THE EXISTENCE OF PT. FREEPORT INDONESIA: EFFECTS FOR INDIGENOUS PEOPLES AND THE INVESTMENT CLIMATE IN PAPUA

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ABSTRACT

Objective: This study attempts to identify and assess the social presence of PT. Freeport Indonesia's impact on local public customs, particularly the sizable Amungme and Komoro tribes, as well as the Papuan investment climate. To gather information and meet the research goals, a qualitative approach or sociological juridical research is used.

Method: This study, which employs a qualitative methodology, was carried out near PT. Freeport Indonesia in the Papua Province's Mimika Regency. The Amungme and Komoro Tribes, two significant tribes in the area, have opposing views on the existence of PT. Freeport Indonesia. While the second tribe compromises, the first tribe is very reactive. The approach used to acquire the data was conducting interviews with community leaders and distributing questionnaires to residents of the Amungme and Komoro traditional groupings. Pay close attention to people who are impacted by PT. Freeport Indonesia and those who receive business advice from the organization.

Result: The study’s findings indicate that the local people is affected by the physical environment, including tailings accumulation (mine industry waste) and the extraction of customary land outside of the designated bounds, as indicated in the January Agreement of 1974. PT Freeport's presence, on the other hand, has prompted other businesses to invest in Indonesia and has supported the growth of local communities' entrepreneurs through the establishment of business incubators that focus on ventures in the fields of agriculture, animal husbandry, cooperatives, transportation services, the building materials sector (tela stone, sandstone, processed wood), landscaping, and commercial art.

Conclusion: PT. Freeport Indonesia is very closely related to physical environmental impacts, including the accumulation of tailings (mining industrial waste) and the taking of customary land far outside of the agreed boundaries, as stated in the January Agreement made in 1974. As a result, it is biased towards the emergence of rejection of the existence of PT. Freeport Indonesia in Mimika R. The opposition to PT. Freeport Indonesia's presence is a sign of a welfare dispute. On the one hand, strong concentration comes with good fortune, while on the other, helplessness comes with all of its pain.

Keywords: PT. Freeport Indonesia, public custom, investment climate.

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A EXISTÊNCIA DA PT. FREEPORT INDONÉSIA: EFEITOS PARA OS POVOS INDÍGENAS E O CLIMA DE INVESTIMENTO NA PAPUA

RESUMO

Objetivo: Este estudo procura identificar e avaliar a presença social da PT. O impacto de Freeport Indonésia sobre os costumes públicos locais, particularmente as tribos Amungme e Komoro, bem como o clima de investimento papuano. Para reunir informações e atingir os objetivos de pesquisa, utiliza-se uma abordagem qualitativa ou pesquisa jurídica sociológica.

Método: Este estudo, que emprega uma metodologia qualitativa, foi realizado perto da PT. Freeport Indonésia na Regência de Mimika da Província de Papua. As tribos Amungme e Komoro, duas tribos significativas na área, têm opiniões opostas sobre a existência do PT. Freeport da Indonésia. Enquanto a segunda tribo se compromete, a primeira tribo é muito reativa. A abordagem utilizada para adquirir os dados foi a realização de entrevistas com líderes comunitários e distribuição de questionários aos residentes dos agrupamentos tradicionais Amungme e Komoro. Preste muita atenção às pessoas que são impactadas pela PT. Freeport Indonésia e aqueles que recebem conselhos de negócios da organização.

Resultado: Os resultados do estudo indicam que a população local é afetada pelo ambiente físico, incluindo a acumulação de rejeitos (resíduos da indústria de minas) e a extração de terras habituais fora dos limites designados, conforme indicado no Acordo de janeiro de 1974. A presença da PT Freeport, por outro lado, levou outras empresas a investir na Indonésia e tem apoiado o crescimento dos empresários das comunidades locais através da criação de incubadoras de empresas que se concentram em empreendimentos nas áreas de agricultura, pecuária, cooperativas, serviços de transporte, o setor de materiais de construção (pedra da tela, arenito, madeira processada), paisagismo e arte comercial.

