A Legal Analysis of Alleged Violations of Indigenous Land Rights and Human Rights in the Merauke Sugar National Strategic Project

Suhardi[1], Felex Jonathan[2], Hendry Widjaya Ong[3], Rina Shahriyani Shahrullah[4]

[1-4]Universitas Internasional Batam, Indonesia
✉ Corresponding email: 25.02.suhardi@uib.edu

History of Article
Submitted : June 30, 2026
Revised : July 22, 2026
Accepted : August 10, 2026
Published : September 22, 2026
DOI : https://doi.org/10.37253/conescintech.v6i1.12812

Copyright© 2026 by Author(s). This work is licensed under a Creative Commons Attribution-Non Commercial-Share Alike 4.0 International License. All writings published in this journal are personal views of the authors and do not represent the views of this journal and the author's affiliated institutions.

Abstract

The Merauke Sugar National Strategic Project has generated significant legal and human rights concerns due to its potential impact on indigenous customary land rights and the livelihoods of indigenous communities in South Papua. This study examines whether the implementation of the project has affected indigenous customary land rights and analyzes the responsibilities of the state and corporations regarding alleged human rights violations arising from the project. The research employs a normative legal research method using statutory, conceptual, and case approaches. The study relies on primary, secondary, and tertiary legal materials, including national legislation, international human rights instruments, legal doctrines, and scholarly literature. The findings indicate that although the project contributes to national economic development, food security, and investment growth, its implementation raises concerns regarding the protection of indigenous customary land rights, meaningful participation, and compliance with the principle of Free, Prior and Informed Consent (FPIC). The study further reveals that both the state and corporations bear legal and ethical responsibilities to respect, protect, and fulfill the rights of indigenous peoples in accordance with national law, international human rights standards, the United Nations Guiding Principles on Business and Human Rights (UNGPs), and sustainability principles. By integrating national legal frameworks, international human rights instruments, Environmental, Social, and Governance (ESG) principles, and Satjipto Rahardjo's Progressive Legal Theory, this study contributes to the development of legal scholarship concerning indigenous peoples' rights, investment governance, and sustainable development. The findings are expected to provide guidance for policymakers, corporations, and other stakeholders in promoting development that balances economic growth, human rights protection, and environmental sustainability.

Keywords: Indigenous customary land rights; Human rights; Merauke Sugar National Strategic Project; State and corporate responsibility; Sustainable development.

Introduction

National development through National Strategic Projects (PSN) constitutes a key policy instrument employed by the Indonesian government to accelerate economic growth, attract investment, strengthen food security, and promote more equitable development across different regions of the country (Soembari & Yandendai, 2024). One of the most prominent initiatives under this framework is the Merauke Sugar National Strategic Project in South Papua Province, which has been developed as a large-scale sugar and bioethanol production area. The government positions this project as part of its broader agenda to achieve national food and energy self-sufficiency. Nevertheless, the implementation of the project has generated significant legal debate, as the designated development area overlaps with territories that have long served as the living space of indigenous communities. Various reports indicate that the project encompasses customary lands inhabited by the Malind, Yei, Maklew, Yeinan, and Khimaima peoples, covering an area projected to reach approximately two million hectares (Anggriana & Putri Lusi, 2022). This situation has raised growing concerns regarding the protection of indigenous customary land rights, environmental sustainability, and the respect for human rights within the broader context of national development

The issue has attracted increasing international attention following allegations raised by civil society organizations, academics, and human rights institutions concerning potential violations of indigenous peoples' rights during the implementation of the project. The National Commission on Human Rights (*Komisi Nasional Hak Asasi Manusia* or Komnas HAM) has reportedly identified several concerns, including inadequate community consent, land tenure conflicts, and the potential for significant environmental impacts resulting from large-scale land clearing. Furthermore, in 2025, a United Nations Special Rapporteur requested clarification from the Indonesian Government regarding allegations of indigenous rights violations and environmental degradation associated with the project (Doaly, 2025). These developments suggest that the Merauke Sugar National Strategic Project has evolved beyond a domestic development initiative into a legal and human rights issue that has attracted global scrutiny. Consequently, a comprehensive legal assessment is required to evaluate the extent to which the implementation of the project complies with the principles governing the protection of indigenous customary land rights and human rights (Asrida Elisabeth, 2025).

From a legal perspective, the case presents a notable gap between *das sollen* and *das sein*. Normatively, Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia recognizes and respects the existence of indigenous peoples and their traditional rights (Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, 2020). This recognition is further reinforced by Article 3 of the Basic Agrarian Law, Law Number 39 of 1999 concerning Human Rights (Undang-Undang Nomor 39 Tahun 1999 Tentang Hak Asasi Manusia, 1999), and Regulation of the Minister of Agrarian Affairs and Spatial Planning/National Land Agency Number 14 of 2024 concerning Indigenous Peoples' Customary Land Rights (Republik Indonesia, 2024). At the international level,

the protection of indigenous peoples is also reflected in the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) (Fitzmaurice, 2015), particularly through the principle of *Free, Prior and Informed Consent* (FPIC) (Aznannya, 2024). Despite these legal guarantees, numerous reports continue to indicate that indigenous communities have not been adequately informed, have not participated effectively in decision-making processes, and remain vulnerable to the loss of their traditional living spaces as a consequence of expanding investment activities. Accordingly, a discrepancy persists between the legal norms that require the protection of indigenous peoples' rights and the realities of development practices that continue to generate allegations of rights violations and marginalization.

