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Land/Forest Acquisition After the Maluku Conflict, Its Impact on Ecosobling Rights Ownership Conflict of Rights Owners and Ethics-Moral Implications of Public Policies

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Abstract

This study aimed to understand how the post-Maluku conflict land/forest acquisition disaster occurred and its impact on land/forest rights ownership conflicts and the ethical-moral implications of public policy. This research used a qualitative approach with action research methods. Data collection used in-depth interviews, observation, documentary studies, FGDs, and non-litigation advocacy designs. The results of the study proved that there has been a Disaster of Land / Forest Change in Post-Maluku Conflict and its Impact on Conflict of Ecosobling Rights of Rights Owners and Ethical-Moral Implications of Public Policy. First, it is proven that the Land / Forest Acquisition, in the form of: 1) implementation of land/forest acquisition based on Land/Forest Management Permits to investors / entrepreneurs; 2) the calculation of the value of compensation is not based on the standard-objective state price, but is based on the subjective willingness of the company holding a Land / Forest Management Permit; 3) the implementation of deliberation does not reflect the principle of transparency; 4) use of court hands for negotiation of consignment results and ignore the principle of deliberation. Second, the forms of violations that were found to have an impact on the destruction of the enforcement and promotion of eco-social rights (economic, social, cultural, and environmental) as well as conflicts with rights owners or indigenous peoples / victims. Referring to the findings of the research, the Indigenous Peoples / Victims Forum as a forum for empowerment and aspirations of rights-holding communities, was facilitated to design and carry out a series of non-violent non-litigation advocacy targeted at: 1) Central Government Officials: Presidential Staff Office (KSP) and Coordinating Ministry for Politics, Law and Human Rights (Kemenko Polhukam); and 2) Local Government.

Keywords

Economic, Socio-Cultural Rights, Laws and Regulations, Forest Management Permits, Indigenous Peoples Rights Owners, Ethics-Morals of Public Policy, Non-Litigation Advocacy.

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INTRODUCTION

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Since the issuance of Law No.2 of 2012 concerning Land Acquisition for Development for Public Interest Post Maluku Conflict (1999), the era of land land acquisition with the calculation of compensation value based on NJOP (tax object sale value) has changed based on market prices. The calculation of compensation based on the NJOP refers to the mandate of Presidential Regulation No.36 of 2005, and Presidential Regulation No.65 of 2006 has ended. Since Law No.2 of 2012, the community, nation, and state have entered a new era of land acquisition for development for the public interest by calculating the value of compensation based on the MARKET VALUE instrument. That is, the change in the calculation of compensation value based on NJOP to an era based on MARKET VALUE is a very basic, structural, systematic, patterned, and sustainable change in the history of land acquisition in Indonesia through the phases: land acquisition, replacement, rehabilitation and sustainability reconstruction (Pradhani, 2018).

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This is in line with the Regulation of the Minister of Environment and Forestry of the Republic of Indonesia Number P.28/MENLHK/SETJEN/KUM.1/ 7/2018 concerning the Granting Procedures, Expansion of Work Areas and Extensions of Business Permits for Utilization of Timber Forest Products in Natural Forests, Business Permits for Utilization of Ecosystem Restoration Timber Forest Products, or Business Permits for Utilization of Industrial Plantation Forest Timber Forest Products in Production Forests.

It is said that the fundamental, structural, systematic, patterned, and sustainable changes are based on Law No.2 of 2012, because in essence, NJOP is not an instrument of land transactions, but a tax instrument. Through the NJOP instrument, citizens as taxpayers have a formal basis for calculating land and building tax payments to the state. Because NJOP is a tax instrument and not a land transaction instrument, whether we realize it or not, land transaction space with the calculation of compensation value based on NJOP, is essentially vulnerable to a variety of human rights violations of landowners, namely: economic, social, cultural, and spatial or environmental rights (ecosobling), as well as the permanent and sustainable destruction of community social capital (Pradhani, 2018).

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As is commonly understood, the new era of Land Acquisition for Development for the Interest began with the issuance of Law No.2 of 2012 with its Implementation Rules through Presidential Regulation No. 71/2012 and so on, is the era of land acquisition which is marked by the existence of a starting point for calculating the compensation value for land acquisition based on market prices, not NJOP. To provide facilities for the implementation of this Law, so that it runs well and evenly throughout Indonesia as an archipelago with a multicultural pluralistic society during the transitional period, sociocultural the government provides facilities for the transitional period from 2012 to late 2014. This transition period is provided as a facility for projects that have been included in the APBN/APBD in the 2012 to 2014 period which are still allowed to use the basis for calculating the value of compensation based on the old regulation of Presidential Regulation No. 35 of 2005 and No. 65 of 2006, which was based on NJOP. But after that, in the period 2015 onwards, all APBN / APBD projects were considered 100% new projects based on calculating the value of compensation for land acquisition based on market value/price (Pradhani, 2018). It is hoped that the alignment of rights owners - in this case the customary / local communities - is expected to take place consistently in the context of Forest Acquisition based on Minister of Environment and Forestry Regulation No. P.28/MENLHK/SETJEN/KUM. 1/7/2018. Especially with the issuance of Minister of Environment and Forestry Regulation No. P.1/MENLHK/SETJEN/KUM.1/1/2009 concerning Business Permits for Primary Forest Products Industry.

Ironically, Land/Forest Acquisition in the Maluku Region Post-Conflict in 1999 which has a

sustainable multi-disaster impact, is: 1) as reported by Sopamena & Pattiselanno (2018), at the PPA Workshop organized by CoLUPSIA focused on Protecting the Rights of Indigenous Peoples in Conducting Economic, Social and Cultural Activities; 2) Marsaoly (2020) in his research on the Land Acquisition and Alternative Land Conservation "Dusung System".

