



## State Responsibility Towards The Rights of Customary Communities on Rempang Island From The Perspective of State Administrative Law (HTN)

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**Abstract:** Rempang Island, as part of the administrative territory of Indonesia, is not exempt from constitutional dynamics. In the event of a case occurring on the island involving an abuse of authority, deviation from the principle of autonomy, or misalignment with constitutional implementation, constitutional law provides a framework to understand, analyze, and resolve such issues. This study aims to analyze whether the state has acted in accordance with the principles of good governance and constitutional justice in the case of Rempang Island, and to determine whether the state has involved indigenous communities in decision-making processes that directly affect their fate. The findings indicate that the development process of the Rempang Eco City project and the handling of the accompanying conflict have not fully complied with the principles of good governance and constitutional justice, particularly in relation to the rights of indigenous peoples, transparency, participation, and fairness. The conflict in Rempang Island stems from arbitrary government actions. The lack of transparency between the government and the community has led to misunderstandings between the two parties involved.

**Keyword:** Responsibility, Indigenous Communities, Constitutional Law.

### INTRODUCTION

The Republic of Indonesia constitutionally defines itself as a state based on the rule of law, as stated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (UUD 1945). The consequence of this affirmation is that all actions of government administration must be grounded in law and uphold human rights. One important aspect of a state based on the rule of law is the existence and protection of community groups with unique social and cultural characteristics, such as indigenous peoples<sup>1</sup>. However, law as the foundation of the state must be dynamic, evolving in accordance with the progress of time. Codification and unification of various branches of law, along with the establishment of new

<sup>1</sup> Asshiddiqie, Jimly. 2005. The Indonesian Constitution & Constitutionalism. Jakarta: Konstitusi Press. P. 117

legislation, are urgently needed. These new legal instruments in the form of statutory laws are essential today to shape public awareness and perceptions regarding lawful behavior.

Constitutional law is a branch of public law that regulates the structure, authority, and relationships among state institutions, as well as the relationship between the state and its citizens. In the context of the Unitary State of the Republic of Indonesia (NKRI), constitutional law also includes regulations on regional autonomy, the division of authority between central and regional governments, and the implementation of democratic and constitutional principles<sup>2</sup>.

Indonesia is the largest archipelagic country in the world, with more than 17,000 islands scattered between the Pacific and Indian Oceans<sup>3</sup>. Its geographical, cultural, linguistic, and religious diversity makes Indonesia one of the most diverse nations globally. As a state governed by law, Indonesia emphasizes the importance of law enforcement as the foundation for resolving disputes. This aligns with Article 1 paragraph (3) of the 1945 Constitution, which states that Indonesia is a state based on the rule of law, adjudicating cases fairly without regard to status or citizenship<sup>4</sup>.

Rempang Island, as part of Indonesia's administrative territory, is not exempt from the dynamics of constitutional governance. If a case arises on the island involving abuse of authority, deviation from the principles of autonomy, or inconsistency in constitutional implementation, constitutional law provides the framework to understand, analyze, and resolve such issues. One of the main principles in Indonesia's constitutional system after the reformation era is governmental decentralization through regional autonomy. In this regard, local governments are granted the authority to manage and administer governmental affairs based on the principles of autonomy and co-administration, as regulated in Law Number 23 of 2014 concerning Regional Government<sup>5</sup>.

If a case on Rempang Island involves abuse of power by a regional head or a conflict between the central and regional governments, then constitutionally, it pertains to the principle of the division of authority. In many instances, such disharmony arises due to unclear regulations or overlapping policies. For example, conflicts between regional and central governments in managing natural resources or determining administrative boundaries.

In this context, constitutional law emphasizes the importance of the principle of subsidiarity — that authority should be delegated to the level of government closest to the people, as long as it can be exercised effectively and responsibly. When this principle is violated or ignored, such as through excessive central intervention or the inability of regional governments to manage authority transparently, a constitutional crisis may occur<sup>6</sup>.