Conclusão: PT. Freeport Indonésia está intimamente relacionada com impactos ambientais físicos, incluindo a acumulação de rejeitos (resíduos industriais da mineração) e a tomada de terras habituais muito além dos limites acordados, como afirmado no Acordo de janeiro feito em 1974. Como resultado, é tendenciosa para o surgimento da rejeição à existência do PT. Freeport Indonésia em Mimika R. A oposição ao PT. A presença da Freeport Indonésia é um sinal de uma disputa pelo bem-estar dos animais. Por um lado, forte concentração vem com boa sorte, enquanto por outro, a impotência vem com toda a sua dor.

Palavras-chave: PT. Freeport Indonésia, costume público, clima de investimento.

1 INTRODUCTION

The Laws of Numbers 32 of 2004 Concerning Regional Government and Numbers 33 of 2004 Concerning Financial Balance between the Central Government and Regional Governments have altered the power of the regions to govern their regions, including items that become sources of regional income. Before this law was passed, the government's investment programs solely benefited the central government and did not significantly benefit the regions that were designated as investment locations or areas. In other words, because development is only concentrated in the center, there is not an adequate contribution to development in the areas. The federal government ought to pay its fair share.
In essence, the regional government and the national government are both responsible for the strategy that will be used to promote future investment activity in the regions. Understanding the idea of a unitary state provides the foundation for this concept. In order to implement policies in the area of investment, the central and regional governments should have a shared vision and mission that prioritizes the welfare of society as a whole.

The surrounding community is anticipated to gain from the presence of PT. Freeport Indonesia as one of the investors in the mining sector, however there are barriers that the community must overcome, such as low levels of education, a lack of expertise, and untrained workers. Supposedly, despite all of its flaws and restrictions, the neighborhood can still find employment in the stage of construction, which needs a lot of unskilled and semi-skilled laborers.

Skills-based migrants from outside of Papua cause issues when they arrive since it leads to social disparity in the area around PT. Freeport. The corporation and the nearby citizens or communities may clash as a result of this divide, which becomes a latent issue. The nearby population, who were formerly landowners, felt economically and socially excluded by the mining company's existence. On the other side, PT. Freeport Indonesia, one of Indonesia's major investors and the largest taxpayer, is a very trustworthy partner for the mining project's government. This stigma starkly contrasts with the circumstances of those who live in poverty, operate in a conventional (barter) industry, and fall behind in their educational pursuits.

Based on the foregoing, the authors are interested in doing study to: 1) identify and analyze the social implications of PT. Freeport Indonesia for indigenous peoples living near mining sites; and 2) identify and analyze the impact of PT. Freeport Indonesia on the investment climate in Papua.

2 THEORETICAL FRAMEWORK

According to paragraph 3 of Article 33, the state has sovereignty over land, water, and the natural resources found there and must use them for the benefit of the populace. State control over the aforementioned items serves as a preventative measure to avoid exploiting all of that potential to oppress others (Manan, 1999). In addition, it is important to make sure that all of these potentials are effectively used for the benefit of the populace.
The Government of Indonesia permits foreign investment as long as it is mindful of the welfare of the Indonesian people, adhering to the law above as well as Law Number 1 of 1967 concerning Foreign Investment and Law Number 6 of 1968 for Domestic Investment, which was later refined by Law (UU) Number 25 of 2007 concerning Investment. Foreign investors have numerous opportunities to make their own investments in Indonesia. Similar to this, international investors are free to completely use their influence and make judgments as long as they do not contravene Indonesian law or public order.

2.1 FOREIGN INVESTMENT

The phrase "foreign investment" (PMA) describes investments made in a nation by people, businesses, or other foreign entities. This investment can be made by foreign parties in the form of money, technology, labor, and numerous other resources in order to launch, grow, or expand a business in that nation.

