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Lake Banks Right Management and Utilization Model

Nirwan Junus
Faculty of Law Universitas Negeri Gorontalo

Abstract: This study was aimed at analyzing the utilization of land rights for the community land in the bank of Limboto Lake, Gorontalo, as stipulated by the Law. The study also attempted to design the model for management and utilization of rights for the community land within the Limboto Lake bank in Gorontalo. This study is specifically targeted at the empowerment of the community who live in the embankment of Limboto Lake through familiarization of Lake-related regulations and Zonation of the Limboto Lake, which consists of the outer area of the lake and the lake bank. The data collected through interviews and questionnaire distribution, which later analyzed qualitatively. This study reveals that the utilization of community land rights in Limboto Lake Bank is for residential areas and farming areas. Further, in relation to the management model of the community land rights in the bank of Limboto Lake, the government has issued a number of policies, including the Presidential Decree No. 32 of 1990 on Management of Conservation Area; Local Regulation No. 1 of 2008 on Limboto Lake Management; Land and Spatial Planning Regulation of Provincial and Regency/City; Local Regulation on Watershed Management; approaches for community to release their land rights; Limboto Lake revitalization task force; and drafts a Zonation regulation on Limboto Lake utilization which consists of primary, secondary, and tertiary zones.

Keywords: Model, Management, Utilization, Land Rights, Limboto Lake Bank.

I. INTRODUCTION

Land is used to fulfill man's basic rights. The importance of land's function relates to human rights, which has become more important since the reformation era, which signifies by the issuance of Law No. 39 of 1999 on Human Rights. The importance of rights to live, to survive, and to improve welfare (article 9 (1)) needs land availability to fulfill the rights toward welfare, such as ownership of the land by an individual or communal (Maria S. W. Sumardiono, 2008).

Land utilization by the community in Limboto Lake is one of the reasons for the disappearance of native vegetation and the destruction of the wetland ecosystem. Thus the lake is no longer able to slow down sedimentation brought by the river flow. This has degraded the condition

of Limboto Lake. The lake area had shrunk from 14 meters deep and 9000 Ha in 1939 to 2 m deep and 2900 ha in 2003 (Baliwisi Gorontalo).

The tendency of the community in the surrounding lake area to utilize the lake as one of the livelihood sources for fishing and claiming the land rights for the lake area has made the lake banks area to be owned by individuals. Due to this claim, governance on the utilization of land rights by the community in the Limboto Lake banks needed to be done in order for the ownership of the land not to be dominated by certain groups or individuals. This governance is to avoid unfair land utilization and ownership. Thus, synergy among stakeholders on ownership and utilization of the land in the lake banks are needed. This synergy brings about a need for land governance. Land governance is management, ownership, and utilization of the land through consolidation of land utilization through co-management with stakeholders as an integrant unit for the benefit of the land and the community at large. Implementation of this land use consolidation through institutional governance should observe the land use policy, the Government Regulation (hereinafter will be referred to as PP) No. 6 of 2004 on Land Use Management.

This study is aimed at analyzing the exercise of land rights by the community in the Limboto Lake banks of Gorontalo province according to the observed law, and finding out the governance model of land rights utilization by the community in the Limboto Lake Banks of Gorontalo province.

II. METHOD

This is a sociological judicial study. The research site is the Limboto Lake banks in Gorontalo province. This site is chosen do to the majority of its people whose livelihood depends on the Lake, thus, claiming the Limboto Lake banks area as their ownership.

The population in this study is the stakeholders from Limboto, Limboto Barat, Telaga, Telaga Biri, Batu Dua, and Kori Barat sub-districts, the National Land Agency (BPN) of Gorontalo Regency, the BPN of Gorontalo province, the Provincial Development Planning Agency (BAPPEDA), Watershed Management of Gorontalo Regency, and the community groups in Limboto Lake banks. The data from this study were analyzed qualitatively.