From the perspective of constitutional law, attention is also given to the legality and legitimacy of territorial status within a state. If the case on Rempang Island involves unilateral claims over territorial status — whether by separatist groups, foreign investors, or overlapping claims between customary and state authority — it raises issues of national sovereignty. According to Article 1 paragraph (1) of the 1945 Constitution, Indonesia is a unitary state in the form of a republic<sup>7</sup>. This means that all Indonesian territory constitutes a

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<sup>2</sup> Republic of Indonesia. 2007. Government Regulation Number 46 of 2007 concerning the Batam Free Trade Zone and Free Port

<sup>3</sup> Pujianti. "Legal Analysis of the Protection of Indigenous Communities in Agrarian Conflicts," *Journal of Law and Justice*, Vol. 8, No. 1, June 2023, pp. 15–34

<sup>4</sup> Rahardjo, Satjipto. 2009. *Progressive Law: Law that Liberates*. Jakarta: Kompas. p. 126.

<sup>5</sup> Ministry of Home Affairs of the Republic of Indonesia. 2019. *Regional Autonomy Guidelines*. Jakarta: Ministry of Home Affairs.

<sup>6</sup> Haris Azhar. "Critique of National Strategic Projects and Their Impact on Indigenous Communities," *Journal of Human Rights & People's Sovereignty*, Vol. 4, No. 2, December 2020, pp. 88–102.

<sup>7</sup> Constitutional Court of the Republic of Indonesia. 2012. *Constitutional Court Decision No. 35/PUU-X/2012 concerning the Recognition of Indigenous Peoples' Rights to Forests*

single legal, political, economic, and socio-cultural entity. Any movement attempting to secede from the Republic of Indonesia or undermine state sovereignty over a territory constitutes a violation of the principle of unity.

If the case on Rempang Island involves violations of citizens' rights — such as the right to land, the right to life, the right to public services, or the right to express opinions — then a constitutional law approach becomes highly relevant to assess the extent to which the state fulfills its constitutional responsibilities<sup>8</sup>. Articles 28A through 28J of the 1945 Constitution guarantee human rights for every citizen. Within the framework of constitutional law, violations of these rights may be brought before the Constitutional Court through judicial review, to the Ombudsman through public service oversight mechanisms, or to the National Human Rights Commission (Komnas HAM) in cases involving serious human rights violations<sup>9</sup>.

For example, if residents of Rempang Island are forcibly relocated by the state without adequate compensation for the purpose of a national strategic development project, such an action can be considered a violation of the right to adequate housing and the right to private property. From the perspective of constitutional law, such state action must be examined in light of principles of justice, citizen consent, and due legal process<sup>10</sup>.

In the study of constitutional law, the state is not only understood as a political entity but also as a legal entity that bears obligations toward its citizens. Modern constitutional law positions the state as the protector of rights, the guardian of justice, and the executor of popular sovereignty<sup>11</sup>. Therefore, every action taken by state authorities—especially those affecting citizens' constitutional rights—must adhere to the principles of legality, accountability, and social justice.

The Indonesian Constitution provides a strong foundation for the recognition of indigenous law communities. Article 28I paragraph (3) affirms that cultural identity and the rights of traditional communities shall be respected in accordance with the development of civilization and the times. However, in practice, the implementation of this provision is often neglected under the pretext of national development<sup>12</sup>.

In practice, the recognition and respect for the rights of indigenous peoples continue to face various challenges. Development projects, investments, and industrial expansion frequently overlap with territories that are historically the customary lands (*ulayat*) of indigenous communities. This phenomenon reveals a tension between economic development priorities and the protection of the constitutional rights of indigenous peoples.

From a constitutional law perspective, the conflict on Rempang Island must be viewed as a failure of the state to fulfill its constitutional responsibility to protect the rights of indigenous law communities (Asshiddiqie, 2006). The situation in Rempang reflects a serious problem in the implementation of constitutional law in Indonesia, particularly concerning the protection of indigenous peoples' rights. Both local and central governments often prioritize economic growth without considering the fundamental principles of the rule of law and the constitution. Under such conditions, a fundamental question arises: to what extent has the state fulfilled its constitutional responsibility toward indigenous law communities within the framework of constitutional law?

