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Tenurial conflict between parties in the technical implementation unit of the Banjar Regency Forest Management Unit in the Province of South Kalimantan

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Abstract. The main issues in the management of forest resources at present, include: legal uncertainty over forests, high tenure conflicts over forest areas and uncertainty over community management areas over forest areas. One of the root causes of legal uncertainty over forests is overlapping policies governing forest management. The purpose of this study was to find a solution in handling tenurial conflicts at UPT KPH Banjar Regency. In the implementation of tenure conflict research the methodology used was interviews. The results of this study found different perceptions about forest, where the community considers the forest when there is still physical forest, on the other hand forestry based on law 41 of 1999 is not so and there are different perceptions between BPN and Forestry relating to the status of the region. BPN together with the Regional Government are the parties that strengthen the position of the community with the certificate issued and the definitive village decision issued. The existence of FMUs is expected to be streamlined to build synergies between institutions in forest utilization and management as outlined in a work program, therefore integrated coordination of the Forestry Planning Agency, Director General of Forestry Production Development, Directorate General of Forest and Land Rehabilitation, BPHP, BPKH and BPDAS.

1. Introduction

In order to realize sustainable forest management, according to [1] has mandated the establishment of forest management areas that must be implemented at the Provincial, District / City level and management units. The formation of the forest management area is in the form of the smallest forest management unit (KPH) in accordance with its main function and designation so that it can be managed efficiently and sustainably. The implementation of forest management in Forest Management Units (KPH) is the implementation of forest management which includes forest governance activities, preparation of plans for forest management, forest use, forest rehabilitation, forest protection and nature conservation.

According to [2] concerning Forest Arrangement and Preparation of Forest Management Plans, as well as Forest Utilization stated that what is meant by Forest Management Units (KPH), includes: a. Conservation KPH (KPHK), b. Protected KPH (KPHL) and c. Production KPH (KPHP). The FMU area is that all forest areas (conservation, protection and production) are divided into KPHs which are part of strengthening the national forest management system, provincial and district / city

governments. The FMU area is defined in one or more main forest functions. If in a KPH area there are more than the main functions of the forest, then the determination of the name of the FMU is based on the function that is predominantly dominant. For example, if a FMU is dominated by production forests, it is called KPHP. The FMU area is stipulated in one administrative area or crossing the administrative administration area depending on the existing legal system and the facts of the field. The Minister of Forestry determines the area of KPH by taking into account the efficiency and effectiveness of forest management.

Development of FMUs includes the formation of regions and the formation of institutions. Establishment of forest management areas in the form of FMU units through the procedure stages, as follows: First, design by the Governor with consideration of the Regent. Second, directives by the Minister. Third, the formation of the Governor and Fourth, stipulation by the Minister. As for the establishment of management institutions in each KPH unit, it is intended to be responsible for doing the following: a. Management planning; b. Organizing; c. Management implementation; and D. Supervision control. The establishment of these institutions must pay attention to the competency requirements of KPH personnel and continue to respect the existence of forest utilization permits (eg IUPHHK, etc.) according to existing legislation.

In the implementation of the establishment of forest management areas to realize sustainable forest management, all forest areas are divided into KPHs. The development of FMU is a priority and the strategic target of forestry development must be achieved. In the 2009-2014 Strategic Plan of the Ministry of Forestry, the strategic goal that must be achieved is the operation of KPH institutions in 15 provinces. For this reason, all the main and supporting elements to achieve these targets must be optimally pursued, including the availability of information data on the development of FMU development.

The strategic role of FMUs in the development of forest resources at the site level includes optimizing community access to forests; conflict resolution, real decentralization of the forestry sector; has strategic value in playing a role in supporting climate change commitments; carry out the implementation and management of the right location, on target, the right activities and the right funding; bridge the funding optimization of climate change handling; supporting facilities in investment in the forestry sector; and increased success in rehabilitation and reclamation.