Sopamena & Pattiselanno (2018) noted that Seram Island as the island which has the largest land area in Maluku Province ($\pm 18,625 \text{ Km}^2$) has now experienced changes in land use for various purposes. In the future, land use planning will be very important in this area and in the preparation of a land use planning requires a general good understanding of the key issues. For this understanding to be achieved, collaboration between various parties is required to enable the parties to share resources, knowledge, and expertise. This understanding helps policy makers formulate the most appropriate land use planning, prepare for change, and can deal with the uncertainties that cause it.

Since 2012, CoLUPSIA activities have focused on analyzing and modeling spatial data as well as social and environmental data. In connection with the PPA (Participatory Prospective Analysis) workshop, CoLUPSIA has conducted a three-stage workshop involving 23 stakeholders (government, community, companies, academics, and NGOs) to jointly develop future land use planning in Seram Island, Central Maluku Regency. This workshop used a Participatory Prospective Analysis (PPA) approach. The PPA workshop series resulted in a better understanding from the parties about the future of land use and the development of various land use scenarios.

Meanwhile, Marsaoly (2020) noted that: Conflicts and Disputes on Forest and Forest Products in a forest area by the government, businessmen, and community rights in accessing natural resources and land ownership have resulted in tensions and resulted in increased forest degradation. Conflicts that occur in forest areas so far occur due to main problems, among others, due to the dualism of "land systems, namely the land system regulated in the Agrarian Law and in the Forestry Law, as well as the land tenure system according to the government and the community."

Also, the determination of land use is generally based on the characteristics of the land and its environmental carrying capacity. Land is part of a landscape, which includes the physical environment including climate, topography / relief, soil hydrology and natural vegetation, all of which will potentially affect land use. In general, land (land) is defined as a physical environment that includes soil, climate, relief, hydrology and vegetation, where these factors affect their potential use, including the results of human activities, both in the past and the present. , such as reclamation of coastal areas, deforestation, and adverse effects such as erosion and salt accumulation.

Alauddin et al., (2020) Mongabay, reported that when trying to maintain customary forests, Sabuai residents were entangled in the law (Alauddin et al., 2020). He stated that.

- The indigenous people of Sabuai on Seram Island, Maluku, who tried to defend their forest are facing the law. About 26 residents were secured by the police; two people became suspects. Now, all the indigenous people had returned to their homes, and two suspects were obliged to report.
- The 26 indigenous people of Sabuai State were arrested by the Werinama Police, Monday (17/2/20). Previously, they were policed by CV Sumber Berkat Makmur (SBM) with accusations of blocking and destroying company-owned equipment.
- The residents asked the Maluku Government to immediately close down the company that had been suspected of logging illegal timber in their forest. They worry that when the company continues to operate, the customary forest will be deforested, causing environmental problems.

- Abraham Tulalessy, Chairperson of the Maluku One Blood Foundation as well as an academic at the Ambon Pattimura University, asked the Indonesian government, including the police, to be fair to indigenous people who feel that their rights are being taken away. The indigenous peoples of Negeri Sabuai are part of Indonesian citizens who want to fight for their customary forests.
- Tabaos. through the results of his investigation, reported that: Moluccas Democratization Watch (MDW) Officially Criminalized CV. Sumber Berkat Makmur (SBM) regarding Illegal Logging on Seram Island. It was stated that: "After being busy in public spaces, especially in mass media and social media, the case of alleged illegal logging (illegal logging) by CV. Sumber Berkat Makmur (SBM) in the traditional village of Sabuai Administrative Village, which is masked as a nutmeg plantation, has now received a serious response from Moluccas Democratization Watch (MDW)."

This stagnant situation has continued until now. In fact, the customary, social and cultural owners are aware that the Implementing Party of the License Holder for the Land or Forest Acquisition, is trying to condition the steps taken by law against the Indigenous Peoples. This basically shows that there are acts of violation of the Mandate of Law No.2 of 2012 and its Implementing Rules, that "the Compensation Value conveyed by the Appraisal Party for Land Acquisition is Absolute Value."

Meanwhile it is indicated that the value conveyed to the owner of customary rights only concerns the value of land, without the value of buildings and plants as well as non-physical values. Even the calculated value of land compensation is indicated not based on market value but based on the calculated value below the NJOP. On the other hand, forest, and timber management permit holders in Seram Island, such as CV. The SBM, which was convicted by MDW, shows a conflict between Indigenous Peoples and the Company in relation to the Ecosobling Rights of Ulayat Management.

This fact is part of the behavior of structural violent conflict violations of Economic, Social, Cultural and Environmental Rights (ecosobling) and socio-cultural capital of asset control and access to land/forest resource management, and its implications for Public Policy Ethics by the Regional Government of Maluku Province, and the Central Maluku Regency, as well as related Ministries through the Control of Land / Forest Acquisition Permits with community rights owners (ulayat) relating to the Transfer of Land and Forest functions in the Ulayat Areas of Indigenous Peoples. Typically, this violation is known as Confiscation of Rights to Landowners of Rights or Land Grapng which is carried out deliberately, patterned, and systematically (Stephan & Pathak, 2016).

Many research and studies have discussed the implementation of development project policies in the regions that focus on land/forest acquisition policies and indigenous peoples/victims who are divided into several trends. First, those who look at land/forest acquisition and compensation based on the view that social capital is essential in the process of acquiring, integrating, and releasing land/forest as the core social capability (Blyler & Coff, 2003) as well as the special liberation of indigenous people and their land (Alias & Daud, 2010). There is also a relationship between the rights owner and the land / forest which has philosophical, anthropological, and spiritual meaning because land is a human right (Bahar, 2008). Second, the impact of land acquisition for increasing and improving income distribution, as well as overcoming poverty (Chitiga & Mabugu, 2008). Third, research on the legal basis of land acquisition policies in Indonesia (Stephan & Pathak, 2016). Fourth, the relationship between land acquisition and improving the role of the government in managing land by integrating the parties in land planning (Lindayati, 2002). Fifth, land/forest acquisition is related to the decolonization of political and economic disparities in the community (Stephan et al., 2010); coalition governments

and land holders influence the low standard of compensation (Han & Vu, 2008). Sixth, research on the capacity of state institutions in public land acquisition; mediating conflicts of interest between the parties (Nanang, 2000); land and political conflicts (Ruhulessin, 2021); and land and human rights (Wollenberg & Kartodihardjo, 2010).