<sup>8</sup> Indrayana, Denny. 2021. *A Rebellious State of Law*. Jakarta: Kompas Media Nusantara. P. 71

<sup>9</sup> National Commission on Human Rights. 2023. *Indonesian Human Rights Situation Report 2023*. Jakarta: National Commission on Human Rights of the Republic of Indonesia.

<sup>10</sup> LBH Jakarta. 2023. *Report on Indigenous Peoples Advocacy and National Development*. Jakarta: Jakarta Legal Aid Institute.

<sup>11</sup> Asshiddiqie, Jimly. 2006. *Introduction to Constitutional Law*. Jakarta: Secretariat General and Registrar's Office of the Constitutional Court of the Republic of Indonesia. P. 43

<sup>12</sup> YLBHI. 2023. *Critical Study of National Strategic Projects and Indigenous Evictions*. Jakarta: Indonesian Legal Aid Foundation.

The focus of this study is to analyze the state's responsibility toward indigenous law communities on Rempang Island from a constitutional law perspective. This research will examine the constitutional principles governing the existence of indigenous law communities, the state's role in protecting these rights, and evaluate state policies and actions in the context of the Rempang case. The scope includes a juridical analysis of the constitution, related legislation, and case studies of implementation in the field.

The urgency of this research lies in the need to re-evaluate the practice of state governance in addressing the rights of indigenous peoples. Has the state acted in accordance with the principles of good governance and constitutional justice? Has the state involved indigenous communities in decision-making processes that determine their own fate?

Based on these issues, an in-depth analysis from a constitutional law perspective is required. Therefore, this research is important to provide a theoretical and normative foundation for the position of the state in guaranteeing the rights of indigenous law communities. Moreover, it is expected that this study will contribute to the formulation of fairer and more participatory policies in the context of national development.

## METHOD

This research is a normative juridical study, employing a statutory approach. Normative legal research is also known by other terms such as doctrinal legal research, dogmatic legal research, or theoretical legal research. Normative legal research focuses on written studies by using secondary data, particularly laws and regulations, as the primary legal materials<sup>13</sup>. Meanwhile, court decisions, legal theories, legal principles, and legal doctrines—which may be derived from scholarly works compiled in books, journals, and research findings—constitute the secondary legal materials<sup>14</sup>. The secondary data are collected through documentary studies and literature reviews, which are then analyzed using a qualitative juridical approach.

## RESULTS AND DISCUSSION

### The Principles of Good Governance and Constitutional Justice in the Rempang Island Case

The rule of law is not merely a normative concept enshrined in the constitution; it must also be reflected in the concrete actions of government administration<sup>15</sup>. In the context of Indonesia as a state governed by law, as affirmed in Article 1 paragraph (3) of the 1945 Constitution, the state must guarantee justice, legal protection, and respect for human rights. In practice, the principles of *good governance* and constitutional justice serve as benchmarks for assessing whether the state has carried out its functions and responsibilities properly. The central question of this research is: Has the Indonesian state acted in accordance with the principles of good governance and constitutional justice? To answer this, an in-depth examination of the concepts, indicators, implementation, and relevant case studies is required.

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<sup>13</sup> Republic of Indonesia. 2021. Government Regulation Number 34 of 2021 concerning the Use of Foreign Workers

<sup>14</sup> Irwansyah. 2020. Legal Research. Edition by Ahsan Yunus. First edition. Yogyakarta: Mitra Buana Media. p. 54

<sup>15</sup> Jimly Asshiddiqie, The Constitution and Constitutionalism of Indonesia, Jakarta: Konstitusi Press, 2005, p. 41.

## The Concept of *Good Governance*

*Good governance* refers to the principles of participation, transparency, accountability, rule of law, responsiveness, fairness, and effectiveness<sup>16</sup>. The concept stems from the idea that the state should not merely act as a ruler but as a public servant responsible for ensuring the welfare of its people. This principle became increasingly emphasized during the post-1998 governmental reform era as a response to Indonesia's multidimensional crisis<sup>17</sup>.