The main issues in the management of forest resources at present, include: legal uncertainty over forests, high tenure conflicts over forest areas and uncertainty over community management areas over forest areas. One of the root causes of legal uncertainty over forests is overlapping policies governing forest management. At the same time the expansion of the mining and plantation sector was increasingly massive into the forest area. This fact also caused the high incidence of forestry tenure conflicts in various regions.

The uncertainty of the community management area over the forest area is related to the problem of land claims and the return of land rights. The exclusion of indigenous peoples and local communities from their ownership of land and territory has brought a series of problems to the community. They practically do not own land anymore, or have but are very limited and inadequate, to maintain their survival and their culture. Such facts do not reflect the overall problems of indigenous peoples and local communities, but depend on the extent to which they can obtain the land and resources needed to ensure the continuity of economic development and sufficiency in fulfilling living needs.

In general, the causes of conflict can be seen as follows: In connection with conflicts that occur in forest areas, based on [2] concerning Forest Arrangement and Preparation of Forest Management Plans, and Forest Utilization, one of the main tasks of the FMU is to ensure that there is room for resolution of tenure conflicts by providing community-based forest management (HKm), Community Plantation Forest (HTR).) and Village Forest (HD). In addition to access to these forest management, KPH must open a communication room with the parties involved in managing forest resources through a multi-stakeholder forum as KPH partners.

2. Methodology (techniques and tools)

In the implementation of tenure conflict research the methodology used was interviews. Some of the tools used to simplify extracting information are as follows:

Table 1. Technical and analytical tools

Number	Tools	Key Information	Techniques / Information Sources
1.	Village History Flow	• The origin of the formation of the village and • important events / events related • land tenure that has an impact on people's lives	• Focused discussion group (FGD) with the community • Document review (secondary data, such as village profiles or monographs, results of preliminary information)
2.	Social mapping and resources	Village boundaries and settlement • Available natural resources • Problems / challenges faced related to social and resource aspects • Economic potential that can be developed	
3.	Tendency and change	• Changes that occur are related to people's lives in a certain period of time • Efforts that have been made to overcome problems / obstacles • Changes that occur are related to the economy of the community • Security conditions	
4.	Rapid Land Tenure Assessment and Analysis of Dispute Style	Regional history • Area area • Regional appointment letter in the form of SK, Perda, or other documents • Map of area designation Stakeholders in KPH area • Which parties have interests in the PHH area? • What programs / projects exist within the FMU area? • How is the management of each party? • Are there conflicts between parties? • In what form is the conflict? • Are there victims of the conflict? • To what extent is the resolution of the conflict between parties? • Are there maps of function for	Interview and document review

Number	Tools	Key Information	Techniques / Information Sources
		each party? Status of power, governance and governance permission • Is there a BAP of authority, governance and permit arrangements? • Is there a review of BKSDA • Are there supporting documents • Are there any new developments related to the status of the power of attorney, governance and permit arrangements? The style of the parties to the dispute and resolve conflicts: • Who are the actors involved in the conflict? • How far is the role and involvement of women in conflict? • How did the conflict occur? • What strategies do the parties make to resolve conflicts that occur? (must be distinguished between women's groups, male groups and mixed groups) • Are there solutions that have been realized?	
5.	HuMa-Win	HuMa-Win Documentation of data from land tenur assessment	Study of FGD Processes, interviews and supporting documents

