JUSTICE PERSPECTIVES ON BP TANGGUH'S CLAIM TO CORPORATE SOCIAL RESPONSIBILITY IN BINTUNI BAY

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ABSTRACT

Objective: This study is to determine and analyze the accountability of BP Tangguh and the Government concerning the rights of indigenous peoples in areas affected by BP Tangguh's operations. The focus is on evaluating these accountabilities through the lens of John Rawls' Theory of Justice. The study aims to identify any disparities between the proclaimed Corporate Social Responsibility (CSR) initiatives by BP Tangguh in Bintuni Bay and the justice values advocated by Rawls.

Theoretical Framework: John Rawls' renowned framework, characterized by its emphasis on principles of justice, fairness, and equity, serves as a powerful tool for evaluating the actions and responsibilities of BP Tangguh and the Government with regard to indigenous communities. This framework offers a comprehensive lens through which one can critically examine the social, economic, and environmental impacts of corporate activities on these communities.

Methodology: This research adopts a socio-legal research approach with a qualitative methodology. The data collection process incorporates observation, interviews, and literature study methods. Through these methods, the study aims to gather comprehensive insights into the social conditions of the communities around BP Tangguh's operational area and assess the effectiveness of CSR initiatives in promoting justice values.

Results and Conclusion: The results of the study reveal significant disparities between the social conditions of the affected communities and the CSR claims made by BP Tangguh. This suggests a misalignment with the justice values advocated by Rawls. The study concludes that, in practice, the proclaimed Corporate Social Responsibility initiatives by BP Tangguh in Bintuni Bay fall short of reflecting the principles of justice put forward by John Rawls.

Originality/Value: The originality and value of this study lie in its application of John Rawls' Theory of Justice to assess the accountability of BP Tangguh and the Government in relation to the rights of indigenous peoples. By employing a socio-legal research approach, the study contributes to the ongoing discourse on corporate accountability and social justice, shedding light on the practical implications of CSR initiatives in affected areas. The findings of this study may inform policy recommendations and contribute to the development of more equitable practices in the interactions between corporations, governments, and indigenous communities.

Keywords: BP tangguh, corporate social responsibility, justice and indigenous peoples.

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RESUMO


Estrutura Teórica: A estrutura de renome de John Rawls, caracterizada por sua ênfase nos princípios de justiça, justiça e equidade, serve como uma ferramenta poderosa para avaliar as ações e responsabilidades da BP Tangguh e do Governo em relação às comunidades indígenas. Essa estrutura oferece uma lente abrangente por meio da qual é possível examinar criticamente os impactos sociais, econômicos e ambientais das atividades corporativas nessas comunidades.

Metodologia: Esta pesquisa adota uma abordagem de pesquisa sócio-legal com uma metodologia qualitativa. O processo de coleta de dados incorpora observação, entrevistas e métodos de estudo de literatura. Através destes métodos, o estudo visa recolher conhecimentos abrangentes sobre as condições sociais das comunidades em torno da área operacional da BP Tangguh e avaliar a eficácia das iniciativas de RSE na promoção dos valores da justiça.

Resultados e Conclusão: Os resultados do estudo revelam disparidades significativas entre as condições sociais das comunidades afetadas e as alegações de RSE feitas pela BP Tangguh. Isto sugere um desalinhamento com os valores da justiça defendidos por Rawls. O estudo conclui que, na prática, as proclamadas iniciativas de Responsabilidade Social Corporativa da BP Tangguh, na Baía de Bintuni, não refletem os princípios de justiça propostos por John Rawls.

Originalidade/valor: A originalidade e o valor deste estudo estão na aplicação da Teoria da Justiça de John Rawls para avaliar a responsabilidade da BP Tangguh e do Governo em relação aos direitos dos povos indígenas. Ao empregar uma abordagem de pesquisa sociojurídica, o estudo contribui para o discurso contínuo sobre a responsabilidade corporativa e a justiça social, lançando luz sobre as implicações práticas das iniciativas de RSE nas áreas afetadas. As conclusões deste estudo podem servir de base para recomendações políticas e contribuir para o desenvolvimento de práticas mais equitativas nas interações entre empresas, governos e comunidades indígenas.