These studies have focused on the impact of land/forest land acquisition policies project, relating to the various social conditions of land/forest owners, but few studies have specifically focused on the impact of violations of laws and regulations on land/forest acquisition on enforcement and promotion of economic, social, cultural and environmental rights as well as the ethical implications of public policy (Havel & Zaleczna, 2009). Meanwhile, the conditions for enforcing the ecosobling rights of rights owners and the ethical implications of public policies in the context of violation⁴⁰ of laws and regulations on land/forest acquisition will continue to be a question of **human resource management in the context of "public service relations"**, and cross-disciplinary studies that need to be investigated further in a socio-cultural and ethical manner.

The focus of this study and design of non-litigation advocacy is: "Land/Forest Acquisition Disaster Post Maluku Conflict and Its Impact on Conflict of Ecosobling Rights of Rights Owners and Ethical-Moral Implications of Public Policy." This focus is translated into the following research sub-focuses: (1) forms of violations of the Law and Regulations on the land / forest acquisition of Indigenous Peoples; (2) the background and purpose (why) of the land / forest acquisition policy behavior taking this form; (3) the impact of ecosobling rights of rights owners (customary communities) as well as the ethical-moral implications of public policies; (4) non-litigation advocacy design on the efforts of the Government and indigenous peoples / victims (rights owners) to correct violations¹¹ laws and regulations over the conversion of land / forest acquisition and their impact on the ecosobling rights of indigenous peoples who own the rights themselves.
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Based on the above background, the following research problems were formulated: (1) what are the forms of violations of the Law and Regulations on the Land / Forest Acquisition of Indigenous Peoples; (2) Why do land / forest Acquisition policy products and forms³³ compensation take such forms; (3) what is the impact of land/forest acquisition on the ecosobling rights of rights owners (indigenous peoples) and the ethical-moral implications of public policies; (4) how is the design of non-litigation advocacy on the efforts of the Government and indigenous peoples / victims (rights owners) in¹¹recting violations of laws and regulations on land / forest acquisition and their impact on the ecosobling rights of indigenous peoples who own the rights themselves.
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Starting from the formulation of the problem, the objectives of this non-litigation action research and advocacy are: (1) Identifying and mapping the forms of violations of the Law and Regulations on the Land / Forest Acquisition of Indigenous Peoples; (2) Why does the land / forest acquisition policy product and its form of compensation take such a form; (3) what is the impact of land / forest acquisition on the ecosobling rights of rights owners (customary communities) and the ethical-moral implications of public policies; (4) how the design of non-litigation advocacy on the efforts of the Government and Indigenous Peoples / victims (rights owners) to improve violations of laws and regulations on land / forest acquisition and their impact on upholding and advancing the ecosobling rights of indigenous peoples who own these rights.

Research locations and non-litigation advocacy bases are regency¹¹/villages which are the target samples for land / forest acquisition in Seram Island: Central Maluku, West Seram and East Seram Districts, Maluku Province. The research was conducted in February - May 2017. The activity was carried out in four stages: the first month, focusing on field research; the second month, focusing on processing and analyzing data until drawing conclusions; the third month, concentrating on the process of writing and completing research reports and non-litigation advocacy designs; the fourth month and so on, focusing on the implementation of empowerment activities, critical education,

and intensive advocacy based on the Victim Community.

Land / Forest Acquisition Policy. First, understanding and scope. Article 1 paragraph (3) of the Presidential Regulation (Perpres) Number 65 of 2006 states that "every activity to acquire land is by means of providing compensation to those who release or hand over land, buildings, plants and objects related to land. Land acquisition for the implementation of development for the public interest by the government or regional government is carried out by means of relinquishing or handing over land rights. " Article 3 of Presidential Regulation No. 65/2006 stated that the release or transfer of land rights (article 2) is based on the principle of respect for land rights" (Sembiring, 2016).

According to King, (1996) "land acquisition or relinquishment of land rights as a legal act is an act of releasing the legal relationship that originally existed between the right holder and the land through deliberation to reach an agreement, by providing compensation / compensation to the right holder, so that the land concerned changes its status to state land" (King, 1996). Land in the sense of place has two aspects, namely: in terms of rights (law), and in terms of use (physical) (Sembiring, 2016). On the other hand, to reduce the rate of forest loss, several efforts have been made by the government through responsive policies oriented to save the remaining natural forests. However, in general, these efforts have not been declared effective in addressing deforestation and forest destruction in Indonesia. Because the factors causing land conversion are multidimensional, in controlling the rate of conversion of forest area functions, it is not enough only with a technical and legal approach, but it is also necessary to take a holistic approach, namely a combination of approaches to technical principles, law and environmental ethics (Kunu, 2020). Second, the basis for calculating compensation or compensation is: a) Law No.2 of 2012: Compensation for Land, Plants⁴¹ and Buildings: based on Market Value. Meanwhile, the implementation of policies for changes in designation, changes in functions, and use of forest areas is fraught with violations and irregularities (both procedural and substantial), and the principles of environmental ethics and laws for the preservation of environmental functions are not actualized (Silaen, 2008). In fact, in many cases, according to Siombo (2014), many government officials "play with their eyes" and fall into corrupt practices because environmental (ethical) considerations are not a priority or the main consideration in protecting and deferring¹⁰ the environment. Third, land conflicts and sustainable development. Kombe found in land / forest acquisition for the public interest in Tanzania, that social, institutional, economic and interest processes play a key interaction in generating conflict. The transfer of rights, valuations and compensation that are not transparent can trigger conflict between the state and landowners, and threaten social, economic and peace sustainability, especially the poor. Kombe found three types of conflict over land / forest clearance for public interest, namely: (1) delays or injustice in compensation; (2) poor communication and the absence of landowners; (3) poor government. That land / forest policies must pay attention to poverty alleviation, property rights over land, the impact of tenure and land use, ways to increase control of land / forest areas or tenure security (Deininger, 2005). The roots of urban land conflicts, according to Deininger, lie in land scarcity, increasing urban population, discriminatory laws, high inequality of land access and community economic development.

