

Factors Influencing And Alternative Policies Offered Of Social Conflicts Indigenous People's Rights

Saiful Deni

Abstract: This paper is a review of the social conflicts of indigenous peoples, especially in North Maluku. The purpose of this review is to find out some factors causing indigenous peoples' social conflicts in North Maluku and to produce alternative solutions as a policy to develop indigenous people's livelihoods. The review resulted in several factors causing social conflicts of indigenous peoples such as; the unclear boundary between the two parties, the customary violations by the forest businessmen, the injustice of the law enforcement officers in solving the problems, the destruction of the indigenous people and the forest community narrow forest, the lack positive contribution of forest management so far to indigenous peoples and forest communities, companies do not involve indigenous peoples and/or forest communities in forest exploitation, destruction of customary buildings as places of worship, deforestation, timber exploitation, while timber by indigenous peoples is sacred wood or abstinence to be felled. Alternative solutions are required by local government such as; policy on legal recognition of indigenous peoples, indigenous peoples' empowerment, implementation of indigenous peoples' aspirations, indigenous peoples' economic development based on local wisdom, and dispute resolution of indigenous peoples through special courts of a holistic nature.

Index Terms: Social conflict, indigenous people's rights, public policy.

1 INTRODUCTION

North Maluku Province in Indonesia consists of various tribes and customs known as the community. All communities that have traditionally hereditary are called indigenous peoples. Under the four empires of the Islamic sultanate which is *Ternate*, *Tidore*, *Bacan* and *Jailolo* are colored by Islamic culture. In addition, the emergence of Loloda Sultanate also encourage the return of small kings in the stage of adult social dynamics. The second model is that indigenous peoples with customs without formal religious influences characterize jungle dwellings such as the Tobelo and Kao tribes, better known as the *Togutil*, *Togutil Modole*, *Togutil Lina*, *Sawai*, *Ibu*, *Sawai* tribes in Central Halmahera, The hinterland of West Halmahera, as well as the Origin Taliabu tribe at the top of the Wild Forest Taliabu Island. Indigenous peoples are known as communities of historical continuity, flourishing in their ancestral lands with a few binding and lasting rules and customs from one generation to the next in a particular territory, a way of life in accordance with their own cultural patterns, having social institutions and systems Law [4]. Indonesian constitution No. 32 of 2009 on Environmental Protection and Management defines that indigenous and tribal peoples are a group of people who have traditionally settled in certain geographical areas due to a bond to the ancestral origins, a strong relationship with the environment, and a deterministic value system economic, political, social and legal institutions. As a community that has a significant worldwide number between 300-500 million, it still maintains 80% of the world's cultural and biodiversity, and occupies 20% of the world. The diversity of Indigenous Peoples of the world is almost in all countries by forming a spectrum of humanity, ranging from traditional societies, subsistence farmers to well-educated culture groups.

Crucial issues in Indigenous Peoples are a concern for the destruction of forests and ecosystems, as well as conservation efforts, protecting cultures, languages, even at the level of cultural promotion on behalf of the state. Along with the adjustment and adaptation of change in the world, Indigenous Peoples are faced with collective suffering in self-determination that should be based on respect for customs and on the earth. The extent of diversity of indigenous communities throughout the world, but has one thing in common: the history of state injustice and modernization projects that contribute poorly to its existence. Social conflict bear fruit Genocide / death, torture and enslavement. Even indigenous peoples are denied their rights to participate in regulating the current state system process. The conquest and colonization of the past have disturbed the dignity and identity of indigenous peoples in the determination of the basic rights of recognition and protection. Historical continuity can be seen in several factors: a) activity on ancestral lands; b) indigenous peoples on certain lands; c) Culture and religious manifestations, living under the tribal system, membership in indigenous communities, clothing, livelihoods, lifestyles); d) Local languages; e) Certain places in certain areas of the world. Indigenous peoples have implications for social dynamics, cultural and ethnological significance. Indigenous cultural specifications of language, law, values and traditions; A long history different from modern society and the state; Unique economic, religious and spiritual relationships in the region where he lives. The state implements indigenous peoples merely a cultural complement but tends to be oppressed and alienated altogether

2 INDIGENOUS PEOPLE THEORIZATION AND RESOURCE CONFLICT

Some ecological approaches can be formulated. First, whether in understanding ecology is more appropriate using a conflict or consensus approach? Is the conflict as a driver toward equilibrium (ecological stability) or just the opposite of consensus as a middle ground? If the community as a source of democracy, whether the state can be a mediator of consensus in the struggle for ecological resources? Second, the dichotomy of idealism versus materialism in view of