Because it can significantly contribute to economic growth, job creation, technology transfer, higher levels of productivity, and industrial diversification, FDI plays a crucial role in a nation's economy. Additionally, it can aid in developing specific economic sectors, training the workforce, and improving infrastructure.

Countries frequently promote foreign investment by providing rewards, helpful legislation, and a favorable economic climate. Foreign investment, however, raises a number of other challenges that require attention, including the possibility of economic dependence on foreign parties, threats to national sovereignty, as well as effects on the environment and local communities.

In an effort to promote foreign investment, the Indonesian government has implemented a number of reforms and changes. This include streamlining licensing procedures, enhancing the business climate, and offering incentives to international investors. However, just like in other nations, there are also difficulties and factors to take into account when it comes to FDI, such as legal and regulatory obstacles, political stability, and socio-environmental factors.

2.2 JUSTICE CONCEPT

Giving everyone equal and fair rights and treatment is a moral and philosophical notion known as justice. Legal, political, economic, social, and cultural facets of life are
all included in the concept of justice. This principle attempts to guarantee that everyone is treated equally, without prejudice or unjust exclusion.

The two aspects of justice that Jhon Stuart Mill emphasizes in Lebacqz (2011) are as follows: Justice is a reality justice, and essence. John Stuart Mill asserts that the existence of justice is a moral requirement and that morality is the discussion of right and wrong. Human welfare should be the main goal of these moral guidelines. Justice is a reflection of human moral and ethical ambitions to build a more civilized society where everyone’s rights and responsibilities are respected and upheld. However, how justice is actually applied might differ based on culture, the social environment, societal ideals, and how justice is actually defined.

The power granted to people to carry out justice is, nonetheless, what constitutes its core. Character and personal integrity growth are two more things that are frequently linked to moral essence. In coping with complex or challenging situations, those who live by moral values frequently have strong and steadfast principles. This can aid people in making wise choices and improve their surroundings both for themselves and other people.

2.3 LEGAL PROTECTION THEORY

Studying the topic of legal protection is crucial because it focuses on the legal protection provided to those who are vulnerable both economically and legally. Creating order and calm so that people can enjoy their dignity as human beings requires legal protection, according to Setiono (2004). Legal protection is an action or endeavor to safeguard society against arbitrary actions by authorities that are not in conformity with the rule of law.

Muchsin (2006) divides legal protection into two categories, namely: Legal defense may take the form of protection from harm (prevention). The goal of the preventative approach in law is to stop wrongdoings or undesirable outcomes before they happen. It entails a range of procedures, guidelines, and regulations created to lower risk, stop legal infractions, and encourage adherence to the law. The fundamental objective is to prevent legal issues from the outset in order to reduce possible losses and legal repercussions.

The second, more restrictive legal protection, which takes the shape of additional penalties like fines, jail time, and other penalties imposed after a dispute or criminal
action, is the final line of defense.

2.4 PREVIOUS RESEARCH

Tahupeioiry has investigated how customary land is used in plantations and places with abundant mineral resources (2012). Investments in customary land frequently result in disputes between investors, private parties, and the government; this scenario is brought on by a number of associated normative and empirical circumstances. By preserving human rights, the conflict is resolved via an honest and open discourse. The local government's function as a facilitator, coordinator, and policy maker is crucial. In order to improve the welfare of the people living in these customary lands, it is also crucial to increase the quality of human resources and provide skills.

3 METHODOLOGY

This study, which employs a qualitative methodology, was carried out near PT. Freeport Indonesia in the Papua Province's Mimika Regency. The Amungme and Komoro Tribes, two significant tribes in the area, have opposing views on the existence of PT. Freeport Indonesia. While the second tribe compromises, the first tribe is very reactive.

The approach used to acquire the data was conducting interviews with community leaders and distributing questionnaires to residents of the Amungme and Komoro traditional groupings. Pay close attention to people who are impacted by PT. Freeport Indonesia and those who receive business advice from the organization.

