

Measuring the Community's Legal Awareness of Land Rights Around Lake Limboto

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ABSTRACT

This study is intended to determine the level of legal awareness of the community around Lake Limboto towards land rights; This study uses empirical legal research methods, where facts in the field are used as data in measuring and determining the truth in research. The data source used is the primary data source as the main data and secondary data sources as supporting data consisting of documents and scientific works related to the issues being discussed. The sample (respondents) used in this study were people in the Dembe I Village. The results showed that *first*, the level of public awareness in Dembe I Village who lives on the banks (coastal) of Lake Limboto is still low. *Second*, The cause of the low level of public awareness is the lack of knowledge about the management of land rights.

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1. Introduction

The 1945 Constitution (hereinafter abbreviated as UUD 1945), mention that the earth, water, and all the wealth contained therein are controlled by the State and used for the greatest benefit of the people.¹ The control of all-natural resources by the State is to implement the spirit of social justice for all Indonesian people.² In addition, the concept that is trying to be developed through Article 33 Paragraph (3) also indicates the economic pattern adopted by Indonesia. Further explanation regarding the control by the State of natural wealth is regulated in Article 2 Paragraph (2) of Law no. 5 of 1960 concerning Basic Agrarian Affairs (hereinafter abbreviated as UUPA) that the State has the following authorities:

1. Regulate and administer the designation, use, supply, and maintenance of the Earth, Water, and Space.
2. Determine and regulate legal relations between people and Earth, Water, and Space.
3. Determine and regulate legal relations between people and legal actions concerning Earth, Water, and Space.³

Budi Harsono explained that the right of the State to control is a term that can refer to the actions of the State in providing control through legal institutions and the concrete legal relationship between the State and its assets, especially land.⁴ Natural wealth, including land, needs to be regulated and managed based on the agreed principles in Law no. 5 of 1960 concerning Agrarian Principles (hereinafter referred to as UUPA).

In addition to land controlled by the State, the community can have land rights with various regulated conditions. Meanwhile, land controlled by the state (state land) island is fully controlled by the state.⁵ As for Article 1 Number 10 of the Regulation of the Minister of Agrarian Affairs and Spatial Planning or the Head of the National Land Agency Number 17 of 2016 concerning Land Arrangement in Coastal Areas and Small Islands, defines that State Land is State Land or Land controlled directly by the State, hereinafter referred to as State Land, is Land that

¹ Undang-Undang Dasar 1945 Article 33 Clause (3)

² Muhammad Ya'rif Arifin. et al. 2019. *Perekonomian Nasional Dalam Perspektif Undang-Undang Dasar 1945 Negara Republik Indonesia*. Celebes Equilibrium Jurnal. Vol. No. 1 p. 26.

³ Khairizal Darmawan Labahu. 2016 . *Studi Tentang Pendudukan Terhadap Tanah Timbul (aanslibbing) di Kawasan Tepian Danau Limboto Provinsi Gorontalo*. Jurnal Hukum. Vol 3 . No 2. p. 3.

⁴ Boedi Harsono. 2015. *Hukum Agraria Indonesia*. Jakarta. Penerbit Djambatan. p. 268.

⁵ PArticle 1 letter a Peraturan Pemerintah Nomor. 8 Tahun 1953

is not attached to a land right and is not State or Regional Property and or State or Regional Owned Enterprises.

The control and management of State land are delegated to State officials (Ministries), Provincial Government, Local Government, Regency, and City Government. This is as mandated by the UUPA and various other laws and regulations. However, the control of State land as intended is only intended for use rights and management rights. According to the provisions of the UUPA and other regulations, State land ownership that is transferred to the community must go through a fairly complicated procedure, which includes taking care of permits to the government, and must have a certificate of land ownership.

Considering the complexity of managing land ownership, it is quite complicated, sometimes people ignore and don't care about the land they occupy. State land must be managed properly and must include permits, both use rights and use rights from the government. The legal status of land ownership is important because it involves the right to be able to manage and use it according to the needs of the community itself.

