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Criminalization of the Maba Sangadji Indigenous Community's Opposition to Nickel-Mine Expansion and the Expropriation of Customary Lands in East Halmahera, North Maluku

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ABSTRACT

This study investigates the juridical repression of the Maba Sangadji Indigenous community's opposition to PT Position's nickel-mining expansion in East Halmahera. After PT Position secured a 2,000-ha mining permit at the close of 2024 without complying with Free, Prior, and Informed Consent (FPIC) requirements, villagers deployed peaceful banners demanding a cessation of extractive activities. On 16 May 2025, law enforcement authorities detained twenty-seven residents and formally charged eleven under broadly construed statutes, notwithstanding the absence of any damage to mining infrastructure. A subsequent pretrial review by the Soasio District Court on 16 June 2025 annulled several arrests yet maintained the accused's suspect status. Simultaneously, community members were stigmatized as "thugs" and accused of "possessing sharp weapons," narratives that diverted scrutiny from systematic infringements of land rights and FPIC. Field observations further document the loss of 38 ha of customary forest and the pollution of six rivers, undermining local food security and exacerbating flood risks. Through a normative legal analysis supplemented by in-depth interviews, this research elucidates the state–corporate collusion manifest in the instrumentalization of law ("lawfare"). It concludes with policy recommendations to strengthen FPIC enforcement, introduce anti-SLAPP provisions, amend the Mining Law to recognize customary land rights, and establish transparent public-grievance mechanisms.

Keywords: criminalization; Maba Sangadji Indigenous community; nickel mining expansion; customary, land rights.

INTRODUCTION

East Halmahera's extensive lateritic nickel deposits have positioned the region as a strategic supplier of raw materials for electric-vehicle batteries and stainless steel in global markets (US Geological Survey, 2023). At the close of 2024, PT Position—a wholly-owned subsidiary of PT Harum Energy Tbk—secured a 2,000-hectare mining permit overlapping the customary territory of the Maba Sangadji community (Ministry of Energy and Mineral Resources of the Republic of Indonesia, 2022). This land conversion, encompassing both agricultural plots and indigenous forest, proceeded absent the Free, Prior, and Informed Consent (FPIC) mandated by Presidential Regulation No. 88/2017, precipitating overt community resistance in defense of local livelihoods and ecological integrity (JATAM; 2025).

On 16 May 2025, in response to peaceful protest actions involving the display of banners, the North Maluku Regional Police detained twenty-seven community members including women and elders and subsequently charged eleven individuals under broadly construed provisions of Emergency Law No. 12/1951 (sharp weapons), Article 162 of the Mineral and Coal Law (UU Minerba No. 3/2020), and extortion statutes of the Criminal Code (Trimurti, (2025). Arrest protocols were accompanied by unsubstantiated allegations of "thuggery" and "possession of sharp weapons," despite the absence of damage to mining infrastructure or any reports of casualties. Moreover, three suspects were declared drug-positive without recourse to transparent toxicological procedures, thereby violating core principles of the presumption of innocence and the right to due process (Mongabay 2025; JATAM, 2025).

A pretrial review on 16 June 2025 at the Soasio District Court was anticipated to rectify these procedural irregularities. Instead, the court annulled only select arrests while preserving suspect designations, and dismissed one petition on jurisdictional grounds—underscoring persistent ambiguities in the application of legal norms (LPM Aspirasi, 2025). Such outcomes compromise judicial integrity and effectively sanction the continued criminalization of nonviolent protest under a façade of legal legitimacy, notwithstanding evident evidentiary and procedural deficiencies.

Underlying this instrumental use of criminal law is a deliberate framing strategy that casts indigenous dissent as an "investment disruption" or "security threat" (Coulthard, 2014;); (Buzan, B., Wæver, O., & de Wilde, J. 1998).[1] The pejorative labeling of villagers as "thugs," "extortionists," or "drug users" functions as cognitive repression, marginalizing legitimate grievances and forestalling broader solidarity (JATAM, 2025). Reinforced by police press releases and pro-corporate media narratives, this discourse curtails public empathy and obstructs pathways for redress.

