Province, with a Land Use Rights (HGU) of approximately 7,835 hectares, issued by the National Land Agency (BPN) under Decree No. 10/HGU/BPN/2000 on March 3, 2000.

Based on the decision of the Judicial Review No. 357 PK/Pdt/2010. The dispute began when the Sakai Duri XIII community requested a 10% plasma land allocation from the company's managed area, as stipulated in Regional Regulation No. 26 of 1997. The plasma land application was also submitted to the Governor of Riau under Decree No. 002/XI/1999. And then in October 2000 the Sakai Duri XIII community group received a letter from the Regional Secretary of Bengkalis Regency No: 100/TP/786 dated July 3, 2002 which contained the company PT Murini Wood Indah Industry rejecting the request to provide 10% of the land area managed to be given to the community group to be used as plasma farming land. Then with the rejection the Sakai Duri XIII community group met one of the parties who was the

² Hendriana, Tamara, and David Hardjo. 2025. "Perlindungan Hukum Tanah Ulayat Masyarakat Adat Atas Klaim Sertifikat Oleh Pihak Ketiga". *Unizar Law Review* 8 (1):21-37. <https://doi.org/10.36679/ulr.v8i1.88>.

³ Roni Pradana, Rianda Dirkareshza, Aji Lukman Ibrahim. 2020. "Urgensi Hak Ulayat Terhadap Perlindungan Masyarakat Hukum Adat Di

Indonesia". *Jurnal Ilmiah Hukum DE'JURE: Kajian Ilmiah Hukum* 5 (1):94-109. <https://doi.org/10.35706/dejure.v5i1.3497>.

⁴ Rizki, M. F., Prasetyo, A. B., & Triyono, T. 2022. Eksistensi Hukum Adat Masyarakat Suku Sakai Dalam Pelaksanaan Hak Ulayat Di Provinsi Riau. *Diponegoro Law Journal*, 11(4). <https://doi.org/10.14710/dlj.2022.35393>

Assistant Staff of the Bengkalis Regent to express the request regarding the provision of 10% of the cultivated land for plasma farmers and then the community group asked the authorities to form a Classification Team for cultivated land because basically the Sakai Duri XIII community group suspected that the company was cultivating land outside the HGU. After a team was formed to resolve the case, on November 2, 2000, a meeting was held, attended by, among others, the Sakai Duri XIII Community Group and the company PT Murini Wood Indah Industry, and in the meeting, an agreement was reached on November 2, 2000, in which the agreement requested a request from the National Land Agency to re-measure the land managed by the company and the measurement was carried out from November 25 to November 27, 2000.

Then, from the measurement results of the National Land Agency of Bengkalis Regency, it was found that 387 hectares of land outside the Right to Cultivate (HGU) had been cultivated by the company PT Murini Wood Indah Industry. After the boundaries of the disputed land were clear, the authorities asked the company to cultivate the land outside the HGU to be managed and utilized and planted with crops and the results were taken for the Duri XIII community group. After the

agreement, the community group began to manage the land outside the HGU by building houses (huts) for 7 (unit) workers and then making a signboard for the Duri XIII Sakai community group land. However, over time the company committed unlawful acts by evicting and burning the huts belonging to the Sakai community group outside the HGU. Following a lawsuit filed by the Sakai community at the Dumai District Court, culminating in a judicial review (PK) in which the Duri XIII community won, with a ruling requiring the company to execute the land acquisition, including the handover and release of 387 hectares of cultivated land to the Sakai indigenous community. Following the final and binding execution decision from the high court, the execution process has not been carried out due to various reasons, including the absence of police and the local government on the day of the execution. This has complicated the problem and created an unresolved conflict over the years.

The dispute in this matter clearly contradicts and violates laws and regulations, particularly Article 18B paragraph (2) of the Constitution of the Republic of Indonesia concerning the recognition of indigenous legal communities. As well as other laws and regulations relevant to this problem,

namely Law Number 5 of 1960 concerning Agrarian Principles, Law Number 41 of 1999 concerning Forestry, Law Number 18 of 2004 concerning Plantations, Law Number 23 of 2014 concerning Regional Government, Law Number 39 of 1999 concerning Human Rights, Regulation of the Minister of Agrarian Affairs, Spatial Planning/Head of the National Land Agency Number 18 of 2019 concerning Procedures for the Administration of Customary Land.