- Saiful Deni is Associate Professor of Public Administration Muhammadiyah University of North Maluku, Indonesia, email: saiful_deni@yahoo.com

ecology. Whether the societal and economic changes in ecological exploitation are the result of historical ideas or is precisely because they meet the material needs of the role of the bourgeois class in capitalist society. Third, the difference in how to apply ecology with high-level technology or through mediation. Whether technology can protect ecological sustainability or just the opposite? Fourth, the application of the development approach in the enjoyment of ecological resources. Is it socially and environmental economic development, which model is best; environmental determinism, structural functional, structural marxism, modernization, or the development of a dependency approach [14]. Which model is considered the most environmentally friendly. According to authors It is more precisely to offer an ecological perspective model of indigenous society. Of course, this offer provides a solid foundation of thought. Some fundamental questions of techno centrism sue, whether mythical and sacred mythology in ecology can be justified scholarly. Likewise, ecocentrismists also ask whether scientific knowledge can protect and be able to provide an objective explanation of the ecological damage caused by resource exploitation (Forsyth Team 2003; 23). Similarly Paul L. Wachtel in (Roger Keil, et al., 1998; 253) [12] mentions that oversconsumption of the natural balance threshold is triggered by a free market in the path of a growth-oriented system. Robert Tedd Gurr (1970) [7] finds people's behavior that society's accumulation is not a contestation of political power, but rather oriented to economic needs because of the phenomenon of "mass deprivation". Which leads to social movements of society resulting from the political access gap between high expectations and limited political access. Structurally the Government's failure in protecting indigenous peoples will have an effect on severe environmental degradation. The government put forward a "top-down" approach in its policy. In general, conflicts between indigenous peoples with investors and the government in resource management are abundant but are not enjoyed by indigenous peoples. Figure 1 shows the social conflict schemes of indigenous peoples and the state.

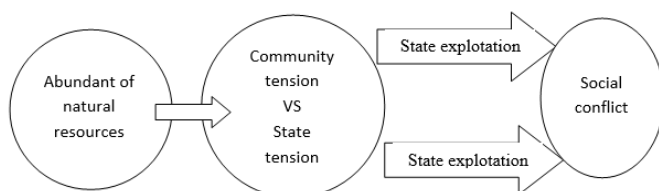


Figure 1. Social conflict schemes of indigenous peoples and the state

3 ECOLOGY, INDIGENOUS PEOPLES AND STATE POLICY

In understanding of state policy, Thomas Dye in Solichin Abdul Wahab (2004) [1] explains that public policy is an assessment of the impact and influence on the content of public policy, an analysis of the effects of various institutional activities and political processes on public policy; An in-depth study of the effects of various political policies on society, whether of expected (planned) impacts or unexpected impacts. This scope may be explained in the natural resource, mining and forestry management policies that are in contact with indigenous land and land authority. The implications of the state's policy result in various impacts to the country's development and ecological sustainability. The public policy approach considers that it is necessary to address the model

of policy formulation, policy implementation, policy monitoring, and policy evaluation of all natural resource management and its impact on the authority of indigenous people sovereignty. As explained earlier, state policies tend to use techno centrism approach, growth-oriented but less consider the impact on extinction and loss of indigenous peoples' rights. Some of the policies of the state that are born include Indonesia regulation No. 32/2009 [16] on Environmental Protection and Management article 63 generally explains the policy on how to recognize the existence of indigenous and tribal peoples, local wisdom and the rights of indigenous and tribal peoples related to the protection and management of the environment at the district/city level. Regulation require in differentiating the treatment of state forests and customary forests, regulating the relationship between the state's control over state forests, and the state's control over customary forests. With respect to state forests, the state has full authority to regulate allotments, uses, and legal relationships occurring in state forest areas. State authority is limited to customary forests, the scope of "ulayat" rights in a single territory (territorial unity) of indigenous and tribal peoples. The new policy also states that indigenous and tribal peoples have the right to clear their ulayat forests to occupy and cultivate their land for the fulfillment of their personal and family needs. Similarly, the amendment establishes the legal certainty that customary forests are no longer state forests as well as consideration of the ecological functions of customary forests. The Forestry Law is merely a tool of the State exploiting customary forests and then sold / handed over to the owners of capital without regard to the rights and local wisdom of indigenous peoples, thus sparking conflicts among indigenous and tribal peoples with new managers of their customary forests. However, the publication of Agrarian and Spatial Plans/Head of National Land Agency No. 9/2015 [17] on Procedures for Determining Communal Rights on Indigenous People's Land and Communities that are in Specific Regions precludes the recognition of indigenous recognition because in IP4T step (Inventory of Ownership, Ownership, and Utilization of Land) positions Indigenous peoples as applicants, while the government as determinant of ownership permit on communal land. But technically, this policy is useful to produce new maps in realizing indigenous peoples.

