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Strategy For Resolving Land Disputes Through Mediation and Alternative Dispute Resolution in Rural Areas

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Abstract

The problem of land disputes in Indonesia is very complex. Land disputes are one of the problems that often occur in society due to differences in interests, ownership boundaries and the status of land rights. Dispute resolution through litigation often requires a long time and relatively large costs. Therefore, mediation and Alternative Dispute Resolution (APS) are more effective choices because they prioritize deliberation, agreement between the parties, and maintaining social relations in society. This research aims to analyze land dispute resolution strategies through mediation and Alternative Dispute Resolution in Paccing Village, as well as identifying factors that support and hinder its implementation. This research uses empirical legal research methods with a qualitative approach. Data was obtained through interviews, observation and documentation, then analyzed descriptively qualitatively. The research results show that land dispute resolution in Paccing Village prioritizes mediation facilitated by the village government, community leaders and related parties as an effort to reach a peaceful agreement. This strategy is considered effective because it is able to reduce prolonged conflicts, speed up dispute resolution, and minimize costs incurred by the parties. However, the effectiveness of mediation is still influenced by the level of legal awareness of the community, the completeness of land ownership documents, and the commitment of the parties to implement the results of the agreement. Therefore, it is necessary to increase legal understanding, strengthen the role of village governments, and collaborate with land agencies so that land dispute resolution through mediation and APS can run optimally.

Introduction

The problem of land disputes does not only occur in Indonesia, but is a global phenomenon faced by many countries. Land is a vital resource that is directly related to human life as a place to live, a source of food, and a basis for economic development. Because of this, conflicts over ownership and control of land often arise, especially in countries with high population growth, rapid urbanization, and legal systems that do not provide complete certainty. Even though the legal system is more established in developed countries, land disputes still occur regarding inheritance, zoning and infrastructure development.

Land is a natural resource that has economic, social, cultural and legal values that are very important for people's lives. In Indonesia, land disputes are still one of the most frequent legal issues. Dispute resolution through court (litigation) often takes a long time, costs a lot of money, and has the potential to worsen social relations between the parties to the dispute. Therefore, resolving disputes through mediation and Alternative Dispute

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Resolution (APS) is a more effective choice because it prioritizes deliberation, consensus and peaceful resolution. The legal basis for resolving disputes outside of court in Indonesia is regulated in Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. This law provides a legal basis for the community to resolve disputes through consultation, negotiation, mediation, conciliation, or expert assessment without having to resort to litigation. The presence of this law shows that the state provides space for resolving disputes quickly, efficiently, and prioritizing the agreement of the parties.

Apart from that, regulations regarding land rights in Indonesia are guided by Law Number 5 of 1960 concerning Basic Agrarian Principles (UUPA) which is the basis for implementing national agrarian law. The UUPA emphasizes that every right to land must obtain legal certainty so that it can provide protection to the right holder. In practice, if a dispute arises regarding land rights, settlement can be carried out through non-litigation or litigation in accordance with statutory provisions.

In land administration, resolving land disputes is also the authority of the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN). Provisions regarding handling disputes, conflicts and land cases are regulated in the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 21 of 2020 concerning Handling and Settlement of Land Cases. This regulation provides guidelines regarding the mechanism for resolving disputes through mediation as a first step before settlement is carried out through the judicial process.

At the village level, land dispute resolution is generally carried out through deliberations facilitated by the village head, village officials, community leaders and traditional leaders. This approach is in line with local wisdom values which prioritize peace, kinship and maintaining harmonious relations between residents. The village government acts as a mediator who helps the parties find the best solution without taking sides with one party.

Paccing Village is one of the villages that is not free from the potential for land disputes. Disputes that arise can be caused by differences in land boundaries, land control, inheritance, or proof of ownership that does not yet have legal certainty. In practice, dispute resolution in Paccing Village prioritizes mediation through deliberation involving the village government and community leaders before taking legal action. This strategy is considered capable of maintaining community social relations while reducing the costs and time of resolving disputes.

However, the success of mediation is still influenced by various factors, such as public legal awareness, completeness of land documents, mediator's ability, and the willingness of the parties to implement the agreement. Therefore, an in-depth study is needed regarding strategies for resolving land disputes through mediation and Alternative Dispute Resolution in Paccing Village so that the effectiveness of their implementation can be known along with the factors that support and hinder the dispute resolution process.

