



Conflict Resolution Efforts Linked to the Principle of Legal Certainty

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Abstract: The social conflict in Pohuwato Regency, involving local communities and mining companies, reflects the tensions between formal law and customary values. This conflict is triggered by power imbalances, a lack of recognition for customary rights, and minimal transparency in natural resource management. This study aims to analyze the root causes of the conflict, evaluate the role of law in creating social justice, and identify solutions based on the principle of inclusive legal certainty. The research methodology employs a qualitative approach with data collection techniques including interviews, observations, and document analysis. The study's findings indicate that formal law often overlooks local norms, thereby exacerbating tensions between the community and companies. Resolving the conflict requires the integration of customary values into formal policies, transparency in mining management, and the establishment of independent mediation institutions involving all parties. Additionally, economic empowerment of the community and legal education are strategic steps to enhance the community's capacity to handle conflicts. The research recommendations include strengthening the government's role as a neutral facilitator, developing local policies based on community participation, and ensuring that companies commit to relevant social responsibility programs. In conclusion, resolving the conflict in Pohuwato can serve as a model for managing similar conflicts in other regions, while supporting social harmony and sustainable development.

Keywords : Conflict Management; Legal Certainty Principle; mining company; Pohuwato Regency

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1. Introduction

Indonesia is renowned as a nation blessed with abundant natural resources. From Sabang to Merauke, these riches have been both a blessing and a challenge. The mining sector, among others, serves as a crucial pillar for economic development. However, behind the grandeur of the mining industry lies social dynamics that often leave lingering wounds and prolonged conflicts. One region that vividly reflects these dynamics is Pohuwato Regency in Gorontalo Province. With its plentiful gold reserves, Pohuwato not only attracts the attention of investors but also becomes a battleground for conflicts between local communities and mining companies operating there.

Pohuwato is no stranger to mining activities. History records that mining operations in this area have been ongoing since the Dutch colonial era. The land, rich in gold, has been contested for centuries, with local communities striving to defend their rights amidst the dominance of large corporations. The conflict between mining companies and local communities has become increasingly complex over time. A primary trigger is the uncertainty surrounding land rights and the distribution of compensation promised by the mining companies. The local population, who have managed the land for generations, feel neglected by a legal system that prioritizes corporate interests.¹

The issue of land rights lies at the heart of this conflict. For the people of Pohuwato, land is not merely an economic asset but also a part of their cultural identity passed down through generations. Unfortunately, many lack official documentation to prove ownership of the land. When mining companies arrive with official government permits, the community is often positioned as the "illegitimate" party. In such situations, the law, which should protect all parties, instead exacerbates the conflict. A legalistic approach that tends to overlook the social and cultural dimensions of the local community creates tensions that are difficult to quell.

One form of community dissatisfaction with the companies pertains to the payment of "tali asih," a local term for compensation provided to the community as remuneration for land use. Although companies have set specific amounts, many community members feel that the compensation does not correspond to the value of the land they relinquish or the socio-economic impacts they experience. Unclear payment processes and unequal distribution of tali asih further deteriorate the relationship between the community and the companies. As a result, demonstrations and open conflicts often become the last resort for the community to voice their dissatisfaction.²

On the other hand, local governments and mining companies frequently face dilemmas in addressing these situations. On one hand, they aim to encourage investment to support regional development. On the other hand, they must contend

¹ Agitha Putri Andany Hidayat Agitha and Anita Afriana, "Penundaan Pengesahan Perdamaian Dalam Penundaan Kewajiban Pembayaran Utang Oleh Hakim Dikaitkan Dengan Asas Kepastian Hukum," *Jurnal Poros Hukum Padjadjaran* 3, no. 1 (2021): 19–36.

² Ansel Dilago, "Analisis Yuridis Perselisihan Tanah Ulayat Di Kabupaten Fakfak Berdasarkan Kepastian Hukum" (PhD Thesis, Universitas Kristen Indonesia, 2024), <http://repository.uki.ac.id/id/eprint/15400>.

with pressure from local communities who feel their rights are being overlooked. Local governments attempt to act as mediators but are often trapped in policies that do not favor the community. A rigid legal approach that is insensitive to the local context only adds to the complexity of the existing conflict.