Human Rights in the Land / Forest Acquisition and its compensation. First, understanding and scope. The conversion of land / forest functions in economic development is related to human rights as standard land acquisition obligations (Sillehu et al., 2018); environmental protection, poverty reduction, and social justice for landowners (Ruiz-Mallén & Corbera, 2013) land, business and human rights relations (Alauddin et al., 2020); as found by Nanang, (2000) that there was violence against the EKOSOBLING rights (economic, social, cultural and environmental rights) of the people affected by the project. Second. victim psychosocial and human rights to land/forest. The psychosocial

perceptions of indigenous peoples/victims of land/forest acquisition and the impact of their compensation on ecosobling rights and the ethics and morals of public policies have three theoretical concepts. a) Loss Aversion: the factor in which individuals and / or groups feel that the loss of land / forest rights is always greater than the benefits they get (Tversky & Kahneman, 1991). b) Endowment Effect: related to the attitude of individuals or groups who usually ask for more compensation to release what is rightfully theirs than the amount they have to spend so that their lives are better (Zhang & Fishbach, 2000). c) Status Quo Bias: landowners will face problems related to feeling comfortable with their current conditions, either physically - spatially, socially, culturally or psychologically (Samuelson & Zeckhauser, 1988).

Ethics-Morals of Public Policy. First, Definition and Scope. Several definitions of the Ethics-Moral of Public Policy, among others: (a) the factors causing the land / forest acquisition are multidimensional, so controlling the rate of land / forest acquisition is not sufficient only with a technical and legal approach, but it is also necessary to take a holistic approach, which is a combination of technical, legal, and ethical principles approaches (Ruhulessin, 2021). Oding Affandi, quoting Irland, said that: The points of deep ecology action emphasize the use of natural resources in a more meaningful and profound way and provide a strong ethical-moral foundation as the basis for why humans have an obligation to protect and protect the environment including land / forest area. Protection of land / forest is an effort to protect themselves. The earth is a complex adapted system that can adapt itself in the face of change, especially changes caused by humans (Lindayati, 2002).

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Meanwhile, Eco-centrism, which is a continuation of the biocentrism environmental ethical theory (this theory considers every life and living thing to have value and value to itself). As a continuation, eco-centrism is often simply confused with biocentrism, because of the many similarities between these two theories. These two theories break the anthropocentrism viewpoint (an environmental ethical theory that views humans as the center of the universal system) which limits the application of ethics only to the human community. Both broaden ethical applicability to encompass a wider community.

Ethical eco-centrism is extended to encompass the entire ecological community. So, this is different from biocentrism which only focuses ethics on biocentrism (on life as a whole). Eco-centrism focuses ethics on all ecological communities, whether living or not. Ecologically, living things and other abiotic objects are related to one another. Therefore, moral obligations and responsibilities are not confined to living beings. The same moral obligations and responsibilities apply to all ecological realities. One version of this theory of eco-centrism is the theory of environmental ethics which is currently popularly known as Deep Ecology (DE). As a term, Deep Ecology was first introduced by Arne Naess, a Norwegian philosopher, in 1973, where the moral principles developed concern the entire ecological community (Hidayat et al., 2018).

In a deep ecology perspective, this society views the continuity of life and its natural existence as a combination of visible and invisible factors. A conception that fits with the deep ecological action map is a deeper ecological view. Ecological views and actions rely not only on biophysical symptoms, but prioritize ethics and morals (Diprose & Azca, 2020).

RESEARCH METHOD

Data Collection Methods and Procedures. This research used an action research method with a qualitative approach that aims to seek and find a comprehensive understanding, interpretation of meaning, and contextual understanding of "ecosobling rights and public policy ethics" in the context of social processes and interactions through "violations of laws and regulations on land / forest acquisition" in Maluku Province. Action Research:

a) as social research, is carried out by a research team consisting of professional researchers with members of an organization or local community, with the function of improving the local community situation or social change. b) Action research emphasizes participation or democratic relations between professional researchers and communities in the research process, as well as encouraging collective action towards social change that is satisfactory to all stakeholders. c) Through action research, professional researchers and the basic community together formulate problems to be tested and solved, produce relevant knowledge to solve problems, learn and produce joint social research techniques, and take concrete actions and actions (Lindayati, 2002).

Referring to the action research method, a Methodological Flow of Non-litigation Study and Advocacy Design was designed as shown in Table 1.

Table 1.

Flowchart of Study Methodology (research) and Non-Litigation Advocacy Design

CONSOLIDATION, ACTION RESEARCH, PREPARATION OF REPORTS	EDUCATION OF CRITICAL AWARENESS AND CAPACITY EMPOWERMENT OF RIGHT OWNER COMMUNITY	NON-LITIGATION ADVOCACY AND RESPONSIVE OF ETHICS-MORAL OF PUBLIC POLICIES
<ul style="list-style-type: none"> • Establishment and Consolidation: <ul style="list-style-type: none"> ◦ Baseline Team & Action Research ◦ Education Team ◦ Empowerment ◦ Advocacy and Networking • Implementation of Victim / Customary Community-based Action Research <ul style="list-style-type: none"> ◦ Establishment of the Communication Research Team ◦ Collection of Data & Facts ◦ Preparation of reports • Preparation of a Grand Design for Non-Litigation Advocacy and Schedules with a snow-ball process scenario • Division of Duties and Responsibilities of the Education, Empowerment & Advocacy Team 	<ul style="list-style-type: none"> • Education and critical awareness campaigns for indigenous peoples and advocacy communities • Preventing the greatness of the masses and managing the expression of aspirations for human rights non-violence (critical-dialogical) • Road show education, empowerment and capacity building of Forum residents: <ul style="list-style-type: none"> ◦ Door to door approach, communication and cultural dialogue ◦ Orban community cluster node • Consolidation of activity progress and implementation of critical re-education to advocacy base groups 	<ul style="list-style-type: none"> • Hearing & Advocacy Non-Litigation to: <ul style="list-style-type: none"> ◦ Regional Legislatures of Central Maluku, West Seram, North Seram, East Seram ◦ Governor of Maluku ◦ Maluku Provincial Legislatures ◦ Deputy III of Menkopolhukam ◦ Related stakeholders • Internal empowerment and sustainable non-litigation advocacy conciliation according to conditions and needs