3. Results

3.1 KPHP BANJAR

3.1.1 Status of KPH. The Banjar KPH in Banjar Regency, South Kalimantan Province was designated as a Model KPH through the Decree of [3]. The area of the Banjar Model KPHP according to the ministerial decree is 139,958 Ha consisting of 42,090 Ha Protection Forest (HL), 25,354 Ha of Limited Production Forest (HPT), and 72,513 Ha of Permanent Production Forest (HP).
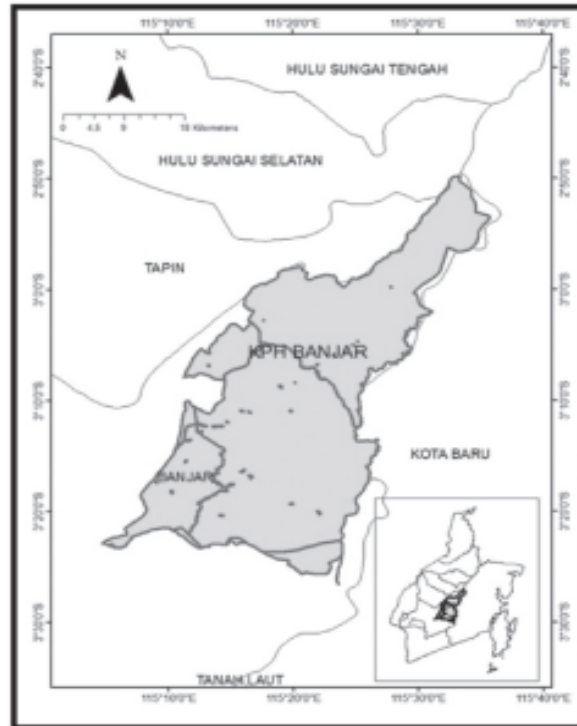
Figure 1. Map of the Model Banjar KPHP area, South Kalimantan

The organization of field operations in the Banjar KPH was determined based on the Banjar Regent Regulation Number 13 of 2009 concerning the Establishment, Organization and Work Procedure of the Banjar Regency Forest Management Unit Technical Implementation Unit. The main tasks of the KPH UPTD that must be responsible for the Head of the Banjar Regency Forest Service are implementing forest governance and preparing forest management plans, implementing forest utilization and forest area use, implementing forest rehabilitation and reclamation, and implementing forest protection and conservation in the Banjar Model KPHP area South KalimantanMore references.

3.1.2 Status of Authority and Governance. 1) Land Authorization. According to the Forestry Service, forest areas in Kupangrejo Village and Pakutik Village are the Banjar Model KPHP working areas of the UPTD of the Banjar Regency Forest Service. Evidence of Forestry Service claims to forest areas in Kupangrejo and Pakutik locations are a) [3] concerning Establishment of Unitary Areas of Production Forest Management (KPHP) Banjar Regency Banjar Regency, South Kalimantan Province, and b) boundary pal as evidence in the field, even though the installation (boundary) has not been fully completed.

While the people of Kupangrejo Village and Pakutik Village claim to have taken control of this land by cultivating it since 1962, even according to residents' accounts, before that year there were already indigenous people. For decades the community has never received information that the village land and its cultivation are forest areas. It was only in 1997 that they learned that the land was a forest area, namely when there was a PT. MHB entered and worked on their land. In addition, in that year there was information that the village government was no longer allowed to issue seals as a statement of land ownership known to the sub-district head.

The community's understanding of the forest is if the area in question is still forested, ie many large trees, many animals, can be used for hiding (taking refuge, the language of the protected local community is invisible). So protected forests are forests that can still be used to hide because they are

still thick. With this perception, the community did not really understand when the area which had no forest turned out to be declared as a forest area. In addition, so far there has been no management / management, according to the community, it is the land of their ancestors.

The community feels that the claims to their land are quite strong because of the support from the National Land Agency (BPN) by issuing land certificates through the PRONA program. In 2012, 100 villagers from Kupangrejo received land certificates. The claims of the village community were strengthened by the village being determined as the definitive village in 1978 for Kupangrejo Village and 1982 for Pakutik Village.

Land ownership by the community between 1984 and 1998 was also proven by seals issued by Pembakal (Village Chief). Seal is a certificate of ownership of land that is known by the Camat. But the assessor did not get the seal document. In 1998, land tenure was reduced in intensity, which was only limited to working on it. This is based on the testimony of residents that since 2012 a Declaration of Land Cultivation has begun to be made which is often known as SPORADIK, namely the statement of cultivation of land by cultivators, justified by the witness of the boundary, known by the Chairperson of the RT.