In this context, legal sociology becomes a relevant approach to understanding the dynamics of the conflict between the community and mining companies in Pohuwato. Legal sociology views law not only as written rules but also as manifestations of the values, norms, and social dynamics within society. Through this approach, it becomes evident that the law should not only regulate but also serve as a tool to create inclusive justice. Unfortunately, in many cases, the law often serves merely as a legitimizing tool for dominant power, thereby further marginalizing the weaker communities.

A progressive legal approach, prioritizing humanity and social justice, is essential in addressing this conflict. For instance, mediation involving traditional leaders and local communities can be a more effective solution compared to formal legal approaches that often fail to understand the local context. Additionally, open dialogue between companies, the government, and the community can help foster mutual understanding. In this regard, the role of the government as a facilitator is crucial to ensure that the interests of all parties are fairly accommodated.³

Furthermore, this conflict underscores the importance of a sustainable approach to natural resource management. Economic development focused solely on resource exploitation without considering social and environmental impacts will only create increasing disparities. Therefore, a holistic development approach that integrates economic, social, and environmental aspects must be prioritized in managing mines in Pohuwato.

This research aims to answer a fundamental question: how can social conflicts between the community and mining companies in Pohuwato be managed fairly and sustainably? By employing a legal sociology approach, this study seeks to uncover the dynamics of the conflict, understand its root causes, and provide strategic recommendations for equitable resolution. The primary focus of this research is on how the law can function as a tool to create social harmony, rather than merely serving as a rigid formal mechanism.⁴

The conflict in Pohuwato mirrors many similar cases occurring in various regions of Indonesia. By thoroughly understanding this case, we can not only find solutions for Pohuwato but also learn to manage similar conflicts elsewhere. Ultimately, the goal of this research is to create awareness that the law should be oriented towards humanity and social justice, rather than merely serving to protect the interests of certain parties. With the right approach, we can create harmony between economic development and

³ Samudra Putra Indratanto and Kristoforus Laga Kleden Nurainun, "Asas Kepastian Hukum Dalam Implementasi Putusan Mahkamah Konstitusi Berbentuk Peraturan Lembaga Negara Dan Peraturan Pemerintah Pengganti Undang-Undang," *Jurnal Ilmu Hukum* 16, no. 1 (2020), <https://core.ac.uk/download/pdf/290097169.pdf>.

⁴ Angga Iswara, "Implementasi Tim Asesmen Terpadu Narkotika Terhadap Putusan Hakim Yang Menjatuhkan Sanksi Pidana Dihubungkan Dengan Asas Kepastian Hukum" (PhD Thesis, Fakultas Hukum Unpas, 2019), <http://repository.unpas.ac.id/43703/>.

social justice, ensuring that natural resources are utilized to maximize the prosperity of the people, as mandated by Article 33 Paragraph (3) of the 1945 Constitution.

2. Method

The research methodology employed in this study utilizes an empirical legal research method with a qualitative approach.⁵ This approach aims to understand the social phenomena occurring in Pohuwato Regency related to the conflict between local communities and gold mining companies, by positioning law as an integral part of the society's social dynamics.

3. Social Conflict Analysis in the Perspective of Sociology of Law

The social conflict between local communities and gold mining companies in Pohuwato Regency is a complex phenomenon involving various social, economic, legal, and cultural dimensions. When we attempt to understand this conflict through the perspective of legal sociology, we are encouraged to look beyond the mere formal rules written in legislation. Legal sociology directs us to comprehend how law operates within the social context of society and how norms, values, and power relationships influence the interactions between the involved parties.