Data and data sources. Qualitative data is data related to categorization, characteristics of questions or in the form of words. This data is usually obtained from interviews and is subjective because the data is interpreted differently by different people (Sembiring, 2016). Qualitative data is in the form of descriptive, in the form of spoken or written words about human behavior that can be observed (Diprose & Azca, 2020) and can be divided into three types (Ruiz-Mallén & Corbera, 2013), namely: 1) Observation results, which are detailed descriptions about situations, events, interactions, and behaviors observed in the field; 2) The results of the conversation, which are the direct quotes from people's statements about their experiences, attitudes, beliefs, and thoughts in the in-depth interview opportunity; 3) Written materials, which are excerpts or entire documents, correspondence, records, and case histories. Qualitative data sources. According to Hidayat et al., (2018), the main data sources in qualitative research are words and actions. The rest is additional data such as documents and others. "With qualitative data, researchers can follow and understand the flow of events chronologically, assess causation within the scope of the minds of local people, and obtain many useful explanations" (Wollenberg & Kartodihardjo, 2010).

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Data Collection Techniques and Procedures. Data collection techniques and procedures are based on the principles of phenomenology as a qualitative research method, do not use hypotheses in the process, and do not initiate and do not aim to test theories. Data and data collection procedures through interview techniques, group discussions (FGD), documentary studies, observation and design of action plans.

Data Analysis Procedure. The data analysis approach and procedure use the approach proposed by Lindayati, (2002), that the qualitative data analysis procedure consists of three streams of activities that occur simultaneously, namely: data production, data presentation, and conclusion/verification. Qualitative data analysis was carried out interactively and continued to completion, so that the data was saturated (no more data or new information was obtained from existing data).

Data Checking. Data checking focuses on two main points: criteria and techniques. *Criteria.* The validity of the qualitative data was based on four criteria: (1) credibility (degree of trust); transferability (transferability or contextuality); (3) dependability; (4) confirmability (certainty). *Data checking techniques.* First, on the credibility criteria, the techniques are: 1) participation extension (data confidence level), 2) observation persistence, 3) triangulation (through other sources), 4) peer checking (peer discussion); 5) reference adequacy; 6) negative case studies; 7) checking the members / research team; Second, the transferability criteria, which are carried out by using 8) detailed descriptions; Third, the criteria of dependability and certainty, which are carried out by using 9) dependency auditing techniques, and 10) certainty.

FINDINGS

General description. Primary data study techniques were used to answer Sub focus (objective) Research 1 which was sourced from (a) direct information on rights owners, (b) results of legal studies of several experts who examined the basis for land acquisition through Law No. P.28/MENLHK/SETJEN/KUM.1/7/2018 along with the Implementation Rules. In answering Research Sub Focus 2, which was still closely related to Sub Focus Research 1, a series of interviews and focus group discussions (FGD) were used, which were also used to answer Sub Focus Research 3 and 4 at the same time. The FGD data were obtained from a series of discussion groups with victim communities (rights owners). Interview data of key figures were obtained from members of the Community Forum for Victims, Village / Sub-district officials, as well as PPK (Land / Forest Management Commitment Making Officials) and Land/Forest Acquisition Permit Holders. The observational data were obtained through the direct involvement of the research team in observing spatial conditions related to activities, events, incidents, objects, social

atmosphere and emotions of residents affected by land / forest acquisition activities.

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24. Search Findings. First. Violation of Laws and Regulations on Land Acquisition and the Republic of Indonesia's LHK Ministerial Regulation No. P.28/MENLHK/SETJEN/KUM.1/7/2018 concerning Land Acquisition.

1. Violations of Inventory and Identification

The findings of violations of the inventory and identification implementation are as follows:

- Inventory and identification findings through Field Map and Nominative List data of rights owners prove that violations of laws and regulations are **predominantly visible in Nominative List versus Field Map documents**, especially data on customary forest areas (*petuanan*), buildings, and plants. The omission of patterned violations of laws and regulations proves that: (a) there has been **a violation of the authorization and work professionalism of the Implementing Party for the Land / Forest Acquisition**; the follow-up is on (b) **violations of the substance and quality of the Executor's work products** in the form of field maps and nominative lists which **objectively the rights owners complain about**.
- The findings of field facts prove that the Inventory and Identification Implementers are not trying to protect themselves and their work in order to produce a Field Map and a Nominative List of Land/Forest Acquisition with an Official Report that is jointly signed by: Implementing Party (officer), Land / Forest Owner / Plants / buildings witnessed by Village / Sub-district officials as legal documents that protect the professionalism and quality of their work products. Violation of these rules and laws proves the ineffective work coordination relationship between the Inventory and Identification Team and the Appraisal Team (Independent Appraisers relating to the Value of Land / Forest / Plants / Buildings, either Physical / Material, or Non-Physical / Material)
- Various facts and data on violations during the Inventory and Identification phases have proven to have a destructive impact in the form of continuous violations in the following steps, namely the implementation of the Calculation of the Value of Compensation for Physical and Non-Physical by the Appraisal Agency. In fact, Land / Forest Acquisition Compensation Value based on Companies / Investors Holders of Land / Forest Acquisition Permits does not have the same Compensation Standards as Law No.2 of 2012 with Market Value-Based Appraisal Implementers, and not NJOP.

