



Agrarian Conflict Resolution Model Equitable Non-Litigation in Southern Part of Central Java

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Abstract. Agrarian conflicts have occurred in Indonesia, such as the conflicts that occurred in the southern part of Central Java, including Purworejo Regency, Kebumen Regency and Cilacap Regency, these three districts have longstanding agrarian conflicts. Purworejo Regency has a "wadas" agrarian conflict that occurs between the community and the government due to of plans to the andesite stone mining for the construction of the "wadas dams". Kebumen Regency has an agrarian conflict in the "Urut Sewu Area" between the community and the Indonesian Army and the Gombang Karts Landscape Area conflict between the community and PT Semen Gombang, Cilacap Regency has an agrarian conflict between Grugu Village farmers and Perum Perhutani KPH - West Banyumas. This study aims to analyze non-litigation agrarian conflict resolution and analyze equitable non-litigation agrarian conflict resolution models. The method used in this research is normative-empirical with *field research* to collect primary data and *library research* to collect secondary and tertiary data. The research was analysed using the theory of the rule of law, the theory of justice, and the theory of autonomy. Based on the results of the research, the forms of conflict resolution through non-litigation are consultation, negotiation, mediation, conciliation or expert evaluation methods, which are agreed by both parties to the conflict to be resolved outside the court. Whereas conflict resolution through a fair non-litigation is a win-win solution method by considering the rights of each party so that conflict resolution can be accepted by the parties affected by the conflict in a fair manner.

Keywords: Agrarian Conflict, Southern Central Java, Equitable Nonlitigation.

1. Introduction

Conflict is one of the essences of human life and development that has diverse characteristics. Conflict always occurs in the world, in social systems called countries, nations, organisations, companies, and even in the smallest social systems called families and friendships. Soerjono Soekanto defines conflict as opposition or dispute as a social process in which individuals or groups try to fulfil their goals by opposing the opposing party followed by threats and violence.[1] Conflict can also occur in all spheres of state life such as agrarian conflict.

Agrarian conflict in the Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 21 of 2020 concerning Handling and Settlement of Land Cases explains that Land Conflicts are land disputes between individuals, groups, groups, organisations, legal

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entities, or institutions that have a tendency or have a wide impact. Agrarian conflict is a conflict related to land.

The term "agrarian conflict" is not explicitly included in the legislation. However, it can be interpreted that agrarian conflict is a narrowing of the definition of social conflict, where the emphasis on "agrarian" means that violent disputes and physical clashes are triggered due to differences in interests related to the control, ownership, use and utilisation of agrarian resources.

Agrarian conflict is a dispute, disagreement, conflict in social relations involving two or more people or groups related to land issues in the form of control, or ownership of land.[2] An agrarian conflict occurred in Kebumen Regency in 2007, namely an agrarian conflict in the Urut Sewu area between the Indonesian National Army (TNI AD) and the community around the Urut Sewu area. The agrarian conflict in Urut Sewu is a longstanding agrarian conflict, a conflict over land rights in the Urut Sewu area between the community and the Indonesian Army. The dispute was triggered by claims to land along the southern coast of Kebumen by the Army, especially since the start of land acquisition for the development of the Southern Cross Road Network (JJLS).

Based on data from the ATR/BPN Office of Kebumen Regency Land Office, 2022, The TNI AD feels that it has the right to the land, with several pieces of evidence that it has, and the TNI AD has also carried out land registration by submitting it to the National Land Agency Office since 2010. Until 2023, 15 villages in the Urut Sewu Area will be the training area military, certificates have been issued in 10 villages, with management rights in the name of the Government of the Republic of Indonesia c.q. Ministry of Defense.

Not only that, the decision to make the Urut Sewu area a defense area and armament test for the Indonesian army has taken away the freedom of the Urut Sewu people regarding land rights and the loss of a sense of security in their lives. Another agrarian conflict that is currently developing in Kebumen Regency is the utilization of the Gombong Karts Landscape Area by PT SEMEN GOMBONG. In 1997 PT Semen Gombong was granted building use permit over several state lands that were formerly owned by foundations and state land that were formerly owned. The building use permit is valid for 30 years and will expire in 2027.