For the people of Pohuwato Regency, land is not merely an economic asset. Land is a part of their cultural identity passed down through generations. However, conflict arises when traditional claims to land clash with the interests of companies that hold official government permits to manage resources in the area. This tension highlights a deep rift between formal law and customary law that exists within the community. From the perspective of the local community, land rights do not always require recognition in the form of formal certificates. The land they have managed traditionally is considered legitimate under customary law, but state law often overlooks this recognition. When mining companies begin to claim areas that the community regards as their own, feelings of injustice emerge. The community feels that the government and companies are solely favoring economic interests without considering their deeper, tradition-rooted rights.⁶

This issue is further exacerbated by the power imbalance between the community and the companies. Mining companies, backed by substantial capital and legal legitimacy, have broader access to the government and the legal system. On the other hand, the local community often feels that they do not have a strong enough voice to advocate for their rights. This imbalance creates dynamics of dominance and subordination, where the local community becomes marginalized in decision-making processes. When formal law fails to accommodate the community's needs, customary law becomes their only recourse. However, because customary law lacks legitimacy in the eyes of formal law, the local community often loses disputes involving large corporations.

⁵ Ika Atikah, "Metode Penelitian Hukum," 2022, <http://repository.uinbanten.ac.id/9155/1/P%20Metode%20Penelitian%20Hukum.pdf>.

⁶ Agatha Jumiaty and Ellectrananda Anugerah Ash-Shidiqqi, "Asas Kepastian Hukum Pelaksanaan Hukuman Mati Di Indonesia," *Ius Civile: Refleksi Penegakan Hukum Dan Keadilan* 6, no. 1 (2022): 26–36.

This conflict also reflects the tension between the traditional values of the local community and the modern approaches brought by mining companies. In Pohnuato society, customary deliberation plays a crucial role as a mechanism for conflict resolution. However, formal legal approaches often ignore this process, replacing it with rigid, legalistic procedures that are unfamiliar to the customary community.⁷ In the traditions of Pohnuato society, land rights are often recognized based on who first managed or developed the land. Such ownership is acknowledged by the local community even without official documentation. When mining companies present legal claims based on government permits, the community feels that their values are not respected. Consequently, frustration arises, triggering open conflicts, including demonstrations and anarchic actions.⁸

The strong sense of solidarity within the local community also plays a significant role in this conflict. When one community member feels wronged by a company, the solidarity among residents turns the issue into a collective concern. This often transforms individual conflicts into larger community-wide disputes, escalating tensions between the community and the company. From the perspective of legal sociology, this conflict demonstrates how formal law fails to create social justice because it cannot accommodate the values that are alive within the community.⁹

From a legal sociology perspective, law should not be viewed solely as rigid written rules but as a tool to create social justice. However, in the case of Pohnuato, formal law often serves as a tool to reinforce existing inequalities. Legislation related to mining, such as Law Number 4 of 2009 concerning Minerals and Coal, is more oriented towards regulating investment and resource exploitation without giving adequate attention to the social and cultural aspects of the local community.

One example of the law's failure to create social justice is the uncertainty surrounding the payment of "tali asih," or compensation promised to the community. Although companies have set specific amounts, the payment process is often neither transparent nor equitable. This uncertainty creates a deep sense of injustice among the community, who feel that their rights as landowners are not properly valued. In many cases, this legal ambiguity triggers protests from the community, who believe that the law favors the companies over protecting their interests. The uncertainty in tali asih payments is

⁷ Angghie Permatasari, Lusy Liany, and Amir Mahmud, "Disharmonisasi Antara Mahkamah Konstitusi Dan Mahkamah Agung Dihubungkan Dengan Asas Kepastian Hukum (Studi Putusan Nomor 30/PUU-XVI/2018 Dan Putusan Nomor 65 P/HUM/2018 Dengan Pemohon Oesman Sapta Odang)," *JURIS (Jurnal Ilmiah Syariah)* 19, no. 1 (2020): 97-112.

⁸ Lindawati Sabali, Fenty U. Puluhulawa, and Mohamad Taufiq Zulkifli Sarson, "Peran Penyidik Kepolisian Polres Pohnuato Dalam Menangani Tindak Pidana Pertambangan Emas Tanpa Izin Di Kawasan Cagar Alam," *Journal of Comprehensive Science (JCS)* 2, no. 5 (2023): 1429-37.