2. Indemnity Assessment Violation

The findings of the implementation³² of assessment work by the Appraisal Agency recruited by the Implementing Party (Ministry of Public Works, PERA, for Land and Ministry of Environment and Forestry) prove the existence of violations of laws and regulations as follows:

- At the PERA Ministry of Public Works, almost 100% of the Indemnity Assessment carried out by the Independent Appraisal only focuses on the appraisal of land objects. Substantially, it is proven that this action ignores the calculation of the value of buildings and plants and other values deemed appropriate, which should form an integral part of the responsibilities of the Appraisal Party: land, buildings and plants. Therefore, the findings of the amount of Fair Indemnity Value of all land owners presented at the Deliberative Forum proved to be focused on the physical

value of land and based on the calculation of compensation under the NJOP. Meanwhile, the Ministry of Environment and Forestry fully submits the problem of Calculation of Indemnity Value and Implementation of Indemnity for Ecosobling Rights of Indigenous Peoples of Rights Owners to Investors / Companies holding Land / Forest Acquisition Permits. Also, there is no National Standard Reference in accordance with National Public Policy Products for that. Therefore, the potential for Conflict on the Land / Forest Acquisition is very Vulnerable and even becomes an Open Conflict.

- At the same time, the implementation of the indemnity assessment by the Appraisal Party **was inconsistent, referring to the results of the inventory and identification work in the form of field map data and nominative lists** produced in the previous work phase by the work of the BPN Party (Satgas A and B). This is evident from the document data of Forum Deliberation I and II, when compared with the Field Map and Nominative List produced by Task Force A and Task Force B (BPN). This proves, not only technical negligence, but violation of laws and regulations. This is because the results of the Inventory and Identification Work by Task Force A and B are formally submitted in the form of MINUTES to the Implementing Party. The Implementing Party is responsible for submitting this important document to the Appraisal Party, so that the Appraisal Party will not violate the work authority as an independent appraiser without referring to the work results of Task Force A and B in the form of Field Maps and Nominative Lists.

3. Violation of Implementation of Deliberation

The findings of violations of the implementation of the Deliberation are as follows:

- The findings of field data prove that in the **Deliberation Forms of Compensation Minutes Document Format** per right owner, it is evident that the physical value, non-physical value and their accumulation become Fair Compensation Value, which has not been implemented properly. This fact proves that the deliberation mechanism legally, substantially and operationally violates the principles of land / forest acquisition, both according to the mandate of Law No.2 of 2012 and the Republic of Indonesia's LHK Regulation No. P.28/MENLHK/SETJEN/KUM.1/ 7/2018
- The findings of data and field facts prove that, even based on the Indemnity Deliberation Rules, a) according to Law No.2 of 2012: **Fair Indemnity Value** as a Result of Appraisal Team Work is an **absolute price and cannot be contested or there is no room for the implementation of the bargain** b) while according to the Republic of Indonesia's LHK Regulation No. P.28/MENLHK/SETJEN/ KUM.1 /7/2018 in fact submitted to the Subjectivity of Investors / Licensing Companies and the National Loss Indemnity Standard is not yet available. This condition is the structural root of the conflict on Indigenous Peoples' Rights and the ethical-moral implications of public policies.

Second, the Impact of Ecosobling Rights and Social Capital of Right Owners has a psychosocial impact on upholding and advancing the rights of rights/land owners in relation to 4 (four) aspects of the community life of Rights / Land Owners:

1. **Social Capital Impact.** The behavior of the implementation of land/forest acquisition by the executing party (investors / companies holding permits for the land/forest acquisition), is proven:
 - This factually raises the division of the community that owns the rights.
 - Rights-holding communities are divided between: (a) groups that are open to and

- accept negotiations and (b) groups that refuse and are not willing to negotiate.
- Suspicion and conflict between family members and / or indigenous-community groups, because they are divided between those who are willing to accept and reject the recognition of the existence of indigenous and *ulayat* communities as sovereign ethnic, social, cultural, and ethical-moral in public policies.
2. **Economic Impact.** Behavior of Land Acquisition Implementation by Implementing Parties, proves that:
- Calculation of Indemnity Value that does not match the National Objective Standard Value which is supported by the Independent Appraisal Result mandated by the State, and the length of time for settlement of the indemnity value results in the citizens who have rights being increasingly depressed, by the Subjective Treatment of Investors / Companies that Hold Land / Forest Acquisition, while the market value land, forests, buildings in the place of origin of rights holders have continued to develop over the last decades. Seeking land, customary land and rebuilding a new future in the same place is uncertain as it can lead to levels of traumatic and psychosocial depression for customary landowners. Primarily they are from a weak economic class who depend on land, forest, spatial planning, houses and / or gardens that are small and sufficient for subsistence life. Moreover, land, forest, communal land, buildings and generations are inheritances that are not allowed to be traded or converted psychosocially-culturally.
3. **Environment.** The Behavior of the Implementation of the Land/Forest Acquisition by the Implementing Party, proves that:
- Rights owners feel the threat of inconvenience due to new and uncertain spatial and environmental changes. Structurally forced due to state and regional public policies, they must adjust the choice of a new location by force (a form of structural, social and cultural violence).
 - Landowners and family communities fear changes that are beyond the ability of families and communities to control. Give up in fear. Potential roots of social anger.
 - Rights owners feel the threat of being separated from the environment, spatial planning and layers of generations that have been conditioned for decades, even generations of inheritance ownership as residential areas (*ulayat*), housing and future generations of big island indigenous peoples (Seram, Buru etc.) and islands. (Aru etc.)
 - Landowners who have been living in heritage residential areas for generations, are now facing land/forest acquisition by investor/company interventions, by obtaining permits to land / forest acquisition, based on local / national public policy products (ethics-moral).

Third, the Design of the Non-Litigation Advocacy Plan.