Palavras-chave: BP tangguh, responsabilidade social corporativa, justiça e povos indígenas.

RESUMEN

Objetivo: El presente estudio tiene por objeto determinar y analizar la responsabilidad de BP Tangguh y del Gobierno en relación con los derechos de los pueblos indígenas en las zonas afectadas por las operaciones de BP Tangguh. El enfoque está en evaluar estas responsabilidades a través de la lente de la Teoría de la Justicia de John Rawls. El estudio tiene como objetivo identificar cualquier disparidad entre las iniciativas proclamadas de Responsabilidad Social Corporativa (RSC) de BP Tangguh en Bintuni Bay y los valores de justicia defendidos por Rawls.
Marco teórico: El reconocido marco de John Rawls, caracterizado por su énfasis en los principios de justicia, equidad y equidad, sirve como una poderosa herramienta para evaluar las acciones y responsabilidades de BP Tangguh y el Gobierno con respecto a las comunidades indígenas. Este marco ofrece una lente integral a través de la cual uno puede examinar críticamente los impactos sociales, económicos y ambientales de las actividades corporativas en estas comunidades.

Metodología: Esta investigación adopta un enfoque de investigación socio-legal con una metodología cualitativa. El proceso de recolección de datos incorpora métodos de observación, entrevistas y estudio de literatura. A través de estos métodos, el estudio tiene como objetivo recopilar información exhaustiva sobre las condiciones sociales de las comunidades alrededor del área operativa de BP Tangguh y evaluar la efectividad de las iniciativas de RSE en la promoción de los valores de la justicia.

Resultados y conclusión: Los resultados del estudio revelan disparidades significativas entre las condiciones sociales de las comunidades afectadas y las afirmaciones de RSC hechas por BP Tangguh. Esto sugiere un desalineamiento con los valores de justicia defendidos por BP Tangguh en la bahía de Bintuni no reflejan los principios de justicia presentados por John Rawls.

Originalidad/Valor: La originalidad y el valor de este estudio radican en su aplicación de la Teoría de la Justicia de John Rawls para evaluar la responsabilidad de BP Tangguh y el Gobierno en relación con los derechos de los pueblos indígenas. Al emplear un enfoque de investigación socio-legal, el estudio contribuye al discurso en curso sobre la responsabilidad corporativa y la justicia social, arrojando luz sobre las implicaciones prácticas de las iniciativas de RSE en las áreas afectadas. Las conclusiones de este estudio pueden servir de base para las recomendaciones de política y contribuir al desarrollo de prácticas más equitativas en las interacciones entre las empresas, los gobiernos y las comunidades indígenas.

Palabras clave: BP Tangguh, responsabilidad social corporativa, justicia y pueblos indígenas.

INTRODUCTION

As a country populated by people, Indonesia has an obligation to ensure the welfare of its people. This welfare guarantee is one of the objectives of the formation of the Indonesian state. The predecessors involved in the formation of the Indonesian state had in mind one of the goals of the state, namely the welfare of the people as an independent state, among other goals. This has been outlined in the Preamble of the 1945 Constitution of the Republic of Indonesia.

The Preamble of the 1945 Constitution of the Republic of Indonesia explicitly states that the purpose of the Republic of Indonesia is to protect the entire nation and the blood of Indonesia, to promote general welfare, to educate the nation's life, and to participate in the implementation of world order/international relations. These state goals

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are then derived in the Body of the 1945 Constitution of the Republic of Indonesia, which in principle respects, nurtures, recognizes, and safeguards the human rights of citizens.

The mandate of the 1945 Constitution of the Republic of Indonesia, which is the State Constitution, should be implemented in all aspects of the life of society, nation and state, including in the relationship between investment and the rights of indigenous peoples. As is known, Indonesia is known as a country that has a wealth of natural resources, such as mineral resources, gas, oil, coal, gold, and other natural resources that are found almost evenly throughout the territory of Indonesia. This natural wealth, which is a gift from God Almighty, must really be utilized by the state to prioritize the welfare of all its people without discriminating, so that the community must also be considered for their welfare so that it can be ensured that indigenous peoples also enjoy this natural wealth.