4 RESULTS AND DISCUSSION

In the Papua region, Mimika Regency was established following its split from Fak-fak Regency. Indigenous people in Mimika hail from a variety of ethnic groupings, with the Amungme and Komoro tribes being the two biggest in the area. The Amungme tribe resides in the northernmost portion of the Mimika region, in a place known as Amungsa. The Komoro tribe, on the other hand, lives in the southern area, which contains lowlands.

Freeport Mc Me Ran Couper Could Inc. (81.28%), PT. Indocopper Inveetama Cooperation (9.36%), and the Government of the Republic of Indonesia (9.36%) possess the majority of shares in PT. Freeport Indonesia (PTFI), a foreign capital business. In the Mimika Regency, Papua Province, PT. Freeport Indonesia runs a sizable copper, gold,
and silver mine with a very sizable contract of work area that encompasses around one-third of the Mimika region. This is due to the fact that the project activities also involve the collection of waste, building of roads, and the creation of other amenities. Investments can undoubtedly help with national development, but they shouldn't have a negative impact on local communities' social lives.

PT. Freeport Indonesia began exploitation operations at Ertsberg in July 1967. However, the area's native inhabitants assert that the mining region is their ancient home. They consider the mountain's summit to be their own as well as a sacred location comparable to a mother's head (Ninggole). Without their consent, PT. Freeport Indonesia's presence is regarded as an infringement on their rights. This is one of the issues that PT. Freeport has with the indigenous people in the area. The Amungme tribe responded strongly and opposed the existence of PT. Freeport, whereas the Comoros are compromising. These two tribes are the largest in Mimika.

In reality, PT. Freeport has adopted a number of mediation measures, one of which was by announcing a policy of allocating 1% of company office profits for the benefit of the neighborhood and signing the January Agreement in 1974. But it hasn't been able to lessen the disparities and tensions that already exist. Because 1) the content did not meet community expectations, 2) the appropriate content was not executed correctly, diverging from the agreement, and 3) the indigenous Papuans were further excluded, the January Agreement ended up being a new source of conflict.

4.1 PT. FREEPORT INDONESIA FOR INDIGENOUS PEOPLES AROUND MINING AREAS

Since social change is influenced by physical variables that play a significant role in addition to ideas, discussing social repercussions is closely tied to discussing the impact on the physical environment. In certain places, alterations to the physical environment have a direct impact on how the Comoros live their social lives.

The issue of tailings waste accumulation, which harms the ecology along the river flow, is one of the real effects on the ecosystem. Tailings are sand deposits that remain after the process of separating copper, gold and silver minerals from ore carried out by PT. Freeport in mining activities. Ore and other natural materials are left behind and dumped into rivers, where they settle in low-lying places.
Due to the accumulation of tailings over the course of 33 years of production (beginning in December 1972) as well as present and anticipated output for the following ten years, PT. Freeport Indonesia needs a lowland area of around 230 km2 to store and manage tailings waste. Due to the need to dispose of around 95% of the processed raw material, this residual sand building happens quickly. For instance, if PT. Freeport produced 200,000 tons per day in 2000, that would mean that 190,000 tons of sand residue needed to be disposed of everyday. In actuality, this trend accelerated until December 2005. The majority of the populations residing in low-lying areas are made up of Comorians, particularly the Tipuka and Nawaripi sub-tribes, who mostly rely on natural resource collection for their means of subsistence. Natural resources that provide food that can be consumed directly are extremely important to their way of life.

The region was once primary forest and sago forest before it was used as a tailings storage facility. The community can embrace a lifestyle of natural resource collection thanks to the presence of this kind of forest. The Comoros have a way of life known as the "3S," or Sagu-Sampan-Sungai. The main food from sago palms is flour, while the leaves are used to create hut roofs. Forest trees also produce fruits, herbal medicines, and wood for constructing homes. Rivers serve as a source of food and water for daily life in addition to being a means of transportation.