Based on Archives from the ATR/BPN Office of Kebumen Regency Land Office, 2022, PT Semen Gombong based on the Decree of the Head of the Kebumen Regency Land Office Number 01/1L/1994 dated 17 February 1994 concerning the granting of location permits for the purpose of developing a cement factory will be used for mining. However, in 2010, 22 areas of building use rpermit in the name of PT Semen Gombong totaling approximately 212.8989 ha are included in the database of indicated abandoned lands of the National Land Agency. Indicated as abandoned land because PT Semen Gombong did not utilise the land in accordance with its allocation rights.

On the other hand, the community has used the land, so that the community is worried that if the land is removed from abandoned land and ownership rights are

extended, it will be used for mining thereby destroying the natural surroundings and harming the community.

Conflicts also occurred in the southern part of Central Java Province, namely Purworejo Regency and Cilacap Regency. The conflict that occurred in Purworejo Regency began when the Governor of Central Java as the host of the PSN development located in Central Java provided a policy for determining the location of land acquisition for the construction of the Bener Dam in Purworejo Regency and Wonosobo Regency through the latest Central Java Governor Decree No. 590/20 of 2021 concerning Renewal of the Determination of the location of land acquisition for the construction of bener dams in Purworejo Regency and Wonosobo Regency, Central Java Province.[3]

The decision stipulates that the renewal of the determination of the location of land acquisition is given to the Head of the Serayu Opak River Basin Directorate General of Water Resources of the Ministry of PUPR for a period of 2 years since the Governor's decision is stipulated, starting from 7 June 2021, but the mining was rejected by residents and became a prolonged agrarian conflict.

The conflict that occurred in Cilacap Regency is between farmers and Perum Perhutani KPH Banyumas Barat, the conflict began with the "bedol desa" (Migration of villagers to other areas) after the 1965 tragedy, whose land has now been controlled by Perum Perhutani KPH Banyumas Barat, in 2017 the government launched an agrarian reform programme with the Social Forestry Forest Utilisation Permit scheme (IPHPS).[4]

The farmers of Grugu Village submitted the disputed land that they claimed as Land for Agrarian Reform Objects (TORA). The number of agrarian conflicts that occur in the southern part of Central Java requires an effective conflict resolution method so that it does not become a prolonged conflict, based on the Regulation of the Minister of Agrarian and Spatial Planning / Head of the National Land Agency of the Republic of Indonesia Number 21 of 2020 concerning Handling and Settlement of Land Cases.

The handling of land conflicts is carried out through the stages of case assessment, preliminary title, research, exposure of research results as outlined in the form of a research report, coordination meetings held to obtain input from experts or competent related agencies/institutions in the context of case settlement, and the final title used to make a decision on case settlement which will be carried out by the Minister, Head of Regional Office or Head of Land Office. Based on Article 43 paragraph (1) "Case Settlement can be resolved through Mediation." then paragraph (2) reads "Mediation as referred to in paragraph (1) can be carried out by and at the initiative of the Ministry, Regional Office, Land Office according to their authority and/or at the initiative of the disputing parties; or Individuals or institutions at the initiative of the disputing parties."

Based on the explanation above, that land dispute resolution resolves conflicts through non-litigation or agrarian conflicts can be implemented through non-litigation. The meaning of non-litigation is conflict resolution outside the court. The

forms are mediation, case title, negotiation, consolidation, hearings, arbitration, and so on which are agreed by both parties to the conflict to be resolved outside the court.

Seeing the condition of agrarian conflicts that are currently still ongoing, there is no solution that is considered satisfactory for all parties to the conflict and the position of the southern part of Central Java which is close to the author's domicile, attracts the author's interest to dig deeper into conducting research on the conflict in question, with the hope that the author can study and analyse the resolution of agrarian conflicts.