Social facts show that the existence of indigenous peoples by the framers of the State Constitution is also regulated in the 1945 Constitution of the Republic of Indonesia. Article 18B Paragraph (2) of the 1945 Constitution of the Republic of Indonesia confirms that the State recognizes and respects the unity of customary law communities and their traditional rights as long as they are still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia, which are regulated by law. Furthermore, Article 18B Paragraph (2) of the 1945 Constitution of the Republic of Indonesia is strengthened by Article 28I Paragraph (3) that cultural identity and traditional communities are respected in line with the development of the times and civilization.

Agus argued that the presence of community groups known as indigenous peoples should not be dismissed; on the contrary, there is a inclination that their existence needs to be advocated and fought for to gain more visibility. This is considered part of Human Rights, a consensus in the international community, making their presence acknowledged and adhered to. The recognition of indigenous peoples, as stated by Farakhiyah and Irfan, signifies a clear manifestation of a plural state. It is not solely determined by the number of indigenous peoples in a country, but rather observed through the disparities in values.

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and lifestyles among communities and indigenous peoples who uphold distinct principles.

Prior to the enactment of Law No. 11 of 2020 on Job Creation, the acknowledgment of Article 18B Paragraph (2) and Article 28I Paragraph (3) of the 1945 Constitution of the Republic of Indonesia was facilitated in various sectoral laws, such as Law No. 5 of 1960 on Agrarian Principles, Law No. 4 of 2009 on Mining, Minerals and Coal, Law No. 7 of 2004 on Water Resources, and other related legislations. These laws fundamentally aimed to provide recognition and respect for the Customary Law Community Units. The recognition and respect for the Union of Indigenous Peoples entail the obligation of the state to establish a governance system that ensures the fulfillment of constitutional rights. These rights include fundamental entitlements to education, employment, equal treatment under the law, socio-economic rights, freedom of expression, the right to live and reside, and the traditional rights of indigenous peoples. These traditional rights are considered special or unique rights inherent and owned by a community of people due to their cultural heritage. Similarities in origin (genealogical), territorial resemblance, and other customary aspects, including rights to ancestral lands, rivers, and forests, are shared among indigenous communities. West Papua Province, recognized as one of the conservation-oriented provinces, boasts the highest percentage of forested areas, standing at 87.3%. This percentage is derived from West Papua's expansive land area of 9.6 million hectares, with its forested region covering 8.39 million hectares. However, by the year 2020, West Papua experienced a loss of approximately 2.1 million hectares of primary forest. The transformation of these forests into oil palm plantations has had detrimental effects, restricting communities from hunting and farming, and leading to a decline in the population of endemic animals like mambruk birds and birds of paradise. This concerning situation is particularly evident in the Domberai customary area, encompassing 10 districts and 1 city in West Papua. These areas include Manokwari Regency, South Manokwari Regency, Arfak Mountains Regency, Maybrat Regency, Sorong City, Sorong Regency, South Sorong Regency, Raja

Ampat Regency, Teluk Bintuni Regency, Teluk Wondama Regency, and Tamrauw Regency.7

Not only is the forest facing degradation, but the natural mining resources in West Papua are also undergoing depletion. According to data from the Ministry of Energy and Mineral Resources, Indonesia possesses natural gas reserves of 41.62 trillion square cubic feet (TSCF) in 2021, with Bintuni Bay being the primary location for liquefied natural gas (LNG) extraction and processing in West Papua. The government-built facility is estimated to contain reserves of up to 500 billion cubic feet. Additionally, reserves are found in other areas such as Sorong, Kapulanda, Babo, and Klamono. Presently, West Papua's reserves rank as the third-largest nationally. BP Tangguh/Tangguh LNG constitutes an integrated development encompassing six gas fields situated in the Wiriagar, Berau, and Muturi Production Sharing Contracts (PSCs) in Bintuni Bay, West Papua. 8

