



FORMS OF LEGAL SETTLEMENT OF AGRARIAN CONFLICT IN INDONESIA

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ABSTRACT

Agrarian conflicts in Indonesia continue to increase from year to year. The legal resolution of this case is still not optimal. One of the reasons is because there is no ideal agrarian conflict resolution mechanism. This research aims to analyze various forms of legal resolution used in dealing with agrarian conflicts, as well as their impact on the sustainability of these conflict resolutions. This research uses a normative legal approach. The research results show that handling agrarian conflicts involves various approaches, including litigation and non-litigation. The litigation route involves general justice, administrative order and related regulations. On the other hand, non-litigation mechanisms such as mediation and compensation are also an integral part of resolving agrarian conflicts. Laws governing land acquisition and handling social conflicts provide a legal basis, including legitimacy, for involving armed forces. The research results highlight the importance of social and cultural aspects in dealing with agrarian conflicts, as well as the need for a holistic approach to achieve sustainable solutions and support equitable development in society. A case isolation approach is sometimes applied to manage structural agrarian conflicts, avoiding escalation that could have far-reaching impacts.

Keywords: Legal Settlement, Agrarian Conflict, Agrarian Reform.

A. INTRODUCTION

In everyday life, we will definitely be faced with conflict. Even in the historical process of development of society to this day it is not free from issues of conflict (Utono, 2020). However, if we hear the word conflict, our minds will be focused on the existence of disputes or disharmony, conflict and even the most extreme is acts of violence, especially when talking about agrarian conflicts or land issues. This is one of the problems that often occurs in this country and land problems in Indonesia have been recorded in quite a long history (Maladi, 2012).

The politics of agrarian law in Indonesia cannot be separated from its connection with various basic agrarian problems. Law Number 5 of 1960 concerning Basic Agrarian Principles Regulations, or better known as UUPA gives very broad powers to the state over agrarian resources with a concept known as "state control rights" (HMN) (Zakie, 2016). Initially, this concept was created to eliminate the concept of domain verklaring which was implemented by the colonial government to "seize" land controlled by customary law communities. In its development, this HMN in its application is almost the same as the verklaring domain concept during the colonial period (Saidin, 2015).

In the social area, land is the main supporting element to support the survival of humanity, but land has a function that is not only limited to production factors, but also has a social function where in Article 6 of the UUPA it is stated that "all rights to land have a social function" This regulation implies that whatever land rights a person has, they must not be used solely for their personal interests, but the use of the land must provide benefits for the interests of society and the state (Rejekiningsih, 2016). However, in this case, this provision does not mean that a person's interests will be overwhelmed by the public interest because the UUPA also takes into account individual interests (Yusrizal, 2017).

However, what is always a problem is that land has limitations and cannot increase in number, in contrast to humans whose numbers are increasing and continuing to multiply, coupled with other problems where land has been attached with rights over it while the number is increasingly limited and this makes land often become a basic source of conflict (Urip Santoso, 2015). The agrarian



problem in Indonesia is a problem that is quite complicated and very sensitive and can even cause war and chaos because it concerns various aspects of life ranging from economic, social, political and even affecting people's psychology (Antoro, 2013).

Inequity in land ownership for the community creates loopholes that allow certain groups to take unrepresentative actions to obtain land from the community. This phenomenon is triggered by the pluralistic structure of society, where disparities in land ownership create inequalities that stimulate conflict (Ramisan, 2023). Conflict, as an inevitable phenomenon in social life, often arises as a direct consequence of these gaps. Any perspective used to observe conflict, be it from a social, economic or political perspective, shows that conflict is an inseparable part of the dynamics of human life (Anggraeni, 2022). Therefore, a deep understanding of the root causes of land injustice is essential to resolve conflict, promote justice, and encourage positive transformation in community land ownership structures.

The Indonesian government has responded to the high level of agrarian conflict by implementing accelerated agrarian reform which aims to organize assets and access to land. This agrarian reform was implemented with the hope of creating more equitable community welfare in land ownership (Salfura & Agustian, 2009). However, challenges arise because limited land availability is not balanced with human needs, triggering complex agrarian conflicts in various regions. In resolving agrarian conflicts, the various parties involved apply different stages of resolution, demanding sustainability and justice in the process. However, decisions taken must still adhere to legal principles that not only stand alone, but also have a close relationship with society (Masykur & Sugiono, 2018).

