

Factors Causing Land Conflict and the Role of Government in Settling the Conflict in West Papua Province, Indonesia: A Case Study in Maybrat Regency

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Abstract: This study was aimed to investigate 1) why land conflict in West Papua Province continuously occurs, 2) and how the role of local government to solve this conflict. In fact, central government of Indonesia has given a special autonomy to the local government of Maybrat to formulate policies and provide services to the community. This study was designed using a qualitative approach, with two data collection techniques, in-depth interview and observation. The result of this study shows that land conflict in Maybrat Regency is mainly due to several factors, such as education factors, sources of income, lack of respect on developments, customs and decision-making, the impact of special autonomy, rules of institutions, unfair buying and selling transactions, as well as the role of customary institutions. The government's role in the solving of land conflicts is made in three forms, namely issuing the policies, acting strategies, and deliberation. A significant way to reduce the conflict through issuing Regent's Decree regarding team establishment for land conflict resolution and land acquisition for development of public interest. This decision is the basis for the settlement of land conflicts that have occurred so far. Another role of the government related to the strategy used is to use the way deliberation and consensus. In order to the ways that are used to resolve the conflict is done through methods as advocator, facilitator, negotiator, and mediator.

Keywords: land conflict, conflict management, local government, public policy, problem solving, indigenous community.

INTRODUCTION

The research conducted by Brown and Stewart [1] in some countries, such as in the Middle East, Northern Ireland, the Balkans the Basque region of Spain, Malawi, Tanzania, and Zambia show that conflicts occurred due to lag in development, as well as a result of the civil war until the 1990s. Other research has shown that civilian and civilian conflict occurred in 22 of 31 countries because human development is still low. This condition by Paul Collier [2] is called "the conflict trap". Other studies found a correlation between poverty and conflict. Poverty and low human resource have relevance to the conflict that occurred in Maybrat district of West Papua province.

The conflict occurred in Maybrat has strived its completion by the government, but almost all the conflicts never resolved completely. Based on data obtained during the period 2013 - 2016, where in 2013 occurred as many as 12 cases, 6 cases (2014), 6 cases (2015) and 3 cases (2016). The conflicts are not only between peoples, but also between the public and the private sector, and the community with the

government. For example, between community and contractor/ entrepreneur happened 2013-2016 as much as 9 times, public conflict with government 2013-2016 as many as 16 times, conflict between others people 2013-2016 as much as 6 times. These conflicts to this day there are still many unresolved. Based on data released by the municipal government of Maybrat 2013-2016, there are still 11 land conflicts that have not been resolved.

According to Mayer [3], conflict is something that is natural, something that is inevitable, even needed, and normal. The problem is if the emerging conflict cannot be resolved properly, and the conflicting party is reluctant to admit that they are in a conflict situation. If such a situation occurs, it is necessary for the facilitator to facilitate the conflict to be resolved thoroughly. Conflict according to Miller [4] must be solved so that the conflict can be solved the problem. Conflicts must be sought for resolution and it is expected that the resolution is found to be the deepest source of conflict so that problems can be found and resolved properly, so that the

behaviors that arise will no longer lead to violence, hostile [5]. Thus, the structure of the conflict can be changed. A conflict resolution is a desired outcome, so the issues of conflicts that exist in the midst of the conflict can be dealt with satisfactorily through a solution mutually acceptable by the conflicting parties, to defend themselves in a time frame long, and society has new productivity, there is a positive relationship between groups, which previously always waged hostilities until finally the process or procedure of resolution can be found to be a mutually desired outcome [6].

It is important to emphasize that the conflict is not a problem that cannot be resolved because conflict resolution should be encouraged because the conflict is seen as a phenomenon which can be resolved permanently through mediation or intervention⁷. In principle, conflict resolution connotes a final thing, in which the group is expected to feel equally satisfied with the outcome of a settlement, and a conflict resolved in the real sense, because some of the conflicts can be resolved permanently [7]. Attempt to locate the problem and arrange a settlement permanent to the conflict party requires appropriate action.