Discovered in the mid-1990s by Atlantic Richfield Co. (ARCO), Tangguh LNG is operated by BP Berau Ltd. (100% owned by BP). Other subsidiaries of BP involved in the Tangguh LNG development include BP Muturi Holdings B.V., BP Wiriagar Ltd., and Wiriagar Overseas Ltd, collectively granting BP a 40.22% interest in Tangguh LNG. Additional partners include MI Berau B.V. (16.30%), CNOOC Muturi Ltd. (13.90%), Nippon Oil Exploration (Berau) Ltd. (12.23%), KG Berau Petroleum Ltd. (8.56%), KG Wiriagar Petroleum Ltd.9(1.44%), and Indonesia Natural Gas Resources Muturi Inc. (7.35%). BP Tangguh commenced production in 2009, receiving government approval merely four years prior. The completion of Train 3 construction is imminent, poised to contribute an additional 3.8 million tons per annum (mtpa) to the Tangguh LNG plant's production capacity, elevating the total capacity to 11.4 mtpa. The investment in this

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project, primarily operated and owned by BP Tangguh Berau Ltd, amounts to approximately USD 8 billion.\(^{10}\)

In the midst of the excitement surrounding anticipated profits, a fundamental inquiry emerges: Have the lives of indigenous people in areas impacted by BP Tangguh exploration and exploitation been granted their constitutional and traditional rights? Simply put, have the indigenous people of Bintuni\(^{11}\) experienced physical and mental prosperity with the presence of BP Tangguh? Conversely, do the success claims made by BP Tangguh in various media outlets genuinely align with the on-the-ground realities? It is these questions that motivated the initiation of this research. It is a recognized fact that every company operating in a specific area is obligated to fulfill social responsibility, commonly known as Corporate Social Responsibility (CSR). This obligation is stipulated in Article 74 of Law Number 40 of 2007 concerning Limited Liability Companies, emphasizing that every company engaged in business activities related to natural resources must fulfill social and environmental responsibilities.

However, at times, companies may overlook this obligation. Research by Retnaningsih\(^{12}\) has cited several instances of Corporate Social Responsibility program implementation facing challenges due to conflicts between companies and communities. Examples include PT Freeport in Papua, PT Inti Indorayon in Porsea North Sumatra, PT Samsung in Pasuruan, PT Exxon Mobil in Lhokseumawe Aceh, and PT Newmont in North Sulawesi. Prolonged conflicts not only become obstacles for companies seeking profits but also lead to the failure of companies to participate in community empowerment efforts. Recognizing the significance of Corporate Social Responsibility for both companies and communities, BP Tangguh Bintuni must also prioritize this aspect. Therefore, based on the 1945 Constitution of the Republic of Indonesia, this research aims to assess and analyze the accountability of BP Tangguh and the Government for the rights of indigenous peoples in the affected area, utilizing the framework of Justice Theory. The Theory of Justice employed in this analysis is John Rawls' Theory of Justice, which posits that justice as fairness is the primary virtue in social institutions. This implies

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the rejection of unjust theories and the reform of unjust laws. Consequently, acting arbitrarily within this concept of justice is deemed prohibited. Therefore, companies, especially in their operations, such as BP Tangguh, must not disregard the principles of justice and the rights of local communities.

2 RESEARCH METHODS

Legal research serves as a method to uncover the fundamental truth in a legal issue, employing the flow of legal research methods, specific legal systems, and established consistencies. In another sense, it constitutes an analytical process encompassing particular methods, systematics, and thoughts aimed at comprehending specific legal phenomena and resolving arising issues.

Therefore, research necessitates an appropriate research method aligned with the formulated problem to be studied and the predetermined research objectives. This study falls under the category of socio-legal research, where Marzuki contends that socio-legal research positions law as a social symptom, always interconnected with social problems. According to Marzuki, socio-legal research concentrates on individual or community behavior concerning the law.

Given this socio-legal context, the chosen research approach is qualitative, as stated by Setiono, describing it as an approach that generates descriptive data based on informants’ statements, both written and oral, along with real behavior in the field. This approach involves observing, studying, and understanding the reality and practices in the field through field observations, interviews, and literature studies. The initial research method is field observation, described by Morisson as a daily human activity using the five senses to capture observed symptoms, recorded, and analyzed. In this study, direct observation was conducted in the BP Tangguh location and surrounding communities to assess the state of BP Tangguh’s relationship with the indigenous communities. The second method is interviews, identified by Rachmawati as a form of data collection in qualitative research commonly used to communicate with sources or informants to acquire vital information related to