Lake Limboto is one of the natural resource assets currently owned by Gorontalo Province. Lake Limboto has served as a source of income for fishermen, flood prevention, irrigation water sources, and tourism objects area. This lake is located in two areas, namely approximately 30% in the Gorontalo City area and approximately 70% in the Gorontalo Regency area which spans five sub-districts. This indicates that the people in Gorontalo City and Gorontalo Regency are involved in managing and other necessary efforts to maintain and use Limboto Lake. Lake Limboto is located in the central part of Gorontalo Province and astronomically, the Limboto watershed is located at 122° 42' 0.24" - 123° 03' 1.17" East Longitude and 00° 30' 2.035" - 00° 47' 0.49" North Latitude.⁶

Limboto Lake is a lake that is flanked by various villages and sub-districts covering the City of Gorontalo and Gorontalo Regency. One of the administrative villages in Gorontalo City that flank the existence of Limboto Lake is Dembe I Administrative Village, Kota Barat District, Gorontalo City. This also makes the people in Dembe 1 Administrative Village take advantage of this lake with various activities such as fishing and utilizing the land on the shores of Lake Limboto to build a place to live. However, the construction of a residence (house) is not accompanied by awareness from the community that land must have legal

⁶ Nirwan Junus. 2012. Status Hukum Penguasaan Tanah Bantaran Danau Limboto Di Provinsi Gorontalo. *Jurnal Pelangi Ilmu*. Vol 5. No 12. p. 10.

status so that it can be claimed by the community. According to the researcher's observation, the community doesn't seem to care about the rights to this land.

The community in Gorontalo City also ignores the status of land ownership, precisely in Dembe 1 Administrative Village, Kota Barat District. The community in this village, especially in the Dembe 1 Administrative Village, utilizes the State Land on the shores of Lake Limboto. The community argues that the land they occupy is a hereditary inheritance from the previous family. If you refer to the provisions of various laws and regulations, State land should not be controlled by random people and in regional regulations, it is very clear that it is prohibited to build or modify existing buildings on the Lake Limboto border except for restoration purposes and for lake conservation efforts as stated in Article 23 paragraph 2 of the Gorontalo Provincial Regulation. Number 1 of 2008 regarding Limboto Lake Management.

Based on data from the Dembe 1 Village Government and the Gorontalo City National Land Agency (BPN), the number of land or houses of residents with ownership status is as follows:

No.	Proof of ownership	Total
1.	Land with Certificate	25
2.	Land Does Not Have a Certificate and Has Not Been Recorded	82
Total		107

Source: Dembe 1 Administrative Village. The year 2021

Based on the data in the table above, it can be seen that the amount of land in the Dembe 1 Subdistrict, Dembe District that does not have a certificate is quite a lot. Meanwhile, in the existing regulations, legal certainty over land ownership is very important as a means of proof that is made, as stated in Article 19 of the Law of the Republic of Indonesia Number 5 of 1960 concerning Basic Regulations on Agrarian Principles, it is stated that to ensure legal certainty by the government, land registration is carried out throughout the territory of the Republic of Indonesia according to the provisions stipulated in the Government Regulation, Then it is further emphasized in Paragraph 2 letter c Article 19 of the UUPA that you must have a letter of proof of land ownership rights that has been recorded in the land book. However, it is different from the case in Dembe 1 Administrative Village, Dembe District, which does not have a certificate. This is

certainly an urgent issue to discuss. Given that land ownership will greatly affect the construction of houses, building, or the like on the land in question. This situation requires legal awareness from the community in Dembe 1 Administrative Village, to minimize the negative impact of land that does not have a clear legal status.

Based on the background that has been described, the formulation of the problem to be answered in the next chapter is first, the level of legal awareness of the community around Lake Limboto regarding land rights? and second, what is the government's role in increasing public legal awareness of the status of ownership of land rights around Lake Limboto?