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III. RESULTS AND DISCUSSION

A. Land Rights Utilization by the Community in the Area of Limboto Lake Banks of Gorontalo Province from the Perspective of the Law

Land is a gift from God (Heru Sutrisno, 2013). In general, land can be classified into two large groups, land rights, and state land. The land rights are land owned through certain rights according to the observed regulations, whereas state land is area that is not owned by individuals or certain groups according to the observed law (Ali, Ahmad Chomzah, 2002). The utilization of land, in general, is part of land rights. Land rights are the right given to the right's holder to utilize or to take benefit from the owned land.

Land use or spatial use needs to be developed as stipulated in Article 1 (1) of PP No. 16 of 2004 on Land Use Management, where it stated that "Land use management is similar to ownership and utilization of the

land, in which land use is consolidated through institutional governance related to the land use as a united system for the fair interest of the people." In other words, land use is one of the manifestations of land-use governance for the benefit of the community (PP No. 16 of 2004 on Land Use Management).

The banks area is identic with sediment that was brought in by erosion. The sedimentation is a geological recycle through putrefying, eroding, and transporting of the stones that often followed by the decrease and transporting of the foundation of the sediment by the geological forces (Nirwan Junus)

Limboto Lake is an important element of the hydro ecosystem in Gorontalo. Currently, the Lake is used as a livelihood place for people in its surrounding area. Many people's livelihood depends on the existence of this lake. Thus, many have built residential areas in the banks of this lake, as shown in Fig. 1 below.



Fig 1:- People's Residential area in the Banks of Limboto Lake

Ownership of the land in the lake banks has happened for generations. This was due to the desire to obtain lands for free (the result of an interview with the people). Aside from residence purposes, lake banks are also utilized for agricultural purposes. Ideally, the lake bank area should not be used for residence or farming as it would degrade the lake function.

Lake utilization as a farming area and residence area are against the law. Within the Constitution, UUD 1945 Article 33, it is insisted that the land, water, and all its resources are managed by the State and used largely for the prosperity of the people (Article 33 (3) of UUD 1945). In article 2 of Land Basic Act No. 5 of 1960, which is an implementing regulation for article 33 (3) of UUD 1945, the ownership right of the state is defined as follow:

- On the basis of Article 33 (3) of UUD 1945 and things as mentioned in Article 1, land, water, air space, and natural resources within at the highest level are owned by the state as a power organization by all people.
- The rights of the state to own, as mentioned in this 1st clause of this Article authorizes to:

- Regulate and implement designation, utilization, provision, and maintenance of the land, water, and air space.
- Determine and regulate the legal relationship between people and the land, water, and air space.
- Determine and regulate the legal relationship between people and legal actions on land, water, and air space.
- The authority that comes from the rights to own by the state as stated in the second clause of this Article used to achieve the people's welfare at large in the sense that state's welfare, freedom within the community and legal state of independence Indonesia, sovereign, fair, and prosper. (Article 2 UU PA No. 5 of 1960)

Based on Article 2 of UU PA and its description, according to the concept of UU PA, the sense 'dominated' by the state is not in the sense of 'owned' (Budi Harsono, 2008). In a sense that the state regulates the occupancy and utilization of the land in order for the occupancy and utilization of the land by the community does not overlap with each other, such as what happened in the banks of Limboto lake, where people in the surrounding area or the

local community have claimed their lots of the land in the banks of Limboto lake as theirs. The land in the Limboto lake banks is not theirs, but rather the states.