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15 Peter Mahmud Marzuki, (2005), Legal Research, Jakarta: Prenada Media, p. 87
16 Setiono, (2002), Understanding of Legal Research Methods, Surakarta: Postgraduate Law Study Program UNS, p. 32
17 Morissan, (2017), Survey Research Methods, Jakarta: Kencana, p. 143
the research. Interviews were conducted with various stakeholders, including indigenous people, community leaders, and company representatives, such as Wilibrodus Bauw, a former BP Tangguh Security officer. The third method is a literature study, described by Adlini and colleagues as a data collection method involving the understanding and study of theories from various literature sources related to the research. This research incorporates references related to John Rawls' Theory of Justice, Corporate Social Responsibility, BP Tangguh's operations, and the people of Teluk Bintuni. The chosen analytical technique is prescriptive, aiming to provide argumentation on the research results and offer an assessment of what is right or wrong according to the law against the legal facts studied. Consequently, at the conclusion of this research, there will be an evaluation of BP Tangguh's Corporate Social Responsibility claim in Bintuni Bay from the perspective of Justice Theory.

3 RESULTS AND DISCUSSION

The establishment of a company necessitates careful attention to the socio-cultural elements prevalent in the surrounding community. This approach ensures the smooth operation of the company and mitigates any potential obstacles that could lead to disputes between the company and the community. Acting as a bridge between the rights and obligations of both the company and the community, the company adopts an initiative known as corporate social responsibility, commonly referred to as CSR. The implementation of this Corporate Social Responsibility program reflects the company's dedication to the well-being of the surrounding community, acknowledging its responsibility for the impact generated by the established company. BP Indonesia, as a company, also engages in Corporate Social Responsibility programs to contribute to the improvement of community welfare. According to Samuk Konyorah, BP Indonesia's Social Performance & Delivery Manager, the company remains committed to collaborating with various stakeholders to provide long-term benefits, including partners and communities around its operational areas. Samuk further outlines that Tangguh LNG's social programs encompass health, governance, community development in Papua and West Papua, and entrepreneurship development programs tailored for indigenous people. Despite these commitments, findings from observations, interviews, and literature reviews reveal that these promises were not fully adhered to. Some of the discrepancies include the following:
3.1 BP TANGGUH'S SOCIAL RESPONSIBILITY TRANSPARENCY (TJS/CSR) CLAIMS

In various national and international publications, BP has consistently refrained from openly disclosing the origins of CSR funds allocated for BP Tangguh. The explanation of the CSR fund source is veiled by the phrase "BP with the support of SKK Migas" or "BP with Government Support." This phrasing conceals information about the actual source of CSR funds, which primarily derive from cost recovery. This approach diminishes state revenues and the Regional Oil and Gas Revenue Sharing Fund. BP's lack of transparency regarding the origin of CSR funds has led to a misconception among the public that these funds originate from BP's profits. However, it is essential to note that CSR funds should be distinct and separate from BP Tangguh's overall profits and should not be sourced from cost recovery. There is a suspicion that regulatory maneuvers have taken place, resulting in disadvantages for the region and local communities while benefiting BP Tangguh, SKK Migas, and other associated parties. This becomes evident in the conflicting provisions of Presidential Regulation (PP) No. 35 of 2004 and the Minister of Energy and Mineral Resources Regulation (Permen ESDM) No. 22 of 2008, which contradict the stipulations of Law No. 40 of 2007 on Limited Liability Companies.

Meanwhile, the government in the era of Minister of Energy and Mineral Resources Jero Wacik included CSR activities as cost recovery by withdrawing Minister of Energy and Mineral Resources Regulation No. 22/2008 on Types of Costs of Upstream Oil and Gas Business Activities that cannot be returned to the Cooperation Contractor. As is known, the regulation stipulates 17 activities that cannot be charged, one of which is the charging of funds for the development of the environment and local communities (Community Development, also understood as CSR) during exploitation activities. This regulation arose because the community demanded contributions from companies in oil and gas producing areas. The lack of contributions caused the community to not give up their area as a mining area and conflicts arose. By the government at that time, this was seen as an investment disruption. This kind of disruption causes oil and gas investment to be hampered and potentially reduces state revenue. That is why Minister of Energy and Mineral Resources Jero Wacik supports the inclusion of CSR funds in recovery costs so that state revenues increase again. Recovery costs are operating costs that can be recovered in the calculation of revenue sharing.
3.1.1 Claiming BP Tangguh's Role in Health