In many customary land disputes, one of the biggest challenges is proving the existence of customary rights through formal legal means, especially when the land does not have a formal certificate, but relies on historical evidence, customs, and hereditary use.⁵

Thus, this study not only aims to analyze the current legal protection mechanisms but also offers an understanding of why the Sakai indigenous community, in land dispute cases such as those involving PT. Murini Wood Indah Industry, still experiences difficulties in obtaining justice under the law.

PROBLEM FORMULATION

Based on the background above, the problem formulation proposed in this research is:

1. What are the factors causing the land problem between the Sakai Indigenous Community and PT Murini Wood Indah Industry?
2. How do positive legal regulations protect customary land rights, particularly those relating to the Sakai Indigenous Community?

RESEARCH METHODS

a. Type and Nature of the Research

This research is an empirical legal research method, where data was obtained through direct field surveys to obtain primary and secondary data through literature review, interviews, and documentation.

Due to its descriptive nature, this research aims to provide a detailed and clear picture of the dispute resolution process among indigenous communities, particularly the Sakai indigenous community, over their customary land.

b. Legal Materials

⁵ Lubis, I., Siregar, T., Lubis, D. I. S., Adawiyah, R., & Lubis, A. H. 2025. Integrasi Hukum Adat dalam Sistem Hukum Agraria Nasional: Tantangan dan

Solusi dalam Pengakuan Hak Ulayat. *Tunas Agraria*, 8(2), 143–158. <https://doi.org/10.31292/jta.v8i2.401>

The data and other sources used in this research are as follows:

1. Primary data, namely data obtained by the researcher through direct interviews with relevant sources in the field related to the subject matter of this research.
2. Secondary data, namely data obtained from various literature, including legal books, related journals, relevant legislation, and other sources related to this research.

c. Data Analysis

This research is descriptive and analytical in nature. Therefore, the data analysis used by the researcher uses a qualitative approach to both primary and secondary data. Where the researcher's data is obtained from the results of interviews, literature studies, and field documentation, processed with other data, and presented descriptively.

RESULTS AND DISCUSSION

A. Factors Causing the Land Dispute Between the Sakai Indigenous Community and PT Murini Wood Indah Industry

Agrarian conflict is a conflict related to land issues. Agrarian conflict arises from incompatibility/disparities in natural resources. One of the causes of agrarian conflict is control and competition over natural resources. In general, agrarian conflict involves many aspects and regulations, making it a complex conflict. Agrarian conflict reflects the unfulfilled sense of justice in communities whose livelihoods depend on nature.⁶

Land has vast dimensions, including legal, economic, political, social, magical, and religious dimensions, even for states with multiple dimensions. From colonial times to the present, land issues have been a very complex and broad-based legal issue, making them difficult to resolve quickly.⁷

From the Dutch colonial era to the reform era in Indonesia, customary land conflicts have been a complex and protracted problem. The focus on economic development often resulted in land grabbing by large investors, sparking dissatisfaction and resistance from local communities, particularly indigenous communities. One of the main factors causing this conflict was the implementation of a colonial policy known as Domein Verklaring. Domein Verklaring

⁶ Mulyani, L. 2018. Kritik Atas Penanganan Konflik Agraria Di Indonesia. *BHUMI: Jurnal Agraria Dan Pertanahan*, 1(39), 314–355. <https://doi.org/10.31292/jb.v1i39.176>

⁷ Darwin Ginting. 2009. *Kepastian Hukum Ha Katas Tanah Bagi Penanaman Modal Bidang Agribisnis*, Unpad Press, Bandung, p.69

was a statement issued during the Dutch colonial period stating that land not legally owned by an individual or other entity would be taken over by the colonial government and become state property.⁸

In the legislation, it has been regulated regarding land, namely regulated in the Basic Agrarian Law Number 5 of 1960 (UUPA) concerning Basic Agrarian Regulations which is an elaboration of Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia which states "the land, water and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people". In the UUPA, customary law is contained, namely the recognition of customary rights of indigenous peoples as stated in Article 5 of the UUPA which means that all legal problems regarding land must be resolved according to the provisions of customary law as long as they do not conflict with national and state interests as well as higher laws and regulations.⁹