The structural criminalization of the Maba Sangadji community engenders far-reaching consequences: it deters other customary communities from asserting land rights, erodes public confidence in law-enforcement institutions, and undermines the foundations of participatory democracy at the local level (Gless, R, 2018); (Carothers, Thomas, and Saskia Brechenmacher. 2014). Legally, this case exemplifies the distortion of statutory provisions Emergency Law No. 12/1951, Article 162 of UU Minerba, and Articles 368 and 55 of the Criminal Code through excessive vagueness and interpretive latitude. It further illustrates the denial of fair-trial guarantees and the abrogation of FPIC obligations (Nahar, Melky, 2025), as well as the frailty of judicial-review mechanisms when courts uphold suspect statuses despite finding certain detentions unlawful (JATAM, 2025). Collectively, these practices reveal the extent to which law may be co-opted as an instrument of extractive-industry governance rather than justice (JATAM, 2025).

LITERATURE REVIEW

The body of scholarship pertinent to the expansion of nickel mining and the dispossession of customary land rights in East Halmahera can be organized into five principal streams: (1) nickel-mine expansion and mining-policy frameworks; (2) agrarian conflict and land grabbing; (3) mechanisms for criminalizing Indigenous resistance; (4) narrative framing and cognitive repression; and (5) global perspectives on the criminalization of Indigenous rights defenders.

Nickel-Mine Expansion and Mining-Policy Frameworks

The surge in global demand for nickel driven primarily by its use in electric-vehicle (EV) batteries and stainless-steel production—has catalyzed a wave of extractive investment in Indonesia. Nahar (2025) reports that nickel imports for the EV industry rose by approximately 40 percent between 2021 and 2024, positioning Indonesia as

the foremost supplier of lateritic nickel worldwide. In East Halmahera, PT Position (a subsidiary of PT Harum Energy Tbk) secured a 2,000 ha Mining Business Permit (IUP) in late 2024, having conducted only a cursory "socialization" process without adequately documenting Free, Prior, and Informed Consent (FPIC), (JATAM, 2025).

Presidential Regulation No. 88/2017 formally requires FPIC as a precondition for any activity within customary territories, in alignment with Article 32 of ILO Convention 169, which recognizes Indigenous political and economic rights. However, Li (2014) contends that in the absence of precise technical guidelines and enforceable sanctions, FPIC in Indonesia often devolves into a mere formality emphasizing the "informed" component while neglecting both the "prior" and the "consent" elements.[2] Colchester (2003) further observes that legal ambiguity and weak enforcement mechanisms enable corporations to proceed with operations despite local opposition.[3]

Moreover, the 2020 Mineral and Coal Law (UU Minerba No. 3/2020) relaxes permitting requirements by truncating the social component of the environmental impact assessment (AMDAL) and abbreviating the evaluation timeline, thereby allowing companies to obtain IUPs without transparent public consultation. Such policy shifts constrict Indigenous participation in project planning and decision-making, exacerbating power imbalances among corporate, state, and local actors. Collectively, these dynamics reveal a disjuncture between international norms and national practice, demonstrating how Indonesia's mining framework facilitates the exploitation of customary lands without due regard for local rights and interests.

Agrarian Conflict and Dispossession of Customary Land

In agrarian studies, land conversion by extractive industries is frequently characterized as modern land grabbing, wherein dispossession entails not only the physical expropriation of territory but also the elimination of collective control over natural resources (Borras, S. M., Hall, R., Scoones, I., White, B., & Wolford, W. 2011: 209–216) and (McMichael, P, 2012, 1597–1617).[4] Peluso and Lund (2011) emphasize that modern land grabbing operates through capital accumulation strategies that curtail access and erode the political-economic rights of local communities (Peluso, Nancy L., and Christian Lund. 2011, 667–681). Borras and Franco (2010) advocate a "land sovereignty" paradigm as a counter-framework to uphold Indigenous autonomy over ancestral territories (Borras Jr., Saturnino M., dan Jennifer C. Franco. 2010; 609–6290).