2) Regional Governance. The Forestry Service Office through the FMU feels that at present it is certainly not able to manage an area of nearly 140 thousand Hayang to be managed by the government. Therefore community involvement in jointly managing forest areas is needed. The Forestry Service through KPH is working to implement a government development policy oriented to community based forest management (CBFM), namely the Community Forestry (Hkm) scheme, Village Forest (HD), and Community Plantation Forest (HTR), including the conflict villages. . Regarding the offer of these programs, both residents of Kupangrejo and Pakutik Villages stated that they rejected the HKm, HD and HTR programs. Residents only want the land they have occupied and managed to be owned in full.

The Watershed Management Center (BPDAS) through the Head of Institutional Section said that the BPDAS principally served HKm and HD licenses to the entire community. Of course the priority given to the community feels that the claims to their land are strong enough because of the support from the National Land Agency (BPN) by issuing land certificates through the PRONA program. In 2012, 100 villagers from Kupangrejo received land certificates. The claims of the village community were strengthened by the village being determined as the definitive village in 1978 for Kupangrejo Village and 1982 for Pakutik Village. Land ownership by the community between 1984-1998 was also proven by seals issued by Pembakal (Village Chief). A seal is a certificate of ownership of land that is known by the Camat. But the assessor did not get the seal document. In 1998, land tenure was reduced in intensity, which was only limited to working on it. This is based on the testimony of residents that since 2012 a Declaration of Land Cultivation has begun to be made which is often known as SPORADIK, namely the statement of cultivation of land by cultivators, justified by the witness of the boundary, known by the Chairman of the RT.

3) Regional Permit Arrangement. As a rule that applies to forest areas (countries), licensing in the Banjar KPH area is issued by the Minister of Forestry. There are six Business Permits for Utilization of Timber Forest Products (IUPHHK) issued by the Minister of Forestry at KPHP Banjar, namely: (1) PT. Inhutani III, (2) PT. HR Buana covering an area of 26,745 based on Decree Number 262 / Kpts-V / 1992, (3) PT. Kirana Rimba covering an area of 4,000 Ha, (4) PT. Prima Multi Buana covering an area of 12,690 Ha, (5) PT. Prima Buana Bestari covers 12,195 Ha, and (6) Litbanghut (KHDTK) BPK covering 623.5 Ha.

The use of the Banjar KPH forest area which has not gone through the Ministry of Forestry's licensing process is recorded as many as 34 cases with an area reaching 243.7 ha for residential residents, 770.2 hectares for transmigration, and 170 ha for mining. The three uses are proposed for ratification through the Regional Spatial Review (RTRW) in 2009.

3.1.3. Tenure conflict 1) Community vs Forestry Conflict. Based on information from the conflicting parties, in Kupangrejo Village there was a conflict between the community and forestry as the main

actor. Forestry in this case is the FMU as the representative of the Forestry Service and BPKH as the executor of the Ministry of Forestry's boundary. The prominent causes of the conflicts that occurred in the two villages were the factors of unclear land status and differences in values about the forest. There is no control of the status of land for decades, so that when the community controls the land during this period no other party claims before forestry finally states that the land is a forest area. Differences in perceptions about forests are also a factor that causes conflicts to occur between communities and forestry, where the community thinks the forest when there is still physical forest, on the other hand forestry based on law 41 of 1999 is not the case.

2) Forestry VS BPN Conflict. There are differences in perceptions between BPN and Forestry regarding the status of the region. BPN together with the Regional Government are the parties that strengthen the position of the community with the certificate issued and the definitive village decision issued. In Pakutik Village the main party in conflict with Kupangrejo Village, namely the community and forestry. The difference is that the supporters of Pakutik Village were only the Regional Government with definitive village designation in 1982. The community worked on the land and settled during that period until the definitive village was determined by the local government and a certificate of land ownership from the BPN was issued. After all this time, PT. MHB, the Forest Service, and the BPKH that carry out activities as a form of claim that the land is a forest area. This confuses citizens who are in the right status.