BP asserts its commitment to reducing the prevalence of Malaria, claiming a decline from 87.50 in 2006. The company also declares efforts to combat stunting. However, on the ground, the situation appears less clear, with the local community experiencing tangible impacts. Insufficient health facilities, coupled with transportation challenges involving self-funded wooden boats and privately financed bridges, create obstacles for individuals seeking medical attention. Community testimonials underscore the issue of clean water. For instance, Wilibrodus Bauw, a former security officer at BP Tangguh and a member of the Sebyar tribe, highlights that the community relies solely on rainwater due to the absence of a clean water program implemented by BP Tangguh.

Figure 1: Turbid water not suitable for drinking in the Sebyar Asli Tribe Sumber

Source: Researcher Observation, 2023

BP Tangguh asserts its significant role in community development and entrepreneurship by highlighting its reported impact on the local economy. The company claims to have engaged in contracts amounting to Rp 4 trillion with the involvement of 30 Papuan companies in the Tangguh Project supply chain during the period from 2006 to 2019. This indicates that approximately 30 Papuan companies and suppliers are currently participating in the Tangguh LNG supply chain, with a cumulative contract value exceeding Rp 4 trillion. In the Environmental Impact Assessment (AMDAL) commitments, there is an agreement concerning the economic empowerment of indigenous people in Bintuni through the establishment of four Subitu-flagged companies. These companies are identified as PT Subitu Karya Busana, PT Subitu Inti Konsultan (SIK), PT Subitu Karya Teknik (SKT), and PT Subitu Trans Maritim (STM). Among the various programs, the Subitu program stands out as the most prominent, as it absorbs a substantial budget and involves numerous partners such as Unipa, Ikopin, Pupuk, Satu Nama Foundation, and Matsushita Foundation. The program's inauguration
and promotion are conducted on a large scale. A notable aspect on the ground is the need for auditing Subitu’s finances from 2016 to 2018. Bank statements reveal instances when SKB income was utilized by Pupuk on several occasions and not reimbursed. In 2018, there were instances of financial mentor using funds without a clear purpose, and the person involved approved the use without adequate documentation. Numerous individuals are owed money by SKB, and unpaid orders for goods remain unresolved, posing difficulties in tracking them down. Discrepancies are evident between the figures presented in the bank statement and the fertilizer financial report. Furthermore, there are concerns about the sustainability of various economic sector programs, including Cattle Farming in SP5, Layer Chicken Farming in SP5, Bicycle Workshop in Babo, Car Workshop in SP4, Tomato Sauce Factory, Fish Can Factory, Rice Farming in SP4 (with only one harvest celebrated prominently with the Bintuni local government), Fish Cooperative in Arguni, Mairy Cooperative in Tanah Merah, and Saengga Cooperative. An agricultural survey conducted in June 2022 at the SP4 site in Teluk Bintuni Regency revealed farmers’ complaints related to the Tangguh LNG farming program. These complaints were linked to the assurance of a market for Tangguh LNG, with Tangguh LNG refusing to take the rice due to quality standards not being met. Tens of tons of milled rice ended up spoiling in the warehouse, and due to the large quantity, it cannot be immediately sold in the local market.

3.1.2 BP Tangguh’s Role in the Workforce Claimed

BP states that 72% of its Papuan workforce operates Tangguh LNG and has operated Tangguh LNG since 2009 with more than 99% of the company's team members being Indonesian and more than 72% of the workers operating Tangguh Train 1 and Train 2 are currently Papuan24.