Based on an interview with Mr. Amir, the Village Head of Bumbung Duri XIII, the dispute between the Sakai indigenous

community and PT Murini Wood Indah Industry began when the community submitted a request for a plasma partnership program. Plasma is a company obligation to provide a portion of its land to the surrounding community as part of the distribution of economic benefits. However, during a field survey conducted by the community to follow up on the plasma program, it was discovered that PT Murini Wood Indah Industry had cultivated 387 hectares of land outside its HGU (Cultural Land Use Permit) boundaries. This land was known to be part of the Sakai indigenous community's customary land that had never been handed over or sold. This, in turn, sparked a protracted agrarian conflict between the two parties.¹⁰

Based on the results of an interview with Mr. Nasir, as the traditional leader of the Sakai tribe, stated that the main factor causing this land problem is true, firstly because the company is using or cultivating customary land or land on the outer boundary of the HGU which is the land owned by the Sakai indigenous people. The cultivation carried out by the company causes harm to the Sakai indigenous people as a whole where the land could be used for

⁸ Bernhard Limbong. 2012. *Konflik Pertanahan*, Pustaka Margaretha, Jakarta, p. 48.

⁹ Meiranda A, Syamsunasir S, Sukendro A, Widodo P. 2023. *Upaya Hukum Terhadap Penyelesaian Sengketa Tanah Ulayat di Kabupaten Kampar Guna Menjaga Keamanan Nasional*. Jurnal Hukum, Vol.6,

No.1, Universitas Pertahanan RI, Indonesia, p.9.10. <https://doi.org/10.38043/jah.v6i1.4232>

¹⁰ Results of an interview with the Head of Bumbung Duri XIII Village, Mr. Amir, on Monday, February 17, 2025, at 09.15 WIB.

farming, hunting, etc., then it is used by the company. In addition, the absence of a positive response from the company to resolve this land problem makes the conflict protracted and causes anger and disappointment among the Sakai community. The Sakai community also stated that the company only thinks about its own profit without caring about the lives of the surrounding community. This is the main point of the problem that is getting longer, more complicated, complicated and prolonged. Mr. Nasir also said that if the company had been willing to open their hands and heads from the beginning, this problem might have found a solution for both parties in dispute. However, in the bitter reality, this problem remains unresolved.¹¹

Based on research and field data, several key factors have contributed to the ongoing agrarian conflict between the Sakai indigenous community and PT Murini Wood Indah Industry, including:

1. Evidence of Land Cultivation Outside the HGU (Cultivated Land Permit)

The primary factor causing this land conflict is the company's acquisition or cultivation of 387 hectares of the

community's customary land without prior permission or consultation. This has naturally led to conflict and protests by the Sakai indigenous community against the company, as they feel their rights are being disregarded or the company is acting arbitrarily in the area surrounding the oil palm plantation. Evidence of this cultivation outside the HGU was evident when the Duri XIII Sakai indigenous community, along with the Village Head and other relevant parties, conducted a field survey conducted by the National Land Agency.

The survey results confirmed that the company was indeed operating oil palm plantations outside the 387 hectares of land granted by the HGU. The vast area of land cultivated by the company is quite impressive. This vast area should be utilized by the Sakai indigenous community for their long-term survival, even for future generations. The company eventually planted oil palms, with the yields managed by the company. Meanwhile, the community feels they have received no benefit or justice for this action. The company's actions contradict national agrarian law principles, particularly Article 3 of the Basic Agrarian Law (UUPA), which recognizes customary land rights of

¹¹ Results of an Interview with Mr. Nasir as the Head of the Sakai Tribe in Bengkalis Regency, Bumbung

Duri XIII Village, on February 20, 2025, at 10:20 a.m. WIB.

indigenous communities, and are a major trigger for disputes.

2. Absence of a Plasma Program for Local Communities as a Form of Contribution

The plasma plantation partnership program is one form of company contribution to the local community. This partnership involves the development of a plantation area covering 20% of the company's land, which is given to the local community to manage, develop, and utilize the produce, which is then sold back to the company. This plasma partnership program, regulated in Law Number 39 of 2014 concerning Plantations, requires plantation companies to facilitate the development of community plantations (plasma) covering at least 20% of their cultivated area.

