

Policy Formulation on Social Conflict Management in the Teluk Bintuni Regency, West Papua Province, Indonesia

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The conflict in the Teluk Bintuni Regency, West Papua Province is mainly caused by the conflict over the access to natural resources. This qualitative research with in-depth interviews found that the characteristics of conflict in Teluk Bintuni Regency were divided into 3 types, namely: (a) socioeconomic conflicts occurred in Districts of Bintuni and Marimeri; (b) political conflicts occur in Aroba district during the election period; and (c) boundary conflicts occur in Kamundan and Sumuri districts. In order to resolve the conflict, the author proposed several solutions, as follows: (a) strengthening the government's role through formulating regulations in many aspects, strengthening institutions, improving the quality of human resources, and strengthening the cooperation among stakeholders; and (b) strengthening the customary role based on the obligation stated in Article 18B of the 1945 Constitution of the Republic of Indonesia.

Key words: *Policy formulation, social conflict management, Teluk Bintuni Regency.*

Introduction

According to Article 108 of Law Number 23 of 2014 on Local Government which states that one of the regional obligations is to protect the society, maintain unity and integrity, maintain national harmony, and maintain the integrity of the Republic of Indonesia. The provisions of this regulation indicate that obligations of local government are not limited to managing natural resource and financial assets in the region, but rather to empower human resources, and to maintain and uphold the values contained therein.

The diversity of tribes, cultures, values, norms and religions in Indonesia sometimes creates its own paradox. When disharmony appears, it actually hinders development. Therefore, the

potential of disharmony must be addressed optimally, so the values and norms contained in the ethnicity, arts, cultures, and religions can be maintained. Disharmony or conflict does not necessarily occur, but is triggered by the potential that settles in the community, triggering tension and ultimately widespread physical conflict. The Maintain Public Security and Social Order (*Babinkamtibmas*) states that in dealing with conflicts police officers are not limited to eliminating the trigger factors, but are to be aware of and overcome early potential factors triggering conflict. Based on data from Decision of *Chief of Police-Resort P. Ambon & P.P. Lease Number: KEP/22/VI/2017*, there are some forms of conflict that often occur in Indonesia, including: (a) conflicts with nuances of separatism; (b) ethnic conflict; (c) ideological conflicts; (d) political conflicts; (e) economic nuances conflicts; (f) social conflicts nuanced in solidarity of a group; (g) conflict of government policy issues, (h) and other conflicts.

The conflict-prone areas in Indonesia are not limited to urban areas, but each region has its own potential conflict. Focus of this research was placed on the Teluk Bintuni Regency. This regency is rich with natural resources and biodiversity as well as ethnic and cultural diversity, but has a long history of conflict, starting from community conflicts with mining companies, conflicts between tribes and conflicts between groups.

As a nation which has a pluralistic society, the potential for conflict in this country is indeed hidden. Conflicts over the struggle for natural, economic, social and political resources can always occur at any time, and can lead to a dispute. The conflict that is not immediately resolved can result in a problem of justice. In order to overcome this problem, an in-depth study is needed, so the conflicts in the Teluk Bintuni Regency can be minimised in the long run.

This paper is a small part of a long research series conducted by the author concerning conflict in the Teluk Bintuni Regency. The author raised three issues, namely: (1) what are characteristics of community conflict in the Teluk Bintuni Regency?; (2) what factors trigger and are the root of conflict in the Teluk Bintuni Regency?; and (3) what are the best policy formulations to overcome social conflicts?

Research Method

The article used a combination between positivist quantitative and positivist qualitative approaches. Qualitative research was applied to analyse phenomena in depth through collecting data in the naturalistic method. This approach aimed to get real conditions about the characteristic of society in the Teluk Bintuni Regency as conflict areas, mapping areas that have potential conflict, and understanding trigger factors of conflicts. Furthermore, the author will formulate effective solutions in conflict management.

Meanwhile, the data used in this study is a variety of information which includes primary and secondary data. In-depth information as primary data is obtained directly through the in-depth interview method using interview guidelines. Informants, including key informants, in this study are community leaders and parties who often and potentially experience conflicts.