The impact of agrarian conflict not only creates material losses, but also damages the sense of justice and legal certainty that society hopes for. This conflict gives rise to dissatisfaction and uncertainty, contributing to the addition of new problems which in turn worsen social conditions (Koeswahyono & Maharani, 2022). Therefore, resolving agrarian conflicts must prioritize the principles of Human Rights (HAM). This approach is not just about complying with formal legal rules, but also placing community needs and rights as the main priority, bridging gaps and ensuring substantial justice in land ownership (Arisaputra, 2013).

. The aim of this research is to investigate various forms of legal settlements used in dealing with agrarian conflicts in Indonesia, with a focus on the effectiveness, fairness and sustainability of these settlements. Through in-depth analysis of cases of agrarian conflict and stakeholder involvement, this research aims to provide a more comprehensive understanding of conflict dynamics and efforts to resolve them. The benefits of this research include contributing to theoretical understanding of agrarian law, providing valuable information for policy makers to design more effective conflict resolution strategies, as well as providing insights that can help civil society, legal experts and the government in improving the sustainability of the agricultural and agrarian sector in Indonesia .

B. METHOD

In this research the author uses a normative juridical approach, namely research that examines document studies such as statutory regulations, court decisions, legal theory, and the opinions of scholars (Soekanto, 2017). This study is an example of a literature study that takes a descriptive, qualitative, law-oriented approach. Analysis technique based on a combination of primary and secondary information sources. The primary data and secondary data that researchers use are in the form of statutory regulations, journals, books, articles and others. A description of the research challenges and objectives is provided in the research specification. An investigation in which several variables related to the problem under investigation are described.

C. RESULTS AND DISCUSSION

1. Agrarian Conflict

Land is not only a place to live, but is a basic human need that includes economic, social, cultural, ecological and political dimensions throughout life. From birth to the end of life, humans



depend on the land to obtain a source of life. In an economic context, land is not only a medium of production but also vital capital for various sectors. Socially, land plays a key role in shaping the structure of society and influencing patterns of daily life. Culturally, land is a symbol of heritage and cultural identity. From an ecological perspective, soil provides support for environmental sustainability. Apart from that, in the political realm, land ownership and management is often a central issue that gives rise to various interests and conflicts. As an important agrarian resource, land is not only a place to stand, but also the foundation for the sustainability of human life and community development (Alting, 2011).

Land has infinite value in meeting the growing needs in people's lives. In an effort to obtain it, people are willing to make sacrifices, work optimally, and do everything necessary. The close connection between land and the life of the soul makes it not just a physical asset, but a mirror of the well-being and identity of a community. The presence of land is not only a place to stand, but also as a place where society grows, develops and passes on the values of life from one generation to the next. In the process of acquiring land, the community understands that land ownership not only brings economic benefits, but also provides a solid foundation for the continuity of their life and culture. Therefore, the willingness to make sacrifices to own land reflects a deep awareness of the central role of land in shaping the identity and welfare of society (Laturette, 2016).

Land ownership, especially in rural areas, is considered an honor, dignity, and advantage that enriches one's identity. Land is not just an economic asset, but also a symbol of position and cultural heritage. Landowners, full of pride, will try hard to defend it if there is a threat of confiscation. However, challenges arise as the population grows rapidly, while the amount of land remains limited, making land increasingly valuable and scarce. This condition changes the perception of land to be more complex by including two main meanings: land as an economic value and land as a non-economic value. Landowners must strike a balance between utilizing the land for economic needs and preserving it as an important element of their cultural heritage and identity. Thus, the role of land becomes increasingly critical in facing the challenges of development and increasing population growth (Laturette, 2016).

The importance of land in human life forms a very close relationship between humans and their environment. This relationship does not only cover individual aspects, but also has a broad impact on the structure of relations between humans, humans and society as a whole, and the relationship between society and the state. Land is a key pillar in achieving prosperity for a nation, playing a central role in providing resources for daily life, agriculture and economic development. In this context, the state has an active role in managing land products to support sustainability and community welfare. The strong connection between people and the land creates the foundation for a society's cultural identity, heritage and values. Therefore, understanding and wise management of land not only provides economic benefits, but also forms a strong basis for harmonious relations between people, society and the state.

