



Model of Dispute Settlement over Natural Resources in Lore Lindu National Park Central Sulawesi, Indonesia

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Abstract

The specific aim of the research is to identify and analyze how local people could comply with both state law and customary law, and then find an ideal model of dispute settlement over natural resources. The research method used qualitative research with the socio-legal approach. Data collection techniques used is observation, in-depth interviews and focused group discussions. The research involved some key actors and some informants as a source of data and information up to 260 respondents. Data were analyzed based on qualitative analysis. The research found that indigenous people legal behavior tend to refused or unobeyed regulation or government policy settling their conflict rather than their local wisdom. Actually, a model of dispute settlement over natural resources has been used for a long time ago in surrounding the Lore Lindu National Park; they have *Baruga* and *Lobo* as a court that conducting a serial court session to find the final decision. These models consist of eco-values that exercised to make a balance between human and nature interest toward equal rights for use and sustainability for natural resources.

Keyword: Model Dispute Settlement, Natural Resources, Lore Lindu National Park.

1 Introduction

The settlement mechanism of conflict over the natural resources base on local wisdom has been practiced in a long period by the indigenous people surround lore Lindu national park in central Sulawesi, Indonesia. The conflict occurred when the state determined the forest state with the rights to administrate, regulate in using of the forest, while migrant and investor allowed to cultivated land tenure, mining, and plantation while indigenous people alienation. Natural resources are very close to the forest that is why indigenous people believe it as their space life (4). However, forest as an area established by the government on its range with the policy purpose of keeping the function and its sustainability such conservation law 5 of 1990, forest law 41 of 1999, environment law 32 of 2004 and a number of related regulation including national park buffer zone number 6 of 2006 (26,27,28). The consequence of the policy determined forest area, arisen various impact on the indigenous people that have lived for centuries surround the forest. After the forest established that mean state has controlled or regulated people activities whether forbid or limited anything in the forest area. Lore Lindu National Park established as a national park as well as forest area has made the problem of spatial toward indigenous people surrounded, that's indicated

two conflicts rise such vertical between state and local communities the other is a horizontal conflict between private enterprise and local people (14).

Combining three protected areas established during 1973–1981, Lore Lindu National Park (LLNP), established in 1993 by the Minister of Forestry through the decision letter of the designation of the area of Lore Lindu National Park with an area of 229,000 hectares. Based on Decision Letter No. 593/KPTS-II/1993, hereinafter the area of Lore Lindu national park designated the Minister of Forestry and Plantations of Indonesia through Decision Letter No. 646/KPTS-II/1999 with an area of 217,991.18 hectares. The boundary of the Lore Lindu National Park highlights many of the ambiguities regarding the treatment of peoples living in and around national parks (1), (22). In addition, the policy for determining the area above was followed by the issuance of forest concessions around the national park. Forest concession rights issued for the local state company and or a private company those it has been refused by the indigenous people that had been settled before the forest area designated by the government, therefore the dispute involved three parties whether indigenous people or governments and the private and state companies.

Conflict of Pekurehua indigenous peoples with the right of Hasfarm Napu-Plantation private enterprise is the early

beginning problem. This case arose when the Governor of Central Sulawesi issued a license for approximately 10,000 hectares to the Hasfarm Poso Plantation previously (PT Plantation Hasfarm Napu – PT. PHN). The area concession laid a part of local communities' tenures such as gardens and wetland. This legal entity forest could be developed from the right of cultivation, or business permit (HGU). This option is possible to conduct any plantation and agro forestry activities in land outside the forest area (25).

In particular, in the region of Kulawi borders the national park since 1995 are set up as limited forest production or conservation area while the government issued a license for using the forest as land company area of Central Sulawesi. The concession area reaches around 200 hectares where the local communities of Marena village and surrounding villages have lived and worked among national parks. Those conditions caused dispute between the government and the communities at once and the local government companies (25).

On the other hand, the migration occurred from different areas enters the territory of the national park. The influx of migrants because of natural resources around the national park is still very surplus to be utilized to fulfill they need as well as for enhancement of economic families. Gradually controlled of natural resources by migrants caused more limited access of local peoples to the sources, due of the government gave the rights to the migrant who applied the rights as an owner over the land while transferred and or sold by local families to the migrant. Compared to the indigenous people, the migrants do not have the same traditional ties with the forest and the same value- belief system resulting in a negligence attitude towards the region national park resources (17).