Furthermore, secondary data was obtained through the Central Statistics Bureau (BPS) of West Papua Province, the BPS of the Teluk Bintuni Regency, the Regional Development Planning Board of the Teluk Bintuni Regency and the Social Service of the Teluk Bintuni Regency. In this regard, there are three data and information collection techniques used:

1. Interviews, namely dialogue through question and answer methods between author and key informants that are interviewed in depth to obtain the information needed.
2. Documentation, namely data collection techniques and information obtained from materials in the form of documents.
3. Observation, which is a technique of collecting data and information to present a realistic condition of conflict, in responding to the various problems that are studied.

Meanwhile, in analysing a number of methods were used: (i) a descriptive qualitative method, to understand the characteristics of society in the Teluk Bintuni Regency; (ii) a descriptive interpretive method which is based on the use of secondary data and other information obtained from key informants; (iii) mapping of spatial areas about potential conflict prone and conflict triggering factors in the Teluk Bintuni Regency which is equipped with descriptive qualitative methods; and (iv) formulating policies in overcoming conflicts in the Teluk Bintuni Regency.

Results and Discussion

Characteristics of Community Conflict in the Teluk Bintuni Regency

Every district has characteristics of conflicts. Those characteristics will determine how the government will overcome conflicts. In order to find out the characteristics of conflicts, more detail discussion and research are needed, which presents in the following sub discussion.

1. Characteristics of Conflict in the Kamundan District

The conflict between the Kamundan District and Kokoda community groups from the South Sorong Regency occurs because of differences in the level of welfare between migrants and natives, where migrant communities have a hard-working and resilient culture which can produce greater output than indigenous people who tend to be less diligent. Furthermore, conflict in this region is suspected to occur from the absence of clear boundaries between districts.

The Central and Provincial Governments are very passive in responding this issue. The way of resolving the Kamundan conflict occurred partially without involving all parties. In 2004, the Head village of the Kamundan District initiated solutions by involving the Papua People's Assembly. However, the meeting did not reach an agreement. Thus, consensus needs to be built by involving the opinions of all parties. Furthermore, decisions made up of various kinds of rules are agreed upon and sanctions will be given to those who violate them.

2. Characteristics of Conflict in the Sumuri District

One source of conflicts in the Sumuri District is an effort by the government of the Fak Fak Regency to integrate Onar Village as one of the Samuri District areas. The conflict was triggered by unclear land ownership rights, non-patent boundary benchmarks. This is due to boundary markers in the form of natural features that can change any time.

3. Characteristics of Conflict in the Aroba District

In the Aroba District, conflicts arose because of provocation from certain parties to divide the harmony of the population in the interests of certain groups. In addition, conflicts in the Aroba district are also caused by differences in mindset, understanding and education of the people concerning politics.

Factors and Root of Conflicts in the Teluk Bintuni Regency

Conflicts that occur in the Teluk Bintuni Regency are generally divided into 3 (three) types, namely: border conflicts, socio-economic conflicts, and natural resources conflicts. Further explanation is described below.

1. Border Conflict

From the results of investigations conducted by the author, efforts to overcome border conflicts by making strict regulations related to inter-regency boundaries. This can only be done by the Government of West Papua Province because it involves three districts namely: Teluk Bintuni Regency, South Sorong Regency and the Fak Fak Regency.

These border conflicts usually occur because of differences in perceptions of boundaries between local governments. Border lines between autonomous regions, especially land boundaries, are the most vulnerable objects to be fought over by autonomous regions and end up being a prolonged conflict. Border conflicts like these pose a threat to the implementation of decentralisation and wider autonomy. Whereas the implementation of decentralisation and wider regional autonomy aspires to a stronger national integrity (Kaloh, 2007).

It is hoped that with the change in state administration from centralisation to decentralisation, the threats to national disintegration can be prevented. The government of the Teluk Bintuni

Regency must strive so that formal positions can be a unifier for non-formal positions as spread in each custom. The position of the village head must be able to mediate and unite the existence of tribes. The power which Michel Foucault believed to be spread (tribal) must be centralised in the Government's Formal Position, starting from the lowest level (Village Head) to the top level (Regent).