According to Susetawan (2000), conflict is an inevitable phenomenon when a group struggles to defend its interests. In the Hobbesian view, conflict, which may be fueled by profit, security, or glory, ends only in death. Max Weber observed that conflict cannot be eliminated from social life. Peace, in Weber's perspective, is simply a change in the form of conflict or transformation in terms of the antagonist or object of conflict, or ultimately in the opportunity for selection (Trubek, 2017).

Dahrendorf (1958) further stated that conflict is an inseparable part of social life because it represents change. Conflict is not just a negative symptom, but also an underlying legacy of social life, capable of emerging in various circumstances due to ongoing disagreement, controversy and conflict between two or more parties. In other words, conflict is a dynamic that drives social development, drives change, and is a catalyst for innovation. Although sometimes seen as a threat, conflict can also be interpreted as an opportunity for positive transformation in society. In this perspective, a holistic understanding of conflict can help form wiser and more constructive responses to differences and disagreements in social life.

Land conflict is a form of conflict that arises as a result of relationships between individuals or groups related to issues related to land and all natural resources found on and in the bowels of



the earth. In this context, the terms "dispute" and "land conflict" are often used as synonyms, even though they actually have different characteristics. According to the Regulation of the Head of BPN RI Number 3 of 2011 concerning Management of the Study and Handling of Land Cases, restrictions are given regarding disputes, conflicts and land cases (Ulya, 2015). In accordance with Article 1 of the regulation, land cases include disputes, conflicts and land matters submitted to the National Land Agency of the Republic of Indonesia for handling and resolution in accordance with the provisions of laws and/or national land policies. This means that land conflicts are not only legal issues, but also involve aspects of resolution in accordance with applicable land policies and regulations.

It is important to understand that land conflicts do not only include land ownership disputes but can also involve various issues related to land use, indigenous people's rights, agrarian conflicts, and so on. Therefore, handling land conflicts does not only require a legal approach, but also requires a comprehensive and inclusive approach that takes into account the social, cultural and economic aspects involved in the conflict.

- a. Land Disputes. Land disputes refer to disputes regarding land ownership that involve individuals, legal entities or institutions, but do not have a widespread socio-political impact. In substantial differences with land conflicts, the emphasis on land disputes is that their impact is limited and does not have significant implications in the social and political context. Land disputes can arise in various forms, such as administrative disputes, civil disputes and criminal disputes related to ownership, transactions, registration, guarantees, utilization and control of land. In addition, customary rights disputes can also be part of land conflicts, illustrating the complexity and multifaceted nature of land ownership issues. The importance of understanding the differences between land disputes and conflicts helps to detail and develop resolution approaches that suit the specific characteristics of each situation, ensuring effective and fair handling of diverse land ownership issues.
- b. Land Conflict. Land conflicts include disputes related to land ownership involving individuals, groups, groups, organizations, legal entities or institutions, which tend to have or have had widespread socio-political impacts. In this context, land conflicts are not only individual or local, but also spread to broader dimensions, affecting the social and political structures and dynamics of the communities involved. Land conflicts can arise from various sources, including disputes over ownership, land use, indigenous people's rights, agrarian conflicts, and other related issues. The socio-political impact of land conflicts can be felt in shifts in political power, changes in social structures, and tensions in relationships between individuals or groups in society. Therefore, handling land conflicts not only requires an appropriate legal approach, but also requires a strategy that takes into account complex social and political aspects, in order to achieve a sustainable and fair resolution in a broader context.
- d. Land Cases. Land cases refer to land ownership disputes whose resolution is carried out through judicial institutions or decisions from judicial institutions which still require the dispute to be handled at the National Land Agency of the Republic of Indonesia (BPN RI). In this context, land cases include situations where land ownership disputes or conflicts have reached a level where the parties involved decide to take the dispute to the court of justice. The process of resolving land cases involves judicial institutions to provide legal and binding decisions, which can then become the basis for BPN RI to carry out further handling in accordance with applicable national land regulations and policies. Therefore, land cases mark the escalation of land ownership disputes to the formal legal level, where judicial decisions become an important instrument in determining legal land ownership rights and ending the dispute legally.

