

Model for *Ulayat* Land Conflict Resolution in North Sumatra, Indonesia

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ABSTRACT

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This study attempts to depict the model for *Ulayat* land conflict resolution for local people in Simangambat Jae village, North Padang Lawas district, Indonesia. This study used a qualitative approach. The location was chosen based on considerations and reasons, namely land ownership still holds customary land status. The types of data obtained can be categorized into two, namely primary data and secondary data. Primary data is obtained through interviews. Informants in this study were 13 people who knows and are involved in *Ulayat* land conflict. The secondary data is obtained through observation technique. The conclusion that can be drawn that the effort of *Ulayat* land conflict resolution in Simangambat Jae village is done by using FPIC model (Free, Prior, Informed, and Consent) and mediation by third party that has a role and also to take advantage personally and for the indigenous people's interest.

1. INTRODUCTION

There are many agrarian conflict cases in Indonesia which were recorded by *Consortium of Reforma Agraria* (CRA) are 252 agrarian conflicts in 2015. The researches related to land conflict were done by many scholars [1, 2]. *Ulayat* land conflicts happen in almost all over area of Indonesia. According to the data from last 11 years, there were 1772 agrarian conflicts of 6942381 Ha land area that involved more than million families. This finding indicates that in every 2 (two) days, the agrarian conflict happens in Indonesia. From the distributed territory's view, there were 7 provinces that have the most agrarian conflicts, such as: Riau has 36 conflicts, East Java has 34 conflicts, South Sumatera has 23 conflicts, Southeast Sulawesi has 16 conflicts, as well as West Java and North Sumatera have 16 conflicts [3-5].

Ulayat land refers to land that is collectively owned and managed by indigenous communities in Indonesia. These communities have their own traditional systems of land tenure and management, which are often not recognized by the government. As a result, they are vulnerable to land grabs by developers, large-scale agriculture companies and other outside parties. One of the main factors that makes these conflicts difficult to solve is the lack of clear and comprehensive regulations regarding the rights of indigenous communities to their traditional lands. Indonesia's legal framework for land tenure is complex and often contradictory, making it difficult for these communities to assert their rights and protect their lands. Another factor is the large number of land claims. The process of resolving land disputes can be slow and costly. This can lead to long-lasting conflicts, which can further erode trust between the parties involved. In addition to these factors, corruption also plays a role in exacerbating land conflicts in Indonesia. Government officials, developers and other powerful actors can use their influence to gain control of land at the expense of indigenous communities.

In recent years, there have been efforts to address these conflicts and protect the rights of indigenous communities. The Indonesian government has established a program to issue land rights certificates to indigenous communities, and there have been various initiatives to improve the legal framework for land tenure. However, these efforts have not yet fully resolved the issue of *Ulayat* land conflicts in Indonesia.

Ulayat land conflicts in Indonesia are complex and multifaceted issues that are difficult to resolve due to a lack of clear regulations, gaps in understanding and trust, large number of claims, and corruption. Another point is that it is located in the area of indigenous people sometimes brings dilemma [3] and conflicts. The conflict of *Ulayat* land appears in many areas in Indonesia such as in Padang [6, 7], Bali [8], and Makassar [9]. The *Ulayat* rights as regulated in common law [10], according to the custom of indigenous people, could be obtained if it has genealogy (*Tarombo*) with the village founder's clan (*Marga*) or oral tradition as research [11]. However, there are some things that unwritten in custom law but recognized by the government's law. The existence of indigenous people has been always identical with agrarian conflict. As being understood, that agrarian conflict related to communal rights which divided into 2 (two) according to the type of conflict: horizontal conflict and vertical conflict. Horizontal conflict is an internal conflict that happened between the indigenous people and the plantation such as about the territories and communal land dispute. On the other hand, vertical conflict happens between indigenous people and the village chief as far as government involved (country) [12]. For example, the conflict between indigenous people and the plantation as a result of forest mastery, the local people collaborate with the plantation to become foster father. This vertical conflict involved the country actively that bans the operational permit for the plantation whereas the local people are highly dependent on the production of natural resource which produced from the plantation land. The conflict between large-scale oil-palm producers and local communities is

widespread in palm-oil producer nations in Indonesia [13, 14].

The form of conflict reconciliation takes place among the local people, that is led by the indigenous stakeholders, in the terms of sanction and punishment for breaking the rules was being penalized by fine (the payment of breaking the rules in the form of money), or being paid by buying a buffalo. On the other side, there is another way as alternative dispute resolution for land disputes namely arbitration [15].