Stemming from research and supported by the concept and the views of the experts on causation b conflict, how his early resolver, as well as how to manage conflict which then led to the outcome that is acceptable to all parties conflicted. Based on the actual conditions occurring until today, it is a substantive research aimed at revealed what factors cause the GCC become public land conflict in West Papua province Maybrat District continues to happen? What is the role of the government in handling and resolving land conflicts occurring in the people of Maybrat Regency of West Papua Province?

MATERIALS AND METHODS

This study is an exploratory study to uncover the phenomenon of factors which caused land conflicts and the role of local governments in conflict management. The research was conducted using qualitative approach. The location of the research is Maybrat District, because.

This area is one of the highest conflict frequency areas land in West Papua Province. The type of data required in this study is the primary and secondary data. Primary data is obtained from selected key infectives purposively (purposive sampling), either as a conflicting party or as a party to participate in the process of conflict resolution. While secondary data as the primary data support is obtained through documents that are related to the relevant conflict resolution events and processes.

The key informant was the Regent, member of parliament that have relevance to the object of research, head of the regional organization that handles land administration, the Chairman of the Police and Military Office, Village Chief, Community Leaders, and Community Figures. Data collection was done by interview and observations. Data management included varication, cleaning, data analysis, presenting the result, and data interpretation [8].

RESULTS AND DISCUSSION

The results show that it is a source of livelihood and economy people in Maybrat Regency are land ownership. Even in the culture and values of the people of Maybrat district, the land is analogous to their mother. From an economic perspective, land for the community is the main source of income, because the main source of income rests on the land /farmland, the land must be owned if it wants to survive. In addition, ownership of land also serves as a symbol and a certain social status in the midst of society. Problems that often arise and then lead to conflict after buying and selling land / land. What can be factors as well as how the government's role in the settlement of the conflict can be explained as follows:

Factors Causing Land Conflict

Conflict basically is a universal event occurring in almost all societies and its frequency may occur at any time. Almost never found a society where individuals or groups without conflict. Malthus argues that the reduced supply of life can be a cause of conflict [9]. The principle of the struggle for existence and life to fit the early hope is a cause of conflict [10]. Several other psychologists found from the instincts for aggression in humans can be a cause of conflict. This arises mainly because of the conflicting interests of groups and communities and between groups and communities [11]. Conflict also occurs as a result of the difference between the rate of change within the moral norms and human desires, expectations, dissatisfaction and needs community. In a study stated that conflicts occur because: a) Individual differences, b) Cultural differences, c) Clash of interests, and d) Social change. Based on the above concept, it is then linked with facts in the field [9].

What about the reality of conflict that occurred in the community of Maybrat Regency of West Papua Province? The findings show that causative factors of these conflicts over land in the district Maybrat due to several reasons;

1) *Education*. The level of education among people in community is still low, many of the people did not attend to the school resulted lack of knowledge of how the rules of buying and selling of the land. Likewise, the decision-making process undertaken by

the public is sometimes underpinned by the consideration of rationality.

2) *Source of income.* It is the fact that the economic condition of the people in Maybrat is low and land asset is a beacon of hope in their life fund. It is due to the main job of the community is a farmer. The legal status of land ownership that does not have the power of law (certificate) so that many parties can recognize the existing land (double ownership). When buying and selling transaction of the land then the conflict arises, especially when trading revenue sharing between buyers and sellers are less involved parties who feel entitled to the land being sold. Parties who feel aggrieved with the sale and purchase that has been going on tend to be strived in any way, including using violence when necessary.

3) *Close minded attitude of the people for development.* Social and economic environment that is likely to be less familiar with the competition in the fight for the lives of himself and his household, the closed nature with the outside world and do not keep up with developments that tend to old habits is the main reference, so that when he feels his interests disrupted then the further actions can be uncontrolled.

4) *Behavior and taking decisions.* The common habits and character of the community displayed when making decisions tend to give priority to the taste rather than rationality, so that the individual characters that are pinned to the people in Maybrat Regency are people who have a hard or temperamental character.

5) *The impact of special autonomy.* Decentralization and regional autonomy have triggered the movement of people from one region to another. There is division between districts and between districts and villages. So that the soil becomes important position, which is not for the local community but also settlers, the government looks for new land to build the infrastructure of regional organizations and entrepreneurs that intends to develop their new business.

