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The Causes of Land Disputes/Conflicts and The Goals of Land Reform in Indonesia

[1] Ni Luh Made Elida Rani, [2] I Nyoman Putu Budiartha

Author's Affiliation:
[1] Doctor of Law Study Program, Faculty of Law, Universitas Warmadewa Denpasar, Bali
[2] Lecturer of Law Study Program, Universitas Warmadewa
e-mail : budiarthaputu59@gmail.com

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ABSTRACT
This research aims to determine the causes of land and/or agrarian disputes/conflicts that have occurred so far, whether due to ambiguity, inconsistency, uncertainty, injustice or undemocratic laws and regulations. In particular, laws and regulations related to aspects of control, ownership, use and exploitation of land and other agrarian resources. There are two problems discussed in this research, namely how the increase in intensity and quality of land disputes/conflicts is caused and the purpose of land reform in Indonesia. The research method applied in this research is a normative legal research method with a concept approach and legislation and analysis of legal interpretations and legal arguments so that they become analytically discrete. The research results show that the increase in the intensity and quality of land disputes/conflicts according to the results of a study by the National Commission for Agrarian Conflict Resolution (KNuPKA) is due to the government never resolving these cases completely, comprehensively and systematically by looking for the root of the problems that are triggered by inequality. control, ownership, use and exploitation of land and other agrarian resources. Meanwhile, regarding the aim of holding land reform to perfect land distribution, which includes efforts to create equal distribution of land rights among land owners, which can be done through intensive efforts, namely by redistributing land and reducing income differences between large and small farmers, which can be efforts to improve equality among farmers as a whole, as well as to increase and improve the usability of land use.

KEYWORDS
agrarian conflict, land reform, land use

Introduction

1.1. Background of study

To realize agrarian reform is the resolution of land and/or agrarian disputes/conflicts that have been occurring. Both disputes/conflicts occur due to ambiguity, inconsistency, uncertainty, injustice, or undemocratic laws and regulations. In particular, laws and regulations related to aspects of control, ownership, utilization, and exploitation of land and other agrarian resources. In Article 1 number 1 Regulation of the Minister of State for Agrarian Affairs/Head of National Land Agency (referred to as BPN) No. 1 of 1999 concerning Procedures for Handling Land Disputes, stated as follows: Land disputes are differences of opinion regarding (a) the validity of a right, (b) granting of land rights, (c) registration of land rights including transfer and issuance of proof of rights, between interested parties and agencies within the BPN office. Settlement of land and agrarian disputes/conflicts is a prerequisite for the realization of agrarian justice, which is the keyword of agrarian reform.

In addition, land and agrarian disputes and/or conflicts are often the basis or starting point for the emergence of social conflicts that have far-reaching impacts, even giving rise to human rights violations. As the era of reform rolls around, it prioritizes aspects of democracy, transparency, supremacy of law, and taking sides with people who have been marginalized (farmers, fishermen, customary law communities, and so on). Causing an increase in the intensity and quality of land and agrarian disputes/conflicts. The quality of disputes/conflicts also increases because land and agrarian issues have multidimensional characteristics. This means that it does not only have a legal dimension but also an economic, social, cultural, political, defense, and security dimension. Apart from being multidimensional, land and agrarian issues also have multisectoral and multidisciplinary characteristics.

In rural areas, disputes/conflicts occur mainly related to disputes/conflicts whose object is agricultural land. Farmers who due to poverty are unable to own land to cultivate, and work on land that is empty/not used by the owner. Conflict occurs when the land is to be used by the owner, and the farmer asks for compensation. Disputes/conflicts can also occur due to the absence of formal juridical evidence to prove land ownership rights. The poverty factor causes farmers not to register their land rights so that the land is taken over by the government and then new rights are given to entrepreneurs or capital owners.

Research Methods

This research applied normative legal research as a scientific research method to find the truth based on the logic of legal science from its normative side (Jhony Ibrahim, 2011: 57). In this case, law is a positive norm that applies to a certain time and is made as a product of certain political power that has legitimacy. The approaches used in this legal research are the statutory approach, the conceptual approach, the legal historical approach, the philosophical approach, and the comparative legal approach), Legal materials in normative research can be primary legal materials, secondary legal materials, and non-legal materials After all relevant legal materials are collected, all legal materials, whether primary legal materials, secondary legal materials or non-legal materials, are inventoried, identified and classified to find laws in accordance with the problem being studied (M. Syamsudin, 2007: 143). Next, it is analyzed using analytical descriptive techniques through a qualitative approach to legal materials by abstracting existing laws and regulations in order to find the legal norms contained in each law and regulation related to the problem under study.

Discussion

1.2. The Causes of Intensity and Quality Increasing of Land Disputes/Conflicts

According to the results of a study by the National Commission for Agrarian Conflict Resolution (referred to as KNuPKA), the increase in the intensity and quality of land disputes/conflicts is due to the absence of government in resolving these cases completely, comprehensively and systematically by finding the real root of the problem (SKH Kompas, 30 June 2007: 35). The root of the problem is essentially inequality in control, ownership, use and utilization of land and other agrarian resources. This inequality ultimately impacts other dimensions of life, not just the legal dimension.