2. Forms of legal resolution of agrarian conflicts

Considering that the entire space is a meeting place for various interests, agrarian conflict is an unavoidable logical consequence. Agrarian conflict is different from social conflict in terms of social relations to space, although it is not uncommon for social conflict to be a manifestation of latent agrarian conflict. Sectarian conflicts between groups that are purely caused by sectarian



differences or feuds may be able to be bridged by dialogue, but ethnic conflicts caused by the struggle for agrarian resources as living space may not be resolved by dialogue to mutually understand and respect each other's ethnicity. In some cases, what appears to be a conflict with a horizontal dimension is actually a structural conflict when the parties involved are related to larger capital and/or political powers.

Regardless of its meaning regarding Agrarian Reform, the state; market; and the public both understand agrarian conflict as part of the ongoing problem of Agrarian Reform. Thus, the basic argument of the article in this section is: An actor's understanding of Agrarian Reform will influence the understanding of agrarian conflict, in the sense that how agrarian conflict is defined and understood depends on how Agrarian Reform is defined and understood by an actor. Thus, exploring how the concept of Agrarian Reform was formed and used is important to understand the formation of the concept of agrarian conflict, and subsequently how agrarian conflict is treated (Antoro, 2013).

From the perspective of business actors (market), agrarian conflict is the result of economic failure of natural resources. This failure is caused by 1) externalities, namely the failure of the market to describe the true cost or price of a resource to economic actors or policy makers; 2) institutional failure, namely the failure of state institutions to provide certainty of property rights for various resources; and 3) policy failure, namely the government's failure to provide space for economic action due to misinformation about the value of a resource to economic actors (Yustika, 2009). Externalities in the study of natural resource management (including agrarian modes of production) are usually manifested as consequences that must be borne by one party due to the activities of another party, thereby triggering conflict. The party referred to as the cause of externalities can be a party who does not have the right to access agrarian resources (free rider) and/or a rent seeker who seeks profit at every opportunity. The following are forms of legal resolution in agrarian conflicts in Indonesia.

➤ Formal Path

Agrarian conflict is seen by some parties as a result of a lack of legal order, so the solution to agrarian conflict is law enforcement. This understanding of conflict is generally shared by state officials. Thus, handling agrarian conflicts that prioritizes formal legal aspects is used as a resolution effort.

a) Civil trial

In many cases, public courts often face limitations in touching upon structural cases, because parties protected by bureaucratic procedures tend to be considered correct in the eyes of the law. The process of resolving agrarian conflicts through trials in general courts has a big impact, producing decisions that have binding legal force. The decision not only functions as a direct resolution of the conflict, but also as a legal basis for further action, such as revocation of rights, compensation, and exclusion of parties who do not have land ownership rights. As a state institution, the National Land Agency (BPN) takes steps based on civil court decisions and State Administrative Court (PTUN) decisions regarding a case. BPN's authority to follow up on land cases is regulated in Regulation of the Head of BPN RI Number 3 of 2011, which provides a legal basis for BPN to carry out the necessary actions to uphold justice and resolve land disputes effectively.

b) Administrative Order

From the government's perspective, administrative order is a strategy for resolving agrarian conflicts which aims to provide legal order in order to achieve legal certainty. Agrarian conflicts often arise when the parties involved in the conflict submit claims to each other that are considered legitimate, creating complex conflicting claims. This kind of conflict arises as a result of legal uncertainty that binds subjects to agrarian resource objects. By implementing administrative order, the government seeks to create a clear and structured legal framework for resolving agrarian conflicts. This effort not only provides legal certainty, but also restores an orderly administrative order. Thus, administrative order becomes an important instrument in achieving effective resolution of agrarian conflicts and building a strong legal basis for sustainable management of agrarian resources.