2. Research Methods

This type of research is empirical legal research, which aims to identify and analyze the effectiveness of law in society.⁷ The data source used is primary data which includes the results of interviews and field observations, and secondary data consisting of legal products, scientific articles, and other data sources deemed relevant to the research to be carried out

3. The level of legal awareness of the community around Lake Limboto towards land rights

In-Law No. 5 of 1960 concerning Agrarian Principles (hereinafter abbreviated as UUPA), it is stated that the state has full power over the land, water, space, and all the contents therein.⁸ The state has the authority to regulate how the polarization of the use of land and the wealth contained therein is by the provisions of the legislation. The state also has the authority to regulate and determine who has the right to use, own and manage the land.⁹

If referring to the provisions and formulation of norms in the UUPA, the area of Lake Limboto and the coast of Lake Limboto are also lands under state control. The state has the right to regulate and determine who can use the land on the shores of Lake Limboto. According to data obtained from the field, There are 107 (one hundred and seven) lands in the coastal area of Limboto Lake, with details of 25 plots of landholding land rights certificates with various rights statuses such as user rights, property rights, and use rights, and 82 parcels of land that have

⁷ Mukti Fajar dan Yulianto Ahmad, (2010). *Dualisme Penelitian Hukum Normatif dan Empiris*. Yogyakarta: Pustaka Pelajar. p. 47.

⁸ Article 2 clause (1) UUPA

⁹ See terms Article 4 clause (2) UUPA

not been recorded/not yet certified.¹⁰ This certainly indicates that there is still a lack of public awareness on the coast of Lake Limboto regarding land rights.

Things like the above are certainly a pretty serious problem, considering that various provisions in the legislative mandate and oblige that any land to be owned, managed, or used must be registered with the competent authority to obtain recognition and legality as well legal position/certainty on the land. Today, what is happening to land use in the coastal area of Lake Limboto, according to results researched by Yona Yonanda Soly & Yuwono Prianto, that sometimes you can't blame the community one-sidedly, but also have to look at the role of the authorized agency to regulate/register land use in all types of land.¹¹

The community of Dembe Village, represented by Mr. Fajrul Simbuka said that the status and position of land rights in the coastal area of Limboto Lake in Dembe Village was divided into 2 (two) parts, namely *Budel* land and owned by the government.¹² However, the position of the land, whether *budel* land or land wholly owned by the government, must still have a clear legal status and position, and the ownership is recognized. Therefore, every land that is managed, used, and lived in must be registered with the authorized agency.

The Dembe Administrative Village community who owns *Budel* land, represented by Mr. Fajrul Simbuka admitted that the management of land ownership rights in the form of a certificate explained as follows:¹³

“Because the name *Budel* land, is passed down from generation to generation, and over time the land in question has changed ownership by someone. However, the land does not yet fully have a clear legal standing (have a certificate).”

The land which is inherited from generation to generation is then divided into families who have rights to the community of Dembe Village which is located in the coastal zone of Lake Limboto, there is no full legal position. This also makes it difficult to register the land in question because of the above reason that the

¹⁰ Source: Dembe 1 administrative village government.

¹¹ Yona Yonanda Soly & Yuwono Prianto. (2017). Kesadaran Hukum Masyarakat Atas Penetapan Batas Penguasaan Tanah/Ruang Di Wilayah Pesisir Dan Pantai. *Jurnal Era Hukum*. Vol 2 No. 1. p. 152

¹² The interview will be held on September 5, 2021, at 20.00 WITA

¹³ The interview will be held on September 5, 2021, at 20.00 WITA

budel land (inheritance) is divided based on the values in the customs of the Dembe Village community.