⁹ Kiki Rizki et al., "Perlindungan Hukum Pemegang Sertifikat Hak Milik Atas Tanah Dengan Terbitnya Sertifikat Ganda Berdasarkan Asas Kepastian Hukum," *Universitas Islam Bandung*, 2020, <https://scholar.archive.org/work/i7epfrmfzfgjfdso3jv2rhkfbm/access/wayback/https://ejournal.unisba.ac.id/index.php/aktualita/article/download/6763/pdf>.

one form of legal failure in providing adequate protection for indigenous communities.¹⁰

A locally wisdom-based approach is a potential solution to address this conflict. In Pohuwato society, customary deliberation and collective dialogue hold a special place in problem-solving. This mechanism allows all parties to openly express their views and seek mutually beneficial solutions. However, this approach requires support from both the government and the companies to succeed. The government must act as a neutral mediator, ensuring that the community's interests are not neglected in the negotiation process. On the other hand, mining companies need to demonstrate a genuine commitment to respecting local cultures, including involving traditional leaders in decision-making.

Another relevant approach is the economic empowerment of the local community. Many residents of Pohuwato depend on traditional mining as their primary livelihood. By providing economic alternatives, such as empowerment programs in the agricultural or creative economy sectors, the government and companies can help reduce the community's dependence on mining activities. This step can not only reduce conflict but also foster more sustainable development. For instance, entrepreneurship training and access to capital for small businesses can offer concrete solutions for the community to diversify their economy. Such programs should also be combined with relevant education to ensure that the community has new skills they can use outside the mining sector.¹¹

Additionally, it is crucial for the government to strengthen the role of local institutions in managing conflicts. Establishing independent mediation bodies that include traditional leaders, government representatives, and company representatives can be a strategic move. Such institutions can not only serve as venues for dispute resolution but also create transparency in decision-making related to mine management. This step will help build the community's trust in the government and companies, which have so far been perceived as favoring corporate interests.

Through the lens of legal sociology, law should be seen as part of a dynamic social life. Satjipto Rahardjo's concept of "law in action" emphasizes that law exists not only in the texts of legislation but also in the everyday practices within society. In the context of the conflict in Pohuwato, law should not only serve as a legitimizing tool for power but also as a means to create social harmony. It is important to note that the conflict in Pohuwato is not only about legality but also about legitimacy. Law that focuses solely on formal legality without considering social legitimacy will not effectively resolve conflicts. Therefore, more inclusive legal reforms are necessary,

¹⁰ Niru Anita Sinaga, "Peranan Asas-Asas Hukum Perjanjian Dalam Mewujudkan Tujuan Perjanjian," *Binamulia Hukum* 7, no. 2 (2018): 107–20.

¹¹ Ivana Mickael Situmorang, "Etika Hukum Dan Kepastian Hukum," 2023, <https://osf.io/preprints/yzv4a/>.

ones that not only accommodate economic interests but also respect the rights and values of the local community.¹²

Moreover, lessons from other regions can also serve as references. For example, similar conflicts in Kalimantan involving mining companies and indigenous communities were successfully mitigated through intensive consultation programs involving third parties. Local governments facilitated dialogues focused on restoring social relationships and adjusting policies. This step illustrates that mining conflicts can be quelled with a more humane approach, where all parties feel heard and valued.¹³

Through the perspective of legal sociology, we can understand that the social conflict in Pohnuato Regency results from tensions between formal law and the social dynamics of the community. The roots of this conflict lie in power imbalances, the neglect of customary values, and the failure of law to create social justice. A more inclusive approach, which involves local wisdom and collective dialogue, can be an effective solution to address this conflict. Law must function as a tool to create social harmony, not as a means to reinforce inequalities. By understanding this conflict within a broader social context, we can formulate resolution strategies that are not only just but also sustainable, ensuring that natural resources are truly utilized for the greatest prosperity of the people, as mandated by Article 33 Paragraph (3) of the 1945 Constitution. The conflict in Pohnuato teaches us that law is not only about rules but also about people and the justice they aspire to.¹⁴