*Good governance* has long been an aspiration among Indonesians, though its interpretation varies. The expectation is that the application of *good governance* will improve the quality of government, reduce corruption, and increase governmental concern for citizens' interests and needs. Improving public service performance is therefore considered essential by all stakeholders — the government and the citizens alike<sup>18</sup>. *Good governance* is often translated as “good government administration” or equated with the idea of *civil society*. It can also be defined as the management of development, empowerment, and public service aligned with democratic principles — *government of the people, by the people, and for the people*.

Essentially, a good government views power as a mandate to serve the public to the fullest<sup>19</sup>. *Good governance* in the exercise of state power emphasizes the delivery of quality public services — both goods and services — with the people as the central focus of service delivery.

To achieve *good governance*, synergy is required among three main actors: the government, the private sector, and civil society. These actors each play vital roles in managing social, economic, and cultural resources. According to the World Bank, *good governance* is defined as the administration of government management that is solid, accountable, and based on efficient market principles, coupled with the prevention of both administrative and political corruption<sup>20</sup>. For both public and private sectors, this represents an innovative step toward creating strong public managerial credibility.

*Good governance* thus serves as a solution to various national problems by integrating the roles of government, private sector, and society to achieve consensus — one that is accountable, effective, and efficient. By adhering to the values and mechanisms of *good governance*, policy implementation can be safeguarded against deviations, as programs are based on collective decision-making.

A state that provides public services to achieve equitable welfare can only function effectively if its system of governance is built on three pillars of sustainable development: environment, economy, and human resources<sup>21</sup>. The concept of *good governance* links these three key actors — government as the state administrator, corporations as economic drivers, and civil society as the balancing force. Their interaction determines the quality of governance, and synchronization among them remains a significant challenge in Indonesia today.

Therefore, *good governance* can only be realized through efforts to create synergy between civil society, the public sector, and the private sector in managing natural, economic,

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<sup>16</sup> M. Zainuddin Ali, *Theory and Law of Good Governance*, Jakarta: Sinar Grafika, 2012, p. 21.

<sup>17</sup> Agus, Dwiyanto. 2005. *Realizing Good Governance Through Public Services*. Yogyakarta: Pustaka Pelajar, pp. 8–9.

<sup>18</sup> Republic of Indonesia. 2014. Law Number 30 of 2014 concerning Government Administration. State Gazette of 2014 No. 292

<sup>19</sup> Syahril, “Good Governance and Public Services in the Perspective of Regional Autonomy,” *Journal of Public Administration*, Vol. 5, No. 2, August 2017, pp. 122–123.

<sup>20</sup> World Bank, *Governance and Development*, Washington D.C.: The World Bank, 1992, hlm. 15.

<sup>21</sup> United Nations Development Programme (UNDP), *Governance for Sustainable Human Development*, New York: UNDP, 1997, hlm. 11.



environmental, and social resources. At the very least, *good governance* must meet the prerequisites of participation, efficiency and effectiveness, transparency, and fairness<sup>22</sup>.

The concept of *good governance* originated from the interests of donor institutions such as the United Nations (UN), World Bank, Asian Development Bank (ADB), and International Monetary Fund (IMF) in providing financial assistance to developing countries. Over time, *good governance* became a prerequisite for nations seeking financial aid, serving as a standard for achieving sustainable and equitable development. This is understandable, as the programs and concepts promoted by these international institutions are oriented toward poverty reduction — a major obstacle to development in many countries<sup>23</sup>.

The principles of *good governance* are essential in realizing a more effective system of governance<sup>24</sup>. Based on this, six core principles of *good governance* can be outlined: accountability, transparency, rule of law, equality, responsiveness, and effectiveness and efficiency.

a. Accountability

Accountability is the obligation of the entrusted party (agent) to provide justification, report, and disclose all activities and responsibilities to the principal, who has the authority and right to demand such accountability<sup>25</sup>.

b. Transparency

Transparency refers to the principle of openness that allows the public to know and have broad access to financial and administrative information. It ensures that citizens can easily obtain accurate, updated, and verifiable information about government activities in accordance with established regulations.