Based on the description of the problem above, the author is interested in researching and raising the theme of the dissertation with the title Agrarian Conflict Resolution Model Equitable Non-Litigation in Southern Part of Central Java.

2. Problem Formulation

Based on the background that has been stated above, the following problems can be formulated:

- a. What is the process of non-litigation agrarian conflict resolution?
- b. What is the model of equitable non-litigation agrarian conflict resolution in Southern Central Java?

3. Research Methods

Based on the explanation, description, and background of the problems described above, the author in this dissertation uses prescriptive research specifications, the form of a process to find legal rules, legal principles or doctrines to answer the legal problems faced, this research is conducted to produce a new insight or concept as a prescription in solving the problems he faces. The location of the research was carried out in 3 districts, namely Kebumen Regency, Purworejo Regency and Cilacap Regency, Kebumen Regency includes the Sewu urut area consisting of 15 villages in Buluspesantren District, Ambal District, and Mirit District, and the research was conducted in the Gombong Karts Landscape Area covering 7 villages in Buayan Sub-district in which there are building use permit / HGB PT Semen Gombong, including Sikayu, Ngoraji, Banyumudal, Jatirata, Jogomulyo, Semampir and Purbowangi and 3 villages in Rowokele Sub- district, namely Bumiagung Village, Jatiluhur Village and Kretek Village. Purworejo district covers Bentar sub-district, and Cilacap district covers Grugu village in Kawunganten sub-district. The type of data can be seen from its source so that it can be distinguished between data obtained directly from research in the field and data obtained from the library.

The method used to collect legal materials needed in writing this dissertation is obtained by conducting *field research* to collect primary data and *library research* to collect secondary data and tensier data. [5] The data obtained by the author is then presented in the form of descriptions arranged systematically, logically, and rationally. In the sense that all the data obtained will be connected to one another and

adjusted to the subject matter so that it is a whole unit with the subject matter under study.

Data analysis is the process of compiling data so that the data can be interpreted. It is also analysed by using sources from experts in the form of opinions and theories related to the Model of Equitable Non-Litigation Agrarian Conflict Resolution in Southern Central Java.

4. Discussion

4.1 Conflict Overview

An agrarian conflict occurred in Kebumen Regency in 2007, namely an agrarian conflict in the Urut Sewu area between the Indonesian National Army (TNI AD) and the community around the Urut Sewu area. The agrarian conflict in Urut Sewu is a prolonged agrarian conflict, a conflict over land rights in the Urut Sewu area between the community and the Indonesian Army. The dispute was triggered by claims to land along the southern coast of Kebumen by the Army, especially since the start of land acquisition for the development of the Southern Cross Road Network (JJLS). Not only that, the decision to make the Urut Sewu area a defense and armament area has taken away the freedom of the Urut Sewu people regarding land rights and lost their sense of security in their lives.

Based on Kebumen Regency Regional Secretariat Government Section, Urut Sewu Conflict Document Archives, 2011, The Urutsewu area is located in southern coastal area of Kebumen Regency, covers 3 sub-districts: Buluspesantren, Ambal and Mirit. During the colonial era until now the land in the Sewu Urut Area is used as a cannon shooting training area (as mentioned in several ancient letters).

Based on interview with the Commander of the Military District of Kebumen 0709 and interviews with several village heads "the basis/ trigger for agrarian conflicts in the Urut Sewu Area was due to the shooting practice by Indonesian Army by fencing and territorial restrictions".

On the other hand, the community claims that the land used for shooting training in the Urut Sewu area is owned by the community inherited from their ancestors.

Another agrarian conflict that is developing in Kebumen Regency is the utilisation of the Gombong Karts Landscape Area (KBAK), to which PT Semen Gombong has building use permit with the surrounding community. In 1997, building use permit was granted to PT Semen Gombong on several state lands that were formerly under foundation rights and state lands that were formerly under ownership rights. The building use right is valid for 30 years and will expire in 2027. PT Semen Gombong based on the Decree of the Head of the Kebumen Regency Land Office Number 01/1L/1994 dated 17 February 1994 concerning the granting of location permits for the purpose of developing a cement factory will be used for mining. However, in 2010, 22 parcels of building rights on behalf of PT Semen Gombong totalling approximately 212, 8989 ha were included in the National Land Agency's

abandoned land database. Indicated as abandoned land because PT Semen Gombong did not utilise the land in accordance with its allocation rights. Data by Archives from the ATR/BPN Office of Kebumen Regency Land Office, 2022.