Registration of land by a person or legal entity, especially by the community in the coastal area of Lake Limboto (legal subject) is important to obtain legal certainty and legal standing on the land they own. Ownership of land rights by a person or legal entity can indicate that he has full rights to the land he owns to be used by the needs and uses of the land owned as regulated and formulated in the UUPA.¹⁴

Through interviews with the people of Dembe Administrative Village, one of the residents, Mr. Fajrul Simbuka, who is also a community with unregistered land ownership status, explained that the existence of land that does not yet have a certificate in Dembe Village is always trying to get the legal status and position of the land occupied by the community in the coastal area of Lake Limboto in Dembe Administrative Village.¹⁵ Furthermore, he explains as follows:¹⁶

“In the past, obtaining land rights certificates in Dembe Administrative Village, especially those on the outskirts of Limboto Lake, was easy to do. But now, management is no longer easy due to various regulations.”

From the explanation by the community above, it can be seen that the people in Dembe Administrative Village whose land is included in the coastal area of Lake Limboto, always strive so that the legal status and position of the land occupied by the community can have a clear legal position. The above interview also indicates that awareness by the community in the coastal area of Lake Limboto actually exists, but is still minimal. The low level of awareness in question is the awareness of the community in terms of having a certificate of land rights.

On the same occasion, the Dembe Administrative Village community also explained that the management of land rights certificates in the coastal area of Lake Limboto, It is not easy for several reasons, including the lack of knowledge of the people in Dembe Village regarding the management of land rights certificates.¹⁷ This is as stated by Mr. Fajrul Simbuka as follows:¹⁸

“The community (in Dembe) still doesn't know much about the management of land rights certificates, and what conditions need to be met to manage the

¹⁴ Land essentially has a social function. See also: Article 6 UUPA

¹⁵ The interview will be held on September 5, 2021, at 20.00 WITA

¹⁶ wita The interview will be held on September 5, 2021, at 20.00 WITA

¹⁷ The interview will be held on September 5, 2021, at 20.00 WITA

¹⁸ The interview will be held on September 5, 2021, at 20.00 WITA

land rights. That's because many people here don't know about certificate management. So, land located in the coastal area of Lake Limboto (Dembe Administrative Village) has no legal standing.”

The lack of knowledge and procedures for managing land rights experienced by the people of Kelurahan Dembe whose land is included in the coastal zone (border) of Lake Limboto indicates that the level of awareness of land rights, overall still lacking. In addition, the lack of public knowledge about the importance of certified land can be used as a reference that community awareness on the land on the coast of Lake Limboto. Especially in Dembe I Administrative Village, it is still low.

Ignorance or minimal knowledge of land rights is also closely related to how to administer land rights certificates. Ignorance of the community related to the pattern of administering land rights certificates should be overcome by involving the government in the local village or regional government that has the authority in that field to campaign or socialize the importance of land rights and procedures for managing land rights. In addition to the purpose of socializing, the role of the local government will also instill more knowledge to the community on the shores of Lake Limboto.

Socialization by the government or related agencies is very important to see how far the level of legal awareness by the community in Dembe Village on the coastal area of Lake Limboto is. This is also in line with the results of research conducted by Juliana Abdullah, that socialization by the government can have positive feedback on public awareness of the importance of land rights.¹⁹ she also explained that the lack of knowledge from the community regarding land rights will result in legal non-compliance.²⁰ Socialization by the local government or related agencies is to provide information and also as a form of carrying out obligations by the local government so that harmonization is developed between communities in demanding rights and fulfilling obligations regarding land in the coastal area of Lake Limboto.

¹⁹ Juliana Abdullah. 2020. Kesadaran Hukum Masyarakat Terhadap Pentingnya Kepemilikan Sertifikat Hak Milik Atas Tanah Di Desa Bentenge Kec. Mallawa Kab. Maros. Skripsi. Fakultas Keguruan Dan Ilmu Pendidikan Univ. Muhammadiyah Makassar. p. 57.