c. Rule of Law

Law plays a vital role in upholding justice and truth. Laws must be impartial, fair, and consistent, and should apply equally to all individuals regardless of position, wealth, or kinship.

d. Equality

The principle of equality demands fair treatment without discrimination based on social status, ethnicity, or background, by both central and regional government officials. Every citizen is equal before the law and has the same opportunity to participate in political, legal, economic, social, and cultural activities. The principle of equality promotes justice and stable economic development since all citizens have equal rights and opportunities for self-development without external interference.

e. Responsiveness

Responsiveness refers to the willingness and ability of public servants to assist and respond promptly to citizens' needs, keeping them informed about service delivery and providing assistance efficiently. High responsiveness enhances public satisfaction and trust.

f. Effectiveness and Efficiency

In implementing programs and policies, the government must adhere to the principles of effectiveness and efficiency. A program is considered effective if it achieves its intended

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<sup>22</sup> Narang, A.T. 2007. "Good Governance and Clean Government in Their Implementation in Central Kalimantan Province," National Seminar on Paradigm Shift in Governance from Government to Governance: Theory and Practice, Komap Fisipol UGM. p. 83

<sup>23</sup> Adisasmita, Rahardjo, Theories of Regional Economic Development, Yogyakarta: Graha Ilmu, 2008, p. 54.

<sup>24</sup> Dwikarna, "The Role of Good Governance in Effective Governance," Journal of Social and Political Sciences, Vol. 10, No. 1, January 2013, pp. 47–48

<sup>25</sup> Agus, D. (2005). Realizing Good Governance Through Public Services. Yogyakarta: Pustaka Pelajar

goals, and efficient if resources — including financial budgets — are used optimally and responsibly according to needs.

### The Concept of Constitutional Justice

Constitutional justice is a concept that emphasizes the protection of citizens' constitutional rights as stipulated in the 1945 Constitution of the Republic of Indonesia. It is not merely concerned with legality, but more deeply with ensuring substantive justice, in which the law is not only obeyed but also provides equal benefits and protection for all parties. Constitutional justice is closely related to judicial oversight of legislative products and government actions<sup>26</sup>. Institutions such as the Constitutional Court (Mahkamah Konstitusi), the National Commission on Human Rights (Komnas HAM), and the Ombudsman serve as essential pillars in ensuring the realization of constitutional justice<sup>27</sup>. Thus, the state is required not only to comply with the law but also to ensure that the laws enacted and implemented do not violate the constitutional rights of the people.

Constitutional justice refers to the implementation of laws in accordance with the constitution, which guarantees citizens' rights. In the case of Rempang, several relevant points can be identified<sup>28</sup>:

- a. The Right to Land and a Healthy Environment: The Constitution guarantees the right to land and a healthy environment. Project development must therefore consider the customary land rights of indigenous communities and the environmental impacts that may arise<sup>29</sup>.
- b. The Right to Adequate Housing: The relocation of communities must be carried out by ensuring adequate housing that meets the needs and circumstances of those affected.
- c. The Right to Justice: The settlement of agrarian disputes must be conducted fairly and transparently, taking into account the rights of indigenous peoples and the applicable legal mechanisms.

In the context of constitutional justice, the actions of the state in Rempang Island contradict Article 28I paragraph (3) of the 1945 Constitution, which guarantees the rights of indigenous peoples. Furthermore, the state's actions also violate the right to adequate housing (Article 28H paragraph (1)), the right to security (Article 28G), and the right to freedom of expression (Article 28E)<sup>30</sup>. Therefore, it can be concluded that the state has failed to uphold the principles of constitutional justice. The weak control functions of state institutions such as the Regional House of Representatives (DPRD), Komnas HAM, and the Ombudsman indicate that the checks and balances system has not been functioning optimally<sup>31</sup>. Even the Constitutional Court, as the final guardian of constitutional protection, faces serious challenges such as judicial independence and public trust<sup>32</sup>.