On the other hand, the community has used the land, so that the community is worried that if the land is removed from abandoned land and ownership rights are extended, it will be used for mining thereby destroying the natural surroundings and harming the community.

The conflict also occurred in the southern part of Central Java Province, namely Purworejo Regency and Cilacap Regency, the conflict that occurred in Purworejo Regency began when the Governor of Central Java as the host of PSN development located in Central Java provided a policy for determining the location of land acquisition for the construction of the Bener Dam in Purworejo Regency and Wonosobo Regency through the latest Central Java Governor Decree No. 590/20 of 2021 concerning Renewal of the Determination of the location of land acquisition for the construction of the Bener Dam in Purworejo Regency and Wonosobo Regency, Central Java Province. The decree stipulates that the renewal of the determination of the location of land acquisition is given to the Head of the Serayu Opak River Basin Directorate General of Water Resources of the Ministry of PUPR for a period of 2 years from the date of this Governor's decree, starting on 7 June 2021, but the mining is rejected by residents and has become a prolonged agrarian conflict.

In this PSN, the residents rejected the andesite mining project. Some of the reasons for residents' rejection are that the Wadas area was not previously a mining area; concerns that the area will become a landslide-prone area; and considers the government to have violated the established spatial regulations. On the other hand, the government's goal of maintaining mining activities is a means to support the construction of dams; the construction of dams is a National Strategic Project; dams as a means of watering rice fields of approximately 15,069 ha; and to achieve food security.

In this PSN, what residents reject is the andesite mining project. Some of the reasons that are the basis for residents' rejection are that the wadas area was not previously a mining area; concerns that the area will become a landslide-prone area; and considers that the government has violated the spatial planning regulations that have been established. Data by Archives from the District Government of Purworejo Regency, 2022, On the other hand, the government's aim to maintain mining activities is to support dam construction; dam construction is a National Strategic Project; The dam as a water facility for rice fields covers an area of approximately 15,069 ha and to achieve food security. Rejecting residents formed a residents' alliance called GEMPADEWA (Wadas Village Nature Care Community Movement) led by Insin Sutrisno and WADON WADAS (Wadas Village Women's Movement).

The conflict that occurred in Cilacap Regency is between farmers and Perum Perhutani KPH Banyumas Barat, the conflict began with the village bedol after the 1965 tragedy, whose land has now been controlled by Perum Perhutani KPH Banyumas Barat, in 2017 the government launched an agrarian reform programme with the Social Forestry Forest Utilisation Permit scheme (IPHPS), the Grugu Village

farmers submitted the disputed land they claimed as the Agrarian Reform Object Land (TORA). The community, who are the heirs of the land in the area, want to return the rights to the land they used to own.

Based on Archives from the District Government Cilacap Regency, 2013, In the land exchange, the replacement land area was still less than 401,837 hectares because the replacement land area provided by Perum Perhutani KPH West Banyumas was still insufficient, so many people who previously owned land became landless. Perum Perhutani KPH West Banyumas admits that there was a shortage of exchange land that occurred in 1959, the area according to Perum Perhutani KPH West Banyumas is different from the area according to the community, the area according to Perum Perhutani is only 79.8 ha, so the community has not been able to accept it. Based on Procec Verbaal Document Number 3 of 1959, the amount of incoming and outgoing land originating from freehold land and village roads has been replaced, while GG land has not been replaced because the land is state land. This triggered a prolonged conflict.