The reconciliation is conducted through indigenous congregation that is led by indigenous stakeholder and involved the element of *dalihan natolu* vested in by the local people. Law is a simple law of society that with personal scope and limited territories. The common law could be found in the article 5 of UUPA (*Undang-undang Pokok Agraria*) that emphasized the national agrarian law is the common law [16].

The connection between indigenous people and *Ulayat* land is deeply rooted and multifaceted. Indigenous communities in Indonesia have a longstanding and deep connection to their ancestral lands, which is often based on both cultural and spiritual values.

Indigenous communities often rely on their traditional lands for their livelihoods. The land provides resources such as food, medicine, and materials for building and crafting. Furthermore, for many indigenous communities, the land holds a cultural and spiritual significance that is central to their identity and heritage. Many communities believe that the land is imbued with spiritual energy and that it is their responsibility to care for and protect it.

Indigenous communities have deep and long-lasting relationships with the land, which are maintained and sustained through generations. The relationship between indigenous people and the land is therefore rooted in a sense of stewardship and responsibility to protect and preserve it for future generations. However, the relationship between indigenous people and *Ulayat* land is often under threat from outside influences such as development projects, mining and logging activities, and large-scale agriculture. These activities can cause displacement, loss of livelihoods, and the destruction of traditional land-use practices and cultural sites. This is why it is important to respect the land rights of indigenous communities, and recognize the importance of preserving their cultural and spiritual connection to the land.

The indigenous people have long fought for the usage of *Ulayat* land, but still hard to get because of the government's regulation [17]. The main problem of issue in this research is the conflict of *Ulayat* land which happens among the indigenous people, company and country that involved community actor, business actor and government in fighting for the *Ulayat* rights. The trigger of conflict in this research is the routine of indigenous stakeholder that communicates with the local people, took part in the divide of *Ulayat* land than the government institution such as the ministry of environment and forestry, national land agency, and the government of district/province/central.

Simangambat Jae village is one of villages in Simangambat sub-district, North Padang Lawas district, Indonesia which until now still remains the conflict with the agrarian conflict between elite politics and people even though the operational affected by several factors. The *Ulayat* land conflict heating up because the ministry of Environment and Forestry established *Ulayat* land that register 40 at first, and then become Permanent Area of National forest so that the indigenous people need to vacate the area.

The presence of community actor as the indigenous

stakeholder represents to manage, give access to the local people for the use of *Ulayat* land and to complicate that situation. As for in that village, the position of indigenous stakeholder is considered higher than the indigenous people based on: the knowledge of common law, understanding the history of landownership of that area, having wide network and connection with important people put the actors getting higher position in the indigenous society.

According to the data and information from National Land Agency of Padang Sidempuan district regarding the land dispute case in Simangambat Jae village, it was obtained that the cause of land conflict in general is caused by the less stable of landownership data because the village is located next to the estate. The conflict always arises as a result of land boundaries that do not divide orderly in Simangambat district so the problem about land always happens specifically caused by the unclear land boundaries.

The rejection act by indigenous people occurred in 2014, this was affected by the community actor that persuades and motivates the local people to do an oration. The community actor comes from the local people that have influence and sympathy from the local people so that the local people is being influenced to participate in the rejection act for register 40 in North Padang Lawas becoming the Permanent area of National forest. In this research, Simangambat district has an embargo towards the Cooperation Palm Plantation of Bukit Harapan (later abbreviated CPPBH) that managed the palm plantation is to decrease the number of unemployed people which is done by the state (government) to the operational permit of CPPBH, the social conflict of society happened where hundreds of local people rejected the construction, the people took action down the street to sue the ministry of environment and forestry and the parliament of North Sumatera where it has been about 6 months since CPPBH stopped operating so as the indigenous people that majority worked as the employee of CPPBH have yet receive the salary as a result of embargo that is conducted by government.

In relation to the problem stated previously, this study aims at depicting the model for *Ulayat* land conflict resolution for local people in Simangambat Jae village, Simangambat sub-district, North Padang Lawas district. This study has innovation in describing specific challenges and complexities of *Ulayat* land conflict resolution in North Sumatra especially related to historical and cultural context of the conflict, as well as the different stakeholders and interests involved.