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<sup>26</sup> Farida Indrati, Maria. 2007. *Legal Science: Types, Functions, and Content*. Yogyakarta: Kanisius. P. 121

<sup>27</sup> A. Mukti Fajar & Yulianto Achmad, *Dualism of Normative and Empirical Legal Research*, Yogyakarta: Pustaka Pelajar, 2015, p. 121

<sup>28</sup> Surya Jaya, "Constitutional Protection of the Right to a Good and Healthy Environment," *Constitutional Journal*, Vol. 13, No. 2, June 2016, p. 301

<sup>29</sup> Riwanto Tirtosudarmo, "Land and Indigenous Communities in Indonesia: Between Regulation and Reality," *Journal of Society & Culture*, Vol. 20, No. 3, December 2018, p. 337.

<sup>30</sup> Al Khanif, *Constitutional Rights of Indigenous Peoples in Agrarian Conflicts*, Malang: Setara Press, 2020, pp. 144–146.

<sup>31</sup> Eko Riyadi, "Evaluation of State Supervisory Institutions in Enforcing Constitutional Rights," *IUS Law Journal*, Vol. 7, No. 2, August 2019, pp. 282–284.

<sup>32</sup> Saldi Isra, *The Role of the Constitutional Court in the Indonesian State System*, Jakarta: RajaGrafindo Persada, 2010, p. 176.

Based on the author's observation of the Rempang case, a crucial question arises as to whether the government's actions are in line with the principles of good governance and constitutional justice. Generally, there are indications that the development process of the Rempang Eco City project and the handling of the accompanying conflicts have not fully adhered to these principles, particularly regarding indigenous rights, transparency, participation, and fairness.

The Rempang case serves as a reminder that the implementation of national strategic projects must be carried out in accordance with the principles of good governance and constitutional justice. The government must conduct a comprehensive evaluation of the ongoing processes and improve communication, participation, and dispute resolution mechanisms to ensure justice for all parties involved. Furthermore, the government must ensure that the rights of indigenous peoples and other citizens are respected and protected.

## **Involvement of Indigenous Communities in the Decision-Making Process Concerning Rempang Island**

### **Background of the Conflict on Rempang Island**

In recent times, public attention in Indonesia has been drawn to the conflict occurring on Rempang Island. Rempang Island is one of the islands in Batam City that has been designated by the central government as a strategic location for development within an autonomous region, in accordance with Law No. 22 of 1999 on Regional Government and Law No. 25 of 1999 on Fiscal Balance between the Central and Regional Governments<sup>33</sup>.

Furthermore, this matter is regulated under Presidential Decree (Keppres) No. 41 of 1973, which granted Management Rights (Hak Pengelolaan or HPL) to the Batam Authority (Otorita Batam)<sup>34</sup>. The decree aimed to prevent the potential ownership of strategic land by private investors. However, the legal implication of this decree restricted individual property rights within the designated area.

In addition to the Presidential Decree, a Batam Mayor's Decree was issued, which excluded Kampung Tua (Old Villages) from the HPL area. Previously, Rempang Island had been included in the Batam Authority's management area as stipulated in Government Regulation No. 46 of 2007, which later restructured the Batam Authority into the Batam Free Trade Zone and Free Port Management Agency (BP Batam)<sup>35</sup>.

There are 45 Kampung Tua located on Rempang Island. These villages contain ancient trees, indigenous customary communities, and various cultural heritage sites that should be preserved. However, based on Presidential Decree No. 41 of 1973, these old villages are included within the planned development zone. This raises a major issue: whether these Kampung Tua would be preserved following the decree or erased altogether<sup>36</sup>.

In implementing the HPL, BP Batam planned to evacuate approximately 7,500 residents from Rempang Island to make way for the Eco City project—a large-scale industrial, service, and tourism development undertaken by PT Makmur Elok Graha (MEG), with a total investment target of IDR 381 trillion projected through the year 2080. While this project aimed to enhance investment on Rempang Island, the local community was not consulted beforehand, leading to resistance and protests against the government.

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<sup>33</sup> Republic of Indonesia. 1999. Law Number 22 of 1999 concerning Regional Government. State Gazette of 1999 No. 60.