With the unique nature and characteristics of land and agrarian problems, and also driven by new paradigms that emerged along with the birth of the reform era, there are more and more land and agrarian problems that must be resolved, especially demands for land return (reclaiming) to parties who claim to be the original owner (who is generally a farming community or customary law community) whose land is used for plantation or aquaculture/fishery businesses.

The Indonesian Land Administration Project (referred to as ILAP) which was implemented from 1994 to 2001 has not been able to reduce the growth of land and agrarian disputes/conflicts. In fact, the project aims, among other things, to facilitate the reduction of

land disputes. Likewise, the Land Management and Policy Development Project (referred to as LMPDP), which has been implemented since 2002 as a continuation of the ILAP project, has not been able to reduce and resolve land and agrarian disputes/conflicts. In fact, LMPDP also aims, among other things, to resolve land disputes cheaply, easily, and quickly.

In rural areas, disputes/conflicts occur mainly related to disputes/conflicts whose object is agricultural land. Farmers who, due to poverty, are unable to own land to cultivate, work on empty land/not used by the owner. Conflicts occur when the land is to be used by the owner, and farmers ask for compensation. Disputes/conflicts can also occur due to the absence of formal juridical evidence to prove land ownership rights. The poverty factor causes farmers not to register their land rights so that the land is taken over by the government and then new rights are given to entrepreneurs or capital owners.

In rural areas that are rich in agrarian/natural resources, conflicts often occur (especially) between customary law communities and the government, both central and regional governments, or with private companies or State-Owned Enterprises (referred to as BUMN) and Regional-Owned Enterprises (referred to as BUMD), which manage the wealth of agrarian/natural resources. In these areas, conflicts often occur involving the military under the pretext of securing state assets or company assets. As often happens in cases of conflict between the Papuan people and PT. Freeport.

In urban areas, land disputes/conflicts also often occur, mainly triggered by the problem of increasing uncontrolled urbanization, where cities with various development activities, especially industry, and infrastructure, become a stronger attraction in providing employment opportunities compared to rural areas. This raises problems related to the very limited availability of land for housing and settlements in urban areas.

1.3. The Purpose of Implementing Land Reform in Indonesia.

In terms of terminology, the term land reform has a very broad meaning. Therefore, the term land reform is often equated with the term Agrarian Reform. The definition of land reform is so broad that it gives rise to different understandings between one discipline and another. Russel King said that the differences in understanding and definition are because they highlight 2 general meanings: 1. Land reform is invariably a more or less direct, publicly controlled change in the existing character of land ownership; 2. It normally attempts a diffusion of wealth and productive capacity. Dorren Warriner, as quoted by Arie Sukanti Hutagalung, said that when viewed from this meaning, basically land reform requires a land redistribution program for the benefit of those working on the land and

restrictions on individual rights over land resources. So, land reform is more of a tool for social change in economic development, apart from being a manifestation of the political goals, freedom, and independence of a nation.

Implementation of the land reform concept is an effort made by each country to make changes in the process of land ownership. Therefore, the implementation of land reform is closely related to the political will of a country. This makes the UN pay serious attention to the implementation of land reform in the world. The World Bank, in its publication on land reform, also provides an understanding of various patterns of land control and ownership in various communities. According to the World Bank, this pattern exists due to the influence of various factors, namely (1) the political system and situation; (2) economic structure; (3) the social system; (4) the legal system; (5) demographic situation; (6) agricultural system; (7) respective national resource base.

In connection with the definition of land reform, the objectives of land reform are: (1) to improve land distribution; there are two dimensions to this goal; First, there is an effort to create equal distribution of land rights among land owners. This can be done through intensive efforts, namely by redistributing land; secondly, to reduce income divergence between large and small farmers which can be an effort to improve equality between farmers as a whole; (2) to increase and improve the usability of land use.

Conclusion

Based on the description above, it can be concluded that the increase in the intensity and quality of land disputes/conflicts according to the results of a study by the National Commission for Agrarian Conflict Resolution (KNuPKA) is due to the absence of government in resolving these cases completely, comprehensively and systematically by looking for the real root of the problem (SKH Kompas, 30 June 2007: 35). The root of the problem is essentially inequality in control, ownership, use and utilization of land and other agrarian resources. This inequality ultimately impacts other dimensions of life, not just the legal dimension. In the second case, concerning the definition of land reform, the objectives of land reform are: (1) to improve land distribution; there are two dimensions to this goal; First, there is an effort to create equal distribution of land rights among land owners. This can be done through intensive efforts, namely by redistributing land; secondly, to reduce income differences between large and small farmers which can be an effort to improve equality between farmers as a whole; (2) to increase and improve the usability of land use.

Suggestions

Thus, in the theory of agrarian law regulation in Indonesia, land acquisition policies for development in the public interest are more implemented in overcoming the imbalance between the interests of infrastructure development as part of national development interests and the interests of the community as land owners.

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