2. METHOD

This study used a qualitative approach. The location of the research was in Simangambat Jae Village, Simangambat District, Padang Lawas Utara regency (Figure 1) which is based on considerations and reasons, namely land ownership still holds customary land status.

The location was chosen due to there are *Ulayat* land conflicts in the area as presented in Table 1.

The types of data obtained can be categorized into two, namely primary data and secondary data. The source of the primary data was taken from audio-video recorded interview. The total Informants in this study is 13 people. Those informants were chosen due to their involvement and knowledge related to the conflict of *Ulayat* land in the area. Informed consent was obtained from all informants before the interview, and they were informed about the purpose of the

research, the voluntary nature of their participation, the confidentiality of their responses, and their right to withdraw from the study at any time without penalty. Informants were informed that their participation was entirely voluntary and that they could choose to decline or terminate the interview at any time. The interviews were recorded with the consent of the participants, and the data collected were treated with confidentiality and stored securely. Secondary data were obtained through observation techniques.



Figure 1. Location of research

Table 1. *Ulayat* land conflict in Padang Lawas regency

| No | Villages | Area |
|----|--------------|-----------------|
| 1 | Aek Raru | 573 Ha |
| 2 | Paran Padang | 325 Ha |
| 3 | Janji Matogu | 2.455 Ha |
| 4 | Mandasip | 845 Ha |
| 5 | Langkimat | 2.628 Ha |
| | Total | 6.826 Ha |

3. RESULT AND DISCUSSION

3.1 Result

The resistance of indigenous people related to the *Ulayat* rights impacted to acquisition of *Ulayat* land forcibly. This is caused by some factors. Based on the interview result with Mr. HS, he said that, “Injustice in the division or in the processing of *Ulayat* lands creates jealousy and dissatisfaction in its distribution in the Batak community which is governed by the principle of *dalian na tolu* (Interview conducted on 2nd August 2017).

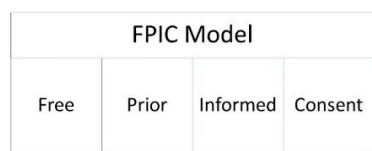


Figure 2. FPIC model

The attitude of indigenous peoples rejects the determination of state permanent forest areas which were previously customary lands. Even though *Ulayat* land is located in a protected forest area, indigenous peoples consider *Ulayat* land to be their main source of livelihood from the agricultural and plantation sectors which incidentally belong to the Hasibuan clan. Community actors influence indigenous peoples who

still feel that the company has not fulfilled the agreed agreements. Based on that case, the most proper model to use in resolving the *Ulayat* land conflict on that issue is FPIC model.

FPIC stands for *Free, Prior, Informed and Consent*, which is a model or framework for engaging with indigenous communities and other local stakeholders in decision-making processes related to land and resource use. *Free* is the plan of activities without any forces from other parties. *Prior* is referring to the result of approval and this is done before the construction activity conducted. *Informed* means that before the process of giving approval, the community should really gain adequate information in language and form that people could easily understand about what activity should be done, what the land is for and the potential of economic, social and cultural impacts. *Consent* is resulted from the process of collective consultation, showing the good will in negotiation, transparency and respectful dialogue and full and fair participation.

The FPIC model as shown in Figure 2 is intended to promote greater respect for the rights and knowledge of indigenous communities and other local stakeholders, and to ensure that their voices and perspectives are taken into account in decision-making processes that affect their lands and livelihoods. It is recognized as an important tool for promoting sustainable development and environmental protection, as well as for advancing human rights and social justice.

Under the FPIC model, indigenous communities and other affected stakeholders have the right to give or withhold their free, prior, and informed consent before any project or activity is implemented on their lands or territories. This means that they must be fully informed about the nature, scope, and potential impacts of the project or activity, and must be given the opportunity to provide their consent or refusal based on their own decision-making processes and cultural norms.

Irwan and Zusmelia [18] tried to apply the principal of FPIC in citizen’s land use to the people’s forest development, as the model of reforestation which implemented to acquire the *Ulayat* rights of *Ulayat* lands to declare whether they agree or not to an attempt of register 40’s execution that is conducted in their living space and potentially impacted to the land, area, resource and people’s lives. This is because of the land rights according to the common law, acknowledge by Indonesia government as well and the indigenous people were in the position of main subject in FPIC.