²⁰ *Ibid.*

In addition to the things mentioned above, another problem is that it has become a habit for the people in Dembe Village to build houses in the coastal area of Lake Limboto. As stated by Mr. Fajrul Simbuka as follows:²¹

“What's even worse, most of the people of Dembe Administrative Village are building houses on the outskirts of Lake Limboto. That's not according to the rules.”

Establishing a building has the requirements as regulated in the legislation. The interview results as above actually do not necessarily violate the provisions of legal norms, where each building must have a certificate of land rights, building ownership, and a permit to construct a building.²² Because the definition is related to the building, is it the same as a residential house or a residential house.

On the other hand, the results of interviews also show that the role of the local government is also very influential on how the level of awareness by the community in Dembe Administrative Village is, especially in the coastal zone of Lake Limboto. An example of a case that was revealed at the time of the interview is as follows:²³

“Yesterday, the local government made a case in Dembe Village. As for the case related to the construction of the embankment, the executor of the development task is the local government. Then, during construction, there was land that was included in the construction site of the land, whereas, there are several parcels of land that have a clear legal status and position, but the local government did not pay or compensate the land.”

Things as above will certainly unilaterally cause disappointment to the people of Dembe Village as the rightful owners of the lands that are used as the location of the embankment construction. This also affects the legal awareness of the people in Dembe Administrative Village,²⁴ to legal and justify land ownership rights according to the applicable law in the legislation.

Sporadically, the low awareness of the people of Dembe Village on land rights should be minimized by issuing policies by the government, especially the local government to regulate related to how to build residential buildings, and the most important thing is to campaign/socialize related to the importance of legal

²¹ The interview will be held on September 5, 2021, at 20.00 WITA

²² See Article 8 Clause (2) PP No. 36 Tahun 2005 tentang Peraturan Pelaksana UU Bangunan Gedung.

²³ The interview will be held on September 5, 2021, at 20.00 WITA

²⁴ The interview will be held on September 5, 2021, at 20.00 WITA

status and position or land in the coastal area of Lake Limboto. Because, the results of interviews with the people of Dembe Village (Mr. Fajrul Simbuka), he said that people in coastal areas also do not want to have disputes with the central government and local governments.²⁵

The community in Dembe Administrative Village, represented by Mr. Fajrul Simbuka, who live in the coastal area of Lake Limboto hopes that their land rights will soon be regulated and clearly defined through various policies by the central and local governments.²⁶ In addition, he also hopes that the problems that exist in the legal status and position of the lands included in the coastal area of Lake Limboto should be carried out in a kind of mediation to discuss jointly between the interested parties.²⁷

Mediation is one of the right efforts to resolve land disputes, such as the results of research by I Dewa Ayu Dwi Mayasari and Dewa Gde Rudy, that apart from being resolved in a familial manner, the media also only requires a small amount of money.²⁸ In addition, Mr. Fajrul Simbuka, also added that he hopes that in the future, the requirements for obtaining land rights certificates will not make it difficult for people living in the coastal areas of Lake Limboto.

Ownership of land rights by a person and legal entity can indicate how someone becomes the owner of the land. Therefore, public awareness of land rights is very important considering that land rights are concrete evidence by a person to be able to use the land he claims based on the rights attached to the person or legal entity. In addition, land rights are also mandated and regulated by laws and regulations on how to manage the land they own.

Settlement of land problems in the coastal zone of Lake Limboto which is claimed to belong to residents in Dembe Administrative Village should be proven by the community in Dembe Village regarding the legality of the land in question. However, the management of ownership certificates also requires conditions that must be met by the community that wants to register their land. This needs to be done as a form of legal awareness related to land rights.