The spatial of life for most local communities look more residing in Sigi and Poso Regencies. Places, where they hang on to the needs of the social, economic, and cultural for centuries, caused become limited by the state policy. The phenomenon occurring a number of massive-scale dispute either vertical or horizontal type. The vertical dispute settlement existing tend to be done by using a highly legal formalistic term (24). Meanwhile, a horizontal dispute settlement over natural resources has long been practiced with an informal approach. Good resolution mechanism as well as the implementation of decision done by the local people. Some forms or ways of dispute settlement over natural resources vary greatly according to the conditions of the environment and nature. The difference model of dispute settlement between local people, Kaili, Kulawi, and Pekuhua even though have a number of similarities and differences in its best practices mechanism (23).

Based on such research, this will be looking for an alternative model in dispute settlement over natural resources. Partially, those have been done by them were accepted as a form of settlement which is still limited, therefore the model is required to holistically and principled resolution on pluralism, environmental sustainability and the importance of living as a human being. Although humans have triggered the current conservation and environmental crises, we also possess the capacity to discover, innovate, and act for a more sustainable future (15,16).

Research problem identified is the degree of the indigenous people attitude towards dispute settlement over

natural resources held by the state authority and how the ideal model of dispute settlement do over natural resources through the customary law. Research main goal is first, to find and explain the constraints legal attitude occurred in the implementation of the dispute settlement among the societies each other as well as government over natural resources and to find the ideal model of dispute settlement over natural resources according to the customary law of Kaili, Kulawi and Pekuhua ethnics which support the conservation efforts toward equal rights for use and sustainability of natural resources.

2 Literature Review

Several studies have been conducted and revealed that dispute over natural resources generally caused by the lack of coordination between the two regulating authorities exacerbates the situation (24). Such high-intensity conflict is usually difficult to regulate as actors start to lose control over their actions (31). The magnitude of this decline is directly linked to human-mediated habitat disruption, including land-use change, hunting, and exploitation of other forest-related resources (20). Protected areas are not the only policy tool for effective conservation. The role of collective action in the self-enforcement of community property rights over forest areas (7,9). In particular, the evidence is presented on how "leadership" appears to be both a product and a cause of collective action (21). It is further said that from the diversity of the local systems, there is some traditional wisdom that is respected and practiced by indigenous communities in Indonesia (19). Massive land use changes in recent decades have sparked widespread conflicts over control and access to land (30).

Regarding the series studies above mentioned, there is not any specifically examines yet about the model of dispute settlement over natural resources even surround the Lore Lindu National Park central Sulawesi. That is why the research considered as an important way to find such a solution to natural resources problems.

3 Research Methods

The study designed by qualitative research with systematic, factual and accurate regarding the facts. It is also intended to provide the possibility of data on humans and other symptoms. Thus this study will describe the various legal issues and facts as well as other symptoms that are associated with a model of dispute settlement over natural resources around the Lore Lindu National Park, and then to analysis and explain it in order to obtain the image of an intact and thoroughly about the problems examined in order to find the right solution. This is the socio-legal research should be informed by less theory and more moral indignation, that socio-legal studies is complementary to, and has much to offer, the study of housing (6,8,10).

Data collection techniques used is observation, in-depth interviews and focused group discussions. Observations were made to the society's activities especially related to natural resources dispute settlement while in-depth interviews made against certain parties thus focused group discussion as a complement of these.

Respondents were chosen in purposive samplings, such as some actors or figure, the figure of tribe, religious, women, youth, education and the authority related to the national park

including natural resources conservation (BKSDA) of Central Sulawesi, and forestry of Sigi as well as Central Sulawesi. These were conducted in Toro, Marena subdistrict of Kulawi and Bobo sub-district of Palolo in Sigi regency as well as Sedoa and Watumaeta in North Lore subdistrict of Poso regencies. Data were analyzed based on qualitative analysis.

4 Result and Discussion

4.1 The Degree of Communities Attitude towards Dispute Settlement over Natural Resources around the Lore Lindu National Park by States

The community cannot be separated from the law because the law can't work in a vacuum (without the subject's law). In addition to the role of the law and regulations, including the role of values (the law) is very important because even though customary law (unwritten) is also formed from the reflection of the values that exist in society but customary law is the crystallization of the behavior of a society that is recognized and accepted by their own. As the consequence of conflict and its factors, the research involved 260 respondents can be shown in Table 1.