4 FACTORS CAUSING INDIGENOUS PEOPLES CONFLICT

Some of the factors causing conflict between indigenous and tribal peoples, timber estate investors with the government as follows; unclear boundary issues between two parties; customary violations by forest businessmen; unfairness of law enforcement officers in solving problems; the destruction of the livelihoods of indigenous peoples and communities around the forest as it becomes more damaged and narrow forest; there has been no positive contribution to forest management over the indigenous and forest communities; the Company does not involve indigenous peoples and / or communities surrounding forest in forest exploitation; destroying customary buildings as a place of worship; the clearance of customary forests; exploitation of timber where the wood by indigenous peoples is sacred wood or abstinence to be felled. In understanding the interaction of indigenous peoples with the State from the side of social political economy, and environmental factors contribute to the conflict of ecological resources. Environmental degradation factors as the causal link of conflict escalation that triggered social movements in various regions

due to the scarcity of economic resources in its habitat. Social violence is caused by the scarcity of resources on indigenous peoples, and the abundance of capital on the part of investors and the Government. This exacerbates the harmonious relations in the development and governance of the local government. The scarcity and ecological damage in customary law areas has plunged and brought down local wisdom. Poor relations between adat, investors and the Government are caused by repressive measures by the government in protecting investors from exploitation actions that undermine the soil and water ecosystems as a resource and a source of daily survival by thousands of indigenous peoples in each region. Under various laws, the State develops policies, which in essence are reducing, hindering, limiting and / or depriving traditional rights and historical rights of existing indigenous and tribal peoples, benz notes without compensation at all. In retrospect, it may be said that intentionally or unintentionally, all state policies that reduce, obstruct, limit and / or deprive traditional rights and historical rights of indigenous people are a violation of human rights (Abdurrahman 2015: 32) [2]. In article 1 sub-article 6 of Indonesian Law No. 39/1999 Concerning Human Rights, the explanation is that "Human rights violation is any act of a person or group of persons including the state apparatus whether intentional or unintentional, or negligence which unlawfully reduces, obstructs, restricting and / or depriving human rights someone or a group of persons guaranteed by this Act, and not getting, or feared will not obtain a fair and just legal settlement, based on applicable legal mechanisms. Figure 2 shows a formulation of social conflict resolution of indigenous peoples in Indonesia.

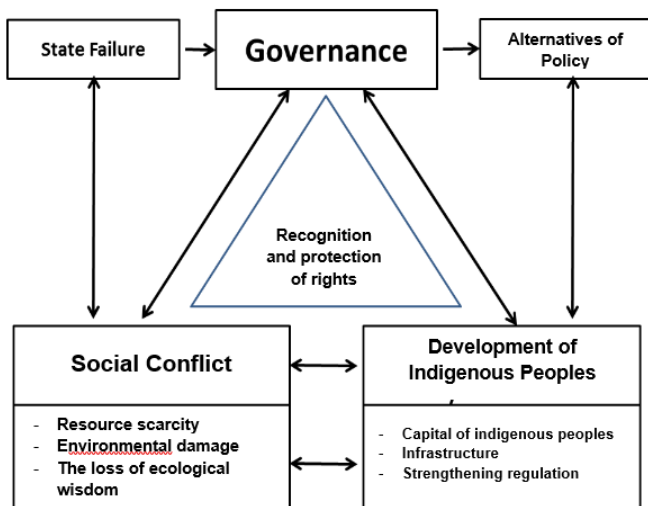


Figure 2. Problems and Solutions Settlement of Indigenous Peoples Social Conflict in Indonesia