Cernea and McDowell's (2000) "impoverishment risks" model identifies eight potential deprivations confronting displaced communities landlessness, joblessness, homelessness, marginalization, food insecurity, increased morbidity and mortality, loss of common-property resources, and social disarticulation (Cernea, Michael M., dan Chris McDowell (eds.), 2000).[5] The Maba Sangadji case manifests nearly all of these risks: deforestation and tailings pollution in the Sangaji River sever fish and potable-water supplies, forcing villagers into precarious, low-wage informal labor, while state intimidation erodes communal bonds and disrupts ritual practices.

Normatively, the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) affirms the entitlement to restitution and compensation for Indigenous communities dispossessed of their lands (Article 28), and Indonesian Presidential Regulation No. 88/2017 mandates FPIC prior to any permit issuance. Yet, in practice, restitution mechanisms remain largely unrealized: FPIC documents often serve only ceremonial functions, and compensation claims are seldom adjudicated equitably. A 2025 report by Mongabay Indonesia documents over 30 ha of Maba Sangadji customary forest cleared for PT Position's concession, with tailings deposits triggering recurrent floods that devastate clove plantations and homestead gardens (Mongabay. 2025). The absence of transparent restitution or compensation underscores the entrenched power asymmetries among corporations, the state, and Indigenous communities, highlighting systemic failures in Indonesia's mining regime to safeguard constitutional Indigenous rights (Hall, David, Peter Hirsch, and Tania Murray Li, 2012), (Peluso, Nancy Lee, and Christian Lund, 2011: 667–681).

Mechanisms for Criminalizing Indigenous Resistance

Davenport (2007) distinguishes between physical repression—encompassing forcible arrests, state-sanctioned violence, and extrajudicial detention—and cognitive repression, which entails manipulating public discourse through labelling and disinformation to delegitimize dissent (Davenport and Christian. 2007). In East Halmahera, the North Maluku Regional Police have applied overly broad provisions such as Emergency Law No. 12/1951 (on sharp weapons), Article 162 of UU Minerba No. 3/2020, and Articles 368 in conjunction with 55 of the Criminal Code, despite lacking concrete evidence of damage or threat (Mongabay, 2025).

This practice parallels Strategic Lawsuits Against Public Participation (SLAPP), in which legal or criminal charges are wielded to suppress public engagement and fracture community solidarity (Fontaine, Phil., and François Maillet. 2016; 300–25). Fontaine and Maillet (2016) observe that in Southeast Asia, authorities frequently recast

peaceful protests as "public-order disturbances" or "extortion," leveraging the specter of imprisonment and social stigma to deter further opposition (Fontaine, Phil., dan François Maillet. 2016; 300–25).

The United Nations Office of the High Commissioner for Human Rights (OHCHR, 2018) further notes that security and emergency legislation—such as Emergency Law No. 12/1951—is routinely repurposed to criminalize land rights defenders, a phenomenon termed "criminalization of dissent" (Office of the High Commissioner for Human Rights (OHCHR), 2018) Techniques of "stigmatization criminalization" often involve unilateral drug tests without proper forensic safeguards, as experienced by three Maba Sangadji defendants declared drug-positive without transparent laboratory evidence or recourse to appeal (JATAM: 2025.

Tauli-Corpuz et al. (2015) characterize such measures as facets of a shrinking civic space, wherein legislative and policing practices systematically constrict Indigenous avenues for policy advocacy. The Soasio District Court's maintenance of suspect statuses despite ruling some arrests unlawful in pretrial hearings—exemplifies how judicial review mechanisms can be instrumentalized to perpetuate criminalization. Gless (2018) argues that the criminalization of Indigenous protest not only debilitates local movements but entrenches power inequities among corporations, the state, and communities through a legal-intimidation strategy that produces chilling effects on other rights-defending groups.