Table 1: Respondent's Profile

Demographics		Actors in Conflict	Duty Barrier	Frequency	Percent
Gender	Male	200	10	5	0,25
	Female	60	5	2	0,16
Profession	State agency	6	3	1	0,50
	Investor	3	2	2	3,00
	Migrant farmer	65	5	5	0,38
	Local farmer	200	10	5	0,25
	Head of villages	5	5	5	2,00
Age	Under 34 years	100	5	5	0,25
	35 - 39 years	50	2	5	0,20
	40 - 44 years	50	5	5	0,50
	45 - 50 years	50	5	3	0,30
	51 - 55 years	7	5	3	0,20
	More than 55 years	4	3	2	1,50
Education	High School	250	10	10	0,40
	Undergraduate	2	2	2	2,00
	Master's	1	2	2	4,00

Based on the profile of the respondents it shows who is involved in natural resource conflicts in the national park area. There are a state agency, investor, migrant, and local communities. State agency as the authority holder issued some licenses in the resources both for investor and migrant under legitimating of some regulation meanwhile local communities refused the licenses in accordance to the customary law (29).

Indigenous people in the area of the Sigi Regency are Kaili and Kulawi as well as Pekurehua in Poso have customs that recognizes and applies the concept of rights over natural resources e.g. on indigenous peoples in Ngata Toro known two claims rights e.g. rights shared ownership and rights

private ownership. The form of those rights, not in spite of the traditional belief system which deals with the history and myths of origin as well as natural resource management traditions that form through the traditional knowledge system (12). The conflict occurred various problems related to the area of the park are not able to carry out its functions due to various limitations. The limitations of the authority are mostly regulation its self and culture including its human resource capabilities both for the law enforcement or to keep the balance of the environment, about 0,25 percent duty barrier of 200 people involved conflict over natural resources. Overlapping regulations and diverse governmental allocations of land, especially concessions, to particular stakeholders, create an unequal situation for local actors (13).

Legal formal approached by the State in resolving the question of natural resources or dispute turns out to fail. This occurs because of the formal law born of the political wishes of the ruler while the issues that arise as a result of government action so that it can be ascertained the existence of the state (11). Meanwhile, the indigenous peoples fully aware and trying to observe and reflect on the return values of custom built the tombs by their ancestors. The legal formal approached by the state in resolving the dispute over natural resources has faced some constraints such deny of forest borders from indigenous people, in fact, these approached failures. Protected areas are not the only policy tool for effective conservation (9).

Denying of the local communities values by the government in order to control natural resource, leading to inequality and injustice so that local communities either families or in a big group that still done the action to use that resources even as categories a violation by state law. The stigma of violations of the state law merely become the object of dispute in society. That impacted broad systemic over natural resources.

Due of very important and very strategic the natural resources in development, actually, both governments and societies including the private and state enterprise entity or legal entities are often crashing in claiming the existence of the rights over the natural resources. These attitude of societies will be endangered of the resources and actually reflected the human being securities and safeties. However, indigenous people surround the national park considering the natural resources as a part of the space of their life that's why still in using the resources with their knowledge while the authority considered as a violation.

4.2 The Ideal Model of Dispute Settlement over Natural Resources through Customary Law

The theory of justice in related natural resources management is still relevant to the phenomena surrounding the national park. The more limited the access of local peoples against forest resources and is increasingly massive the taking of forest products within the Lore Lindu National Park raises tensions among the communities. The existence of the local institutions as well as the tribe who have no space enough in the intervention management and setting the forest on its territory. At the same time, however, it is important to recognize that in aligning with state and private interests pursuing green economies these claims take on a particular inflection (3).

Even though, indigenous citizens who have split or styling natural resources are wisely according to the understanding that is based on a relationship of interdependence between humans and the environment (mutualism symbiosis). The concept of *huaka* and *dodoha* as ancestral heritage is threatened to disappear because the government does not consider its existence. Exactly which communities are considered 'customary' remains the interpretation of the state, even the implementation of the law remains malleable (18).