6) *Regulation and institution.* The absence of official regulations and institutions governing clear and definitive land ownership status. The legal basis that can regulate, protect and provide legal certainty, so that when the sale and purchase of land, people can submit and obey the rules that have been determined.

7) *Transaction of unfair buying and selling.* Post-transfer of rights to land as a result from the sale and purchase of land / land to be the cause of the conflict. Conflict is occurred because one party feels there is no equal distribution of the sale of land from the seller. That places the jealousy of the other party, giving rise to the conflict. The only way

taken is to question the process and lead to prolonged conflict.

8) *The role of customary institutions.* During this time the role of customary institutions that can serve as an institution that can explain the status of land ownership. However, in terms of legislation the role of customary institutions has not been accommodated in the positive laws of Indonesia, especially in land / land ownership (land / land certification).

When referring to the concept of Shelly Shah [9] about the causes of conflict differed by reasons; a) individual differences, b) cultural differences, c) b entrust interests, and d) social changes, then fax tors can be concluded that the cause of the conflict over land in Maybrat Regency society can be categorized as follows; first, Clash of interests, conditions where the private sector and the government as the transacting party using a legal and rational approach. Entrepreneurs and the government use the applicable legal approach so that if there is agreement between the seller and the buyer then it is deemed the transaction has been completed and has been valid. Lack of understanding of citizens about how the procedure and the validity of a transaction, coupled with the level of education and push an economic interest to encourage others, especially other family members did not recognize the sale and purchase transactions that have occurred.

In Maybrat society, the land is a joint property so that each party in the family must get a share or compensation if it occurs buying and selling. The conflict between the buyer and the seller occurs as a result from a different point of view. The buyer considers after the purchase of the land, it is deemed to have been completed and the right of ownership has been transferred and valid according to law. While the other families feel that their rights have not been met because there is one party to the family who have not been involved and got their rights. Consequently, even conflict occur and prolonged, whether between fellow family members or between the seller and the buyer, both from the private and government.

The strong consideration of the values and customs of Maybrat society, each hand-to-hand transfer of the land based solely by a sense of mutual trust. It is adversely affected to the society in the future. They were lack of consideration the long-term effects that land ethic changed into a valuable asset economy and provide opportunities for financial benefits. The other cases, when the managers of the land, who were mandatory to manage the land by the landowner, sell the land because they felt the land is theirs. When the authorized party sells the managed land / land then the party owner refused the transaction

because it felt that the transaction was not valid, because the seller is not the legal owner. The absence of an agreement document between the two parties which is only based on the agreement alone becomes a source of conflict. The habit of the owner of the land is authorized to a certain party to manage their land has long been held and recognized its existence in the midst of society Maybrat itself.

The other factor is due to social change. As a newly formed district where the newly formed government, including the community where previously still relatively closed as a result of the distance away from the city center so that its social and economic environment tend to be less familiar with the competition. The closed minded with the outside world raises the attitude of maintaining old habits and if feel its interests are disturbed then its actions are not controlled. Transactions that use a positive and rational legal basis are indirectly capable of being digested by newly exposed societies. The conclusions can be drawn from the events of land over in Maybrat District of West Papua Province and relevant to the concept proposed by a study only two; conflict of interest and social change, while individual and cultural differences have no relevance [9].

The Role of Government in Conflict Resolution

The government's role in conflict resolution in terms of authority, duties and functions is to create a sense of security in society becomes very important. Therefore, an important role that can be done in addition to preparing the policy will be as a guide in preparing conflict resolution measures if they occur, especially in the context of land. In addition, other roles are strategies and methods used in solving land conflicts.

The role of government regarding the policies to tackle the land conflicts after land selling is important. Government policy is the guideline that directs the formulation of the strategy chosen to be more effective in achieving the goals and objectives in a given time period. The policy direction formulation rationalizes the choice of strategy to have a focus and appropriate regulatory enforcement. A clear policy causing strategy can be described logically when it is executed, and what the prerequisites for another strategy are. Referring to PERMENDAGRI number 86-year 2017, the strategy should be drafted by each local government as a sequence of strategies from year to year for 5 (five) consecutive years guided and explained by the policy direction [12]. Strategy and policy direction are the formulation of a comprehensive plan on how Maybrat District Government of West Papua province can achieve the goals and objective of RPJMN effectively and efficiently in the future, including land conflict resolution.