Through this method, it is expected that conflicts between tribes who fight over borders that often occur can be resolved optimally. This does not mean that we must eliminate traditions, but rather unite customs under the coordination of formal government.

2. Socio-Economic Conflict between Migrants and Natives

This type of conflict usually leads to social jealousy over differences in the level of welfare between migrants and natives. In the Sumuri District the conflict between migrants and natives was also triggered by a company (in this case BP Tangguh). Companies engaged in the energy sector are more dominated by employees from migrant communities than indigenous people.

The same problem also occurs in the Saengga and Tanah Merah villages which have the closest location to the BP Tangguh refinery. Many local workers are accepted into the company, but their type of work is only unskilled labourers, such as security workers and construction workers with a three to six months contract system. Meanwhile in the Kamundan district, people living in areas rich in oil and gas and coal did not receive fair rights. They were forced by the government and national or foreign private sector companies to sign a Production Sharing Contract (PSC).

In such conditions a middle way is needed that can be a win-win solution, i.e. companies should involve indigenous people or prioritise indigenous people in fields that do not interfere with company production, such as security, drivers and other unskilled workers so that the community feels accommodated by the company.

While for people who cannot be involved because of various reasons, they should be empowered in CSR programs that are usually run by the company. If so far CSR tends to be elitist and controlled by certain custom elites, then going forward CSR needs to be carried out professionally by involving the wider community both in ring one, ring two, and ring three.

3. Natural Resource Conflict

Another conflict that occurred in the Aroba District was a conflict caused by natural resources. The forests that stretched between Aroba, Furwata to Arguni Atas (Bintuni) have already been cleared because of the entry of timber and palm oil companies. Residents no longer have the rights to the forests that are the source of their livelihoods. It was the bitter

experience of their siblings that made the people of Aroba District now be careful to protect the forest so that it would not be separated from their customary ownership.

The struggle of indigenous peoples to enforce ownership rights over their forests is characterised by conflict and violence. Penetration from Trans National Corporation (TNC) companies and capital octopus in collaboration with the New Order authoritarian and capitalistic regime stands to erode millions of hectares of forests and lands belonging to indigenous peoples.

From the results of the investigation in the field, the researcher could also confirm that the conflict between the tribes that had haunted the border communities of the Teluk Bintuni Regency was also not free from conflicts over the struggle for natural resources. The existence of companies that emerge are fertilizer companies, coal companies, gold companies, oil and gas companies, and sago companies are actually conflicts over the influence to be able to access profits in the company.

Conflict Management Policy

Based on the characteristics and factors of conflict above, it requires an appropriate policy formulation. The formulation of policies in Regional Action Plan (RAD) for Conflict Management in Bintuni Regency originally started from the types of conflicts and then formulated a comprehensive solution. Therefore, the author proposed two formulations, namely:

1. Strengthening the Government's Role

As directed by the Minister of Home Affairs Regulation No. 42 of 2015 concerning the Implementation and Coordination of Social Conflicts, the Bintuni Regency Government needs to immediately form an Integrated Team for Social Conflict Management whose members consist of related parties namely the Regional Leaders Communication Forum (as mandated by Law 23 of 2014) and related SKPDs. In this way, it is hoped that conflict resolution efforts will be carried out in a more structured, measured and planned manner.

From the inquiry, the author noted that this forum has not run effectively. The regional faction plan related to social conflict management has also not been made together with the information system for handling social conflict as a mandate from the regulation of the Minister of the Interior. Therefore, central government and local government need to strengthen some issues to monitor and identify conflicts early, namely:

- 1) Improving human resources and skills of indigenous people by increasing the level of education and health;