In the case between the Sakai indigenous community and PT Murini Wood Indah Industry, the initial problem arose from the community's desire to obtain rights to the plasma program, albeit late. Instead of implementing the partnership as required, the community discovered that the company was managing the plantation outside the HGU (Cultivation Rights). As stipulated in Minister of Land Regulation No. 98 of 2013, plantation companies are required to allocate 20% of their managed land for the plasma program for the

surrounding community. However, in this case, PT Murini Wood Indah Industry failed to fulfill this obligation, even before the land dispute was revealed. Only when the community demanded the implementation of the plasma program did it become clear that the company was illegally managing customary land outside the HGU.

Normatively, the plasma partnership program is a form of social and economic responsibility that every plantation business must fulfill towards the local community. This is regulated in Article 58 paragraph (1) of Law Number 39 of 2014 concerning Plantations, which states that "Plantation business actors holding a Plantation Business Permit are required to facilitate the development of plantations for surrounding communities, amounting to at least 20% of the total plantation area cultivated by the plantation business actor".

3. Lack of Clear Resolution or Resolution of the Execution in Accordance with the Judicial Review (PK) Decision

The agrarian dispute between the Sakai indigenous community and PT Murini Wood Indah Industry has been ongoing for quite some time and shows no concrete signs of resolution, either through litigation or non-litigation, in the field. Meanwhile, the indigenous community has pursued

various legal channels, including the highest level through the Judicial Review (PK) mechanism, and has successfully obtained a ruling in favor of the Sakai indigenous community. However, to date, this ruling has not been executed, resulting in a dispute that remains unresolved in fact.

The failure to implement the law has resulted in a status quo situation that is detrimental to indigenous communities. On the one hand, their land is still controlled and managed by the company. This creates a gap between legal certainty and the certainty of legal enforcement, which will only give rise to new problems:¹²

- a) Public distrust of the judiciary and the state.
- b) The potential for increased social conflict on the ground.
- c) Economic losses for indigenous communities, as they lose access to productive land that is a source of livelihood and collective identity.

Recognition of community rights to customary forests is not only related to formal legal aspects, but also serves as a foundation for sustainable development that emphasizes active community participation and shared responsibility. The

sustainability of customary forest ecosystems is closely linked to the social sustainability of indigenous communities, so both must be maintained in balance to create social stability.¹³

In this context, the role of the government is crucial, particularly in implementing various dispute resolution mechanisms, both through civil and criminal channels. Furthermore, the involvement of various relevant agencies is also necessary in resolving cross-sectoral conflicts. Conflict resolution should be carried out comprehensively and in-depth to prevent new disputes in the future, while also providing optimal support and legal protection for the community, particularly the Sakai indigenous community in Bengkalis Regency.

The dynamics of resolving the land dispute between the Sakai indigenous community and PT. Murini Wood Indah Industri in Bengkalis Regency remain unclear. From the perspective of legal certainty, justice, and legal protection for indigenous communities, this dispute has dragged on due to the structural imbalance between corporate power and the position of indigenous communities within the

¹² Tehupeior, A. 2023. Titik Singgung Sengketa Pertanahan di Lingkungan Peradilan Umum, Agama, dan Tata Usaha Negara. *Jurnal Hukum Caraka Justitia*, 3(1), 16–34. <https://doi.org/10.30588/jhcj.v3i1.1492>

¹³ Istiqomah, M. N. 2023. The Active Role of Indigenous Peoples in Facing Sustainable Development. *Semarang State University Undergraduate Law and Society Review*, 3(2), 161–170. <https://doi.org/10.15294/lshr.v3i2.57089>

prevailing legal system. The weak role of the state, particularly in encouraging the enforcement of court decisions, has prolonged the suffering of indigenous communities and strengthened the company's control over land that should rightfully belong to the Sakai indigenous community.

Therefore, resolving the land dispute between the Sakai indigenous community and PT. Murini Wood Indah Industri requires firm, just measures oriented toward recognizing and protecting indigenous peoples' rights, not only normatively but also through practical implementation on the ground. The land dispute involving the Sakai indigenous community and the company in Bengkalis Regency reflects the agrarian conflicts that remain commonplace in Indonesia. Nevertheless, the state constitutionally recognizes the existence of indigenous communities and their rights, so that the state is obliged to provide protection and recognition so that indigenous communities are not pushed aside by the currents of development and the strong influence of economic growth, both at the national and international levels.

