

THE ROLE OF ACEH GOVERNMENT THROUGH LAND CONFLICT SETTLEMENT IN ACEH

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Abstract

During 2017 to 2021, there were 120 land conflict complaints in Aceh that were submitted to the Aceh Government. Based on the data from the field study, information was obtained that the typology of the land conflicts was HGU land conflicts, Land Acquisition, Use Rights/HPL, Land Overlap, Cultivated Land, Customary Land, Forest Land, Certified Land, Inheritance Land, Land Claims, Land Transmigration, Waqf Land, Land Limits and Land Grants. The government's role in resolving land conflicts is carried out by the Aceh Land Office through the Land Conflict and Dispute Resolution Coordination Team that involves the relevant agencies. Settlement is carried out non-litigation (outside the court) through coordination between agencies by taking an inventory of conflicts arranged in a typology of conflict for resolution through the relevant agencies according to the authority. Furthermore, if the settlement is needed, mediation of the parties will be carried out by a land mediator so that a decision can be made by the District Court on the agreed minutes.

Keywords: *The Role of Aceh Government; Land Conflict Settlement*

A. Introduction

Land is an asset for every human being to carry out life in the world. The importance of land for human life because humans cannot be completely separated from the soil. They live on land and obtain food by utilizing the land. The history of development and destruction is also determined by the land, land issues can lead to disputes and terrible wars because humans or a nation want to control the land of other people or nations because of the natural resources contained therein.¹

Furthermore, land for human life has a very important position. This is because almost all aspects of life, especially for the Indonesian people, cannot be separated from the existence of land which can not only be viewed from the economic aspect, but includes all their lives and livelihoods. Land has *multiple values*, so the term homeland and bloodshed are used by the Indonesian people to describe the territory of the country by describing an

¹ G. Kartasapoetradkk, 1991, *Hukum Tanah Jaminan Bagi Keberhasilan Pendayagunaan Tanah*, Jakarta: PT. Rineka Cipta, hal. 1

area dominated by land, water, and sovereign land, so that land is said to be the basic capital of development² because every development requires land.³

The conception of the Unitary State of the Republic of Indonesia is a legal state which contains meaning in the administration of government and a state based on law. The most essential meaning of the rule of law is that all relations between the state and society or between members of the community are based on the rule of law, both written and unwritten.⁴ Based on Article 33 paragraph (3) of the 1945 Constitution and Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA) mandates that the state as an organization of power from all Indonesian people at the highest level is given the authority to manage land for the welfare the Indonesian nation, so that the state is authorized to a) regulate and administer the allocation, use, supply and maintenance of the earth, water and space; b) determine and regulate legal relations between people and the earth, water and space; and c) determine and regulate legal relations between people and legal actions concerning earth, water and space.

This is intended so that land can provide the maximum benefit for the prosperity of the people in the sense of happiness, prosperity and independence in an independent, sovereign, just and prosperous society, nation and state as well as legal certainty of land rights, especially regarding land ownership and its control will provide clarity regarding the person or legal entity who is the holder of land rights as well as certainty regarding the location, boundaries, extent and so on.

Legal certainty of land rights, especially regarding land ownership and control will provide clarity regarding the person or legal entity who is the holder of land rights, as well as certainty regarding the location, boundaries, extent and so on.

Etymologically, mastery comes from the word "power" which means the ability or ability to do something, power or authority over something to determine (govern, represent, manage and so on) something, while "mastery" can be interpreted as a process, method, the act of controlling or the ability to use something. Whereas according to

² Mulatu Wubneh, *Policies and Praxis of Land Acquisition, Use, and Development in Ethiopia*, Jurnal, Land Use Policy, Volume 73, April 2018, Pages 170-183, hlm. 1, <https://doi.org/10.1016/j.landusepol.2018.01.017>

³ Yossyafra, Melinda Noer, Rini Hakimi, Muhamad Reza, *A Challenge in Providing Housing Land and Sustainable Agricultural Land; An Effort to Meet The Backlog of Housing and Food Security in West Sumatra*, *International Journal On Advanced Engineering Information Technology-IJASEIT*, Vol.8(2018) No.6, ISSN:2088-5334, hlm. 2696 dan Salim HS dan Budi Sutrisno, *Hukum Investasi di Indonesia*, Raja Grafindo Persada, Jakarta, 2014, hlm. 26-27, Lihat juga Hasni, *Hokum Penataan Ruang dan Penatagunaan Tanah dalam Konteks UUPA, UUPR, UUPPLH*, Raja Grafindo Persada, Depok, 2016, hlm. 209

⁴ Azhary, *Negara Hukum Indonesia, Analisis Yuridis Normatif tentang Unsur-Unsurnya*, Penerbit UI Press, Jakarta, Hlm. 5.

grammar, land tenure can be interpreted as a process, method or act to control a piece of land which contains the authority and ability to use and utilize it for survival.