²⁵ The interview will be held on September 5, 2021, at 20.00 WITA

²⁶ The interview will be held on September 5, 2021, at 20.00 WITA

²⁷ The interview will be held on September 5, 2021, at 20.00 WITA

²⁸ I Dewa Ayu Dwi Mayasari dan Dewa Gede Rudy. 2021. Analisis Yuridis Tentang Proses Mediasi dalam Alternatif Penyelesaian Sengketa Tanah Adat di Bali. Jurnal Kertha Wicaksana. Vol. 15 No. 2. p. 94

Legal awareness by the community and legal entities towards land rights is a consequence of the existence of land claims. In addition, the state as the ruler of land has the authority to regulate and organize the use, designation, and the like,²⁹ related to land to the community or legal entity. The purpose of state control over land is intended to achieve state goals by national ideals in the field of agrarian administration.³⁰ In addition, the UUPA adheres to principles, one of which is the principle of social function, where when someone owns a plot of land, the land can be used for the common good.

Awareness by the community on the coast of Lake Limboto, especially in Dembe I Administrative Village, regarding land rights needs to be implemented/applied as a form of responsibility for the existence of unilateral claims and placement, use, as well as the management of the land that has been occupied by the community members on the shores of Lake Limboto. In addition, the Dembe community's awareness of land rights requires the role of all elements, especially the central government and local governments in their efforts to create positive and mutually beneficial legal awareness for all parties.

4. Conclusion

The level of legal awareness of the people on the coast of Lake Limboto towards land rights is still low. This is due to the lack of knowledge by the local community regarding how to take care of certificates of ownership rights to land on the shores of Lake Limboto.

Suggestion

The local government needs to be actively involved in campaigning or socializing the importance of land rights for a clear legal position on the land in question.

References

Books

Fajar, Mukti, dan Yulianto Ahmad. (2010). *Dualisme Penelitian Hukum Normatif dan Empiris*. Yogyakarta: Pustaka Pelajar.

Harsono, Boedi. 2015. *Hukum Agraria Indonesia*. Jakarta. Penerbit Djambatan.

Scientific articles

Abdullah, Juliana. 2020. Kesadaran Hukum Masyarakat Terhadap Pentingnya Kepemilikan Sertifikat Hak Milik Atas Tanah Di Desa Bentenge Kec.

²⁹ Lihat Pasal 2 ayat (2) UUPA

³⁰ Lihat pula Pasal 2 ayat (3) UUPA

Mallawa Kab. Maros. Skripsi. Fakultas Keguruan Dan Ilmu Pendidikan Univ. Muhammadiyah Makassar.

Arifin, M.Y, etc. 2019. *Perekonomian Nasional Dalam Perspektif UndangUndang Dasar 1945 Negara Republik Indonesia*. Celebes Equilibrium Jurnal. Vol. No. 1

Junus, Nirwan. 2012. Status Hukum Penguasaan Tanah Bantaran Danau Limboto Di Provinsi Gorontalo. *Jurnal Pelangi Ilmu*. Vol 5. No 12.

Labahu, K.D. 2016. *Studi Tentang Pendudukan Terhadap Tanah Timbul (aanslibbing) di Kawasan Tepian Danau Limboto Provinsi Gorontalo*. Jurnal Hukum. Vol 3.

Mayasari, I.D.A.D, dan Dewa Gede Rudy. 2021. Analisis Yuridis Tentang Proses Mediasi dalam Alternatif Penyelesaian Sengketa Tanah Adat di Bali. *Jurnal Kertha Wicaksana*. Vol. 15 No. 2.

Soly, Y.Y. & Yuwono Prianto. (2017). Kesadaran Hukum Masyarakat Atas Penetapan Batas Penguasaan Tanah/Ruang Di Wilayah Pesisir Dan Pantai. *Jurnal Era Hukum*. Vol 2 No. 1.

Legal Product

Undang-Undang Dasar 1945

Undang-Undang No. 5 Tahun 1960 tentang Pokok-Pokok Agraria

Peraturan Pemerintah Nomor. 8 Tahun 1953

PP No. 36 Tahun 2005 tentang Peraturan Pelaksana UU Bangunan Gedung