Based on the research findings described above, a non-litigation advocacy framework was designed by indigenous people/victims of rights owners through the FGD forum with the following results.

Table 2.

Action Plan for Critical Awareness Education and Non-Litigation Advocacy

No.	ACTION PLAN PHASE	OBJECTIVES	TARGETS	PIC
EDUCATION OF CRITICAL AWARENESS AND CAPACITY EMPOWERMENT OF INDIGENOUS AND PUBLIC COMMUNITIES				
1.1.	Education and critical awareness campaigns for advocacy-based communities and communities	Conducting education and critical awareness campaigns for basic communities so that advocacy behavior is nonviolent, efficient and effective	A Community Base has a critical awareness in non-litigation advocacy work	<ul style="list-style-type: none"> • Community Team • Co-consultant / facilitator
1.2	Prevention of mass violence and managing the expression of non-violent human rights aspirations	Develop a framework for preventing mass violence and manage the non-violent expressions of human rights aspirations	There is a framework for preventing violence & non-violent expression of human rights	<ul style="list-style-type: none"> • Community Co-consultant / facilitator
1.3	<ul style="list-style-type: none"> • Road show for education, empowerment and strengthening of the capacity of community members: <ul style="list-style-type: none"> ○ Door to door ○ Victim community cluster node 	Implementing critical awareness education efforts, empowering and strengthening the capacity of community members in a patterned and periodic manner	<ul style="list-style-type: none"> • Community members who: <ul style="list-style-type: none"> ○ have Critical awareness ○ are Independent ○ are Proactive ○ have Personality 	<ul style="list-style-type: none"> • Community Co-consultant / facilitator • Network
1.4	<ul style="list-style-type: none"> • Consolidating activity progress and carrying out critical re-education to Base Communities. 	Carry out reviews and work design reformulations in accordance with the progress of advocacy activities	Available factual data and information that can be accessed as potential advocacy	Community Team
NON-LITIGATION WITHOUT VIOLENCE ADVOCACY IN ENFORCING ECOSOBLING RIGHTS AND BUILDING A SOCIAL CAPITAL NETWORK				
2.1	<ul style="list-style-type: none"> • Audience & non- 	Carrying out a series of patterned,	An advocacy hearing was held	<ul style="list-style-type: none"> • Community

	<p>litigation advocacy to various related parties (stakeholders) at the Regency, Provincial and Pusa levels</p>	<p>systematic and efficient non-litigation hearings and advocacy to relevant stakeholders as a form of consolidation of social capital</p>	<p>to</p> <ul style="list-style-type: none"> • Regency Legislatives • Provincial Legislatives • KSP • Provincial/Regional Government • Deputy III of Polhukam Party of land / forest acquisition 	<ul style="list-style-type: none"> • Co-consultant Partner Network •
2.2	<ul style="list-style-type: none"> • Internal empowerment and consolidation of Sustainable Non Litigation Advocacy 	<p>Consolidating internal empowerment on an ongoing basis based on advocacy progress</p>	<p>Organized sustainable education & empowerment</p>	<ul style="list-style-type: none"> • Community Coordinator and Fas Team • Co-consultant
2.3	<ul style="list-style-type: none"> • Development of social capital as well as ethical-moral advocacy of network-based non-litigation public policies 	<p>Developing and empowering community social capital and ethical-moral public policies based on local, regional and national community networks to strengthen non-litigation advocacy</p>	<p>Through roles of:</p> <ul style="list-style-type: none"> • Cross-community resource persons • Facilitator across communities • National resource persons at the relevant ministries / agencies 	<ul style="list-style-type: none"> • Coordinator and member of Community Consultant & Co-Facilitator Representation of Network Actor •
2.4	<ul style="list-style-type: none"> • Writing Books (lessons learned) as a reference for Public Education 	<p>Documenting advocacy experiences in the form of a public education reference book and public policy ethics</p>	<p>There is a book of track records of advocacy work and ethics and morals of public policies as a reference for public education</p>	<p>Customary Community / Victim</p>

4. **Culture.** The Behavior of Land/Forest Acquisition Implementation by Implementing Parties, proves:

- Indigenous Maluku communities are very strong with kinship and brotherhood relationships based on traditional, customary, and generational villages, which are now threatened with separate cultural, territorial and generational relations between families, religious-based community ties (local congregations), customs and customs that are not can be valued or replaced with compensation money.
- Particularly in the area of Indigenous Peoples in Maluku, customary owners are reluctant to move and join a heterogeneous cultural environment outside of customary lands, and do not guarantee a sense of socio-cultural and psychosocial comfort in Maluku when choosing a new place to live.

DISCUSSION

Violation of Laws and Regulations on Land / Forest Acquisition. The research found concretely that the form of violation of laws and regulations on procurement and conversion of land / forest acquisition is at the following stages: a) *inventory and identification in the form of nominative lists relating to data on land, forest (ulayat), buildings, and plants that are not appropriate with the fact of communal ownership by right owners.* b) in addition to Law No.2 of 2012 concerning Land Acquisition, the Republic of Indonesia's LHK Regulation No. P.28/MENLHK/SETJEN/KUM.1/7/2018 etc., do not have: National Objective Standards for Land / Forest Acquisition Indemnity Assessment, National Independent Officials/Institutions Mandate Nation Public Policy, as Independent National Appraisal to conduct Appraisal and guarantee the work results and performance of the Appraisal according to the Standard Objective Value. c) Do not allow the whole process of determining the compensation value for the change of function of land / forest for customary communities to be carried out subjectively by investors/companies holding land / forest acquisition permits (crime by Omission and / or Crime by Commission). Crime and Violence due to omission and / or intentions having implications on the Ethical-Moral crisis of Public Policy Products and Public Officials.