The indigenous people’s resistance on the construction issue is about *Ulayat* land which switched function became the Permanent Area of National Forest. This could be seen from the local people’s protest since government did intervention on the agrarian sector. The conflict of *Ulayat* land between the local people and Ministry of Environment and Forestry (MEF) is about the landownership and land mastery which was done by plantations as the foster father. All local people rejected the MEF’s policy that did a land execution by doing oration to the House of Representative of North Sumatera province.

The relevance of *Ulayat* land’s conflict with FPIC model is the concept of conflict management and conflict resolution, in detail explanation could be seen as the following parameter and indicators:

- Free*, as the information that Mr. DLS was invited by a delegation of local people to be a foster father in order to build *Ulayat* land became a palm farming industry.
- Prior*, the agreement had been made between the local people and plantation party and written in notary

document and the explanation as follows: 30% for the plantation and 70% for the local people (plasma).

- c. *Informed*, the plantation industry that is all this time managed by PT. Torganda had given contribution to the country and local people which is included in the IDT 's area, so that government's program to pull up the poverty could be lighten.
- d. *Consent*, it is resulted from the process of collective consultation, this showed good intentions in negotiation, respect, participation and justice.

FPIC is defined as model of land liberation or anti-land expropriation that is used for construction and capital accumulation. McDermott and Martin (2012) declared that a production approach that respects the land rights of community is a friendly approach to the affected community and also reinforce the position of community in the process of decision making.

Legislation which regulated land acquisition did not explicitly declared about the necessity of the party that is obtaining land or doing land liberation to use FPIC model. According to Ministerial Decree No 21/1994 about the Procedure of acquiring land for the company in terms of investment, it proclaims that the party that obtained land should get approval from the landowner, including *Ulayat* land, would be land of state. This matter should be delivered to the owner. According to that Ministerial Decree the party that obtained the land should get approval of land cession from the rights holder by using the provided appendix. The letter of land cession that is attached in Ministerial Decree is written assertively that the land that was handed over would be the state land.

3.2 Discussion

The Cooperation Palm Plantation of Bukit Harapan (CPPBH) realized about the concept of conflict prevention and resolution, despite theoretically not understand the FPIC concept or Consent based on Initial Information without Force, the implementation of FPIC was done by the plantation and marked with the covenant of putting good concern about environment in operating the estate and CPO factory, building infrastructure such as school, places of worship, hospital and other public facilities. Resolving all the complaints and conflicts through an open negotiation process created a transparent network of supply source by tracing it thoroughly. CPPBH had a consultation with the local people, Legal Aid Society, industry partner and financial institution in terms of ensuring that the execution of register 40 Paluta was found to be less effective because it deprived the local people's role of *Ulayat* land's rights.

In the effort of *Ulayat* land's conflict resolution in Simangambat Jae village, *Free, Prior, Informed and Consent* (FPIC) model is chosen and the mediation with third party has a role and also takes a personal advantage and for the local people's interests. Many business actors claimed having close relationship with Mr. DLS and took advantage from that moment to get money, as endorsee of *Ulayat* land and even worse there are people who lent the money with appointment and if it succeeded then the profit would be divided by 30%-70%. This practice that occurred in Simangambat Jae village has been happening through regeneration, so this is really hard to trace the owner of land and because the ownership had been changing hands behind the owner. This problem was caused by the lack of understanding about agrarian politic by the

indigenous people so this eases others to take advantage although the understanding of laws of the land is lacking.

Ulayat land conflicts in Indonesia have been a persistent problem for decades, and it is widely acknowledged that these conflicts have a significant impact on the lives of indigenous communities. One important aspect of these conflicts is the relationship between *Ulayat* land and local wisdom.

Local wisdom refers to the traditional knowledge, values and practices of a community that have been passed down through generations. In the context of *Ulayat* land, local wisdom includes traditional systems of land tenure and management, as well as the cultural and spiritual significance of the land to the community. In many cases, indigenous communities in Indonesia have a deep and longstanding connection to their ancestral lands. They often rely on the land for their livelihoods and see it as a source of identity and pride. As a result, they are deeply invested in protecting their traditional lands from outside encroachment. This is where the local wisdom come to play, they have deep understanding and knowledge of the land, how to use it and preserving it.

However, the government's policies and practices have often been at odds with the traditional systems of land tenure and management of indigenous communities. The government has been more inclined to grant land concessions to developers, companies and other outside parties, rather than recognizing the rights of indigenous communities to their ancestral lands.