3) Conflict Resolution Efforts. In 2009 the local government attempted to accommodate and propose areas that had been in the status of using forest areas that were not yet licensed by the Minister of Forestry in Banjar district through the CBFM scheme. The forestry party tries to accommodate the community to participate in managing forest areas through HKm, HD and HTR, but this effort has not yet been received by Kupangrejo Village and Pakutik Village.

The Kupangrejo village community insists on asking the village of 586 hectares to be enclosed or released from the forest area and become the property of the community. Residents argue logically that the 586 hectares of land with 362 households (head of the family) are very small compared to other generally wider villages. While the people of Pakutik Village who felt they did not have certificates and land were more than 900's with fewer inhabitants, namely 227 households wanted the government to release 454 forest areas for the people so that each household would receive a 2 ha portion.

The government of the two villages acknowledged that the disputed area was a forest area within the forest boundary made by the Planology Agency and boundary arrangements were made. The boundary pal which was taken away by the residents of Kupangrejo Village is probably the function limit between HL and HP. The Pakutik Village Government instructed its citizens not to remove the boundary pales installed by the forestry. This is intended to be able to know the extent that must be proposed to be released from the forest area.

4. Conclusion

a. The existence of FMUs is expected to be streamlined to build synergy between relations between institutions in forest utilization and management as outlined in a work program, therefore integrated coordination of the Forestry Planning Agency, Director General of Forestry Production Development, Directorate General of Forest and Land Rehabilitation, BPHP, BPKH and BPDAS.

b. In preparing the KPH management plan in the future the existence of communities around the FMU area needs special attention. Community governance, especially in the KPH Model area needs to be accommodated in the management of FMU by prioritizing the guarantee of forest functions. Various government schemes such as Community Forestry (HKm), Community Plantation Forests (HTR), and Village Forests are expected to be able to provide tenure certainty for people who access the area. However, caution is needed whether this scheme is in accordance with the form of community tenure at the location.

c. The forms of empowerment schemes which are options for the community vary greatly, such as: Community Plantation Forest (HTR), Community Forestry (HKm), Village Forest (HD),

Community Forest / Rights Forest (HH / HR). Apart from any form of empowerment scheme that will be chosen, it is better to get treatment of assistance, especially in the process of understanding the selected scheme policy and the decision-making process to choose the scheme.

d. Re-socialize the construction of policies that distinguish State Forest and Forest Areas, so that the options are more open and reflect the real conditions of Indonesia's forest area.

e. The weakness of forest planning, forest governance and forest management planning that has been running so far can be seen from the low capacity to carry out these activities. This is due to the orientation of the government and regional government in forest product licensing and commodities and not in the management of forest areas / areas, so that control over the implementation of forest and forest products utilization activities becomes weak.

f. In determining the vision and mission of the FMU it is necessary to place balanced sustainability (social, economic and environmental) as a concentration of forest resource management and wherever possible accommodate the views of the parties.

5. Recommendation
a. General:
1. FMU development policies must be able to internalize KPH development activities to various parties that have different tasks, functions and authorities. The complexity of regulating the role of parties needs to be accommodated in a policy, so that the establishment of FMU development policies requires openness to invite active participation by the parties.
2. The urgency of the FMU development implementation program needs to be understood by all relevant parties in order to reduce barriers that are in the nature of disagreements and coordination barriers that are needed.
3. The parties related to FMU development as an institution must be able to manage workloads and develop procedures and schedules so that there is a common direction in FMU development.
4. Monitoring and evaluation is carried out to formulate the problems faced and the form of intervention needed so that FMU development can run in accordance with the stated objectives.

b. National:
It is necessary to increase the capacity of national KPH development to realize national resource allocation for FMU development continuously, until all FMUs are built for all forest areas.

c. Area:
It is necessary to identify provinces / districts that are relatively ready, at least political support to implement them, especially in the short term, FMU development can actually be a basis for lifting regional economic activity where this can be a trigger factor for national FMU development.

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