4. Conflict Resolution Efforts with the Principle of Legal Certainty

The social conflict between local communities and gold mining companies in Pohnuato Regency is a complex phenomenon involving various social, economic, legal, and cultural dimensions. When we attempt to understand this conflict through the perspective of legal sociology, we are encouraged to look beyond the mere formal rules written in legislation. Legal sociology directs us to comprehend how law operates within the social context of society and how norms, values, and power relationships influence the interactions between the involved parties.¹⁵

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¹² Mohammad Syauqi Pakaya and Ahmad Wijaya, "Efektivitas Penegakkan Hukum Terhadap Lingkungan Hidup Dalam Pertambangan Emas Tanpa Izin Di Desa Popaya, Kecamatan Dengilo, Kabupaten Pohnuato" 6, no. 2 (n.d.).

¹³ Longser Sormin, "Penanganan Sengketa Hak Kepemilikan Atas Tanah Berdasarkan Asas Keadilan Dan Kepastian Hukum Dikaitkan Dengan Hak Kepemilikan" (PhD Thesis, UNPAS, 2017), <http://repository.unpas.ac.id/27179/>.

¹⁴ Syahfa Rizi Rasta Buana et al., "Implikasi Hukum Lingkungan Terhadap Industri Pertambangan Bangka," *JURNAL PENELITIAN SERAMBI HUKUM* 17, no. 02 (2024): 12–21.

¹⁵ Ivannia Cendranita and Hery Firmansyah, "Tanggungjawab Mutlak Terhadap Korporasi Dalam Pertambangan Timah Sebagai Kegiatan Usaha Berdasarkan Hukum Lingkungan," *Legal Standing: Jurnal Ilmu Hukum* 8, no. 3a (2024): 765–78.

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This conflict also reflects the tension between the traditional values of the local community and the modern approaches brought by mining companies. In Pohnpei society, customary deliberation plays a crucial role as a mechanism for conflict resolution. However, formal legal approaches often ignore this process, replacing it with rigid, legalistic procedures that are unfamiliar to the customary community. In the traditions of Pohnpei society, land rights are often recognized based on who first managed or developed the land. Such ownership is acknowledged by the local community even without official documentation. When mining companies present legal claims based on government permits, the community feels that their values are not respected. Consequently, frustration arises, triggering open conflicts, including demonstrations and anarchic actions.¹⁸

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¹⁶ Malfrid Frangky Fransisko Ngajow et al., "Pertanggung Jawaban Pidana Dalam Perkara Ilegal Mining Pada Peradilan Negeri Marisa," *Depositi: Jurnal Publikasi Ilmu Hukum* 2, no. 2 (2024): 341–63.

¹⁷ Irianty S. Latif, "Implementasi Peraturan Menteri Pertambangan & Energi Nomor 01 P/201/M. PE/1986 Tentang Pedoman Pengelolaan Pertambangan Rakyat Terhadap Usaha Penambangan Emas Oleh Masyarakat Di Daerah Aliran Sungai Marisa Kabupaten Pohnpei" (PhD Thesis, UNS (Sebelas Maret University), 2009), <https://digilib.uns.ac.id/dokumen/abstrak/67084/Implementasi-Peraturan-Menteri-Pertambangan-Energi-Nomor-01-P201MPE-1986-tentang-Pedoman-Pengelolaan-Pertambangan-Rakyat-terhadap-Usaha-Penambangan-Emas-oleh-Masyarakat-di-Daerah-Aliran-Sungai-Marisa-Kabupaten-Pohnpei>.

¹⁸ Adawiyah Pakaya, Moh Rusdiyanto U. Puluhulawa, and Nuvazria Achir, "Penanggulangan Terhadap Tindak Pidana Pertambangan Mineral Dan Batubara Di Wilayah Hukum Kepolisian Daerah Gorontalo," *Jurnal Pelayanan Masyarakat* 1, no. 2 (2024): 08–25.