Narrative Framing and Cognitive Repression

Entman's (1993) framing theory posits that powerful actors shape public perception by highlighting certain aspects of an issue (salience) while omitting others, performing four core functions: defining problems, diagnosing causes, making moral judgments, and prescribing remedies (Entman, Robert M. 1993: 51–58). In the Maba Sangadji context, state and corporate actors systematically cast the dispute as an "investment disruption," foregrounding "thuggery" and "weapon threats" while obscuring land-rights violations, environmental degradation, and FPIC noncompliance (JATAM, 2025).

This negative framing is buttressed by cognitive repression, wherein stigmatizing labels such as unfounded drug allegations undermine the legitimacy of peaceful protest (Davenport, Christian. 2007). Police communiqués emphasize the "criminal acts" of anti-mining villagers, yet rarely acknowledge the bypassed consultation protocols or ecological harms they suffer (JATAM, 2025). Mainstream media coverage often echoes security-oriented frames, steering public opinion toward endorsing coercive police measures and marginalizing Indigenous claims to land stewardship and cultural preservation (JATAM, 2025).

Gamson and Modigliani (1989) demonstrate that media framing can significantly influence policy support by accentuating certain risks such as public safety at the expense of others, like human rights and equitable resource distribution (Gamson, William A., and Andre Modigliani, 1989). In East Halmahera, the "investment-disruption" frame effectively shifts discourse away from chronic Indigenous rights violations toward law-and-order imperatives, constricting civic space for contestation over ecosystems and cultural survival.

Global Perspectives on the Criminalization of Indigenous Rights Defenders

The criminalization of land and environmental defenders is a growing global crisis. Global Witness (2020) recorded at least 227 environmental defenders killed worldwide, with hundreds more prosecuted on charges of "incitement" or "public-order offenses" for opposing extractive projects in Indigenous territories (Global Witness, 2020). The OHCHR (2018) highlights how broadly worded criminal and security statutes in various countries—including those in Southeast Asiaare repurposed to silence Indigenous populations through expansive and ambiguous legal provisions (Office of the High Commissioner for Human Rights (OHCHR). 2018).

The UN Special Rapporteur on the Rights of Indigenous Peoples (2019) warns of the escalating use of security and emergency laws to suppress Indigenous protest and curb freedoms of assembly and expression, contravening Article 21 of the International Covenant on Civil and Political Rights (ICCPR) (United Nations Human Rights Council, 2019). Practices of "stigmatization criminalization" such as unnotified arrests, multi-day detentions without legal representation, and unilateral drug testing—have been systematically employed to neutralize political opposition in numerous extractive-region contexts (Tauli-Corpuz, Victoria, et al. 2015).

Moreover, the UN Guiding Principles on Business and Human Rights (2011) affirm states' duty to protect human rights defenders—including Indigenous activists—from violence and unjust prosecution by private actors, and to provide effective remedies. Yet on the ground, both violence against defenders and flawed judicial processes often go unaddressed, fostering a climate of impunity and further shrinking civic space for Indigenous communities (Gless, Sabine, 2018: 301–320).

Collectively, this global pattern underscores that the criminalization of Indigenous peoples is not an isolated phenomenon but rather a structured form of repression: the strategic deployment of criminal law to incapacitate

peaceful dissent, reframe demands for justice as security issues, and maintain extractive-investment interests under the guise of "public order."

METHODOLOGY

This study adopts an empirical-juridical approach, integrating normative legal analysis with field research to capture both the statutory framework and on-the-ground realities (Soerjono Soekanto & Sri Mamudji. 2011). The **normative legal phase** involved a systematic review of primary legal texts (the 2020 Mineral and Coal Law No. 3/2020, Presidential Regulation No. 88/2017, the Criminal Code, Emergency Law No. 12/1951) and relevant regional regulations; analysis of judicial decisions (including the Soasio District Court's pretrial ruling); examination of PT Position's Mining Business Permit documents; and a comprehensive survey of legal doctrine and literature to construct a theoretical framework on criminalization and customary-land rights (Marzuki, Peter Mahmud, 2008).