Based on this description, the author is interested in conducting research with the title "Land Dispute Resolution Strategy through Mediation and Alternative Dispute Resolution in Paccing Villages."

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Methods

Objective and Target of the Community Service

Community service in the context of legal literacy on land disputes aims to empower village residents by increasing their understanding of land rights, legal procedures, and available dispute resolution mechanisms. This activity was conducted in Paccing Village with the primary objective of strengthening community understanding of strategies for resolving land disputes through mediation and Alternative Dispute Resolution (ADR/APS).

The target participants included the village government, community leaders, traditional leaders, and residents who have interests or concerns related to land control, ownership, and utilization. The involvement of these groups is expected to strengthen collective awareness and encourage the resolution of land disputes through deliberative and legally appropriate mechanisms.

Community Service Method

The community service activity employed a participatory method, which emphasizes the active involvement of the community throughout the implementation process. The participatory approach was selected to ensure that the legal literacy program was not merely a one-way transfer of legal knowledge but also provided opportunities for residents to express their experiences, concerns, and perspectives regarding land disputes.

Through this approach, the community was involved in identifying problems, discussing possible solutions, understanding legal mechanisms, and developing strategies for resolving land disputes. The method also encouraged collaboration between the village government, community leaders, traditional leaders, and residents in creating a more accessible mechanism for preliminary dispute resolution.

Stages of Community Service Implementation

The implementation of the community service program was carried out through several stages, as follows:

Development of Village Deliberation and Focus Group Discussion Mechanisms

The first stage involved developing a meeting mechanism through Focus Group Discussions (FGDs) and village deliberations. This stage served as an initial forum for identifying land-related problems and discussing potential solutions collectively.

The FGD involved relevant stakeholders within the village, including village officials, community leaders, traditional leaders, and residents. Through open discussions, participants were encouraged to explain the land disputes they encountered and identify possible resolution mechanisms based on deliberation, mediation, and applicable legal principles.

Establishment of Village Legal Cadres

The second stage involved establishing and training village legal cadres who can assist residents in addressing basic legal issues related to land disputes. The cadres were introduced to basic legal concepts, land-related rights and obligations, dispute resolution procedures, and the principles of mediation and Alternative Dispute Resolution.

The village legal cadres are expected to function as an initial source of legal information for the community and as a bridge between residents and formal legal institutions. Their existence is intended to facilitate access to basic legal assistance and encourage residents to pursue peaceful and legally appropriate dispute resolution mechanisms.

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Legal Counseling and Development of Land Law Literacy Modules

The third stage consisted of conducting legal counseling and preparing legal literacy modules concerning land law. The counseling was designed to provide residents with practical knowledge regarding land ownership and control, documentation of land rights, legal procedures for resolving disputes, mediation mechanisms, and Alternative Dispute Resolution.

The legal literacy module was prepared using language and examples that are accessible to the village community. The module is intended to serve as a practical reference for residents and village legal cadres in understanding basic land law and determining appropriate steps when land disputes arise.

Expected Outcomes

Through the implementation of these stages, the community service program is expected to increase the legal literacy of Paccing Village residents regarding land rights and dispute resolution mechanisms. In addition, the program is expected to strengthen the role of the village government, community leaders, traditional leaders, and village legal cadres in facilitating peaceful dispute resolution.

Results and Discussion

Holding a meeting or Focus Group Discussion (FGD) village deliberation as a first step to convey the purpose of the meeting, especially regarding the legal matters of resolving land disputes to the village community, by first coordinating with the local government. From the results of the meeting, a joint agreement was obtained and also the implementation of a program of socialization and legal education activities involving traditional leaders, religious leaders and village officials.



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Establish village legal cadres who are trained to provide basic consultations. Paralegals function as a bridge between society and formal legal institutions.



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Provide assistance in resolving land disputes. Presented in local language so that it is easy for the public to understand legal knowledge.