The existence of government regulation, especially related to the lake, has legitimated the state, in this sense, the government in relation to the domination or utilization of the land in the banks of Limboto Lake. However, in reality, some of the community members have had the ownership certificate of the Limboto Lake banks. Hence, the government and the National Land Agency are contradictory in this case. In addition, utilization of land rights by the community on the banks of Limboto Lake is against the Article 23 (2) of Provincial Government Regulation No. 1 of 2008 on The Management of Limboto Lake, where it stated that “each person, group, and/or legal entity is prohibited from establishing or renovating the building in the banks area unless the purpose is for rehabilitation and conservation of the Lake”. (Article 23 Provincial Government Regulation of Gorontalo No. 1 of 2008)

Through the ownership of the land in the lake banks, has legally changed the structure of the lake. Hence, the width of the lake will be limited up to the land owned by people, as stated in Presidential Decree (hereinafter will be referred to as Kepres) no. 32 of 1990 on Management of the Conserved Area Article 18 which states that “the criteria of the area surrounding the lake/dam is the land along the lake/dam banks, which width are proportional to the shape and physical condition of the lake/dam between 50 – 100 meters from the highest tide to the land”. (Kepres No. 32 of 1990). This means that the limit of 50 to 100

meters is the protected or conserved area that should be protected to maintain and preserve the function of the lake itself. Based on the interview with Mr. Supriandi K. Tine that when the ownership by the community surrounding the lake is more than 100 meters from the lake area than that individual or community has rights to obtain land ownership certificate (interview result). However, this is contradictory with the local government who regulates that the lake banks that are more than 100 m from the lake area shall not be owned or divided into lots to be owned by the community (FGD Result). The national program issued by the government at that time was a certificate for the establishment of wetland rice field. However, the community considered this as their ownership. Nevertheless, the provincial government considers the community, not as the owner of the land, rather they have the land use rights toward the land, and the land cannot be sold. (*Ibid*).

B. Management model and utilization of the land rights of the community in the banks of Limboto Lake of Gorontalo Province

Utilization of the lake area into a residential area is a wrong view, as they build houses and residence without first consulting with the observed regulations. This is against the law. In reality, the Limboto Lake has been severely degraded, which signifies by the shallow of the lake, the shrinking of the lake, and the degradation of its biodiversity. The lake had shrunk in both its depth and its width. Currently, the lake depth is only ± 2 M, and the width is 2900 Ha (interview result). This is evident in the following Figure:



Fig 2:- Current Condition of the Limboto Lake

From the picture above, it is clear that the current condition of the lake is endangered. Thus, its management and utilization need legal certainty and clarity of responsibility among stakeholders in order for the utilization and management of the lake to be efficient and effective. One of the local, provincial government efforts in this is by the issuance of a taskforce to buyback the land as stipulated in Governor Decree (SK Gubernur) No. 2007 of 2003 on the Establishment of a committee to buy back the

land and resettlement of people in the area of Limboto-Bolango-Bone. Within this decree, the governor assigned the team to:

- Make an inventory of the problems related to the revitalization of the Limboto-Bolango-Bone.
- Make programs/activities to revitalize the area.
- Carry out socialization program or activity within the community in the area of Limboto-Bolango-Bone or related units as program/activity managers.

- Buy the land in the area of development or resettlement location.
- Provide education to the community that would be resettled or on those who already settled in the new settlement (Previous study by Nirwan Junus).

In addition to SK Governor of Gorontalo No. 207 of 2003 on buyback of the land, in 2008, the local government had done an initial step to save the Limboto Lake by issuing the Provincial Regulation No. 1 of 2008 on Management of the Limboto Lake. In addition, various studies on the Limboto Lake were carried out by JICA (Japan), CIDA (Canada), through the cooperation of the Provincial Government with other parties.