Research examining the tension between national development initiatives and the rights of indigenous peoples has been widely conducted. Yuwono (2024) employed a normative legal research approach to analyze the legal implications of the Merauke Food Estate Program on indigenous peoples' rights and environmental protection. The study found that the implementation of the project continued to face challenges in the application of the *Free, Prior and Informed Consent* (FPIC) principle and carried the potential to generate agrarian conflicts as well as environmental degradation. However, the research primarily focused on environmental issues and did not comprehensively examine the responsibilities of the state and corporations from a human rights perspective (Yuwono, 2024). Similarly, Sefriani et al. (2023) explored the relationship between food sovereignty and the protection of indigenous peoples' rights through a normative legal approach. Their findings emphasized the importance of implementing FPIC in all development projects but did not specifically address the investment dynamics of the Merauke Sugar National Strategic Project that emerged after 2024 (Sefriani et al., 2023).

Furthermore, Nur Anisa (2024) examined the legal protection of indigenous customary land rights in Papua in the context of the expansion of National Strategic Projects through a normative juridical approach. The study identified significant challenges in harmonizing investment policies with the protection of indigenous peoples' rights (Nur Anisa, 2024). Meanwhile, Lisa et al. (2026) analyzed the legal protection of indigenous communities in the implementation of National Strategic Projects and highlighted the need to strengthen state oversight mechanisms for investments affecting indigenous peoples (Lisa et al., 2026). Likewise, Nugroho et al. (2026) assessed the Merauke Food Estate National Strategic Project from the perspectives of Islamic law, human rights, and environmental protection, concluding that large-scale project expansion may create risks of violating indigenous peoples' rights (Nugroho et al., 2026). Although these studies provide valuable insights, most of them focus either on customary land rights or environmental concerns separately and have yet to integrate the analysis of state responsibility, corporate accountability, human rights protection, and national investment policies within a single comprehensive legal framework.

The novelty of this study lies in its attempt to integrate national legal analysis, international human rights instruments, the *United Nations Guiding Principles on Business and Human Rights* (UNGPs), the concept of *Environmental, Social, and Governance* (ESG), and Satjipto Rahardjo's Progressive Legal Theory in assessing

alleged violations of indigenous customary land rights and human rights within the Merauke Sugar National Strategic Project. Unlike previous studies that have generally examined agrarian conflicts or indigenous rights protection in a fragmented manner, this research positions both the state and corporations as legal actors sharing responsibility for the protection of indigenous peoples' rights. Moreover, the study incorporates recent regulatory developments, including Minister of Agrarian Affairs and Spatial Planning/National Land Agency Regulation Number 14 of 2024 and the latest developments concerning National Strategic Project policies, thereby offering a more current and contextually grounded legal analysis of an evolving legal issue.

This study offers important theoretical and practical contributions. Theoretically, it seeks to enrich legal scholarship, particularly in the fields of agrarian law, human rights law, investment law, and environmental law concerning indigenous peoples, by providing a comprehensive analysis that integrates national legal frameworks, international human rights instruments, corporate accountability principles, and Progressive Legal Theory. Practically, the findings are expected to serve as a reference for governments, policymakers, law enforcement institutions, corporations, and civil society organizations in formulating development policies that balance economic growth, human rights protection, and environmental sustainability. The study is particularly relevant to contemporary development challenges that require greater attention to indigenous peoples' rights within large-scale investment projects. Nevertheless, this research is limited by its normative legal approach, which relies primarily on legislation, legal doctrines, and scholarly literature and therefore does not directly examine the empirical conditions of all indigenous communities affected by the Merauke Sugar National Strategic Project. Consequently, the findings are intended to provide a normative evaluation of legal policies and practices rather than a comprehensive empirical assessment of their social impacts.

Research Method

This study employs a normative legal research method (*normative legal research*), which focuses on examining legal norms derived from legislation, legal doctrines, and international legal instruments related to the protection of indigenous customary land rights and human rights in the implementation of the Merauke Sugar National Strategic Project (PSN) (Sukmawan & Damayanti, 2025). This method is considered appropriate because the research seeks to evaluate the conformity between the implementation of national investment policies and the legal framework governing the recognition and protection of indigenous peoples, as well as the responsibilities of the state and corporations regarding alleged human rights violations. To address the research problems comprehensively, the study adopts a statutory approach (*statute approach*) to analyze relevant legislation, a conceptual approach (*conceptual approach*) to examine legal concepts concerning customary land rights, human rights, state responsibility, and corporate accountability, and a case approach (*case approach*) to assess the legal issues arising from the implementation of the PSN Tebu Merauke project based on existing legal facts and developments.

The research relies on secondary data consisting of primary, secondary, and tertiary legal materials. Primary legal materials include the 1945 Constitution of the Republic of Indonesia, Law Number 5 of 1960 concerning Basic Agrarian Principles, Law Number 39 of 1999 concerning Human Rights, Law Number 40 of 2007 concerning Limited Liability Companies, Law Number 32 of 2009 concerning Environmental Protection and Management as amended by Law Number 6 of 2023, Minister of Agrarian Affairs and Spatial Planning/National Land Agency Regulation Number 14 of 2024 concerning Indigenous Customary Land Rights Registration, Minister of Coordinating Economic Affairs Regulation Number 6 of 2024 concerning National Strategic Projects, as well as international instruments such as the *Universal Declaration of Human Rights* (UDHR), *International Covenant on Civil and Political Rights* (ICCPR), *International Covenant on Economic, Social and Cultural Rights* (ICESCR), *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP), and *United Nations Guiding Principles on Business and Human Rights* (UNGPs). Secondary legal materials comprise scholarly books, journal articles, prior studies, and other academic publications, while tertiary legal materials include legal dictionaries, encyclopedias, and supporting references. Data are collected through *library research* and document analysis and subsequently analyzed using a descriptive-qualitative method through the processes of inventorying, classifying, interpreting, and evaluating legal materials to formulate conclusions regarding the protection of indigenous peoples' rights and the responsibilities of state and corporate actors. The study is further grounded in Satjipto Rahardjo's Progressive Legal Theory, which posits that law exists for society, must remain responsive to social realities, and should function as an instrument for achieving substantive justice and social welfare (Faisal, 2023).