Settlement of land disputes in Paccing Village is basically carried out more through non-litigation channels, namely by prioritizing deliberation and mediation involving the village government, community leaders and the parties to the dispute. This shows that the community still strongly holds the value of local wisdom in resolving problems amicably without having to take cases to court. Normatively, dispute resolution outside of court is regulated in Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, which provides space for parties to resolve disputes through methods such as negotiation, mediation, conciliation, or expert opinion. In the context of land disputes, mediation is the most frequently used method because it is considered simpler, faster and able to maintain social relations between residents.

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In Paccing Village, the mediation process generally begins with a report from one of the parties to the village government. Next, the village head together with village officials facilitates meetings between the parties to the dispute. In this process, the mediator acts as an impartial mediator, but rather helps the parties to find common ground and mutual agreement. The resulting agreement is usually stated in the form of an official report or peace statement signed by the parties and witnesses.

Based on observations, dispute resolution through mediation in Paccing Village is relatively effective in reducing prolonged conflicts. This is caused by several factors, including social closeness between residents, the active role of the village government, and the existence of mutual respect within the community. Apart from that, low settlement costs and shorter time compared to litigation are the main reasons why people choose mediation.

However, in practice there are still several obstacles encountered. First, the low level of legal awareness in some communities causes a lack of understanding regarding the importance of legal proof of land ownership. Second, not all parties to the dispute are willing to accept the results of mediation, especially if there are strong claims to land objects. Third, the limited ability of mediators at the village level to understand aspects of land law in depth can also affect the quality of dispute resolution. Apart from that, land administration factors also influence the emergence of disputes, such as incomplete land certificates or overlapping ownership data. This is related to the provisions in Law Number 5 of 1960 concerning Basic Agrarian Principles (UUPA) which emphasizes the importance of legal certainty of land rights.

Therefore, it is necessary to strengthen the role of village governments in facilitating mediation, increasing community legal understanding, as well as more intense coordination with the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) so that land dispute resolution can be carried out more effectively, fairly, and provide legal certainty for the parties.

Overall, resolving land disputes through mediation and Alternative Dispute Resolution in Paccing Village shows that the non-litigation approach is still very relevant and effective in the context of village communities, especially in maintaining social harmony and preventing prolonged conflict.

Government Regulation (PP) Number 24 of 1997 is the main legal basis regarding Land Registration in Indonesia which aims to provide legal certainty and legal protection to land rights holders. This regulation replaces PP no. 10 of 1961 and regulates the land registration publication system, registration objects, procedures, and maintenance of land data. Land is something that has a very important value in people's lives. This is because land has economic value, as well as cosmic magic. Indonesia is an archipelagic country that has a very dense population and the majority of the population makes their living as farmers. The level of dependence on land availability for the survival of farmers is very high. The supply of land for residence and agricultural land is very limited. On the other hand, the rate of population growth cannot be stopped, which causes an increase in the need for land. Land plays such an important role in the lives of the Indonesian people that it is regulated in the Indonesian Constitution. In Law Number 1 of 1960 concerning Agrarian Principles, Land is defined as the surface of the earth for human life, land has a very important role because in reality there will be an eternal relationship between humans and land which is the basic capital of life.

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Land disputes are disputes that arise due to conflicts of interest over land. Land disputes cannot be avoided nowadays. This requires improvements in the field of planning and use of land for the welfare of society and most importantly legal certainty therein. The government has made various efforts to resolve land disputes quickly in order to avoid the accumulation of land disputes, which can be detrimental to the community because the land cannot be used because the land is in dispute.

Land disputes in villages are a problem that often arises because land is the main source of life for rural communities, both for residence and agricultural land. Conflicts usually occur due to differences in perception, lack of legal certainty, or clashes between customary rules and state law. If a land dispute occurs in an area, local officials can resolve it immediately and the results of the dispute resolution will be more acceptable to the parties to the dispute. This condition then gave birth to land law reform and at the same time brought about the development of society. Land law reform that precedes the development of land politics must of course start with the development of land law as part of the national legal order.

However, this development must continue to be based on the basic principles of UUPA as the main provisions of national law. Land dispute resolution can be done in various ways, including through court, complaints to the land office and peacefully through mediation. Increasing sustainable national development requires support for legal certainty in the land sector. Land disputes generally fall into the realm of civil law (ownership/rights disputes) or state administrative law (related to certificates), which are based on the Basic Agrarian Law (UUPA). Land disputes can also enter the realm of criminal law if there are elements of forgery or land grabbing. The need for land registration, the implementation of which is assigned by Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles to the Government, is a means of providing the intended guarantee of legal certainty.