Regarding the workforce at Tangguh LNG, the Ministry of Energy and Mineral Resources claims that there are currently 1,369 or 51.9% Papuan employees at PT LNG Tangguh, with a target of 85% Papuan employees by 2029. Interestingly, in 2015, this data25. It states that in 2015, at Tangguh LNG there were 74 OAP employees working at supervisor/manager level and 219 employees working in special projects for Tangguh LNG. Meanwhile, in 2018, as stated by Budi Hermawan (Tangguh Sustainability Project)26, that until the end of November 30, 2018, Tangguh LNG has recruited as many as 1,655 OAP workers recruited from four regencies that are the base/impact of the
company, namely Teluk Bintuni, Fakfak, Sorong and Manokwari regencies. He explained that 529 workers were recruited from communities living in 62 villages affected by Train 3 in Berau Bay and Bintuni Bay, with details of 219 unskilled workers, 270 semi-skilled workers, and 38 skilled workers, including 2 (two) workers in supervisory/managerial positions. Furthermore, workers recruited from Bintuni and Fakfak Regencies are 250 workers with a composition of 91 unskilled workers, 260 semi-skilled workers and 167 skilled workers including 2 (two) supervisor/managerial workers.

There are also 606 other OAP workers from other districts / cities in Papua and West Papua Provinces with a composition, 11 unskilled workers, 244 semi-skilled workers, 329 skilled workers and 22 managerial and supervisory workers. So there are 26 native Papuans at the managerial and supervisory levels. This figure is a drastic decrease compared to 2015 data where there were 74 OAP employees working at the supervisor/manager level. Moreover, the largest number of OAP workers are in the area of unskilled labor; which is sad.

3.1.3 Claiming BP Tangguh's Role in Education

BP asserts that its contributions to education include a threefold increase in Expected Years of Schooling (HLS) in 2020 compared to 2009. However, data from the Central Statistics Agency (BPS) raises questions about this claim. In 2010, the HLS in Bintuni was 10.36, indicating that, on average, children who began formal education in 2010 had the opportunity to attend school for 10.36 years. In 2020, the HLS figure was 12.31, suggesting an opportunity of 12.31 years for children starting formal education in that year. Tangguh’s claim of a threefold increase is questionable, and BPS data serves as a basis for comparison. In several districts, the absence of public kindergartens poses a challenge. For instance, Sumuri, Fafurwar, Aroba, Kaitaro, Kuri, Bintuni, Tembuni, Aranday, Kamundan, Weriagar, Merdey, Biscoop, Masyeta, West Moskona, and East Moskona lack public kindergartens. Furthermore, in Wamesa District, while there were one public and two private kindergartens in 2021, they ceased to exist in 2022. Despite BPS 2023 data projecting 16 senior high schools (SMA) in Bintuni by 2022, districts like Aroba, Kuri, Wamesa, Manimeri, Tuhiba, Beirnes Plain, Aranday, Weriagar, Moskona Selatan, Biscoop, Masyeta, Moskona Barat, and Moskona Timur do not have a single SMA until 2022. Contrary to the claimed HLS number, West Papua, along with Papua, holds the lowest Human Development Index (HDI) in Indonesia, with only 65.89 in 2022.
Additionally, an agreement made in 2007 between the communities of Tanah Merah, Saengga, Onar Baru, and Onar Lama and the local government concerning the management of a junior high school and dormitory in Tanah Merah has yet to see clear realization, particularly in holding BP Tangguh responsible for operational costs and management.

The following are facts about the inadequate conditions of the schools around the BP Tangguh site:

Figure 2. The condition of SD YPK which was moved due to BP Tangguh exploration

Source: Researcher Observation, 2023

Figure 3. School Condition

Source: Researcher Observation, 2023

If scrutinized through the lens of John Rawls' Theory of Justice, the evaluation can be elucidated by considering the guiding principles of justice. One crucial aspect is the Original Position as the Basis of Fairness, an idea articulated by Rawls. This principle posits certain elements, including being unaffected by individual interests or situations— referred to as a veil of ignorance—and possessing only general knowledge encompassing psychology, sociology, politics, and economics. In this context, BP Tangguh appears to neglect the individual or overall community conditions, disregarding essential factors like psychology, sociology, and the economic and political landscape. A conspicuous
manifestation of this neglect is observed in the procurement of vessels for the community, which not only fails to align with its economic value but also deviates from its intended use.\(^\text{18}\)