Results and Discussions

Legal Analysis of Alleged Violations of Indigenous Customary Land Rights in the Merauke Sugar National Strategic Project

The Merauke Sugar National Strategic Project (PSN) requires a substantial land area, with sugarcane cultivation currently covering approximately 637,420 hectares and possessing the potential for further expansion. As a government policy initiative, the project is intended to stimulate national economic growth and attract investment, as regulated under the Regulation of the Coordinating Ministry for Economic Affairs Number 6 of 2024. Nevertheless, concerns have emerged regarding a potential imbalance between the objectives of national strategic development and the protection of indigenous customary land rights (Nugroho et al., 2026). The Indonesian state guarantees and recognizes customary land rights insofar as they continue to exist in practice. This recognition is constitutionally grounded in Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which states that "the State recognizes and respects indigenous peoples and their traditional rights as long as they remain alive and are in accordance with societal development and the principles of the Unitary State of the Republic of Indonesia as regulated by law." Consequently, customary land rights enjoy

constitutional recognition and protection within the Indonesian legal system (Tekege, 2024).

The first perspective of this analysis considers the possibility that the implementation of the National Strategic Project in Merauke may constitute a violation of indigenous customary land rights. Pursuant to Article 3 of Law Number 5 of 1960 concerning Basic Agrarian Principles (UUPA), customary rights and similar traditional rights of indigenous communities remain recognized and respected, provided that they continue to exist in reality and do not conflict with higher laws and regulations (Ni Komang Putri Sari Sunari Wangi et al., 2023). The recognition of indigenous customary land rights is further reinforced by Article 2 paragraph (2) of Minister of Agrarian Affairs and Spatial Planning/National Land Agency Regulation Number 14 of 2024, which establishes criteria for the existence of indigenous customary rights, including the continued observance of customary law and the use of customary land as a source of livelihood. In addition, Minister of Home Affairs Regulation Number 52 of 2014 provides guidelines for the recognition and protection of indigenous communities through formal recognition by regional governments. Similar protection can also be found in Article 38 paragraph (2) of Law Number 21 of 2001 concerning Special Autonomy for Papua, which requires economic activities involving natural resources to respect the rights of indigenous peoples. Meanwhile, legislative initiatives such as the Draft Law on Indigenous Peoples continue to serve as important legal references aimed at strengthening legal certainty and enhancing the protection of indigenous customary land rights (Yuldiana, 2024).

If violations of customary land rights are ultimately proven, such circumstances would demonstrate an imbalance between the state's economic development agenda and its obligation to respect and protect the customary land rights of indigenous communities. This condition reflects a discrepancy between the implementation of national development policies and the state's constitutional duty to safeguard indigenous peoples and their traditional rights (Soraya & Handayani, 2025). In the context of the Merauke National Strategic Project, the affected areas include the customary territories of the Malind, Yeinan, Maklew, Khimaima, and Yei peoples, whose combined population is estimated at approximately 50,000 individuals. The project encompasses sugarcane plantations, sugar processing facilities, and bioethanol production sites covering approximately 637,420 hectares, with the possibility of further expansion. Such large-scale development may generate significant impacts on indigenous communities and the surrounding environment. Moreover, allegations regarding the involvement of security personnel and the exertion of pressure on indigenous communities have raised additional concerns about potential human rights violations associated with the implementation of the project.

The second perspective in this analysis argues that the implementation of the National Strategic Project (PSN) does not necessarily violate indigenous customary land rights. From this viewpoint, land development activities in Merauke have been carried out in accordance with applicable laws and regulations while continuing to recognize and respect the customary land rights of indigenous communities. If no infringement of

customary land rights can be established, the Merauke PSN may be regarded as having successfully fulfilled its dual objectives of promoting national economic development while respecting indigenous rights. Furthermore, the project has the potential to generate tangible benefits for local residents and indigenous communities, including employment opportunities through large-scale sugarcane cultivation, regional economic growth, and infrastructure development that contributes to public welfare (Lisa et al., 2026). In this regard, the PSN may be viewed as a form of national development that not only serves state interests but also provides broader socio-economic benefits to communities within the project area. From the perspective of Progressive Legal Theory, if the Merauke PSN can simultaneously advance national development objectives, respect indigenous customary land rights, and deliver meaningful benefits to society, such implementation would be consistent with the fundamental objectives of law, namely the promotion of social welfare and justice (Rizkiyah & Rozci, 2025).

According to Satjipto Rahardjo's Progressive Legal Theory, human beings should remain at the center of legal development and legal objectives. Law should not merely function as an administrative instrument serving state interests; rather, it must also protect the customary land rights of indigenous communities whose cultural identity, economic livelihood, and historical existence are closely connected to their ancestral lands. In the present case, although the implementation of the PSN may formally satisfy legal requirements such as licensing procedures and official project designation, the participation of indigenous communities and the protection of their rights appear to have been treated as secondary considerations. This situation suggests that while the project serves the broader objective of attracting investment and supporting national development, it may not yet provide adequate protection for indigenous peoples. Consequently, from the standpoint of Progressive Legal Theory, the Merauke PSN may still be considered potentially inconsistent with indigenous customary land rights if substantive justice has not been achieved and if affected indigenous communities continue to experience adverse impacts as a result of the project (Nur Anisa, 2024).