Land disputes between indigenous communities and companies are a common occurrence in Indonesian social life, making land issues a sensitive issue for

various parties. When land conflicts involve the rights of indigenous communities and government interests, the dispute resolution process tends to be lengthy and complex. Therefore, efforts to resolve land disputes must be carried out in accordance with the consistent and fair application of applicable laws and regulations, ensuring legal certainty for all parties involved.

B. Positive legal regulations protect customary land rights, particularly those relating to the Sakai Indigenous Community

1. Normative Legal Protection Configuration for Customary Rights

Normatively, the legal position of the Sakai Indigenous People's customary rights is actually quite strong. Protection begins with the constitutional guarantee in Article 18B Paragraph (2) of the 1945 Constitution, which recognizes and respects customary law communities and their traditional rights. This protection is reinforced by Article 28I Paragraph (3), which emphasizes that cultural identity and the rights of traditional communities are respected in line with current developments.

At the legal level, the Basic Agrarian Law (UUPA) serves as a key pillar. Article 3 of

the UUPA expressly recognizes customary rights (*beschikkingsrecht*) as long as they exist in practice. More progressively, Constitutional Court Decision No. 35/PUU-X/2012 has implemented a paradigm shift by declaring that customary forests are no longer part of state forests¹⁴. This ruling should be a powerful legal tool for the Sakai Indigenous People to demand the return of their customary forest areas within the PT. MWII concession.

However, this strong normative protection is distorted by a state-centric sectoral regulatory regime. The Forestry Law and the Plantation Law create a system of permits (HPH, HGU, IUP) granted by the state to companies, often without first ascertaining the status and claims of indigenous communities to the land. As a result, there are overlapping claims between customary rights recognized by the Basic Agrarian Law and concession rights granted under sectoral laws.

2. Dysfunction of Legal Protection in Practice: A Case Study of the Dispute between the Sakai

Indigenous Community and PT Murini Wood Indah Industri

Based on field data, legal protection in this dispute has proven dysfunctional, both at the preventive and repressive levels.

a. Failure of Preventive Protection

The permit issuance process for PT. MWII allegedly failed to involve adequate consultation with the Sakai Indigenous Community. The principle of Free, Prior, and Informed Consent (FPIC), an international standard, was violated. “We were never invited to sit down with them in earnest. The letter from the company only informed us, not asked for permission,” said a traditional elder¹⁵. Furthermore, the absence of a Regional Regulation on the Recognition of the Sakai Indigenous Community in Bengkalis Regency means the community lacks strong legal standing to be considered in the AMDAL and licensing processes. Preventive protection has failed because administrative licensing laws ignore customary law.¹⁶

¹⁴ Wiyono, B. (2019). Kedudukan Hutan Adat Pasca Putusan Mahkamah Konstitusi Nomor 35/Puu-Ix/2012 Dan Hubungannya Dengan Pengelolaan Hutan Di Indonesia. *Jurnal Surya Kencana Dua : Dinamika Masalah Hukum Dan Keadilan*, 6(1). <https://doi.org/10.32493/SKD.v6i1.y2019.3036>

¹⁵ Results of an Interview with Mr. Nasir as the Head of the Sakai Tribe in Bengkalis Regency, Bumbung

Duri XIII Village, on February 20, 2025, at 10:20 a.m. WIB

¹⁶ Annisa Faradina, Andi Suriyaman M. Pide, dan Sri Susyanti Nur, 2023. The Existence Of The Indigenous Peoples Of The Sakai Tribe On The Ulayat Lands In The Industrial Plantation Forest Area, *Jurnal Living Law*, 15(02). 141-156. <https://doi.org/10.30997/jill.v15i02.6038>

b. Weak Repressive Protection and
Dispute Resolution
Mechanisms:

When conflicts arise, existing resolution mechanisms have proven ineffective:¹⁷

- 1) Litigation (Court) Path: Very difficult for the public to access. The burden of proving that an area is living customary land (*lex loci*) falls on the community, while companies only need to show official permits from the state. Court costs and the length of the legal process are significant barriers.
- 2) Non-Litigation Path (Mediation): Several mediation efforts have been facilitated by local governments. However, the results tend to be compensatory (e.g., employment, or social assistance) and do not address the substance of customary rights recognition. Mediation fails to bridge the paradigm gap: communities fight for rights recognition, while companies and the government negotiate within the logic of compensation.