The primary forest was covered with tailings, which caused the vegetation to die and the rivers to become polluted. As a result, the Komoro Nawarapi and Tipuka populations had to drastically alter their traditional ways of life. Visually, the woodland has become a tailings field that cannot be exploited as it once was. Even though the region was still a deep forest with many sago trees flourishing at the time, the community had a clear sense of the borders of their ownership and this property was in fact their customary territory.

The Comoros believe they have been hit by a tragedy that could impair their life in the long run due to the large swaths of tailings that cover the forest. Shocking adjustments to lifestyle and employment are a significant barrier for anyone used to living in harmony with environment. Since their level of grief and trauma is relatively severe, as demonstrated by this research, it is necessary to restore their land to its previous condition. This endeavor is demonstrated by the recognition program, in which PT. Freeport Indonesia assists locals whose land is covered in tailings with a variety of facilities.
Although new roads that serve as embankments have been created, these roads are owned by PT. Freeport Indonesia and cannot be utilized by public transportation, hence the population's dependence on nature has turned to dependency on PT. Freeport Indonesia. Due to this, the Komoro Nawaripi people who live in the area of Kali Kopi now have to rely on the very few vehicles given by PT. Freeport Indonesia if they want to travel into the city. Dependence on foreigners represents a big societal shift for the Comoros because earlier they were free individuals who could do as they pleased. Now, if you wish to travel, you must be patient and wait for PT. Freeport to offer transportation. Conflict between the Nawaripi people and PT. Freeport Indonesia resulted from the mounting discontent.

As was already mentioned, an agreement between PT. Freeport Indonesia and the Amungme community led to the 1974 January Agreement. The borders of the areas that PT. Freeport Indonesia may administer and those that may not are intended to be regulated by this agreement. However, a number of respondents claim that the corporation has grabbed customary property well beyond the limit specified in the agreement. Adding the area of the City of Tembagapura, clearing Camp 50 and 59 land, and taking land in Kwangi Lama for housing for employees of PT. Freeport Indonesia are examples of cases where the Amungme people's customary lands were taken by companies.

The January Agreement is viewed negatively by the Amungme tribe as being opaque and harmful to them since PT. Freeport Indonesia is thought to have manipulated its terms. The accord neglected fundamental issues like welfare, equality, and education. One of the articles that really offended the people was article 6 which regulates security and order, which gave full responsibility for security to the Indonesian police in Tembagapura, so that local people were not allowed to enter.

The placement of the Police (Polisi Resor) and Kodim (Military District Command) offices within Kuala Kencana City shows that the focus of security is more on the protection of PT. Freeport Indonesia than the general public. The location which is far from downtown Timika is difficult for the community to reach and gives the impression that the military and police are company guards, not community protectors.

Therefore, the January Agreement became a source of conflict because first, the contents of the agreement were not in accordance with the demands of the community. Second, the appropriate content was not implemented properly, even deviating from the initial agreement, and third, the agreement further marginalized indigenous Papuans.
addition, the fund policy of 1% of the company's gross profit issued by PT. Freeport Indonesia is also causing problems. Different interpretations about who is entitled to receive these funds, for what purpose, and who has the authority to manage them is a source of conflict because interpretations vary depending on the interests of each party.

4.2 THE IMPACT OF THE EXISTENCE OF PT. FREEPORT INDONESIA FOR THE INVESTMENT CLIMATE IN PAPUA

In principle, investment is a necessity that is relevant to anyone, be it individuals, institutions, companies, or society in general. Investment is important because it is one way to plan for an uncertain future to become more certain. Investment can be thought of as the act of "setting aside" current funds with the hope of obtaining returns in the future, aiming to achieve a better living situation in the future.

Bearing in mind that investment has become a necessity, it is understandable that investment is one of the drivers of development and progress for every individual/agency. However, on the other hand, investment can also be a factor driving potential losses, both on a limited scale and on a larger scale.