4.2 Nonlitigation Agrarian Conflict Resolution

Article 1 number 10 of Law Number 30 Year 1999, Alternative Dispute Resolution according to out-of-court settlement using consultation, negotiation, mediation, conciliation or expert evaluation methods. Basically, Law Number 30 Year 1999 does not explain in detail about the definition of consultation and how the procedure works. Many opinions have been put forward by experts about consultation. One definition of consultation as put forward by Gunawan Widjaja concludes that:

"Advice is principally a private act between a certain party called the client, and another party called the advisor, who provides opinions to the client to fulfil the client's needs and requirements".

Negotiation is a process of negotiation or an attempt to reach an agreement with another party through a dynamic process of interaction, a communication with the aim of a solution or resolution of an ongoing problem. Christopher W. Moore argues that:

"Mediation is the intervention of a dispute or negotiation by an acceptable, impartial and neutral third party who has no decision power to assist the parties to a dispute to voluntarily reach an agreement to resolve the dispute". [6]

If mediation does not reach an agreement, the next alternative is conciliation. Conciliation is an out-of-court dispute resolution by deliberation or advice, which is assisted/mediated by the parties to the dispute or conducted as a neutral third party and acts as a Conciliator. Conciliation is a continuation of mediation. The mediator changes the role of the referee. It takes a more active role in finding ways to resolve the dispute and offering them to the parties. If the parties can reach an agreement, the arbitrator's solution becomes the solution.

Arbitration courts are private courts that are outside the scope of public courts and are very popular in the business world. Arbitration courts are courts that the parties to the dispute choose and decide freely. The extraordinary resolution of court

disputes is the free will expressed in written agreements made before and after the dispute in accordance with the principle of freedom of contract in civil law.

The alternative dispute resolution above is an effort to resolve conflicts through non-litigation channels that provide alternative agrarian dispute resolution.

4.3 An Equitable Nonlitigation Agrarian Conflict Resolution Model

The resolution of agrarian conflicts that are not resolved with good methods will become a prolonged conflict. Agrarian conflict is a big problem for the Indonesian people because it is related to the welfare of the people in general, which has harmed the goals of the Indonesian nation.

The resolution of agrarian conflicts is based on Albert Venn Dicey's theory of *the rule of law*, which contains three elements, namely the *supremacy of law*, *equality before the law*, and *due process of law*, used to analyse the model of equitable non-litigation agrarian conflict resolution in Southern Central Java.[7] Based on this, the model of equitable non-litigation agrarian conflict resolution is in accordance with the applicable law or legal regulations by taking into account justice for various parties.

The resolution of agrarian conflicts is based on Aristotle's theory of justice, namely "justice is an action that centres on giving something to everyone according to what is rightfully theirs".[8] Justice is considered to be an alternative to solving conflict problems, one of which is the conflict between state power or *property* rights or people's ownership rights, a fair attitude owned by a person or group of people who hold power in the government is expected to protect other human rights as *tribuere jus seuum queque*, which means giving each to their rights.

Various efforts are made in the process of resolving agrarian conflicts. However, a good conflict resolution is when all parties affected by the conflict can accept the resolution of the conflict. The parties concerned in the resolution of agrarian conflicts can provide a just solution for the parties affected by the conflict. The resolution of agrarian conflicts can be carried out using an equitable non-litigation agrarian conflict resolution model through the *win-win solution* method. Conflict resolution using the *win-win solution* method emphasises and considers the rights of each party affected by the conflict. The equitable non-litigation agrarian conflict resolution process is a manifestation of the *win-win solution method*. One form of application of the *win-win solution* method in the case of agrarian conflict in the Urut Sewu area is that the Army must reconfirm the real number of land needs in the Urut Sewu area that are actually needed for shooting practice. If there is an area of land that is not utilised for firing practice, then the right of use, cultivated land, or rent can be attached to the community according to the agreement to utilise the land. The process of reaching an agreement is through out-of-court settlement using consultation, negotiation, mediation, conciliation or expert evaluation methods conducted by the parties entitled to resolve the conflict and those affected by the conflict.