According to Durkheim's modern society is not bound by the similarity between the people who do the same work, but a division of work binding them by enforcing them to depend upon one another. Solidarity refers to a state of the relationship between the individual and or group based on the moral feelings and beliefs that held together which enhanced by shared emotional experience. The strategy is managing the land resource, activating institutions in the village, and diversifying economic activities (2).

Mechanical solidarity is formed by the repressive law (the actor of a crime or deviant behavior would have affected the punishment, and it will revenge the base of collective consciousness). That what the judge decided to punish who encroach the resources around the park e.g. work for a couple of weeks at the village garden. Whereas organic solidarity is formed by the restitution law (it aims not to punish but to restore the normal activity of a complex society). The organic solidarity comes to dispute settlement over natural resources quite prominent due to the judge's belief of *hintuvu* and *huaka* principles as the guidance to manage the resources. Both of them are useful to describe as a model of an ideal dispute settlement over natural resources as follows in Figure 1.

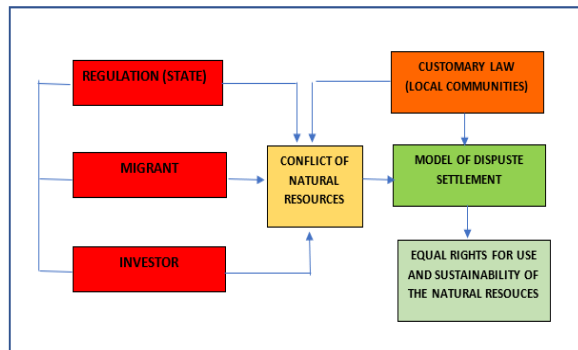


Figure 1: Model of Dispute Settlement over Natural Resources in Lore Lindu National Park

The Kailines, Kulawi, and Pekuhurua indigenous people customary law was formed by organic solidarity as the institutionalization of social values and cultural heritage in an indigenous community have contributed to the development. The empirical facts about it can be seen from the indigenous wisdom of indigenous wisdom in supporting environmental conservation. Shared ownership rights are the right to the utilization of natural resource management, designation, and responsibilities together. *Huaka* is joint ownership rights covering all tribal territories. The concept of joint management rights as *huaka* over natural resources is an asset the alliance that should be maintained its existence of various forms of disorders including its delivery (5).

Private ownership rights are the right to manage natural resources that are inherent in individual or family ownership. Individual or family ownership rights are obtained when the first forest is opened in the past. The process of opening the forest like it in the language of Kulawi Moma called the *popangalea* and family or private ownership rights are called *dodoha*. This system showed the community of Kulawi describing how natural resources sustainability system built since the formerly indigenous people live for a long time ago. Both private and shared ownership of land is managed through resource management in the form of village land especially in the fields and plantation. Farm fields planted with rice, corn, sweet potatoes, and other food crops. On a plantation covering plants in the yard as well as land has been planted with coffee, cocoa and other types of perennials.

The ideal model of dispute settlement over natural resources based on the local people values above could reduce more conflict even it occurs there is two trial mechanism used to solve it. The Baruga trial held when anyone or family asked to the head of customary to settle their case by borough cigarette and five betel leaf as a requirement. After explained the detailed case to duty barrier, head of the customary invite all parties related. A series trial conducted while it deadlocks but finally on the collective decision of *totua ada* taken for who was guilty or not performed. The unique of the trial collectively participate and open trial as well as base on their values. The other but alike trial appeal is Lobo trial. This mechanism used while a big case or one of the parties try to apply the previous decision of Baruga trial. However, in the certain case, the judge can ask the parties to show the object location as well as its border, when the witnesses of the parties and the communities the judge made decision with plug a spear in the ground (*nogane*) as a symbol of decision and remarking of these (field court). Both of Lobo and Baruga are co-existence to promote equal rights for resources sustainability.

5 Conclusion

The degree of indigenous people attitude toward state mechanism of dispute settlement over natural resources surround the lore lindu national park generally unsatisfying due of the basic problem of recognition of the people rights have not been seriously implemented as a whole. Model of dispute settlement over natural resources has been used for a long time ago who live surrounding the national park, they have *Baruga* and *Lobo* as a court that conducting a serial court session to find the final decision. However, in the case of a certain dispute, the judge can ask the parties to prove their rights in the field (field court). These models consist of eco-values that exercised to make a balance between human and natural interest.

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