- 2) The Government needs to cooperate with companies for accommodating local people in recruiting workers;
- 3) Formulating Local Regulations on Corporate Social and Environmental Responsibility;
- 4) The Government of the Bintuni Regency needs to send a letter to the Provincial Government and the South Sorong Regency Government relating to the construction of elementary schools and residential houses for the Kokoda community group from South Sorong Regency on the Kamundan district land of the Teluk Bintuni Regency;
- 5) Accelerating the development of the regency boundary to the West Papua Provincial Government;
- 6) Establishing an Integrated Team for Social Conflict Management (TTPKS);
- 7) Formulating an Integrated and Integrated Regional Action Plan (RAD); and
- 8) Formulating a social conflict management information system

2. Strengthening the Customary Role

From a number of policy formulations, they need to be implemented by the Teluk Bintuni Regency Government, strengthening the customary law is a determinant of conflict resolution. On the one hand, customary roles are often marginalised by the national legal system, and are often not considered in the conflict resolution process. Conversely, indigenous peoples are often tested by companies in the form of rewards for customary stakeholders who are willing to help companies to resolve existing problems (Manarisip, 2010).

In some districts in the Teluk Bintuni Regency, it was suspected that traditional tribal chiefs accepted companies for exploration in their area because of "money". This situation caused potential conflict, especially since the company only negotiates with the chief. This problem is a vertical conflict, because the parties involved are the elite (business groups) and the masses (the community). The cause of the conflict originated from the struggle over economic resources with the non-fulfillment of local community's customary rights. Based on this reason, strategic steps are needed in solving this problem.

According to Koentjaraningrat, custom is an ideal form of culture. Culture is interpreted by Koentjaraningrat in three forms, namely the ideal form, the form of behaviour and physical form as a form of a culture. The custom is very closely related to people's lives (Koentjaraningrat, 1985). Within the national legal system, customary law has its own position. This can be seen from Pancasila as a main legal source. Therefore, Pancasila can become an umbrella for all forms of law in Indonesia, including customary law.

Reflections on the essence of customary law in Pancasila are covered in the third principle, namely "The Unity of Indonesia". Otje Salman explained that the third principle of Pancasila

contained the essence of mutual cooperation originating from the customary habits of the community (Soemadiningrat, 2002).

The relation between customary law and the third principle of Pancasila is concerned with the equal emphasis of the two in terms of equal rights, balance and unity. Customary law is integrated with Pancasila which is then reduced to other forms of Pancasila (Syamsudin, 1998).

Some literatures mentioned that the position of customary law in the 1945 Constitution is reflected in Article II of the 1945 Constitution which stipulates that “all existing state institutions continue to function and regulations remain valid as long as no new ones are established in conformity with this Constitution” (Wulansari, 2009). Thus, it can be interpreted that the law is not only written legislations, but also unwritten legislations, including customary law.

The lack of explanation of customary law in the 1945 Constitution also has implications for the lack of explanation related to customary institutions. In this provision the 1945 Constitution only recognizes unwritten laws that are still valid until there is no dissolution stipulated in the Constitution. However, in other literature, the position of the customary institutions can be described from Hendra Nurtjahjo and Fokky Fuad who read the position of customary law from Article 18A of the 1945 Constitution which states that:

"The division of Indonesian territory over large and small regions, with the form of government structure which is determined by law by observing and keeping in mind the basis of consultation in the state government system and the right of origin in special regions" (Nurtjahyo & Fuad, 2010)

The emphasis on the explanation of the division of regions and government systems has begun to be interpreted as the essence of the position of customary institutions in the 1945 Constitution (Rachman & Siscawati, 2014). What needs to be considered in this article is an explanation of the views and remember special rights of regional origin, including related to customs that often contribute to the formation of an area and it is reaffirmed in Article 18B paragraph (1) and (2) stating:

- (1) The State recognises and respects units of regional authorities that are special and distinct, which shall be regulated by law.
- (2) The State recognises and respects traditional communities along with their traditional customary rights as long as these remain in existence and are in accordance with the societal development and the principles of the Unitary State of the Republic of Indonesia, and shall be regulated by law.

In line with the understanding of article above, the recognition of the right of origin in special regions and the unity of tribal peoples means that it can be used as a basis for recognising the existence of customary institutions that existed before national law. This is because in a village that is considered as a unit of customary law, community is usually also equipped with a customary institution in the area (Zulfa, 2010).