Legal literacy is key to preventing land conflicts, especially in villages, because many disputes arise due to people's ignorance about legal rights and procedures. With adequate knowledge, people can manage land in an orderly manner and avoid disputes. Legal Literacy Increases Awareness of Rights. Citizens understand ownership rights, land boundaries and certification procedures so that they are not easily harmed. Preventing manipulation Legal knowledge makes people more wary of land mafias or parties who try to falsify documents. Inheritance disputes or land boundaries between residents can be minimized with clear and mutually understood rules, thereby helping people choose a peaceful path through mediation before taking cases to court. Supporting Legal Certainty By understanding the law, people are encouraged to register land officially so that double claims can be avoided. Villages have their own capacity to resolve problems without always relying on outside parties without always having to rely on courts. This is because the village has a strong social structure, traditional leaders and deliberation mechanisms.

Legal resolution of land disputes in Indonesia can be done through two main routes, namely the non-litigation route (outside the court) and the litigation route (through the court). These two routes have a clear legal basis in the national legal system and can be used according to the characteristics and complexity of the dispute that occurs. Non-litigation land dispute resolution is carried out outside of court by prioritizing deliberation to reach an agreement. This form of settlement includes negotiation, mediation, conciliation and arbitration. The legal basis for resolving disputes outside the

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court is regulated in Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. This law provides space for parties to resolve disputes voluntarily without going through a judicial process, with the aim of achieving a fast, effective and efficient resolution.

In the context of land disputes, mediation is often used because it is considered capable of maintaining social relations between the parties and providing a win-win solution. Apart from that, in land practices, mediation is also facilitated by the village government and the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) based on ATR/BPN Ministerial Regulation Number 21 of 2020 concerning Handling and Settlement of Land Cases.

Settlement of Land Disputes by Litigation If non-litigation settlement does not reach an agreement, then the dispute can be resolved through litigation or court. This settlement is carried out through the General Courts or State Administrative Courts (PTUN), depending on the object and nature of the dispute. The General Court handles civil disputes related to ownership, control or unlawful acts over land. The State Administrative Court (PTUN) handles disputes related to land administration decisions, such as the issuance of land certificates by state administration officials.

The legal basis used in resolving disputes in court includes the Civil Code (KUHPerdata) for civil aspects and Law Number 5 of 1986 concerning State Administrative Courts and its amendments for state administrative disputes. Apart from that, in terms of land, the main basis used is Law Number 5 of 1960 concerning Basic Agrarian Principles (UUPA) which is the basis for legal certainty of land rights in Indonesia.

Conclusion

Community service programs that focus on legal literacy have a real impact on village residents in dealing with and preventing land disputes. Legal resolution of land disputes basically provides two mechanism options, namely through non-litigation which prioritizes deliberation and agreement, and litigation through the courts which is binding and final. The choice of resolution path really depends on the agreement between the parties, the level of complexity of the dispute, and the need for legal certainty. Thus, the existence of these two mechanisms is expected to provide fair, fast and effective legal protection for the community in resolving land disputes. With Literacy, holding regular outreach about land law, ownership rights and dispute resolution procedures through village forums, farmer groups or posyandu will increase understanding of village communities, both through land registration procedures, mediation and litigation, and also strengthening village teams or institutions that specifically handle land issues, so that there is an internal mechanism before disputes are brought to the realm of formal law.

Advice

Based on the results of discussions regarding resolving land disputes through mediation and Alternative Dispute Resolution in Paccing Village, it is hoped that the Paccing Village Government can further increase its role in facilitating the resolution of land disputes through mediation. This can be done by strengthening the function of the village head and village officials as neutral mediators and increasing their ability to understand aspects of land law so that the mediation process can run more effectively and produce a fair agreement for the parties. The importance of conducting outreach and assistance to the community to increase legal awareness, especially regarding the importance of legal land

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ownership and administration such as land certificates. Apart from that, the community is also expected to prioritize resolving disputes through deliberation and mediation before taking the court route to create harmonious social relations.

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