An analysis based on the *Universal Declaration of Human Rights* (UDHR) further highlights the importance of protecting indigenous communities within the implementation of the Merauke PSN. Article 2 of the UDHR emphasizes the principle of non-discrimination, requiring that indigenous peoples be involved in development processes without intimidation or discriminatory treatment. Moreover, Article 17 provides that everyone has the right to own property individually or collectively and that no one shall be arbitrarily deprived of such property. Accordingly, the implementation of the PSN in Merauke should proceed without infringing upon the customary land rights of indigenous peoples. For indigenous communities, land represents more than a mere economic asset; it embodies cultural identity, social values, and historical continuity that are integral to their existence as distinct communities (United Nation, 1948).

The *International Covenant on Economic, Social and Cultural Rights* (ICESCR), which has been ratified by Indonesia through Law Number 11 of 2025, also provides a relevant framework for assessing the Merauke PSN. Article 1 recognizes the right of all peoples to self-determination and to freely utilize their natural wealth and resources, a

principle that underlies the government's efforts to develop the natural resources available in Merauke through the PSN framework. In addition, Article 15 recognizes the right of every individual to participate in and enjoy cultural life. Given the extensive scale of the project and its direct impact on indigenous territories, the protection of cultural rights becomes particularly significant. Therefore, meaningful participation by indigenous communities is essential to ensure that development initiatives do not undermine the cultural values and traditional ways of life that are intrinsically linked to their customary lands (United Nation, 1966).

The *ILO Declaration on Fundamental Principles and Rights at Work* affirms that all member states, including Indonesia, are required to respect, promote, and implement fundamental labor principles and rights. Within the context of the Merauke National Strategic Project, which is characterized by large-scale investment and industrial development, these principles provide an important framework for assessing economic development while ensuring adequate protection for indigenous communities affected by project activities. In particular, the principle of *freedom of association* is highly relevant, as it guarantees the right of indigenous peoples to express their views, convey their concerns, and participate in discussions regarding the implementation of development projects that directly affect their livelihoods and customary territories. Therefore, the implementation of the PSN should ensure that indigenous communities are protected and provided with meaningful opportunities to voice their aspirations without intimidation or coercion (International Labour Oganization (ILO), 1998).

An analysis based on the *Sustainable Development Goals* (SDGs) further demonstrates the relevance of the Merauke PSN to several global development objectives. SDG 8 (*Decent Work and Economic Growth*) emphasizes economic development and employment generation, both of which are among the primary objectives of the project. Through large-scale investment, the PSN has the potential to stimulate economic growth while creating employment opportunities for local communities. SDG 10 (*Reduced Inequalities*) highlights the importance of reducing social disparities and ensuring that vulnerable groups, including indigenous peoples, receive equal protection and recognition. Consequently, the expansion of development activities should not come at the expense of indigenous customary land rights. Furthermore, SDG 15 (*Life on Land*) is closely associated with the potential environmental impacts of the project, particularly concerning ecosystem preservation and sustainable land management in the Merauke region. Given the scale of land conversion involved, the implementation of the PSN must adhere to sustainable development principles to prevent environmental degradation and biodiversity loss. Finally, SDG 16 (*Peace, Justice and Strong Institutions*) underscores the necessity of ensuring legal certainty, justice, and meaningful participation by indigenous communities in decision-making processes concerning projects that directly affect their customary territories and rights (United Nation, 2015).

The Merauke Sugar National Strategic Project is also closely connected to the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP), particularly because the project directly affects indigenous customary lands and natural resources traditionally controlled by indigenous communities. Under UNDRIP, indigenous peoples

possess the right to maintain and protect their ancestral lands and to be safeguarded against arbitrary dispossession. Consequently, the implementation of the PSN may raise legal concerns if land acquisition or development activities occur without the meaningful involvement of indigenous communities, thereby undermining the principle of *Free, Prior and Informed Consent* (FPIC). National investment and development initiatives must therefore continue to respect indigenous rights in order to ensure legal certainty, human rights protection, and sustainable development outcomes (Nation, 2007).

An analysis based on the *United Nations Guiding Principles on Business and Human Rights* (UNGPs) highlights three fundamental pillars relevant to the implementation of the Merauke PSN. First, the state has a duty to protect human rights by ensuring that indigenous communities are safeguarded from potential human rights violations arising from development and investment activities. Second, corporations have a responsibility to respect human rights, which includes engaging with indigenous communities, providing adequate information regarding project implementation, and ensuring that their operations do not undermine customary land rights. Third, affected communities must have access to effective remedies, including legal protection, compensation mechanisms, and accessible grievance procedures whenever they suffer adverse impacts resulting from business activities. These principles collectively establish a framework for evaluating the responsibilities of both the state and corporate actors in the implementation of the project (Nations, 2011).

With regard to the *United Nations Global Compact* (UNGC), the companies associated with the Merauke PSN are reportedly not listed as members of the Indonesia Global Compact Network (IGCN) based on publicly available information. Consequently, the specific commitments applicable to UNGC member companies do not formally bind these corporations. Nevertheless, the principles embodied within the UNGC, particularly those relating to human rights, environmental protection, labor standards, and ethical business conduct, remain relevant as normative benchmarks for assessing corporate responsibility in the context of the project (UN Global Compact Network Indonesia, n.d.).

An analysis based on *Environmental, Social, and Governance* (ESG) principles highlights three key dimensions relevant to the implementation of the Merauke National Strategic Project. From the environmental perspective, the large-scale land clearing associated with the project raises concerns regarding potential deforestation and environmental degradation, thereby necessitating appropriate mitigation measures to ensure long-term environmental sustainability in accordance with ESG principles. From the social perspective, concerns have been raised regarding the alleged neglect of indigenous customary land rights and the limited participation of indigenous communities in project-related decision-making processes. Accordingly, investment projects should continue to respect the rights of indigenous peoples and actively involve those directly affected by development activities. From the governance perspective, complaints submitted by indigenous communities suggest a lack of transparency in licensing procedures and community engagement processes. Reports also indicate that some customary landowners have resisted the transfer of their lands, giving rise to disputes with

project-related companies. Under these circumstances, customary land rights should remain respected and protected, as investment and economic development should not come at the expense of the cultural heritage, historical identity, and living traditions of indigenous communities.