The resolution of agrarian conflicts through the *win-win solution* method in the PT Semen Gombang conflict is that the Kebumen Regency Land Office as a party that can resolve agrarian conflicts must review and provide clear legal considerations

for the proposed release from abandoned land and changes in the rights granted in the use of land proposed by PT Semen Gombong by considering natural conditions and justice for the affected surrounding communities. The process of reaching an agreement is through out-of-court settlement using consultation, negotiation, mediation, conciliation or expert evaluation methods conducted by the parties entitled to resolve the conflict and those affected by the conflict.

The resolution of agrarian conflicts through the *win-win solution* method in agrarian conflicts in Wadas Village, Bener Subdistrict, Purworejo Regency in the process of building the Bener dam by mining andesite stones used to build the Bener dam project, namely the Regional Government in this case the Governor of Central Java as the host of PSN development located in Central Java, The National Land Agency, and related *stakeholders* involved as parties who can resolve conflicts and parties affected by conflicts can conduct dialogue until they meet a *win-win solution*, and review related to andesite mining based on the provisions of applicable laws and regulations and pay attention to the rights of the community around the mining site. The process of reaching an agreement is through out-of-court settlement using consultation, negotiation, mediation, conciliation or expert evaluation methods carried out by the parties entitled to resolve the conflict and those affected by the conflict.

Resolving agrarian conflicts through the *win-win solution* method in conflicts that occur in Cilacap Regency, namely between farmers and Perum Perhutani KPH West Banyumas where the land is currently controlled by Perum Perhutani KPH West Banyumas, in 2017 the government launched an agrarian reform programme with the Social Forestry Forest Utilisation Permit scheme (IPHPS), the Grugu Village farmers submitted the disputed land they claimed as the Agrarian Reform Object Land (TORA). The community, who are the heirs of the land in the area, want to return the rights to the land they used to own. Based on this, the relevant *stakeholders* involved as parties who can resolve conflicts and parties affected by conflicts can conduct dialogue until they meet a *win-win solution*. The process of reaching an agreement is through out-of-court settlement using consultation, negotiation, mediation, conciliation or expert evaluation methods carried out by the parties entitled to resolve the conflict and those affected by the conflict.

Equitable resolution of non-litigious agrarian conflicts requires the role of the Regional Government. The freedom given to the Regional Government on Regional Autonomy is not limited to managing and optimising resources, but also solving various problems that exist within its control area. The theory of regional autonomy according to Mariun, namely:

"Regional autonomy is the freedom possessed by local governments that allows them to make their own initiatives in order to manage and optimise the resources owned by their own regions".[9]

The equitable nonlitigation agrarian conflict resolution model is applied by resolving through an out-of-court or nonlitigation agrarian conflict resolution mechanism by emphasising justice for the parties affected by the conflict through the *win-win solution* method so that conflict resolution can be accepted and beneficial for the parties affected by the conflict. *Win-win solution* has the impact that the resolution

of agrarian conflicts can be accepted by the parties affected by the conflict fairly, or no party still feels disadvantaged.

The win-win solution method can be applied to every agrarian conflict with different problem backgrounds, because this method is a form of equitable non-litigation agrarian conflict resolution, with the aim of resolving agrarian conflicts that are acceptable and beneficial to the parties affected by the conflict. The application of *win-win solution* is by the process of reaching an agreement through out-of-court settlement using the methods of consultation, negotiation, mediation, conciliation or expert evaluation conducted by the parties entitled to resolve the conflict and those affected by the conflict.

5. Conclusion

Settlement of agrarian conflicts according to out-of-court or non-litigation settlements using consultation, negotiation, mediation, conciliation or expert evaluation methods. The equitable non-litigation agrarian conflict resolution model is carried out through the *win-win solution* method with the process of reaching an agreement through using the methods of consultation, negotiation, mediation, conciliation or expert evaluation carried out by the parties entitled to resolve conflicts and those affected by conflicts, so that conflict resolution can be accepted by the parties affected by the conflict fairly, or no party still feels disadvantaged.

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