The **empirical-juridical phase** comprised participatory observation and semi-structured interviews conducted in East Halmahera (Bowen, Glenn A, 2009). Participatory mapping delineated the boundaries of customary territory and mining operations ([1] King, Nigel & Christine Horrocks, 2010). Primary data were gathered through purposive sampling interviews with: (a) customary leaders and Maba Sangadji community members subjected to legal action; (b) law-enforcement and prosecutorial officials involved in the case; and (c) human-rights NGOs and legal advocates supporting the community (notably JATAM and YLBHI) (Braun, Virginia & Victoria Clarke, 2006). All interviews were audio-recorded, fully transcribed, and subjected to thematic analysis to identify patterns of criminalization, FPIC procedural breaches, and justificatory narratives. Preliminary findings were verified via member checking with key informants to ensure interpretive accuracy (Lincoln, Yvonna S. & Egon G. Guba, 1985).

By synthesizing normative and empirical insights, this methodology elucidates **how** criminalization mechanisms operate—both in legal-formal terms and in everyday practice—and **why** state and corporate actors instrumentalize the law to suppress Maba Sangadji resistance, thereby bridging doctrinal analysis with lived social experience.

Empirical Findings

Criminalization and Legal Process

On 16 May 2025, the North Maluku Regional Police deployed hundreds of officers to disperse a peaceful banner demonstration by Maba Sangadji villagers, who were demanding the cessation of mining and compensation for environmental damage. Without advance notice or negotiation, authorities forcibly detained twenty-seven individuals including customary leaders, women, and elders and charged eleven as suspects under vaguely worded provisions (JATAM, 2025): Emergency Law No. 12/1951 (sharp weapons), Article 162 of the 2020 Mineral and Coal Law (obstruction of mining activities), and Articles 368 and 55 of the Criminal Code (extortion), despite the absence of any tangible damage to mining infrastructure or credible evidence of extortion (Mongabay Indonesia, 2025).

Advocacy groups characterize these arrests as lawfare the strategic use of criminal law to undermine peaceful protest—citing that no suspect was shown the alleged weapons or corporate documents, and that three defendants were deemed drug-positive based on unilateral urine tests lacking independent verification (LPM Aspirasi, 2025). Mongabay Indonesia reports that the arrests occurred in torrential rain, denying detainees access to footwear or personal belongings, resulting in minor injuries and psychological trauma (JATAM, 2025).

The pretrial hearing at the Soasio District Court on 16 June 2025 was expected to rectify these excesses. Instead, the court ruled three of the five arrests unlawful on procedural grounds but nevertheless upheld the suspect status of all eleven individuals, while dismissing one petition as beyond its jurisdiction (JATAM, 2025). YLBHI denounced this outcome as a dangerous precedent, legitimizing the punitive silencing of critique against extractive projects.

In a 18 June 2025 interview, defense counsel Ahmad Suarez Yanto Yunus revealed that the formal arrest records lacked any official arrest warrant or warning notice, yet the judge asserted compliance with the Criminal Procedure Code (KUHAP) and refused to revoke suspect statuses, notwithstanding the absence of substantive evidence of criminal conduct. Requests to present environmental and customary-law expert testimony were rejected as "beyond the scope" of the proceedings, thereby excluding critical context on rights violations (Suarez Yanto Yunus, 2025).[6] Moreover, defense teams received investigation transcripts only at day's end, severely constraining their ability to file timely objections. These procedural deficiencies illustrate how the judiciary can be co-opted to perpetuate the criminalization of Indigenous land defenders, rather than uphold their right to justice (Suarez Yanto Yunus, 2025).

Narrative Framing and Cognitive Repression

The state–corporate alliance deploys a deliberate framing strategy, rooted in Entman's (1993) model, to control public perception and delegitimize Indigenous protest. First, police press releases and pro-investment media characterize community members as "thugs" bearing "sharp weapons," portraying the dispute as a security threat rather than an agrarian rights issue (Entman, Robert M, 1993). This pejorative labeling simplifies the narrative for general audiences, fostering acceptance of repressive measures over a nuanced understanding of customary-land claims.[7]

Second, the unsubstantiated drug-positive allegations against three villagers serve as cognitive repression, deflecting attention from FPIC violations to sensationalized criminality.[8] Davenport (2007) notes that such disinformation tactics stigmatize dissenters and fracture social solidarity (Davenport, Christian, 2007).