<sup>34</sup> Bivitri Susanti, "Unraveling Agrarian Conflicts from a Constitutional and Human Rights Perspective," *Constitutional Journal*, Vol. 17, No. 3, September 2020, p. 405

<sup>35</sup> A. Rachman, *Land, People and Power: Agrarian Conflict and People's Struggle in Indonesia*, Jakarta: Epistema Institute, 2016, p. 82.

<sup>36</sup> Wahyudi Djafar, "Dynamics of the Old Village in Rempang: Between History and Eviction," *Journal of Law and Human Rights*, Vol. 12, No. 1, March 2024, pp. 90–91



## 1. Chronology

### a. Pre-Event

- August 26, 2004: Representatives of PT Makmur Elok Graha (MEG), including Tomy Winata, and the Batam City Government signed an agreement for the development and management of Rempang, Sekotok, and Galang Islands. The project covered 17,000 hectares on Rempang Island and was originally known as the Exclusive Integrated Tourism Area (KWTE). However, allegations of corruption caused the project to stall.
- In 2023, the project was listed as a National Strategic Project (PSN) under Ministerial Regulation No. 7 of 2023, amending Ministerial Regulation No. 7 of 2021 concerning the National Strategic Project List. The project was expected to be completed by 2080, requiring the relocation of around 10,000 residents from Rempang and Galang Islands. However, strong resistance emerged, as the relocation threatened 16 Kampung Tua across both islands.
- Between July and August 2023, residents received criminal summons letters from Bareleng Police, Riau Islands Regional Police, and the Attorney General's Office, citing alleged obstruction and state loss related to the project.
- On August 13, 2023, police forcibly attempted to arrest the head of KERAMAT (Kerabat Masyarakat Adat Tempatan) Rempang, without a proper warrant, but the residents successfully prevented the arrest.
- On August 21, 2023, residents set up guard posts to defend against intimidation and threats.
- On September 5, 2023, community and religious leaders were visited by the Batam Police Chief and Military Commander (Dandim) 0316 Batam, informing them that boundary markers would be installed between September 7–10, 2023.
- On September 6, 2023, residents blocked all access to Rempang Island in protest.

### b. The Event

- On September 7, 2023, clashes broke out between residents and security forces after failed negotiations. Residents threw plastic cups, bottles, and stones, while security forces used water cannons and tear gas to disperse them.
- The tear gas spread into school areas, including SMPN 22 Galang and SDN 24 Galang.
- As a result, 11 students and 1 teacher from SMPN 22 Galang were hospitalized at Embung Fatimah Regional Hospital, while others were treated at the Marine Hospital.
- Security forces arrested 8 residents, charging them under Articles 212, 213, and 214 of the Indonesian Criminal Code (KUHP) and Article 2(1) of the Emergency Law No. 12 of 1951 for resisting officers.

### c. Post-Event

- Following the clashes, authorities set up two additional security posts on Bridge 4 and the Galang rest area.
- On September 8, 2023, joint forces conducted security operations for land measurement and boundary marking without further resistance from residents.
- The Malay Youth Alliance submitted a protest notification letter to the Bareleng Police Chief.
- On September 9, 2023, one of the eight detainees was released due to insufficient evidence.
- On September 10, 2023, the Malay Youth Alliance canceled their planned protest at BP Batam to negotiate the release of the remaining seven detainees.
- On September 11, 2023, the Malay Honor Defense Force (Laskar Pembela Marwah Melayu / LPMM) and Gagak Hitam groups, consisting of Malays from West

Kalimantan, Siak (Riau), and Lingga (Riau Islands), continued their demonstration at BP Batam. Clashes broke out again after protesters expressed disappointment toward BP Batam and the Batam City Government. The joint forces fired tear gas, resulting in 28 arrests by Bareleng Police and 15 arrests by Riau Islands Police.

From this chronology, the author concludes that the conflict on Rempang Island arose primarily due to government arbitrariness in exercising authority. The lack of transparency and communication between the government and local residents created misunderstandings between both parties. The area designated for the Eco City project includes historically significant sites that should be preserved, and therefore, any relocation or clearance should be conducted with the consent of the local population.