The concept of *Corporate Sustainability* further emphasizes that companies should not focus exclusively on economic gains but must also consider the social and environmental consequences of their business activities. The Merauke PSN has the potential to generate substantial economic benefits for the state, reflecting the principle of economic sustainability. However, challenges remain in the social dimension, particularly regarding the meaningful inclusion of indigenous voices in project implementation. These concerns could be addressed by providing indigenous communities with greater opportunities to participate in decision-making processes and express their interests regarding the use of their customary territories. From an environmental perspective, approximately ten companies are expected to manage sugarcane plantations covering 637,420 hectares, with the possibility of further expansion in the future. Such a large-scale development initiative carries significant risks of ecological damage, including deforestation and ecosystem degradation. Consequently, these risks should be mitigated through strict compliance with Environmental Impact Assessment (*AMDAL*) requirements under Law Number 32 of 2009 concerning Environmental Protection and Management, as well as through effective environmental restoration measures for affected areas.

Disputes involving customary land rights frequently arise from overlapping land claims resulting from differences between customary land tenure systems and the state's formal land administration framework (Krismantoro, 2022). In the case of the Merauke Sugar National Strategic Project, uncertainty remains regarding whether violations of indigenous customary land rights have actually occurred. To date, there has been no definitive court decision conclusively determining that the project has violated indigenous customary land rights. In addition, the recognition and integration of indigenous territories within regional spatial planning frameworks remain incomplete. Nevertheless, reports alleging human rights violations and complaints submitted by indigenous communities continue to raise serious concerns. As a result, the current legal status of the Merauke Sugar PSN remains one of alleged and potential violations of indigenous customary land rights rather than legally established violations (Rikardus, 2025).

Legal Analysis of State and Corporate Responsibility for Alleged Human Rights Violations in the Merauke Sugar National Strategic Project

Based on the circumstances surrounding the Merauke Sugar National Strategic Project (PSN), it can be observed that serious concerns have emerged regarding alleged human rights violations affecting indigenous communities in South Papua during the implementation of the project. Although the project was initiated by the government to strengthen national food and energy security, it has generated significant criticism due to allegations that it has overlooked both human rights and the customary land rights of the Marind people and other local indigenous communities. From the perspective of Indonesian national law, indigenous peoples are entitled to legal protection under Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which recognizes and respects indigenous communities and their traditional rights, as well as Article 28I paragraph (3), which guarantees respect for indigenous identities and rights. Furthermore, Law Number 39 of 1999 concerning Human Rights provides that all Indonesian citizens are entitled to security, an adequate standard of living, and a healthy environment (Bayo et al., 2009). At the international level, instruments such as the *Universal Declaration of Human Rights* (UDHR) (Sears & Richemont, 2024) and the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) (Sears & Richemont, 2024) reinforce the protection of communities' rights to preserve their culture, livelihood, and social well-being. From the perspective of Satjipto Rahardjo's Progressive Legal Theory, law should function as a means of achieving justice and protection supported by legal certainty rather than as an instrument that harms human beings (Anisa Rizki Fadhila, 2021). Consequently, national development should not be pursued solely for economic growth without taking into account its impact on the rights of indigenous communities in South Papua.

The state bears the responsibility to respect, protect, and fulfill the human rights of indigenous peoples that may be affected by the implementation of the Merauke Sugar PSN, as mandated by both national and international legal frameworks. In this context, concerns have been raised regarding potential violations of the principle of *Free, Prior and Informed Consent* (FPIC), as indigenous communities are alleged to have been inadequately involved in meaningful consultation and decision-making processes related to the project (Aznannya, 2024). According to investigative findings reported by Project Multatuli, security personnel were allegedly involved in land-clearing activities, creating pressure on indigenous communities. Such circumstances are inconsistent with the standards for indigenous peoples' protection established under the *International Labour Organization* (ILO) Convention No. 169 (Bash, 2013) and the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) (Fitzmaurice, 2015), both of which serve as influential international legal instruments. In addition, Indonesia is bound by obligations under the ICESCR to safeguard cultural rights, food security, and the right to a healthy environment. In line with Satjipto Rahardjo's Progressive Legal Theory, the state should not apply the law rigidly but should ensure that legal norms function to

protect communities and uphold social justice (Faisal, 2023). Therefore, if indigenous lands are appropriated without adequate legal protection for indigenous peoples, the state may be regarded as failing to fulfill its constitutional and human rights obligations (Usman, 2020)

In addition to the state's responsibility to uphold legal and moral obligations concerning human rights, corporations involved in the Merauke Sugar PSN also bear responsibility for protecting human rights and ensuring environmental sustainability. Under Indonesian law, corporate social responsibility is mandated by Article 74 of Law Number 40 of 2007 concerning Limited Liability Companies, which requires companies operating in the natural resource sector to implement *Corporate Social Responsibility* (CSR) programs (Disemadi & Prananingtyas, 2020). From an international perspective, the *United Nations Guiding Principles on Business and Human Rights* (UNGPs) require corporations to undertake *human rights due diligence* in order to prevent adverse impacts on affected communities and the environment (Sanders, 2014). Furthermore, the *United Nations Global Compact* (UNGC) promotes the adoption of principles relating to human rights, environmental protection, labor standards, and ethical corporate governance (Ramadhani & Purbantina, 2024). Modern business practices also increasingly require companies to adhere to *Environmental, Social, and Governance* (ESG) principles, ensuring that business activities prioritize not only profitability but also long-term social and environmental sustainability (Huang, 2021). Accordingly, corporations should not exploit legal loopholes solely to advance commercial interests but must place human dignity and social justice at the center of their operations. If companies acquire land through improper means or contribute to adverse impacts on indigenous communities and the environment, they may be considered to have failed to fulfill their sustainability commitments and social responsibilities.