The findings of the study show the failure of the state at 3 levels of function: 1) *minimal function* through the provision of public goods and services: defense, law, property rights, public policy ethics and improvement of social welfare and protection of the poor, the indigenous people (double victims); 2) *medium function* of overcoming regulatory monopolies in overcoming development barriers; 3) *activist function* by coordinating private activities by improving equality and justice. The relationship between the enforcement of ecosobling rights and social capital of indigenous peoples with the effectiveness of ethics-moral performance of government public policies in accordance with the laws and regulations for the transfer of land / forest functions is necessary for the quality of governance, as well as encouraging equal distribution of the quality of human resources for indigenous / local communities and economic growth.

Therefore, the research findings clearly found that: Parties (especially Investors / Entrepreneurs) Implementing the Land / Forest Acquisition must be sensitive and responsive to the failure of deliberations to determine objective standard values and indemnity procedures for the acquisition of land/customary forest which are vulnerable to structural conflicts (community resistance). In this context, strengthening the capacity of the state / government according to Wallis & Dolerry are through the following factors: institutional capacity, technical capacity, administrative capacity, and political capacity (Wallis & Dolly, 2001) to be important and strategic. In fact, human rights and social capital should be used as tools for public policy. Being sensitive and responsive to

the failure of deliberations to determine the value of indemnity involves indigenous communities who own customary rights. According to Wallis & Dollery (as quoted earlier), to overcome the "state incapacity" (a country that lacks authority, ethics and morals), an analytical framework is needed that integrates the paradigm of government failure with its top-down" with the paradigm of "Ecosobling Rights and Social Capital of Customary Community" which emphasizes its bottom-up approach.

Impact of Ecosobling Rights and social capital of victim communities.

The research findings concretely provide an illustration that it is proven that the Unilateral Violation of Law and Regulations on Land/Forest Acquisition Based on Land/Forest Acquisition Permits by Investors / Entrepreneurs, which has had a serious impact on the destruction of Economic, Social, Cultural and Environmental and Spatial Rights, and integrated into the Social Capital of Indigenous Peoples/Victims of Customary Rights Owners. Marsaoly (2020) realized that managing Ecosobling Rights and Social Capital will always be faced with various conditions such as income inequalities at the community, network, group and individual levels at the same time, which must be managed in a systemized manner. The enforcement and promotion of Ecosobling Rights will have a very strong correlation with the restoration of the destruction of the Social Capital of Victim Communities: social relations, cohesion, integration and social networks.

Design of a Non-Litigation Advocacy Plan. As shown in Table 2, the Design of Action Plans as a result of the formulation of the aspirations of rights owners as a source of Action Research, takes the form of: a) Critical Awareness Education and Empowerment of Community Capacity of Indigenous Peoples and the Public; b) Non-Violent Non-Litigation Advocacy in Upholding Ecosobling Rights and Building Social Capital Networks, as well as Ethics-Moral Public Policy. The design of the Non-Litigation Advocacy Action Plan is a form of structural and horizontal conflict resolution in the context of Violation of Laws and Regulations on the Land / Forest Acquisition, as well as Enforcement and Promotion of Ecosobling Rights, and Restoration of the Destruction of Social Capital Rights Owners (victim community), as well as Ethics- Moral of Public Policy.

Han & Vu, (2008) argued that legal empowerment of the poor in the context of land / forest acquisition conflicts should be the main focus in understanding the relationship of "rights of the poor to land / forests" in "The context of the Millennium Development Goals-MDGs." Preventing and avoiding the destruction of Ecosobling rights and social capital of indigenous peoples / victims which have ethical-moral implications in the context of Violation of Laws and Rules for the Land / Forest Acquisition places the relationship between property rights, land rights, and poverty reduction as well as rights to land / forests and capital social rights as human rights and fundamental human social capital, as well as the importance of security over communal land / forest that is owned (tenure security), especially dignity, material and non-material security, social and culture (social and cultural relations of citizenship). The right to land / forest as a human right and social capital is related to the responsibility of upholding and promoting ecosobling rights over ulayat (land / forest and environment, spatial planning and human generation) through the protection of human rights systems for land / forest owned as the basis for building the socio-cultural capital of indigenous peoples and rights owners. In this context, the moral ethics of Public Policy Products and Public Officials get a place and direction for the service work of the state and its nationality.

CONCLUSION

(1) It is evident from the research findings that violations of the Law and Regulations on the Land / Ulayat Forests Acquisition of Indigenous Peoples, with the main actors in government ranks (public officials and public policy) from the Ministry of Public Works, PR, Environment, Forestry, and local governments through Investors / Holders Permit for Land

/ Forest Acquisition, has legitimized the basis for calculating compensation or "compensation for non-objective compensation value (outside and/or without national objective standards) and outside market prices, as mandated for example ³⁰ Law No.2 of 2012 and its implementing regulations". This is also specifically related to the Republic of Indonesia's LHK Regulation No. P.28 / MENLHK / SETJEN / KUM.1 / 7/2018 etc. This shows the face of public policy characterized by domination of power and government repression through the hands of investors / entrepreneurs holding land / forest acquisition permits. (2) The research findings prove the misuse of field maps and nominative lists, calculating the value of compensation outside market prices, non-transparent deliberation forums for rights owners, and coercion and violence seizure of indigenous peoples' land (ulayat) owners through police officials for the results of the deliberation that violate Laws and Regulations on land / forest acquisition; (3) It is evident from the results of research that Violation of Laws and Regulations on the Land / Forest Acquisition through Tenure Permits and Land / Forest Acquisition to Investors / Companies, has a serious impact on the destruction of Ecosobling Rights and the destruction of the Social Capital of the Victim Communities, and has ethics-moral implications of Public Policy Performance and Public Officials (National and Regional). In fact, this has become a source of vertical and horizontal violent conflict and terror from the management of land, forest, environment, and space of indigenous peoples' customary planning. (4) It is evident from the research findings that the form of efforts to overcome violations of the Law and Regulations on Land Acquisition and the destruction of Ecosobling Rights and Social Capital of Victim Communities, and have Ethical-Moral Implications for Public Policy, have been manifested in the Design of Action Plans for Critical Awareness Education and Non-Violent Non-Litigation Advocacy.

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