- 3) Role of Local Government: Local governments appear to be trapped in a dual role: as facilitator of settlements and as permit issuer. This conflict of interest makes their position less neutral and tends to uphold the validity of already issued permits.

The failure of legal protection in this dispute is rooted in three main problems:

- 1) Legal Fragmentation and Hierarchy: A vertical conflict exists between the Basic Agrarian Law (which recognizes customary rights) and sectoral laws (which strengthen the state's right to issue permits). In practice, officials are more subject to the more operational sectoral laws.¹⁸
- 2) State-Centrism vs. Community-Based Rights: Indonesia's agrarian legal system is still dominated by the belief that land and resources are fundamentally controlled by the

¹⁷ Pratama Maulu, S., M Wantu, F., & Abdussamad, Z. 2025. Agrarian Dispute Resolution Institution as a Manifestation of Progressive Legal Transformation. YUDHISTIRA : Jurnal Yurisprudensi, Hukum Dan Peradilan, 3(2), 12–21. <https://doi.org/10.59966/yudhistira.v3i2.1788>

¹⁸ Rangkuti, M. F. R. 2023. Analisis Yuridis Kedudukan Hukum Tanah Adat Dalam Hak Menguasai Negara Menurut Sistem Hukum Agraria Indonesia . Journal Law of Deli Sumatera, 2(2). 2. <https://jurnal.unds.ac.id/index.php/jlds/article/view/241>

state (Article 33 of the 1945 Constitution). Indigenous rights are considered derivative rights, not originator rights. This view contradicts the perspective of indigenous communities, who view customary rights as inherent rights inherited from their ancestors.¹⁹

- 3) Lack of Administrative Recognition: Normative recognition in the Constitution and laws does not automatically provide protection. Administrative recognition through Regional Regulations or Regent's Decrees concerning the Determination of Customary Areas is a prerequisite that is often not fulfilled, making customary rights a "dead law" in confrontations with company permit documents.²⁰

Facing a dispute with PT. Murini Wood Indah Industry, the Sakai Indigenous Community needs to understand and utilize the existing legal framework to fight for their rights. However, the challenges they face are a lack of legal understanding

among indigenous communities and limited support from legal institutions that can assist them in the litigation process.

Therefore, it is crucial to develop legal education and training programs for indigenous communities so they can be better prepared to face disputes and fight for their rights. This will ensure more effective legal protection for customary land rights, and enable indigenous communities to obtain the justice they seek.

CONCLUSION

Based on the analysis conducted, it can be concluded that the land dispute between the Sakai indigenous community and PT Murini Wood Indah Industry arose from the control of customary land by a company outside the HGU without permission or formal partnership. The delay in dispute resolution is exacerbated by the indecisiveness of law enforcement officials and the courts in enforcing legally binding decisions. Furthermore, although indigenous peoples' rights are guaranteed normatively in the 1945 Constitution, the Basic Agrarian Law, and sectoral regulations, legal protection in the field is weak and often symbolic. The dominance

¹⁹ Yunita Adinda Wulandari, & Sri Wahyu Handayani. 2025. Kepastian Hukum Hak Ulayat: Dilema Pengakuan Masyarakat Adat dalam Sistem Pertanahan Nasional. *Al-Zayn : Jurnal Ilmu Sosial & Hukum*, 3(5), 6655–6665. <https://doi.org/10.61104/alz.v3i5.2285>

²⁰ Lubis, I., Siregar, T., Lubis, D. I. S., Adawiyah, R., & Lubis, A. H. 2025. Integrasi Hukum Adat dalam Sistem Hukum Agraria Nasional: Tantangan dan Solusi dalam Pengakuan Hak Ulayat. *Tunas Agraria*, 8(2), 143–158. <https://doi.org/10.31292/jta.v8i2.401>

of a state-centric licensing regime and minimal administrative recognition make it difficult to integrate customary rights into the licensing process, so that the principle of Free, Prior, and Informed Consent (FPIC) is often ignored. Dispute resolution mechanisms, whether through litigation or mediation, have proven unfair, difficult to access, and tend to reinforce the inequality between indigenous communities and corporations. Overall, legal protection for the Sakai community is ineffective, both in preventive and repressive forms, so that their customary rights are vulnerable to being neglected in natural resource management practices.

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