c) Regulations

On May 10 2012, Law No. 7 of 2012 concerning Handling Social Conflict was passed, and Article 5 of the Law outlines the limitations of sources of social conflict. Social conflict can involve political, economic and socio-cultural problems (a); feuds between religious believers and/or inter-religious, inter-tribal and inter-ethnic (b); village, district/city, and/or provincial boundary disputes (c); natural resource disputes between communities and/or between communities and business actors (d); or unequal distribution of natural resources in society (e). The concept of handling social conflict, as explained in the Law, includes systematic and planned activities throughout the conflict cycle, including prevention, termination and post-conflict recovery. This regulation provides legitimacy for the government to involve armed forces in handling social conflicts, including agrarian conflicts. Even though it places conflict management in a horizontal dimension, this regulation reflects the government's approach to handling conflict in accordance with the perspectives and policies recognized by the law. Thus, Law No. 7 of 2012 becomes a legal framework adopted by the government to resolve conflicts, emphasizing the role of armed forces in social conflict scenarios, including agrarian conflicts, in line with the provisions of the applicable law.

➤ Non-Formal Path

Agrarian conflict is seen by some other parties as a result of an imbalance of interests between policy makers and the community, so that the solution to agrarian conflict is to reach a point of balance of these interests.

a) Mediation

One of the approaches adopted to handle agrarian conflicts is through mediation, which is a form of non-litigation in dispute resolution efforts. According to Sarjita et al (2011), efforts to handle agrarian conflict can be divided into two forms, namely litigation and non-litigation. Litigation involves formal legal channels, such as civil general courts, criminal general courts, state administrative courts, and religious courts. On the other hand, non-litigation includes approaches that are more flexible and oriented towards conflict resolution outside of court, such as negotiation, conciliation, arbitration and mediation. Mediation as part of non-litigation stands out as a way to reach a peaceful agreement between the parties involved in agrarian conflicts. This approach allows parties to communicate openly, seek joint solutions, and reach agreements that can benefit all parties without involving formal court proceedings. By exploring conflict resolution options outside the realm of litigation, mediation provides a space for constructive dialogue and collective decision-making, creating opportunities for sustainable peace in often complex and sensitive land contexts.

b) Compensation

Law No. 2 of 2012 concerning Land Acquisition for Development and Public Interests establishes the legal basis for land acquisition, which is often a source of agrarian conflict. In an effort to resolve agrarian conflicts, this law recognizes compensation as one of the resolution mechanisms. Compensation, which is regulated like a sale and purchase agreement, is considered to reflect the principle of consent in conflict resolution. Through this agreement process, the parties involved can achieve a balance that is considered fair in exchanging land for development and public interests. Thus, compensation is not only seen as payment of compensation, but also as a way to harmonize relations that previously may have been disharmonious due to agrarian conflict. It is hoped that this agreement can avoid further consequences that might arise from disagreements, paving the way towards a peaceful and sustainable resolution in the context of land acquisition for the public interest.

c) Conflict Management

Structural agrarian conflicts sometimes require handling outside the generally applied framework. Approaches involving violence, justice, administrative order, compensation, and even mediation, are often used to deal with structural agrarian conflicts. Sometimes, structural agrarian conflicts are managed in such a way that they do not escalate and do not have broad implications. Efforts to isolate cases are one of the methods applied to deal with manifest agrarian conflicts, with the aim of ensuring that these conflicts become latent and forgotten over time and the development of issues outside the agrarian realm. This strategy can involve a closed approach and careful handling



of certain cases, preventing the conflict from escalating into a larger problem and potentially creating detrimental social and economic impacts.

D. CONCLUSION

Agrarian conflict is a complex phenomenon involving conflict over the ownership and use of land and natural resources, often colored by social, economic and political factors. Handling agrarian conflicts involves various approaches, ranging from litigation such as general justice, administrative control, to non-litigation mechanisms such as mediation. Laws regulating land acquisition and handling social conflicts play a role in forming the legal framework and providing legitimacy for involving armed forces in resolving agrarian conflicts. The importance of resolving agrarian conflicts is not only limited to the legal aspect, but also to efforts to achieve balance and social justice. Compensation, as a form of conflict resolution, can be considered a mechanism that reflects the principle of consent, facilitating a peaceful agreement between the parties involved. In addition, case isolation strategies are also sometimes applied to manage structural agrarian conflicts, preventing escalation that could have widespread impacts. In the context of handling agrarian conflicts, it is also necessary to consider social and cultural aspects involving various stakeholders. With a holistic approach, it is hoped that efforts to resolve agrarian conflicts can create sustainable solutions and encourage just and harmonious development in society.

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