The human rights concerns associated with the Merauke Sugar PSN are also closely connected to the *Sustainable Development Goals* (SDGs), which emphasize sustainable development and the protection of vulnerable groups. In principle, the project should contribute to the achievement of SDG objectives, including poverty reduction, food security enhancement, environmental protection, and the reduction of social inequalities (United Nations, 2015). However, large-scale land acquisition and land conversion activities undertaken by both the government and corporations in South Papua may contribute to deforestation and the degradation of wetland ecosystems that serve as essential sources of livelihood for indigenous communities. Such outcomes are inconsistent with SDG 13 concerning climate action and SDG 15 concerning the protection of terrestrial ecosystems (United Nations, 2015). Moreover, development activities undertaken without meaningful participation from indigenous communities are inconsistent with ESG principles and the concept of sustainable business practices that have become globally recognized standards (Huang, 2021). Consistent with Satjipto Rahardjo's Progressive Legal Theory, law should prioritize social welfare and provide tangible benefits for society (Faisal, 2023). Therefore, neither state policies nor corporate actions should compromise indigenous rights in pursuit of investment objectives. Economic development that disregards human rights and environmental sustainability

risks generating social conflict and undermining the legitimacy of the PSN at both national and international levels (Jayusman et al., 2025).

Based on the foregoing discussion, it can be concluded that the alleged human rights violations associated with the Merauke Sugar National Strategic Project give rise to responsibilities for both the state and corporate actors to protect indigenous peoples and the environment. The state is obligated to comply with the mandates of the 1945 Constitution, the Human Rights Law, and international instruments ratified or recognized by Indonesia, including the UDHR and ICESCR, which safeguard indigenous peoples' rights to culture, livelihood, and customary lands. At the same time, corporations are required to implement CSR obligations while adhering to the principles embodied in the UNGPs, UNGC, and ESG frameworks to ensure that business activities respect human rights and support long-term sustainability. From the perspective of Satjipto Rahardjo's Progressive Legal Theory, law should function as an instrument for achieving justice and protecting society rather than merely legitimizing investment activities. Consequently, the Merauke Sugar PSN requires a comprehensive evaluation of both government policies and corporate conduct to ensure that economic development proceeds in a manner consistent with human rights protection, social justice, and environmental sustainability for indigenous communities.

Conclusion

Based on the analysis of the Merauke Sugar National Strategic Project, the extensive land area required for its implementation has created the potential for significant impacts on the customary land rights of indigenous peoples. An examination through both national and international legal frameworks indicates that while the project may contribute positively to national economic growth and support food and energy security objectives, it also presents risks that may undermine the rights of indigenous communities. The findings suggest that large-scale national investment initiatives should not be evaluated solely on the basis of their economic contributions but must also ensure the protection of indigenous peoples' customary land rights, cultural identity, and participation in decision-making processes. Therefore, sustainable development requires a balanced approach that accommodates both national economic interests and the rights of indigenous communities affected by investment activities.

Furthermore, both national and international legal instruments establish that the state has an obligation to respect, protect, and fulfill the rights of its citizens, including indigenous peoples. In the context of the Merauke Sugar National Strategic Project, the state bears responsibility for ensuring legal certainty, protecting customary land rights, and preventing potential human rights violations arising from project implementation. However, the analysis indicates that the government has not yet fully discharged these responsibilities in accordance with the standards established under national and international law, particularly regarding the meaningful participation and protection of indigenous communities. Consequently, future economic development policies and investment projects should be implemented in a manner that prioritizes human rights protection, social justice, and environmental sustainability while ensuring that indigenous

peoples are not disproportionately burdened by the pursuit of national development objectives.

References

Anggriana, P. R., & Putri Lusi, N. M. (2022). Dampak Implementasi Merauke Integrated Food and Energy Estate [Impacts of the Implementation of the Merauke Integrated Food and Energy Estate]. *Societas : Jurnal Ilmu Administrasi Dan Sosial*, *11*(02), 138–153. https://doi.org/10.35724/sjias.v11i02.4883

Anisa Rizki Fadhila, A. R. F. (2021). Teori Hukum Progresif (Prof. Dr. Satjipto Rahardjo, S.H.) [Progressive Legal Thought (Prof. Dr. Satjipto Rahardjo, S.H.)]. *SINDA: Comprehensive Journal of Islamic Social Studies*, *1*(1), 122–132. https://doi.org/10.28926/sinda.v1i1.966

Asrida Elisabeth. (2025). Konglomerat Sawit di PSN Tebu Merauke: Rebut Hak Ulayat, Dibeking Tentara dan Negara. *Project Multatuli*. https://projectmultatuli.org/konglomerat-sawit-di-psn-tebu-merauke-rebut-hak-ulayat-dibeking-tentara-dan-negara/

Aznannya, S. H. (2024). Beyond Formality: Transforming FPIC into a Tool for Indigenous Empowerment. *Sinergi International Journal of Law*, *2*(4), 325–337. https://doi.org/10.61194/law.v2i4.724

Bash, E. (2013). Understanding the Indigenous and Tribal Peoples Convention, 1989 (No. 169). In *Handbook for ILO Tripartite Constituents / International Labour standards Department* (Vol. 1, Number 169). http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_205225.pdf