Figure 4. Ship Procurement that Costs 5 Billion

Source: Researcher Observation, 2023

Upon reflection on the disparity between BP Tangguh's assertions and the factual circumstances, it becomes apparent that BP Tangguh has disregarded the constitutional rights of indigenous peoples and communities impacted by its exploration and exploitation activities. Moreover, the absence of government oversight as the regulatory authority exacerbates the scale and organization of all violations of community rights. In the Theory of Justice as per John Rawls, justice as fairness stands out as the fundamental virtue in social institutions, requiring the rejection of untrue theories and the reformation of unjust laws. Essentially, the concept of justice revolves around the fair distribution of rights and obligations in what Rawls terms a well-ordered society. An analysis based on the Theory of Justice by John Rawls can be outlined with benchmarks rooted in the principles of justice: Original Position as the Foundation of Fairness According to Rawls, this principle can be actualized through the following elements:

a. Unaffected by individual interests or situations (a veil of ignorance) and possessing only general knowledge such as psychology, sociology, as well as politics and economics. In this context, BP Tangguh demonstrates minimal consideration for the individual or general conditions of the community, such as psychology, sociology, and politics and economics. This is evident in the procurement of vessels for the community, which fails to align with its economic

b. Making primary social goods, namely social conditions that are worth pursuing by every human being, the only motivation for action.

c. Implementing a maximum strategy as an approach to the principles of fairness has not been evident in BP Tangguh's practices. According to the testimony of Haji Jamaludin, the Head of the 7 Tribes Customary Government, the indigenous people are not regarded as a priority by BP Tangguh. Transparency in the relationship between BP Tangguh and the indigenous community is notably lacking. Funds allocated for endowments, direct cash assistance (BLT), education, and health lack clear transparency, leaving the community uninformed about the destination and storage of these funds.

In this element, BP Tangguh pays little attention to the social conditions of the community, for example, not paying attention to the condition of health facilities, and the lack of clean drinking water. One Taroy resident, Ujage, said that the community has to go to the forest to find water, especially in the summer.

Figure 5. Portrait of the condition of one of the health facilities

Source: Researcher Observation, 2023
Applying *maximum strategy* as an approach in the principles of fairness. In this element, BP Tangguh also did not take a *maximum strategy* approach. *The* testimony of Haji Jamaludin, Head of the 7 Tribes Customary Government, is that the indigenous people are not a priority for BP Tangguh. There is no transparency in the relationship between BP Tangguh and the adat community. Endowment funds, BLT, education funds, health funds, there is no clear transparency because the community never knows where all these funds go and where they are stored.
3.2 CONSTITUTIVE FREEDOM

In order to realize this element, Rawls suggests the importance of the principle of freedom in the actualization of justice. However, in fact, the freedom of local residents to participate in the company as the manager of natural resources. This is evident from the portrait of a community that can only watch from afar as its natural gas wealth is taken, and is unable to do anything to restore its role as a local citizen to participate in managing natural resource wealth.

Figure 9. Portrait of a community that can only see from afar its natural gas wealth being extracted

Source: Researcher Observation, 2023

Figure 10. Portrait of community life in the area around the company

Source: Researcher Observation, 2023

Based on the facts above, it can be said that there are many inadequacies in the social conditions of the communities surrounding BP Tangguh's operations, so it can be said that BP Tangguh's claim for Corporate Social Responsibility in Bintuni Bay does not reflect the values of justice proposed by John Rawls.

4 CONCLUSIONS

Every company must pay attention to the implementation of Corporate Social Responsibility programs as a form of corporate concern for the interests of the surrounding community, one of which also feels the impact of the company that has been
built, including the BP Tangguh company in Bintuni Bay, Papua. However, in fact, there are many inadequacies in the social conditions of the communities surrounding BP Tangguh's operations, so it can be said that BP Tangguh's claim to Corporate Social Responsibility in Bintuni Bay does not reflect the values of justice proposed by John Rawls.

Therefore, through this research, it is hoped that the Government can conduct a thorough audit of BP Tangguh's existence, and take other concrete steps as necessary, to restore and remedy the violated rights of indigenous peoples and affected communities. This research should serve as a means of defense that is protected by the 1945 Constitution of the Republic of Indonesia, and is a form of our respect for the Republic of Indonesia.
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