Land as human property is prone to conflict between individuals, companies or between governments based on different interests of each. These things cause and have an impact both economically, socially, and environmentally. On the other hand, the amount of land never increases, but humans continue to grow and need land for their life.⁵

According to the records of the *Konsorsium Pembaharuan Agraria (KPA)*, the area that became the point of land conflicts reached 1.26 million hectares throughout 2016, or an increase of almost three times compared to 2015 which was 400,430 hectares. In this case, the plantation sector ranks first as a contributor to land conflicts throughout 2016. Based on data, out of a total area of 1.26 million hectares of disputed land, the sector contributed 601,680 hectares. Meanwhile, other sectors include forestry covering an area of 450,215 hectares, property covering an area of 104,379 hectares, oil and gas covering an area of 43,882 hectares, and infrastructure covering an area of 35,824 hectares.

Konsorsium Pembaharuan Agraria (KPA) also noted that there were 450 agrarian conflicts throughout 2016 or an increase of almost two times compared to the previous year, which reached 252 disputes. On average one day there is one dispute.⁶

Based on data from the Regional Office of the National Land Agency of Aceh Province, the existing land field in Aceh consisting of + 4.1 million and + 2 million land field were certified. This has the potential to create land conflicts. Based on data from the Aceh Land Office, information was obtained that many complaints of land conflicts were submitted by both the community and other parties. In accordance with the existing condition, it is interesting to study the role of the Aceh Government in resolving land conflicts that occurred in Aceh.

B. Research Method

This research uses descriptive qualitative method with literature study analysis method. Data analysis uses secondary data from research, theory and policy.

C. Result and Discussion

In order to facilitate the resolution of land disputes and conflicts in Aceh, Aceh government dealing with non-litigation (out of court) settlement efforts in a systematic,

⁵ Novri Susan, Scenario Building on Law No. 7 of 2012 About Social Conflict Intervention: The Possible Future of Land Conflict Management in Indonesia, the 13rd International Conference on Sustainable Future for Human Security SUSTAIN 2012, hal 870-879.

⁶ *Ibid*

focused and integrated manner.⁷Therefore, the Aceh Land Office formed a Facilitation Team for the Settlement of Aceh Land Disputes and Conflicts whose members consist of head of agency/department/relevant agency, Land Dispute and Conflict Resolution Facilitation Team 2012 has the task of a) submit alternative suggestions and solutions for resolving land disputes and conflicts to the Governor for consideration, b) take an inventory of land disputes and conflicts that occur in the Aceh region based on reports from district/city governments, c) develop a priority scale for disputes and conflicts that need to be immediately facilitated their resolution, d) collect and identify the data needed to be able to solve problems, disputes or conflicts that occur e) facilitate the formulation of the resolution of land problems, disputes and conflicts; f) coordinating with related agencies in an effort to obtain data and formulate problems; and g) make a report on the activities of facilitating the settlement of land disputes and conflicts that have been carried out to the Governor of Aceh.⁸

In resolving land disputes and conflicts, the Aceh Land Dispute and Conflict Resolution Facilitation Team has taken the following steps: first; conduct regular meetings to compile a Conflict Map based on reports received by the Aceh Government through letters of complaint, complaints through SP4M Report (online media for public complaints) and direct complaints from the community, NGOs and district/city governments.⁹

Based on data from the Aceh Land Office, the number of reported land conflict reports from 2017 to September 2021 is as follows in Table I:

Table I
Land Conflict Reports From 2017 To September 2021

No	Year	Number of Reported Land Conflict
1	2017	27
2	2018	54
3	2019	6
4	2020	23
5	September 2021	10
	Total	120

Data Source: Aceh Land Office 2021

⁷ Nizwar, M, *Penanganan dan Penyelesaian Sengketa Lahan/ Sengketa Pertanahan Pada Areal Perkebunan di Provinsi Aceh*, Makalah Presentasi pada Acara Workshop Permasalahan Gangguan Perkebunan yang dilaksanakan oleh Dinas Kehutanan dan Perkebunan Aceh tanggal 17 Juli 2012 di Hotel Madinah Kota Banda Aceh.