Third, these frames are disseminated across multiple channels—police social-media accounts, local outlets (e.g., Tromol Pos, Maluku Post), and village WhatsApp groups—consistently depicting events as law-enforcement responses to "public-order disturbances." Gamson and Modigliani (1989) demonstrate that media framing emphasizing security risks marginalizes issues of human rights and agrarian justice, thereby constraining civic space for legitimate dissent (Gamson, William A., and Andre Modigliani. 1989). The outcome is a democratic deficit: broad public opinion perceives the Maba Sangadji struggle as a hindrance to investment, rather than a defense of constitutionally recognized land and cultural rights.

Ecological and Social Impacts

Satellite-based land-cover analysis (2017–2023) indicates that approximately 38 ha of Maba Sangadji customary forest—roughly equivalent to 54 Monas squares—have been cleared for PT Position's concession (JATAM, 2025). This forest once functioned as an ecological "lung," harboring medicinal plants and endemic wildlife essential to local food chains. Its removal has precipitated severe soil erosion, transporting nutrient-rich alluvial sediments and mine tailings into the Sangaji River and its tributaries (Kaplo, Tutungan, Semlowos, Sabaino, Miyen). (Wiersum, Karel F, (2006): 146–160), (Van Noordwijk, Meine, et al, 1997: 81–96).

Water quality has deteriorated markedly, with traditional freshwater fish populations declining precipitously. Community members report dermatological ailments, eye irritation, and gastrointestinal distress consistent with heavy-metal and fine-particulate contamination from mining effluents (JATAM, 2025). The collapse of aquatic protein sources imperils household food security, especially for families reliant on river shrimps and the indigenous "jigong" fish (JATAM, 2025).

Socially, deforestation has disrupted the transmission of traditional ecological knowledge—residents can no longer harvest rattan, resin, or ritual materials endemic to primary forest. Ancestral hunting and honey-gathering practices have ceased, compelling many young adults into low-wage informal labor or precarious mine employment (Li, Tania Murray, (2002: 149–179). Altered terrain has exacerbated flash floods: villages downstream have recorded three major inundations since 2021, compared with once-a-decade historical patterns. Silted agricultural fields delay planting seasons and reduce clove yields by up to 30 percent, while rising health-care costs deepen structural poverty and social vulnerability. Collectively, these ecological and socio-cultural disruptions underscore that the East Halmahera agrarian conflict constitutes an existential crisis for the Maba Sangadji's physical survival, livelihoods, and cultural heritage.

State–Corporate Collusion

Collusive dynamics between security forces and PT Position are manifest in the North Maluku Regional Police's active facilitation of corporate interests—from coordinating the forcible arrests of community critics to managing legal processes in the company's favor. JATAM's press statements document armed police interventions executed at the corporation's behest, absent any effort at customary dialogue or neutral mediation (JATAM, 2025).

Following the Soasio pretrial ruling, despite declarations of unlawful procedures, the court maintained all suspect statuses and barred introduction of evidence on Indigenous-rights violations, signaling judicial alignment with corporate imperatives rather than constitutional protections. YLBHI criticizes this outcome as a dereliction of judicial duty: half-hearted adherence to KUHAP procedures, rejection of environmental and customary-law expert witnesses, and disregard for Constitutional Court Decision 35/PUU-VIII/2010 on the recognition of customary forests all point to institutional failure (LPM Aspirasi. 2025).

This confluence of executive, judiciary, and corporate action epitomizes the collapse of checks and balances: law-enforcement agencies serve as repressive enforcers, courts abdicate protectorship of Indigenous rights, and corporations operate with impunity. The result is a structural scheme designed to eradicate dissent and preserve

extractive profits at the expense of the Maba Sangadji's constitutional entitlements to land, culture, and participatory democracy.