### **Lack of Information and Community Involvement**

Before establishing a policy, it would be best for the government—particularly the relevant authorities—to first provide outreach and education to local residents who may be directly affected by the policy to be implemented. The government should go through various stages within a framework of meaningful and beneficial participation to avoid potential social friction in the future. Unfortunately, in the agrarian conflict in Rempang, this practice was not carried out, creating the impression that Rempang was merely uninhabited land<sup>37</sup>.

The local community's objections, based on concerns over the entry of investors who might destroy their land, essentially violated the principle of Free, Prior, and Informed Consent (FPIC) as stipulated in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)<sup>38</sup>. The elements of FPIC are interrelated and inseparable—its three core components being free (without coercion), prior (obtained before any activity begins), and informed (based on accurate, timely, and culturally appropriate information). This principle implies that consent must be part of the decision-making process. In short, consent must be obtained before any project, plan, or action is implemented; it must be freely given, and it must be based on sufficient and culturally sensitive information in order to be considered a valid result of a collective decision-making process.

Furthermore, violations of the General Principles of Good Governance (AUPB) were also evident in the Rempang agrarian conflict, as stipulated in Law No. 30 of 2014 concerning the implementation of good governance principles. Key principles such as transparency and public interest were not properly upheld<sup>39</sup>. The socialization conducted by BP Batam was one-sided and non-participatory, as it merely presented the relocation program without accommodating the aspirations of the local community. This clearly contradicts Law No. 14 of 2008 on Public Information Disclosure, which guarantees the right of affected communities to access information regarding investments entering their region.

Although the Constitution and several regulations already recognize the existence of indigenous peoples, their involvement in decision-making processes that determine their fate has not been genuinely or fairly implemented. In many cases, the state still positions indigenous peoples as objects of policy, rather than as subjects who possess voices and rights to determine their own future. To realize a just and democratic rule of law, the involvement of indigenous peoples must be an integral part of every decision-making process, especially those that directly impact their lives.

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<sup>37</sup> Ridwan Khairandy, "Constitutional Rights and Citizen Participation in National Strategic Projects," *IUS Law Journal*, Vol. 11, No. 2, October 2023, p. 167

<sup>38</sup> Victoria Tauli-Corpuz, "Free, Prior and Informed Consent: A Tool for Indigenous Peoples," *Forest Peoples Programme Report*, 2016, hlm. 5–6.

<sup>39</sup> Bivitri Susanti, *State Administrative Law and AUPB in Practice*, Jakarta: Indonesia Legal Roundtable, 2021, pp. 107–108

## CONCLUSION

### Conclusion

The Rempang Island case raises a crucial question as to whether the government's actions have aligned with the principles of good governance and constitutional justice. In general, there are indications that the development process of the Rempang Eco City project and the handling of the accompanying conflict have not fully adhered to these principles, particularly in relation to the rights of indigenous peoples, transparency, participation, and justice. The Rempang case serves as a reminder that the implementation of national strategic projects must be carried out with full regard to the principles of good governance and constitutional justice.

The government must conduct a comprehensive evaluation of the ongoing processes and improve mechanisms for communication, participation, and dispute resolution to ensure justice for all parties involved. Furthermore, the government must guarantee that the rights of indigenous peoples and other citizens are respected and protected. The conflict on Rempang Island reflects the arbitrary exercise of governmental authority, where the lack of transparency between the government and the community has led to misunderstandings between the parties involved. In fact, the area designated for the Eco City project includes historical and culturally significant sites that must be preserved; therefore, any clearance or relocation should be carried out with the consent of the local residents.

### Recommendations

In response to incidents like this, the government must take a firm and clear stance in resolving the Rempang Island case. The government should also ensure fairness and justice in its decisions so that the protection of human rights for the affected communities can be fully realized.

To address agrarian conflicts between communities and the government related to national strategic projects (PSN) that impact the environment and human rights, the government should conduct adequate and transparent dialogue and outreach regarding development and relocation plans, while also providing sufficient time for the affected communities to deliberate, make informed decisions, and exercise their right to choose.

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