⁸ Keputusan Gubernur Aceh Nomor 590/209/2021, tanggal 26 Februari 2021 tentang Penetapan Tim Fasilitasi Penyelesaian Sengketa dan Konflik Pertanahan Aceh.

⁹ Wawancara dengan M. Nizwar, Kabid Penanganan Masalah, Pembinaan dan Penyuluhan Pertanahan pada Dinas Pertanahan Aceh, Banda Aceh, 1 Desember 2021.

Second, based on the land conflict data, team conducted an assessment of the typology of land conflicts that occurred as shown in Table II below;

Table II
Typology Of Land Conflicts

No	Land Conflict Typology	Number of Conflicts
1	HGU land	31
2	Land Procurement	25
3	Land Right to Use/HPL	21
4	Overlap	10
5	Customary Land	7
6	Forest	6
7	Certificate	5
8	Legacy	4
9	Land Claim	3
10	Land of Transmigration	3
11	Waqf land	2
12	Land Boundary	2
13	Grant Land	1
	Total	120

Data Source: Aceh Land Office 2021

Based on Table II above, the typology of land conflicts that occurred in Aceh are: a) HGU land conflicts occur in plantation area with Cultivation Rights. This land conflict ranks most frequently, which is 29 cases. This is due to the existence of community land claims that are in the HGU land area that has been issued a certificate. b) Conflicts over land acquisition for development in the public interest occurred against the background of the issuance of Law Number 2 of 2012 concerning the Implementation of Land Procurement for Development in the Public Interest which regulates compensation not based on the results of price discussions, but based on the results of the determination of land appraisal services from the Public Appraisal Service Office. As a result of this unilateral determination, the number of refusals of land rights owners to the price of land compensation increased.

c) Conflicts over land field with Right to Use/Management Rights occurs in the form of mutual claims, both between government agencies and government agencies with

the community or business entities. This land use rights/HPL conflict shows that the local government has not really taken care of or protected its assets so that it is vulnerable to claims by certain parties. d) Land conflicts due to overlapping land occurs due to the presence of a pierced cone with the coordinates of several land points that already have a certificate issued by the Land Office. e) Arable land conflicts occur on land that did not yet have a certificate. Usually, it occurs on free state land which has long been used by local people to cultivate, but has never been granted a permit to cultivate.

f) Customary land conflicts occur in terms of community claims to the existence of *ulayat land* in the community. *Ulayat land* is cultivating land with the community that has certain agreed rules. However, as time goes by, the current condition resembling *ulayat land* is not given serious attention by the government in terms of determining *ulayat land* so that it is still a matter of controversy. g) Land conflicts in forest areas still happens a lot, especially in several districts/cities which are motivated by the large area of forest and the narrowness of the community's cultivating land, so that many people cultivate in the forest area. On the other hand, the location of the boundaries for determining the area is still unclear, both stakes and boundary points so that it is prone to errors in cultivation.

h) Land certificate conflicts occurs specifically in the case of land that has been issued a certificate by the Land Office. The settlement process is usually carried out by the Land Office through the rules and mechanisms of the Minister of Agrarian Affairs Regulation Number 20 of 2021 concerning Settlement of Land Cases which are the authority of the Land Office. i) Inheritance land conflicts usually occurs in the community for lands that have not been completely divided to the heirs. The ownership of land owned by a person should have been completed to all heirs while the owner of the land rights is still alive so as to minimize problems after the owner of the land rights dies later. j) Land claim conflicts are usually based on a land that has not been certified or the location of the plot of land is not clear. Most people do not understand land law related to the basics of ownership of land rights so it is very easy to claim land that belongs to them. k) Land conflicts in transmigration areas occur due to the large number of transmigration areas that are not utilized or have been transferred without the mechanism of statutory regulations. This transmigration land conflict almost occurs in all areas where the transmigration program is located and has not been a serious concern of the community for a long time. Usually at this time those occupying the area are no longer the original owners, on the other hand the boundaries of the transmigration land are claimed to overlap both with the plantation areas of companies and belonging to the community.