DISCUSSION

The Maba Sangadji case starkly illustrates the securitization of agrarian conflict within Indonesia's extractive sector, whereby Indigenous resistance is reframed as a security threat rather than treated as a socio-legal dispute warranting dialogue and procedural justice. The deployment of hundreds of armed personnel and the recourse to broadly worded criminal provisions signal that the state perceives Indigenous objections as "public-order disturbances" instead of legitimate grievances concerning breaches of land and environmental rights guaranteed by Presidential Regulation No. 88/2017 and Constitutional Court Decision No. 35/PUU-VIII/2010 (Mahkamah Konstitusi RI. 2012). This securitization paradigm legitimizes measures ranging from forced dispersals to the criminalization of peaceful protest—patterns similarly observed in mining conflicts in Kalimantan and Sulawesi (Peluso, Nancy L., dan Christian Lund. 2011, 667-681).

The invocation of catch-all statutes—Emergency Law No. 12/1951, Article 162 of the Mineral and Coal Law No. 3/2020, and Articles 368 in conjunction with 55 of the Criminal Code—as Strategic Lawsuits Against Public Participation (SLAPP) underscores both the fragility of FPIC mechanisms and the absence of corporate accountability. Rather than engaging in consensus-oriented dispute resolution with customary communities, corporations, aided by state authorities, exploit vacuums in participatory processes to criminalize nonviolent dissent (Fontaine, Phil., dan François Maillet. 2016, 300-325). Such SLAPP tactics not only result in the incarceration and stigmatization of local defenders but also produce chilling effects: other communities hesitating to contest extractive operations for fear of legal reprisal (LPM Aspirasi. 2025).

Concurrently, cognitive repression through a monolithic narrative framing narrows public discourse to a binary of "investment versus thuggery," thereby marginalizing Indigenous demands for environmental remediation and reparations. By portraying customary protest as an economic threat, pro-investment media outlets and official communiqués cultivate the perception that Indigenous resistance constitutes a security problem rather than an assertion of constitutionally enshrined rights (Gamson, William A., dan Andre Modigliani, 1989: 1-37). This manufactured consensus erodes participatory democracy: mechanisms of public engagement such as open consultations, agrarian-law channels, and human-rights advocacy are supplanted by top-down narratives constructed by political and corporate elites, leaving little space for inclusive deliberation (United Nations Human Rights Council. 2019).

Moreover, the Maba Sangadji experience exemplifies systematic lawfare: the instrumentalization of formal legal instruments to dispossess and silence Indigenous peoples (Kemenko Marves. 2021). First, Emergency Law No. 12/1951 on sharp weapons is invoked to accuse customary landowners of "carrying blades," despite the absence of credible evidence (Komnas HAM RI. 2022). Second, Article 162 of the 2020 Mineral and Coal Law on obstructing mining activities is applied to those standing on ancestral lands. Third, extortion provisions (Articles 368 and 55 of the Criminal Code) serve to criminalize Indigenous objections in the absence of any corporate loss or compensation claims. This multipronged legal assault parallels the concomitant physical displacement that has uprooted the Maba Sangadji from their territories, in direct contravention of Article 18B(2) of the 1945 Constitution and Article 28 of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

PT Position's expansion has not only degraded forest and river ecosystems but also dismantled cultural lifeways—rituals, traditional knowledge, and social networks—while reducing community members to subjects of coercive law enforcement rather than bearers of constitutional rights. Within a participatory-democracy framework, judicial processes that disregard due process and the presumption of innocence become emblems of an agrarian-justice crisis, wherein mining and criminal statutes converge to annul Indigenous rights in the name of investment stability.