Bayo, R., Wijaya, A. U., & Hadi, F. (2009). Pengakuan Masyarakat Adat dalam Peraturan Perundang-Undangan di Indonesia [Recognition of Indigenous Peoples in Indonesian Laws and Regulations]. *Jurnal Ilmu Hukum Wijaya Putra*, *1945*, 1–11. https://doi.org/https://doi.org/10.38156/jihwp.v1i1.87

Disemadi, H. S., & Prananingtyas, P. (2020). Kebijakan Corporate Social Responsibility (CSR) sebagai Strategi Hukum dalam Pemberdayaan Masyarakat di Indonesia [Corporate Social Responsibility (CSR) Policy as a Legal Strategy for Community Empowerment in Indonesia]. *Jurnal Wawasan Yuridika*, *4*(1), 1. https://doi.org/10.25072/jwy.v4i1.328

Doaly, T. (2025). PBB soal PSN Merauke, Koalisi Sebut Respon Pemerintah Tak Jujur. *Mongabay*. https://mongabay.co.id/2025/06/22/pbb-soal-psn-merauke-koalisi-sebut-respon-pemerintah-tak-jujur/

Faisal, A. (2023). Progressive Legal Thought Prof. Dr. Satjipto Rahardjo. *International Journal of Cross Knowledge*, *1*(2), 314–328. https://edujavare.com/index.php/IJCK/article/view/172%0Ahttps://edujavare.com/index.php/IJCK/article/download/172/127

Fitzmaurice, M. (2015). The 2007 United Nations Declaration on the Rights of Indigenous Peoples. *Austrian Review of International and European Law*, *17*(1), 139–265. https://doi.org/10.1163/15736512-90000006a

Huang, D. Z. X. (2021). Environmental, social and governance (ESG) activity and firm performance: a review and consolidation. *Accounting and Finance*, *61*(1), 335–360. https://doi.org/10.1111/acfi.12569

International Labour Oganization (ILO). (1998). *ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up ILO Declaration on*.

Jayusman, D., Shakhila, A., Pena, B., Saskia, E., Rantung, E., Febriyanti, H., & Pramesti, A. (2025). Penyalahgunaan Kekuasaan dan Viktimisasi Proyek Strategis Nasional di Pulau Rempang [Abuse of Power and the Victimization of National Strategic Projects on Rempang Island]. *Jurnal Hukum & Pembangunan*, *55*(2). https://doi.org/10.21143/jhp.vol55.no.2.1791

Krismantoro, D. (2022). Pengakuan Hak Masyarakat Adat Atas Tanah Ulayat: Analisis Hubungan Antara Hukum Nasional Dan Hukum Adat. *AKSELERASI: Jurnal Ilmiah Nasional*, *4*(2), 21–32. https://doi.org/10.54783/jin.v4i2.553

Lisa, M., Haskar, E., & Chofa, F. (2026). *Tinjauan Yuridis Perlindungan Hukum Masyarakat Adat Dalam Pelaksanaan Proyek Strategis Nasional*. *5*(1), 5208–5217.

Nation, U. G. A. (2007). *United Nations Declaration on the Rights of Indigenous Peoples*.

Nations, U. (2011). *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*. https://doi.org/10.1007/978-3-642-28036-8_100827

Ni Komang Putri Sari Sunari Wangi, Komang Febrinayanti Dantes, & Ketut Sudiatmaka. (2023). Analisis Yuridis Hak Ulayat Terhadap Kepemilikan Tanah Adat Berdasarkan Undang-Undang Nomor 5 Tahun 1960 Tentang Peraturan Dasar Pokok-Pokok Agraria. *Jurnal Ilmu Hukum Sui Generis*, *3*(3), 112–121. https://doi.org/10.23887/jih.v3i3.2606

Nugroho, G. A., Irsyad, A. W., & Zuhriyah, S. A. (2026). *ANALYSIS OF THE NATIONAL STRATEGIC PROJECT (PSN) FOOD ESTATE IN MERAUKE FROM THE PERSPECTIVE OF ISLAMIC LAW, HUMAN RIGHTS, AND THE ENVIRONMENT*. *1*(1), 1–19.

Nur Anisa. (2024). Perlindungan Hukum Hak Atas Tanah Ulayat Orang Asli Papua Terhadap Ekspansi Proyek Strategis Nasional Di Provinsi Papua Selatan. *Jurnal Hukum Cassowary*, *Vol. 1 No.*, 74–84.

Ramadhani, A. D., & Purbantina, A. P. (2024). Upaya PT Kalbe Farma dalam Mengadopsi Prinsip United Nations Global Compact Sebagai Suatu Bentuk Global Public Private Partnership (2019-2023) [PT Kalbe Farma's Efforts to Adopt the United Nations Global Compact Principles as a Form of Global Public–Priva. *Jurnal Studi Diplomasi Dan Keamanan*. https://doi.org/https://doi.org/10.31315/jsdk.v16i2.11279

Republik Indonesia. (2024). Peraturan Menteri Agraria dan Tata Ruang/Kepala Badan Pertanahan Nasional Republik Indonesia Nomor 14 Tahun 2024 tentang Pendaftaran Tanah Hak Ulayat Masyarakat. *Berita Negara Republik Indonesia Tahun 2024 Nomor 149*. https://peraturan.bpk.go.id/Details/280736/permen-atrkepala-bpn-no-14-tahun-2024

Rikardus, E. (2025). Ketahanan Pangan dan Hak Akses Lahan bagi Masyarakat Adat di Merauke: Kajian Kritis atas Implementasi Kebijakan Publik. *RIGGS: Journal of Artificial Intelligence and Digital Business*, *4*(1), 81–88. https://doi.org/10.31004/riggs.v4i1.375