i) Waqf land conflicts usually occur because there is no waqf land certificate. In general, almost every village area in Aceh has a lot of land that is donated by someone for purposes that are used by many people, such as religion or public facilities in a village. However, in fact this waqf is often not followed by the making of the Waqf Pledge

Deed which is the basis for the establishment of a waqf certificate. m) Land boundary conflict starting between provisions, between district/city governments and between village areas. Usually this happens because the boundary points that are the administrative area of a region have not been agreed upon. However, in Aceh, this problem tends to decrease because the government has made many efforts to determine regional land boundaries through laws and regulations. n) Grant land conflict tends to be happened because land grants that are not accompanied by the creation of a certificate through a clear grant deed so that often time goes by and the party who donates the land dies, it is often not recognized by the heirs that the land has been granted.¹⁰

Third; based on the typology study obtained, a coordination of the settlement will be carried out through the relevant agencies according to the authority. This coordination is carried out as shown in Table III below:

Table III
Land Conflict Settlement

No	Land Conflict Typology	Authority	Settlement
1	HGU Land	Regency/City Government/ Land Office	- Inventory - Land Office Coordination - Legal Counseling
2	Land Procurement	Provincial/District/City Government/Land Office	- Inventory - Good planning - Steps according to the rules
3	Land Right to Use/HPL	District/City Government	- Inventory - Land Office Coordination - Asset protection stages
4	Overlap	Regency/City Government/ Land Office	- Inventory - Coordination of the Land Office according to Ministerial Regulation ATR 21/21 - Legal Counseling
5	Customary Land	District/City Government	- Inventory - Coordination of relevant agencies and villages
6	Forest	Provincial government	- Inventory - Forestry agency coordination
7	Certificate	Regency/City Government/ Land Office	- Inventory - Coordination of the Land Office according to Ministerial Regulation

¹⁰ Wawancara dengan M. Nizwar, Kabid Penanganan Masalah, Pembinaan dan Penyuluhan Pertanahan pada Dinas Pertanahan Aceh, Banda Aceh, 1 Desember 2021.

			ATR 21/21
8	Legacy	District/City Government	- Inventory - Coordination of relevant agencies and villages
9	Land Claim	Regency/City Government/ Land Office	- Inventory - Coordination of the Land Office according to Ministerial Regulation ATR 21/21
10	Land of Transmigration	District/City Government	- Inventory - Coordination of transmigration agencies
11	Waqf land	Regency/City/Central Government	- Inventory - Coordination of the Ministry of Religion and the village
12	Land Boundary	Central Government/Provincial Government/Regency/City Government	- Inventory - Government Bureau Coordination
13	Grant Land	Regency/City/Central Government	- Inventory - Coordination of the Ministry of Religion and the village

Data Source: Aceh Land Office in 2021

From the flow chart above, the Aceh Government coordinates with all relevant agencies in dealing with any land conflicts that occur with different steps and methods. The expected result is to minimize existing problems so that they can be resolved without going through legal channels, namely the courts. Fourth; If necessary, mediation efforts will be carried out to mediate the parties who agree on the resolution of the problem. The Aceh government conducts mediation through a Certified Mediator starting from studying the background and studying the causes of the problem to holding mediation meetings. If an agreement has been reached on land conflicts, then a customary process will be offered, namely *peusijuek* (plain flour) to thaw and strengthen the relationship between the conflicting parties. Furthermore, the results of the agreement as outlined in the Minutes of Procedure will be submitted to the District Court to be determined through a Court Decision.

D. Conclusion

Based on the explanation above, it can be concluded that the Aceh Government through the Aceh Land Office has made various efforts in coordinating the resolution of land conflicts based on complaints from the community and other parties. From the results of the study, it was found that the typology of the land conflicts was HGU land conflicts, Land Acquisition, Use Rights/HPL, Land Overlap, Cultivated Land, Customary Land,

Forest Land, Certified Land, Inheritance Land, Land Claim, Transmigration Land, Land Waqf, Land Limits and Land Grants. The coordination of the settlement is carried out through the relevant agencies in accordance with their respective authorities who are members of the Aceh Land Conflict and Dispute Resolution Coordination Team.

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