Policy Implications

To align corporate and public interests with the constitutional rights of the Maba Sangadji, the State must institute comprehensive regulatory and institutional reforms (Newell, Peter, and Jonathan G. Frynas, 2007: 541–558). First, the FPIC regime under Presidential Regulation No. 88/2017 should be reinforced by detailed technical guidelines mandating exhaustive community-wide consultations, legally binding Memoranda of Understanding, and at least biannual reviews to accommodate evolving local conditions. Second, the Mineral and Coal Law No. 3/2020 requires amendment to excise ambiguous provisions—such as Article 162 on "obstruction"—and to codify safeguards for customary land rights in accordance with Constitutional Court Decision No. 35/PUU-VIII/2010. Third, a dedicated Indigenous Peoples Act should legally recognize customary-territorial boundaries through the One Map Policy.

Locally, the establishment of an Independent Commission for Indigenous Rights Protection comprising regional governments, customary institutions, academics, and civil society would provide accessible channels for grievance redress and mediation (Ruggie, John Gerard, 2011). A transparent restitution fund, managed via an environmental-funds escrow mechanism under the 2020 Ministry of Finance regulations, would guarantee equitable compensation for land loss and ecosystem rehabilitation. Law-enforcement officers and prosecutors should undergo mandatory training in human rights and Indigenous cultural protocols prior to deployment in customary territories, ensuring neutrality and adherence to due process. The creation of a Counter-Criminalization Unit within the North Maluku Regional Police would enable independent review of cases involving Indigenous defendants, thereby forestalling further lawfare.

Corporations must publicly disseminate Environmental and Social Impact Assessments and establish accessible grievance-redress mechanisms under independent oversight. Finally, annual public hearings conducted by the North Maluku Regional House of Representatives and customary councils should review mining permits, FPIC implementation, and customary rights compliance, ensuring continuous community monitoring of extractive policies.

By integrating fortified FPIC procedures, targeted legal revisions, robust grievance and restitution mechanisms, enhanced institutional capacity, and structured public participation, the State would transcend its role as a mere permit-grantor to become a guarantor and protector of the Maba Sangadji's constitutional and human-rights entitlements, in conformity with the 1945 Constitution and international standards.

CONCLUSION

This study elucidates the systematic criminalization of the Maba Sangadji Indigenous community's peaceful opposition to PT Position's nickel-mining expansion in East Halmahera through the strategic application of ambiguously worded statutes—Emergency Law No. 12/1951, Article 162 of the 2020 Mineral and Coal Law No. 3/2020, and Articles 368 in conjunction with 55 of the Criminal Code—as instruments of lawfare to suppress dissent. The ensuing legal process—characterized by forcible arrests absent proper pretrial procedures, suspect designations unsupported by concrete evidence, and ambiguous pretrial rulings—reveals profound deficiencies in the protection of Indigenous constitutional rights and indicates collusion between state authorities, the judiciary, and corporate actors.

Ecologically and socially, the clearance of 38 hectares of customary forest has destroyed critical habitat, degraded water quality in six principal rivers, and imperiled both food security and the community's traditional knowledge systems. The dominant narrative framing of Indigenous protest as an "investment disruption," coupled with allegations of "thuggery" and "drug use," operates as a form of cognitive repression—obscuring core issues of land rights and FPIC violations and thereby undermining the legitimacy of the community's claims.

To redress this multidimensional crisis, comprehensive reform is imperative. First, the implementation of Free, Prior, and Informed Consent (FPIC) under Presidential Regulation No. 88/2017 must be strengthened through detailed technical guidelines, legally binding agreements, and periodic reviews. Second, anti-SLAPP provisions should be codified within national legislation to protect public participation in environmental decision-making. Third, the Mineral and Coal Law should be amended to explicitly recognize customary territorial rights in line with Constitutional Court Decision No. 35/PUU-VIII/2010. Fourth, transparent institutional mechanisms for the protection and restitution of Indigenous lands must be established.

Ultimately, the State must realign its role from permit-grantor to guarantor of agrarian justice by ensuring the neutrality of law-enforcement agencies, securing unfettered legal access for Indigenous communities, and facilitating their substantive participation at every stage of mining-related decision-making, thereby upholding both constitutional mandates and international human-rights standards.

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