Rizkiyah, N., & Rozci, F. (2025). Kajian Dampak Keberadaaan Perkebunan Tebu Terhadap Kondisi Sosial Ekonomi Masyarakat Kecpaten Malangamatan Gondanglegi Kabu. *Jurnal Ilmiah Manajemen Agribisnis*, *13*(1), 14–19. https://doi.org/10.33005/jimaemagri.v13i1.39

Sears, J., & Richemont, C. (2024). Eleanor Roosevelt and the Universal Declaration of Human Right. *The Task Force – Celebrating Eleanor Roosevelt*. https://www.fdrlibrary.org/documents/356632/390886/sears.pdf

Sefriani, Thontowi, J., & Wartini, S. (2023). Effectuating Food Sovereignty without Violating the Rights of Indigenous People: A Case Study of the Merauke Integrated Food and Energy Estate Project. *KnE Social Sciences*, *2023*, 616–624. https://doi.org/10.18502/kss.v8i9.13376

Soembari, R., & Yandendai, L. (2024). Perlindungan Hukum Hak Atas Tanah Ulayat Orang Asli Papua Terhadap Ekspansi Proyek Strategis Nasional Di Provinsi Papua Selatan [Legal Protection of Customary Land Rights for Indigenous Papuans Against the Expansion of National Strategic Projects in South. *Jurnal Hukum Cassowary*, *Vol. 1 No.*, 74–84. https://doi.org/https://doi.org/10.65675/jhc.v2i2.201

Soraya, T. F., & Handayani, S. W. (2025). Perlindungan Hak Ulayat dalam Sistem Hukum Agraria Nasional di Tengah Arus Pembangunan Nasional. *Al-Zayn: Jurnal Ilmu Sosial & Hukum*, *3*(5), 6710–6718.

Sukmawan, Y. A., & Damayanti, D. (2025). Metode Penelitian Hukum Normatif dan Empiris sebagai Strategi Penguatan Perspektif Kajian Ilmu Hukum [Normative and Empirical Legal Research Methods as a Strategy for Strengthening Legal Studies Perspectives]. *NoLaj*, *4*(1), 114–128. https://doi.org/https://doi.org/10.32801/nolaj.v4i3.116

Tekege, P. (2024). Hakikat Pengakuan Dan Perlindungan Hak Ulayat Atas Masyarakat Hukum Adat Di Papua. *Innovative: Journal Of Social Science Research*, *4*, 19.

UN Global Compact Network Indonesia. (n.d.). *The Ten Principles of the UN Global Compact*.

Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, Sekretariat Jenderal MPR RI 1 (2020).

Undang-Undang Nomor 39 Tahun 1999 Tentang Hak Asasi Manusia, 33 Indonesia 1 (1999). http://www2.warwick.ac.uk/fac/sci/whri/research/mushroomresearch/mushroomquality/fungienvironment%0Ahttps://us.vwr.com/assetsvc/asset/en_US/id/16490607/contents%0Ahttp://www.hse.gov.uk/pubns/indg373hp.pdf

United Nation. (1948). *Universal Declaration of Human Rights*.

United Nation. (1966). *International Covenant on Economic, Social and Cultural Rights*.

United Nation. (2015). *Transforming our world: the 2030 Agenda for Sustainable Development*.

United Nations. (2015). The 2030 Agenda for Sustainable Development's 17 Sustainable Development Goals (SDGs). *4th SDG Youth Summer Camp – SDG Resource Document*. https://sdgs.un.org/sites/default/files/2020-09/SDG Resource Document_Targets Overview.pdf

Usman, A. H. (2020). Perlindungan Hukum Hak Milik Atas Tanah Adat Setelah Berlakunya Undang-Undang Pokok Agraria [Legal Protection of Ownership Rights over Customary Land Following the Enactment of the Basic Agrarian Law]. *Jurnal Kepastian Hukum Dan Keadilan*, *1*(2), 60. https://doi.org/10.32502/khdk.v1i2.2593

Yuldiana. (2024). *Legal Certainty for Resolving Conflicts of Ulayat Land in the Investment Sector in Merauke Regency*. *01*(1), 13–39. https://doi.org/10.20473/MI.V7I1.44976.Animha

Yuwono, F. P. (2024). Legal Implications of the Merauke Food Estate: A Critical Analysis of Customary Rights and Environmental Concerns. *Lex Publica*, *11*(2), 294–316. https://doi.org/10.58829/lp.11.2.2024.274

Acknowledgments

The author would like to express sincere gratitude to the supervisors and lecturers of the Faculty of Law, Universitas Internasional Batam, for their valuable guidance, constructive feedback, and academic support throughout the completion of this research. Appreciation is also extended to all researchers, institutions, and organizations whose publications, legal materials, and scholarly contributions have provided important references for this study. The author further acknowledges the support of family, colleagues, and peers whose encouragement and assistance contributed to the successful completion of this research. This study did not receive any specific grant from funding agencies in the public, commercial, or not-for-profit sectors.

Competing Interest

The author states that there is no conflict of interest in the publication of this article.

Generative AI Statement

During the preparation of this manuscript, the author used ChatGPT (OpenAI) as a supportive tool to assist with language refinement, academic translation, structural organization, and readability improvement. Following this process, the author critically reviewed, edited, verified, and validated all generated content to ensure its accuracy, consistency, and academic integrity. The author maintains full responsibility for the content, arguments, interpretations, and conclusions presented in this manuscript. Artificial intelligence was used solely as a writing-support tool and is not credited with authorship. No original legal analysis, interpretation, findings, or conclusions were generated by artificial intelligence without human review and oversight.