In the perspective of PT. Freeport Indonesia, the presence of a mining project in Mimika Regency has succeeded in producing positive changes in the environment around Timika and the Papua region, as well as on a national scale. Based on the views of several respondents, the positive effects arising from the existence of PT. Freeport Indonesia in supporting the investment climate and national development can be summarized as follows:

a. Encouraging other foreign investment into Papua

Investors' interest in pouring capital into Indonesia, particularly in the mining sector, has been affected by the existence of PT. Freeport Indonesia, particularly after the discovery of the Grasberg ore reserves. The Province of Papua in particular is more interested in investing now that they may benefit from PT. Freeport Indonesia's experience in both technical and non-technical areas, such as community development initiatives. In addition, more comprehensive general and economic infrastructure is currently accessible, particularly in the Mimika Regency. Naturally, the presence of mining investors will aid in reducing isolation in the region and encourage the construction of new infrastructure.

b. National Private Sector Growth
In Mimika, the national private sector—on a large, medium, and small scale—has expanded quickly. PT. Freeport Indonesia has been transferred and contracted to national private firms as part of the present policy of privatization and empowering the domestic business community. There are now 22 firms that work as contractors for PT. Freeport Indonesia, which meets a variety of demands both directly and indirectly to support mining activities, which make up the company's primary business.

c. People's Economic Development

A expanding economic sector that engages the local and outside population in Papua Province is another advantage of PT. Freeport Indonesia's presence. Communities that had engaged in concoction activities or had a limited awareness of the market economy have now seen a rise in the number of locals with an entrepreneurial spirit. Through the Business Incubator program, which includes companies in the agricultural, animal husbandry, cooperative, transportation, construction materials (slate, sandstone, processed wood), garden, and arts industries, PT. Freeport Indonesia has supported local entrepreneurs in particular.

In addition to the activities already mentioned, PT. Freeport Indonesia also engages in a number of other initiatives to raise the standard of living in the neighborhood. This is done both as part of initiatives that have been planned from the beginning and as compensation for the detrimental effects of mining activities. The goals of these initiatives are to maintain PT. Freeport, serve the needs of the federal and local governments, and enhance the welfare of the neighborhood.

5 CONCLUSION

1. PT. Freeport Indonesia is very closely related to physical environmental impacts, including the accumulation of tailings (mining industrial waste) and the taking of customary land far outside of the agreed boundaries, as stated in the January Agreement made in 1974. As a result, it is biased towards the emergence of rejection of the existence of PT. Freeport Indonesia in Mimika R. The opposition to PT. Freeport Indonesia's presence is a sign of a welfare dispute. On the one hand, strong concentration comes with good fortune, while on the other, helplessness comes with all of its pain.

2. The presence of PT. Freeport Indonesia in Papua Province, especially after the discovery of the Grasberg ore reserves, has had a positive impact on the
investment climate in Indonesia, especially in the mining sector. This encourages the interest of investors to invest in this country. In addition, the existence of PT. Freeport Indonesia also contributes to the development of the people's economic sector which involves the community, both from outside and indigenous people in Papua. Previously, people in the area might only be used to simple economics such as concocting, but now an entrepreneurial spirit has grown among the local population. In particular, PT. Freeport Indonesia fosters local entrepreneurs through the Business Incubator program which focuses on businesses in various sectors, such as agriculture, animal husbandry, cooperatives, the building materials industry, and landscaping. This program aims to increase the involvement of local communities in economic activities and provide opportunities for them to participate in economic development in their areas. With the growing entrepreneurial spirit among local residents and the support from PT. Freeport Indonesia, it is hoped that it will create a greater positive impact in terms of increasing welfare and economic development in Papua.
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Law Number 25 of 2007 concerning Investment

Law Number 1 of 1967 concerning Foreign Investment

Law Number 6 of 1968 for Domestic Investment