If the Maybrat local government refers to the policy and strategy direction of the PERMENDAGRI number 86-year 2017, then the problems of land conflicts that always occur and can raise the complete solution. The absence of a solution to recurring land conflicts should be one of the priorities in development in Maybrat. It is important to be prioritized because of the impacts of the conflict that have occurred so far, which not only cause material losses but also casualties. Therefore, the role of government becomes very important as part of its duties and main duties in providing services to citizens, especially how to build a sense of security in the middle of society.

The results showed that government, in the role of policy making as a strategic direction and management in resolving conflicts shared a Decree of the Regent Number: 130 / 75.A / XI / 2015 on the Establishment of Land Conflicts Settlement Team and Land Acquisition for the Development of Public Interest [13]. The Decree of the Regent contains the order of forming a team whose duties and functions deal with any conflicts that occur related to the public interest. Capitalize a decree the team then act as mediators and facilitators as well as inviting the parties to the conflict to deliberation resolving the conflict between the parties in conflict. So, the strategy used by the government in resolving the conflict is by deliberation. Deliberation takes place between conflicting parties facilitated by a Team formed by the government. The team consists of Assistant I for Governance, Governmental Section, Legal Section, Land Sub-Division and the Head of Police Office in Maybrat, as well as technical agency that handles the project. Although the conflict can be mediated by the government, in terms of effectiveness cannot be optimal because of the weakness of the legal basis on which the basis of conflict resolution. The results of the deliberations are not reinforced by proper regulation so that the results of the deliberations at any time can be denied. As a result, many land conflicts have not been resolved. The recurrence of land conflicts is seen as the capacity of government officials of Maybrat in assisting the settlement of land conflicts is not yet competent, since the nature of the established team does not originate from the agency specifically to understand the land issues. In addition, the team is also deemed not to be a representation of the parties with interests so that the incidents are not comprehensive. It also becomes the reason why every decision that has been taken is not necessarily in the future there is no conflict.

The previously stated deed, if analyses more deeply, seems to be in line with a statement which states that there are several issues as to why many leaders take such actions and policies. It

is because of some reasons, such as the government facing too many policy priorities to be solved, too few resources that can be used to support the policy are made, while simultaneously all issues must be resolved with the right policies so instant becomes an option [14]. The field deed shows that until recently there is no Défense Agency that should handle all matters related to land in Maybrat Regency. Because the h al make the policy makers who deal with problems of land conflict does not have a permanent legal footing to resolve land conflicts that occur in the community. In the case of the formation of regional apparatus organizations that exist in the territory of a district can be formed, although the status of the organization is the nature of the organization that is deconcentrated.

The government with its bureaucracy is sometimes unable to work optimally because the existing bureaucracy within a government lies and works in a bureaucratic environment that is over-emphasizing hierarchy, bureaucratic, monopolistic and bound by a political authority, so bureaucracy has a rigid culture, members of the organization are in an environment where his behavior is limited to *following the instruction in tightening control*. As a result, the existing bureaucracy has no initiative and creativity. The team formed by the Bupati consisted only of the elements of the government apparatus alone, coupled with the security apparatus so that the outcome of the conflict resolution was not complete [15].

The unfinished condition of land conflicts in Maybrat District indicates that the government fails to establish and establish a framework that can predict the laws and behaviors undertaken by the government in relation to development, or the authority to apply rules and laws. The delay in legal products that should be the reference of all parties when the sale and purchase of land does not exist. Thus, it contributed to the conflict situation. Moreover, in Maybrat Regency, special autonomy by the central government for Maybrat should be willing to accommodate the existence of the Papuan Assembly as a locally recognized institution. Thus, if an event of uncertainty the status of land ownership / land can be an institution that provides clarity (verification) and the validity of owners of land conflict. Because of the complexity of the conflict settlement land in the province of West Papua is quite complicated, then the conflict resolution strategies should also have a different strategy.