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A locally wisdom-based approach is a potential solution to address this conflict. In Pohuwato society, customary deliberation and collective dialogue hold a special place in problem-solving. This mechanism allows all parties to openly express their views and seek mutually beneficial solutions. However, this approach requires support from both the government and the companies to succeed. The government must act as a neutral mediator, ensuring that the community's interests are not neglected in the negotiation process. On the other hand, mining companies need to demonstrate a genuine commitment to respecting local cultures, including involving traditional leaders in decision-making.²⁰

Another relevant approach is the economic empowerment of the local community. Many residents of Pohuwato depend on traditional mining as their primary livelihood. By providing economic alternatives, such as empowerment programs in the agricultural or creative economy sectors, the government and companies can help reduce the community's dependence on mining activities. This step can not only reduce conflict but also foster more sustainable development. For instance, entrepreneurship training and access to capital for small businesses can offer concrete solutions for the community to diversify their economy. Such programs should also be combined with relevant education to ensure that the community has new skills they can use outside the mining sector.

Additionally, it is crucial for the government to strengthen the role of local institutions in managing conflicts. Establishing independent mediation bodies that include traditional leaders, government representatives, and company representatives can be

¹⁹ Nisa Nasyra Rezki, La Aso, and Syahrin Syahrin, "Perubahan Sosial Budaya Masyarakat Pasca Alih Fungsi Lahan Pertanian Menjadi Lahan Pertambangan," *ETNOREFLIKA: Jurnal Sosial Dan Budaya* 9, no. 1 (2020): 50–61.

²⁰ Difa Mauizhah Aulia Tayeb, Lisnawaty W. Badu, and Nuvazria Achir, "Tindak Pidana Pengangkutan Batu Hitam Secara Ilegal," *Demokrasi: Jurnal Riset Ilmu Hukum, Sosial Dan Politik* 1, no. 3 (2024): 291–300.

a strategic move. Such institutions can not only serve as venues for dispute resolution but also create transparency in decision-making related to mine management. This step will help build the community's trust in the government and companies, which have so far been perceived as favoring corporate interests.²¹

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Moreover, lessons from other regions can also serve as references. For example, similar conflicts in Kalimantan involving mining companies and indigenous communities were successfully mitigated through intensive consultation programs involving third parties. Local governments facilitated dialogues focused on restoring social relationships and adjusting policies. This step illustrates that mining conflicts can be quelled with a more humane approach, where all parties feel heard and valued.²²

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5. Conclusion

The social conflict in Pohuwato Regency reflects the complex tensions between formal law and customary values. The power imbalance between local communities and

²¹ Hasman Umuri and Edy Sijaya, "Analisis Kepemimpinan Kepala Desa Dalam Meningkatkan Produktivitas Kerja Aparatur Pemerintah Di Desa Marisa Utara Kecamatan Marisa Kabupaten Pohuwato," *Madani Jurnal Politik Dan Sosial Kemasyarakatan* 16, no. 01 (2024): 165–206.

²² Kevin Philips Barakati, Erizal Erizal, and Chusnul Arif, "Status Mutu Air Permukaan & Airtanah Di Sekitar Aktivitas Penambangan Emas Tanpa Izin (PETI) Kecamatan Buntulia Kabupaten Pohuwato Provinsi Gorontalo," *Jurnal Ilmu Lingkungan* 22, no. 2 (n.d.): 512–22.

²³ Irwan Irwan, "Perizinan Pertambangan Emas Di Kabupaten Pohuwato," *Journal of Lex Theory (JLT)* 3, no. 1 (2022): 33–45.

mining companies exacerbates this conflict, compounded by the lack of recognition for local wisdom that has long been integral to community life. To address this conflict, the principle of legal certainty must be applied in an inclusive and just manner, prioritizing transparency, open dialogue, and the establishment of independent mediation institutions. These institutions can serve as platforms for voicing community aspirations while seeking mutually beneficial solutions.

Economic empowerment and legal education are also crucial elements in this resolution effort. By providing communities with access to alternative economic opportunities and an understanding of their legal rights, conflicts driven by economic dependency and legal ignorance can be minimized. Additionally, close collaboration between the government, companies, and the community is essential to build trust and establish a foundation for social harmony. If all parties commit to respecting each other's rights and transparently fulfilling their responsibilities, the resolution of the conflict in Pohuwato can serve as a model for sustainable development in other regions.

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