Furthermore, the form of harmonization of customary law and customary institutions with national law according to Yanis Malady is also seen in Article 1 paragraph (3) of the 1945 Constitution which states that: "The State of Indonesia shall be a state based on the rule of law" in which additional clarification explained that Indonesia was not based on power. In this article, it has never been explained that the law means national law, formal law, or only the 1945 Constitution. Therefore, in this context, the law can still be interpreted very broadly which makes customary law also can be part of national law. (Malady, 2010).

Yanis emphasised that the affirmation of the rule of law after the amendment could not be seen as a finished building. However, as a building that is continuously being built into an Indonesian nation as complete as possible. For example, through the appearance of Indonesian-specific characteristics that are grounded into the habitat, traditions, cosmological values and modern ideals of the Indonesian nation. In other words, Yanis wants to convey that there is a possibility of re-amending some of the articles in the law which emphasises the importance of customary law reflecting in the 1945 Constitution (Malady, 2010).

In addition to these several articles, there are also three other articles that are believed by some experts to contain the essence of customary values. First, the divine dimension is covered in Article 29 paragraph (1) which states: "The State shall be based upon the belief in the One and Only God". Secondly, in Article 33 paragraph (1) which regulates the principle of kinship as a basis for regulating the economy. Lastly, the principle of kinship is believed to be rooted in the third customary values reflecting in Article 28I paragraph (3) which states that "The cultural identities and rights of traditional communities shall be respected in accordance with the development of times and civilisations".

Based on this reason, in affirming the role of tribe peoples, the Bintuni Regency government actually has a clear legal basis. The position of customary institutions in Papua is clearly regulated in Law Number 21 of 2001 on Special Autonomy of Papua Province. Furthermore, in Law Number 6 Year 2014 on Villages, the regulation on village government is further clarified and there is more attention to the existence of custom. In fact, this Law clearly regulates customary institutions and customary villages which are regulated in at least 13 articles, namely Article 3, 6, 8, 18, 24, 67, 95, 96, 103, 107, 108, 109 and 110.

Not only limited in a number of sources of law above, customary law has a role and potential

to be developed. One of the issues is related to the settlement of dispute outside the Court which is covered in Law Number 30 of 1999 on Arbitration and Alternative Dispute Resolution. Article 1 of Law Number 30 of 1999 explains that: "Arbitration shall mean a mechanism of settling civil disputes outside the general courts based upon an arbitration agreement entered into in writing by the disputing Parties."

This law actually provides a space for the community to resolve disputes without having to go through a judicial institution. The community can use other institutions to resolve cases, especially civil cases. The settlement of this dispute will be involving claimant, respondent and arbitrator. Regarding the position of customary institutions in the Arbitration and Alternative Dispute Resolution Law, this is not explicitly explained. However, giving space for other institutions to resolve the dispute means providing space for customary institutions to be able to position themselves as the institutions referred to in this law (Vide & Harry, 1978).

Furthermore, resolving disputes through consultation, negotiation, mediation, consolidation or expert judgment can be done through customary institutions. As an institution that is well aware of the customs of the local community, the customary institution is very effective to be used as a forum for resolving disputes (Simarmata, 2013). In this regulation it is also stated in Article 3 that a district court does not have the authority to adjudicate all disputes that are bound in an arbitration agreement.

Conclusion

The Teluk Bintuni Regency keeps potential of hidden conflicts. The author took three districts (e.g. Kamundan District, Sumuri District, Aroba District) as examples for identifying and finding solutions related to social conflict in West Papua. The characteristics and factors of conflict in the Teluk Bintuni Regency were divided into 3 types, namely: (a) socioeconomic conflicts occurred in Districts of Bintuni and Marimeri; (b) political conflicts occur in Aroba district during the election period; and (c) boundary conflicts occur in the Kamundan and Sumuri districts.

The author proposed 2 main solutions, namely: (1) strengthening the government's role; and (2) strengthening the customary role based on the obligation stating in Article 18B of the 1945 Constitution of the Republic of Indonesia.



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