Based on Figure 6, several alternative solutions can be formulated as follows; as part of the forest ecosystem, indigenous peoples need to gain recognition in the form of a legal force under the Indonesia Constitution 1945 both in the rights to customary forests, public services of education, health and other services as part of the rights of citizenship; government programs in the form of empowerment of indigenous peoples based on their cultural identity and customary law system within the framework of The Unitary State of the Republic of Indonesia (NKRI). Empowerment is in the form of economic efforts, resource management based on habitat and capital of indigenous society (human capital of Indigenous Society); government policies need to adopt a

bottom-up policy, which takes into consideration the aspirations of indigenous peoples in fighting for the regulation of the indigenous peoples protection and recognition bill in Indonesia. The recognition may include all the customary treasures of territory, law and customs and relationships with other interest groups for the benefit of nation and state development; the capital of indigenous peoples is the provision of knowledge, habits, social attributes and personality, including creativity, which has been manifested in the ability to survive in work with environmentally friendly technology, do not damage the environment so as to produce custom economic values that are different from the economic patterns in general; the capital of indigenous peoples in the form of resources-all the knowledge, talents, skills, abilities, experience, intelligence embodied in customary law can serve as a binding regulation for anyone both individually and collectively in the management of economic, social, biological, cultural and psychological resources. Explain that the content and the regulatory context of the inclusion of indigenous peoples' capital in it is bsa survive, the policy of dependent power is both related to the political, economic and social of indigenous peoples and local institutions; Indigenous peoples are also actually part of the source of the wealth of the social and cultural treasures of a region, as development investments in the functions of the development of environmental resources, forests, and ecosystems as human capital in the management of economic development based on local culture; in the settlement of land / agrarian conflicts can be through three channels of settlement, namely conflict resolution through non-judicial forums (negotiation, mediation and arbitration and customary court), conflict resolution through quasi judicial (conflict resolution committees through formal justice and the need for justice Special disputes and agrarian conflicts; there should be mitigation measures to stop the impact of human rights violations that arise from structural land disputes; conduct mediation between the parties to the dispute; and conducting investigations and checks related to structural land disputes.

5 CONCLUSIONS

This paper has outlined the review of various indigenous social conflicts in North Maluku. Known factors causing social conflicts between indigenous peoples, governments and companies. Based on these causal factors, several alternative solutions are produced which essentially need to be in the form of policies to protect the rights of indigenous peoples, empowerment of all aspects of indigenous life and the development of local wisdom-based economy, so that there is legal certainty to the existence of indigenous

REFERENCES

- [1] Abdul Wahab, Solichin, 2013. Policy Analysis: From Formulation to Preparation of Public Policy Implementation Models. Earth Script. Jakarta.
- [2] Abdurrahman, 2015, Draft Report on Legal Assessment of Indigenous People Acknowledgment Mechanism, Research Center and Development of National Legal System; National Legal Development Board of the Ministry of Justice and Human Rights RI.Jakarta
- [3] Arsyad, Idham, 2016, Settlement of Agrarian Conflict, Policy Brief: Episteme Institute, Volume 3 of 2016.

- [4] Cobo, Martinez R.J, 1981. Study of the Problem of Discrimination Against Indigenous Population, Final Paper, United Nations Economics and Council.
- [5] Dye, R Thomas, 2013. Understanding Public Policy, Fourteenth Edition. New Jersey; Prentice Hall, Englewood Cliff.
- [6] Forsyth, Tim, 2003, Critical Political Ecology: The Politics of Environmental Science, London, and New York
- [7] Gurr, Ted Robert, 1980, Handbook of Political Conflict: Theory and Research, The Free Press
- [8] Gupta, Safe, 2005, Human Rights Of Indigenous People, Isha Book. India
- [9] Homer-Dixon, Thomas. 1999. Environment, Scarcity, and Violence. Princeton, NJ: Princeton University Press.
- [10] Kahl, Colin, 2006. States, Scarcity, and Civil Strife in the Developing World. Princeton, NJ: Princeton University Press.
- [11] Kahl, Colin, 2007. "States, Scarcity and Civil Strife." Paper presented at the World Bank, Washington, DC, June.
- [12] Keil, Roger, David V.J.Bell, Peter Penz and Leesa Fawcett, 1998, Political Ecology: Global and Local, Routledge, London and New York
- [13] Korf, Antonia Benedikt. 2005. "Negotiation and Mediation Techniques for Natural Resource Management." Food and Agriculture Organization of the United Nations, Rome.
- [14] Pepper, David, 1993. Eco Socialism: From Deep Ecology to Social Justice, Routledge: London and New York.
- [15] Indonesian Law No. 41 of 1999 on Forestry
- [16] Indonesian Law No. 32 of 2009 on The Protection and Management of the Environment
- [17] Regulation of the Minister of Agrarian Affairs and Spatial / Head of the National Land Agency Number 9 of 2015 on Procedures for the Establishment of Communal Rights on Indigenous People's Land Land and Communities that are in Specified Area