Looking at the current condition of the Lake, the central government has declared Limboto Lake as part of the Strategic National Area. Considering the problems related to the utilization of Limboto Lake by the community, it is difficult to do an inventory of the community who reside in the banks of Limboto Lake. This was due to the communities who have resided in that area for generations without legal consent from the government (Result of FGD). In addition, the number of land certificate holders was unidentified. Thus, the government, especially the Provincial Development Planning Agency, establishes a working group for Limboto Lake revitalization by opening

up an integrated post for identification of land certificate in Limboto Lake. The establishment of this working group has enabled the government to obtain data on the land certificate by announcing it through media and socialize to the community, especially the community that resides in the banks of Limboto Lake. The owners of the certificate are urged to hand over the copy of their certificate to the BAPPEDA provincial office to find out the number of land certificates in the Limboto Lake banks (Interview Result). In addition, the provincial government has also established a task force. This task force consists of officers from Districts and city levels to solve problems related to the lake, especially the riverbanks occupancy by the community. This is stipulated by the Perda No. 1 of 2008 on Limboto Lake Management, in Article 6 "prevention of the lake destruction is made by creating and implementing the regulation, observing, controlling, and enforcing law toward activities that are potential to destroy the lake." (Perda No. 1 of 2008 on Limboto Lake Management, Article 6).

In addition to the shrinking of the lake, the Limboto Lake also facing degradation of the water quality, where among this water quality degradation is that the surface of the lake is now covered by the water hyacinth as shown in the picture below:



Fig 3:- Distribution of Water Hyacinth

From the picture above, it is clear that water hyacinth is a floating plant. However, its growth and distribution have been so massive that it reduces the water quality in the lake. This type of plant can accelerate the shrinking of the lake, swamp/dam, a competitor to the rice paddy plants, obstruct the water transportation, and as habitat to the disease vector and reduce the water esthetic (Limboto Lake Profile, 2009). These negative impacts of the water hyacinth needed serious management of this type of plant.

Considering this fact, a legal product is needed to solve the lake problem. The efforts implemented by the

Provincial Government in the utilization of the lake are by drafting the coordinates for the boundary of the community-owned land in the Limboto Lake Banks (*Ibid*). Perda No. 1 of 2008, in Article 7 (1), it is stated that the utilization of the lake is carried out by establishing the lake zonation, in which Limboto Lake is the outlet for five large rivers in Gorontalo regency. Those five rivers are Alopohu, Meluopo Bionga, Marisa, and Rintenga. Within these rivers, there are also \pm 23 river inlets for Limboto Lake. In addition, the rainwater is also the source of water for Limboto Lake, which falls directly to the lake surface and underground water, as shown in the picture below:

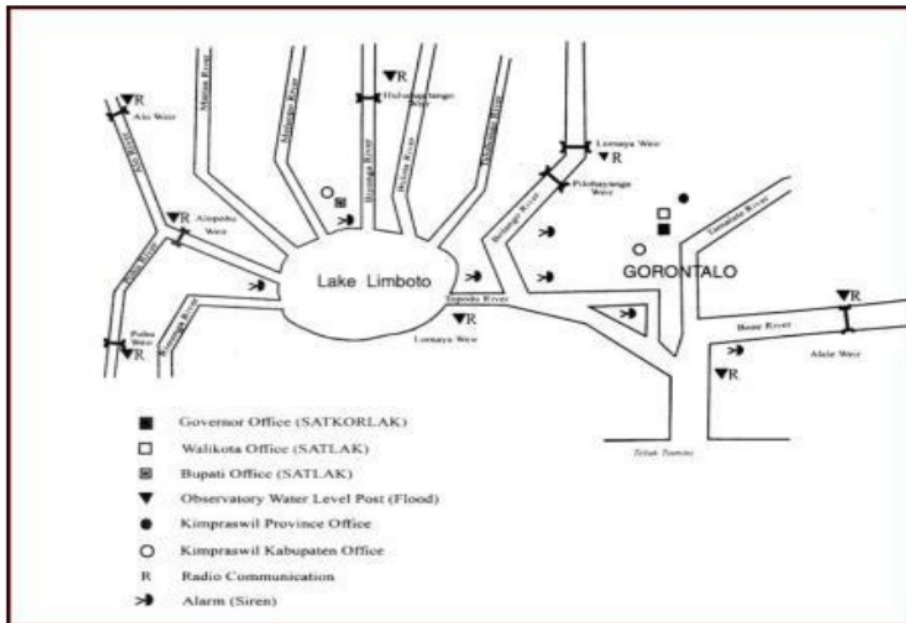


Fig 4:- Inlets Map of Limboto Lake

From the picture above, it is known that the Limboto Lake has an important role, as it is a flood dam in the rain season and water reservoir during the dry season, where the main rivers carry the sediments into the lake. Thus, good management of the Limboto Lake can only be implemented when there is a clear and accurate description of the zonation of the lake for those various purposes. The clear zonation is related to the outer boundary of the lake and the lake bank, utilization zone/cultivation/fishing area, conservation zone/protected zone. Due to the important functions of this lake for a human being, the programs carry out by the provincial government is to manage the Limboto Lake Area by establishing the Zonation of the Limboto Lake.

Within the draft of the zonation regulation, the Lake zone is divided into three areas: (the result of interview)

➤ Primary Zone

The primary zone is the zone where water is still evident, even during the dry season. This means that the primary zone is the zone that will never dry regardless of the dry season.

➤ Secondary Zone

A secondary zone is a dry area during the dry season, but when the rainy season comes, the lake area would be filled with water. This zone is determined based on the height of the sea level, ± 4.8 m above the sea level. It means

that during the raise of the water by ± 4.8 m, the highest area in this swamp is the embankment. The embankment is not a boundary; rather it is the flood breaker from the lake to the land. By the *Balai Wilayah Sungai* (River Area Agency), the height of the embankment is made 2 m. The embankment is built like that of a clove, considering the large water debit that will be released, where the Limboto Lake is the upstream of Topodu river, whose estuary joins with the Bolango River, and Bone River with the final estuary is Tomini Bay. The provincial government has made the Tapodu II water outlet, which wide is ± 80 m as the second-largest water outlet in Indonesia after that of Ciliwung River. This is to anticipate the massive flood such as happened in 2001, where the flood reached the area of the provincial police station (Polda) of Gorontalo today.

➤ Tertiary Zone

The tertiary zone is the furthest pool, such as happened in 2001, where the water pool reached the area of Polda Gorontalo today. Logically, water will go back to its original place. Taking into consideration that the previous lake zone is Telaga street today, but as the lake area had shrunk, the land that had been left is now occupied for various purposes.

From the description above, the Limboto lake position before the establishment of these zones is shown in the picture below:

PETA CITRA SATELIT DANAU LIMBOTO PROVINSI GORONTALO



Fig 5

The position of the Limboto Lake following the Zonation is as follow:

PETA DANAU LIMBOTO PROVINSI GORONTALO



Fig 6

The zonation of Limboto Lake involves the following activities:

- Preparation (data collection of the Limboto Lake boundary);
- Socialization on the zonation of the Limboto Lake to the community;
- Measurement and establishment of the lake boundary and zonation marks;
- Evaluation (*Ibid*).

The establishment of the zonation draft for Limboto Lake is to revitalize and revived the function of the lake as the lake serves an important function for the livelihood of the community surrounding the lake area.

IV. CONCLUSION

Based on the description above, it can be concluded that occupancy of the Limboto Lake into residential area and as farming area legally will change the structure of the lake and people's ownership of the lake banks area are against the regulations as stated in Article 33 (3) of UUD 1945, Article 2 of UU PA No. 5 of 1960, Article 23 (2) of Perda of Gorontalo Province No. 1 of 2008 on Management of Limboto Lake. The Gorontalo government has carried out the following actions to save the lake: (a) establish a committee to buy back the land by SK Governor No. 207 of 2003 on Establishment of the committee of land release and resettlement of the community in the area of Limboto-Bolango and Bone, b) issue a Perda No. 1 of 2008 on Management of Limboto Lake, and c) carry out the governance of Limboto Lake by setting the Zonation of the Limboto Lake and made a zonation draft to save the Limboto Lake from shrinking and silting up.

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