This disconnect between government policies and local wisdom has led to a number of *Ulayat* land conflicts. The government, driven by economic and political considerations, is often unwilling to take into account the cultural and spiritual significance of the land to the indigenous communities. On the other hand, the indigenous communities, with their deep understanding and knowledge of the land, are unwilling to relinquish their traditional land rights. This creates a conflict of interest between both parties.

Furthermore, the conflicts of *Ulayat* land also can lead to the erosion of local wisdom. When indigenous communities are forced to give up their ancestral lands, they are also losing their traditional systems of land tenure and management, as well as the cultural and spiritual significance of the land. This can have devastating consequences for the community, not just in terms of their livelihoods, but also in terms of their cultural identity and heritage. In many cases, the disputes involve external actors, such as government agencies, corporations, or powerful individuals, who seek to exploit the land for their own purposes. This can lead to the displacement of local communities, the destruction of natural resources, and the loss of cultural heritage. Moreover, conflicts over *Ulayat* land can also lead to the fragmentation of communities, as people take different sides in the dispute. This can weaken the social fabric of the community and erode the trust and cooperation that are essential for the transmission of local wisdom from one generation to the next.

In conclusion, *Ulayat* land conflicts in Indonesia have a significant impact on the lives of indigenous communities. These conflicts are closely tied to local wisdom, as indigenous communities rely on their traditional systems of land tenure and management, as well as the cultural and spiritual significance of the land. The government's disregard for local wisdom has led to a number of *Ulayat* land conflicts and has resulted in the erosion of local wisdom, with devastating consequences for the communities involved. To address these conflicts, it is essential that the government recognizes and respects the traditional systems of land tenure and

management of indigenous communities, and take into account their cultural and spiritual connection to the land.

This research also has similarity, where the local wisdom still stands even though it rarely performed. The effective method in the effort of conflict resolving in Luhut Simangambat is by involving the function of customs institute and the role of indigenous stakeholder that is functioned as mediator, where the economic negotiation is done firstly between the community actor and business actor to reject the execution of register 40 Paluta because it allegedly has politics purpose so it could affect the perception of local people about the old foster father would be replaced by the new foster father.

4. CONCLUSION

The effort of *Ulayat* land conflict resolution in Simangambat Jae village is done by using FPIC model (*Free, Prior, Informed and Consent*) and mediation by third party that has a role and also to take advantage personally and for the indigenous people's interest. The efforts to resolve communal land conflicts between indigenous peoples and companies and the government have made various efforts, through related parties who are able to mediate the achievement of an agreement between the conflicting parties.

Whether *Ulayat* rights are still valid and/or not in a customary law community are not the same as one another. There are villages whose rights are still being exercised and are influential in people's lives. However, there are also areas or regions which, due to the strengthening of the individualistic nature of the community and the weakening of the communalistic nature (shared control), become *Ulayat* rights, which do not fully apply or fade away in people's lives. This is evident in a village, apart from still having land with the status of communal land, there is also land with the status of individual or individual ownership of the local community. Therefore, it is suggested for further studies to conduct the research dealing with aspects that trigger vertical and horizontal conflicts include social injustice, economic inequality, agrarian politics, cultural recognition and environmental destruction.

There are some management suggestions that can be gained from this research. Conflict resolution requires an environment of openness, mutual respect, and trust. Therefore, it is important to foster a culture of dialogue and cooperation among all stakeholders involved in the *Ulayat* land conflict. This could include the use of participatory processes and community engagement strategies that encourage stakeholders to work collaboratively to identify common goals and develop solutions that are mutually beneficial.

Traditional knowledge and cultural norms can be valuable resources for resolving conflicts related to land and resource use. Therefore, it is important to incorporate these perspectives and practices into the conflict resolution process, and to work closely with indigenous communities and other local stakeholders to ensure that their voices are heard and their rights are respected.

Conflict resolution can provide an opportunity to promote sustainable development and environmental protection in the *Ulayat* lands of North Sumatra. Therefore, it is important to ensure that any solutions developed are aligned with principles of sustainable development, and that they promote long-term social, economic, and environmental well-being for all stakeholders involved.

Effective communication channels are critical to ensuring that all stakeholders are informed and engaged throughout the conflict resolution process. This could involve establishing regular meetings, workshops, or other forums for sharing information and discussing progress, as well as providing regular updates and reports to stakeholders.

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