The era has changed and new ways of managing governance must also be changed as a result of government environment that continues to change. K raft on the importance of government in managing public sector use governance approach, the governance approach should also be used in the context of land conflict management and conflict resolution strategies of land. Why use a governance approach because

essentially with the governance approach will be able to digest the changes that are happening, especially how to interpret the tasks of government that must change. Because of the changing environment of government then governance always refers to: a) a new process of governing. The process of resolving conflicts in Maybrat District must be viewed with a new perspective of government, the process of managing governance, especially in relation to conflict resolution strategies. b) changing conditions in the rules. How Maybrat Regent done by the Leader of Maybrat government seen as less responsiveness to anticipate environmental changes occurred in the midst of society. c) a new method of public participation in government [16].

Lack of community involvement in the delivery of the decision directly in conflict resolution through Decree issued by local government no longer relevant. The use of a governance approach is time to be used. This means that by approach of governance means that there is a recognition of the regional government that the conflict resolution process that occurs during this time may not be resolved solely by the government, but must involve all stakeholders, particularly in the formulation of policies and strategies and methods used in the conflict solving. The interaction among all stakeholders should be done and mutual trust should be encouraged by the government. It is recognized by Rhodes [16], that there is a role agreed to build trust, there is no communication, reduce uncertainty, so the there is a basic non-hierarchical coordination.

Referring to the views of Ury, Brett, and Goldberg [17], there are several strategies and approaches used in solving conflicts in the community: 1) a power-based approach. 2) Rights-based approach, 3) interest-based settlement, 4) principle-based approach, 5) manipulation-based approach. The results of research related to the strategies used Maybrat district government in the conflict resolution when analyzed seem to have any relevance to the interest-based approach. According to this approach, the purposes of conflict resolution could be done by a collaboration. Each party is invited to discuss their various needs and then try to be resolved through the exercise of power or assert their rights. So, if analyzed from the point of conflict resolution strategy of settling land conflicts is not too principle-based. The reason is if the principle-based approach is used by the government then government will continue to meet the needs of conflicting parties through the principle of whether fair, reasonable, moral or right so that there will be no further conflict.

When analyzed whether the approach to settling land conflicts in Maybrat society is also power-based? Can be concluded it is not in accordance with because

the Maybrat government is still conducting deliberations so as not to impose the will alone. Does the strategy conduct by Maybrat District government also use a rights-based approach? Does the Government seek to create a framework for settlement of the conflict based on the rights of landowners to be arranged its structure both in terms of laws, policies, regulations or procedures completion? Field facts also do not resemble a power-based approach, because conflict-based conflict resolution is the main message is "what I want because I have the power to reward or punish." The next approach is a right-based strategy. The reality on the ground is also not similar because the core of this strategy is characterized by its message that "the law requires you to do what I want". The structure of a rights-based conflict tends to be less focused on what is needed but rather on what are the rights of citizens must be obtained. Therefore, the disputing rights are fulfilled so there will be no conflict. Lastly, is the strategy used by Maybrat government to use manipulation-based strategies? Seemingly, it is also not relevant because this approach tends to away from conflict. Maybrat District Government basically has efforts to resolve the conflict, although the result is not optimal yet.

The way done by Maybrat government today to resolve the conflict is by consultation and consensus. The role of government acting as advocator, facilitator, negotiator, and mediator are good, while the other two roles as a decision maker (decision maker) and as a researcher (researcher) is not too prominent. When referring to the concepts of Mayer [3], it can be concluded that the way settlement of land conflicts that done Maybrat District Government only use the role as advocator, facilitator, negotiator and mediator.

CONCLUSION

Factors causing the conflict of land in Maybrat District of Papua Province continue to occur because of conflicts of interest, and changes in social. The two main factors are derived from education, income sources, closed nature with new developments, customs and references in decision making, the impact of special autonomy, rules and institutions, unfair buying and selling transactions, the role of customary institutions.

The government's role of Maybrat Regency in the resolution of land conflicts carried out in three forms namely issuing the policies, acting strategies, and deliberation. Government policy in handling conflicts is done through Regent's Decree No. 130 / 75.A / XI / 2015 on the Establishment of Team for Land Conflict Resolution and Land Acquisition for Development of Public Interest. This decision is the basis for the settlement of land conflicts that have occurred so far. Another role of the government related

to the strategy used is to use the way deliberation and consensus. In order to the ways that are used to resolve the conflict is done through methods as advocator, facilitator, negotiator and mediator.

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