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Implementation of Penal Mediation in Land Grabbing Criminal Acts (Studiesdecision Number 438/Pdt.G/2021/Pn.Jkt.Utr)

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Abstract. *Land has high economic value, and this high economic value is the reason why land is always the object of criminal acts of land grabbing. Criminal acts of land grabbing resolved through the courts have the consequence of long legal proceedings, high costs, and no guarantee that victims of land grabbing will regain ownership of their land. Penal mediation is a new alternative for resolving land grabbing disputes efficiently and optimally. However, penal mediation in land grabbing cases has not been running optimally, especially in Cirebon City. This research is a sociological juridical study. Based on the existing study, it can be seen that mediation in land grabbing cases is not regulated in the Republic of Indonesia National Police Regulation Number 8 of 2021 concerning the Handling of Criminal Acts, but is specifically regulated in Presidential Regulation of the Republic of Indonesia Number 63 of 2013 concerning the National Land Agency of the Republic of Indonesia, and Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 21 of 2020 concerning the Handling and Settlement of Land Cases. Despite these regulations, mediation in resolving land grabbing cases has not been optimally implemented in the community. This is indicated by some communities resolving land grabbing disputes through criminal justice. The weakness of legal substance in the implementation of mediation regulations in land grabbing cases is that the Regulation of the Minister of Agrarian Affairs 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 has not regulated the definition and elements of acts in land grabbing acts, then the Regulation of the Minister of Agrarian Affairs 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 has not regulated the administrative sanctions that can be imposed on perpetrators of land grabbing by the BPN in order to protect the rights of victims of land grabbing. The weakness of the legal structure is that the role of the BPN is not yet optimal in socializing the existence of a land dispute mediation*

mechanism to the community, while the weakness of the legal culture is the low level of public trust in resolving land disputes through mediation at the BPN.

Keywords: *Grabbing; Land; Mediation.*

1. Introduction

Indonesia's agrarian legal policy clearly regulates land rights, enabling the ease of implementing land use for socio-cultural, economic, and national development purposes. The existing regulations regarding land ownership rights have not yet ensured the protection of land ownership. This is evidenced by the high number of land disputes within the community. These disputes often lead to legal disputes regarding land ownership. This situation is evident in cases of unlawful acts related to the allocation and status of land, which contradict Articles 4 and 16 of Law Number 5 of 1960 concerning Basic Agrarian Provisions. One such case is the division of the HGB (Land Title) belonging to the Pantai Indah Kapuk Housing Complex in the coastal area of North Jakarta.

The luxury housing complex Pantai Indah Kapuk (PIK) in North Jakarta, initially had the legal status of its land as a former forest land and was owned by the State. Thus, if the cultivated land has been cultivated for more than five years, a certificate will be issued. The object of the land dispute is the former forest land for which Building Use Rights (HGB) No. 3514 covering an area of 666,000 m² and (HGB) No. 3515 covering an area of 481,500 m² were then issued, on March 19, 1997, located in Kapuk Muara Village, Penjaringan District, North Jakarta, or now known as the luxury housing complex Pantai Indah Kapuk (PIK).[1]

The initial problem arose when HGB no. 3515 was split into four parts, but it contained the owner of 86 hectares of land within the HGB 3515 area has not received compensation from Mandara Developers and is suing in court. Four land certificates are fragments of the HGB 3515 certificate. collateralized to Bank Panin, it succeeded in attracting credit of Rp. 825billion, which ultimately became problematic, and Bank Panin filed for an auction execution through the courts. This was because the issuance of the four HGB certificates for the collateralized land was a fragment of the parent HGB certificate No. 3515, which had long been problematic and had not been resolved through formal legal means.[2]

The land dispute in the coastal area of Indah Kapuk Beach is still being examined in court under case number 438/Pdt.G/2021/PN.Jkt.Utr. Meanwhile, coastal areas

[1]https://www.neraca.co.id/article/6831/kasus-pantai-indah-kapuk-ketika-tanah-negara-dijadikan-agunan, accessed on June 11, 2025.
[2]*Loc, cit.*

are regulated by lex specialis under Law No. 27 of 2007 in conjunction with Law No. 1 of 2014 concerning the Management of Coastal Areas and Small Islands. Spatial planning also uses a different legal basis because it is subject to the coastal zoning plan.[3]

The various cases above show that all parties involved, such as banks, developers, the National Land Agency (BPN) and the DKI Jakarta Provincial Government, must be responsible for state land in the Pantai Indah Kapuk Housing area by exposing fraudulent land ownership practices by entrepreneurs who violate the provisions of banking law, land law and permits issued by the DKI Jakarta Provincial Government.[4]

This act clearly falls into the category of land grabbing. Land grabbing isthe act of controlling, occupying, or taking over land belonging to another person unlawfully, against rights, or in violation of applicable legal regulationsTo clarify this land grabbing case, one method that can be taken is through penal mediation, where the parties involved are the ones obliged to provide strong evidence regarding the issue of land ownership rights in the land grabbing case.

Based on Regulation of the Minister of Agrarian Affairs and Spatial Planning/National Land Agency Number 21 of 2020 concerning the Settlement of Land Cases, land disputes can be resolved through mediation, an initiative of the Ministry of Agrarian Affairs and Spatial Planning/Head of the National Land Agency to facilitate the resolution of land disputes. However, mediation conducted by the National Land Agency in land disputes still faces various obstacles, including:[5]

a. Parties with bad intentions often exploit the mediation process as a way to stall for time, feign forgetfulness, or demonstrate dishonesty in resolving disputes. This first factor is often encountered in mediation at the Land Office, for example, when a relevant party, such as a sub-district head or village head who co-signed the letter of determination of heirs, claims to have forgotten about one of the heirs and therefore does not include their name in the list of heirs.

b. The low level of participation of the disputing parties in resolving land disputes, for example, one of the parties does not fulfill the invitation to attend the mediation process, one or both of the disputing parties find it difficult to make time to carry out mediation so that the BPN often follows the schedule of the parties until it takes more than 30 days for the settlement and one of the parties is reluctant to meet with each other.

[3]*Loc, cit.*
[4]*Loc, cit.*
[5]Eva Mardalena, "Land Dispute Resolution Through Mediation Process at the Kepahiang Regency Land Office: An Islamic Law Perspective", Qiyas, Vol. 7, No. 2, 2022, p. 130.

c. Lack of Human Resources in the Land Office, especially in the Sub-Section for Handling Land Disputes, Conflicts, and Cases, which is tasked with resolving land cases at the local Land Office. With the large number of disputes, conflicts, and cases in the area and only two human resources, there is a dire need for additional manpower so that land cases can be resolved optimally and within the regulatory timeframe of 30 days.

d. There are no firm sanctions from the BPN if one of the disputing parties deliberately obstructs the mediation process, so that the invitation to summon mediation is only considered half-hearted.

The various weaknesses of mediation mentioned above demonstrate the critical need for penal mediation through criminal channels. According to Muladi, the consensus model, which is considered to create new conflicts, should be replaced with the assensus model, as dialogue between disputants to resolve the issue is a very positive step. This concept gave rise to the term ADR, which, according to Muladi, in certain cases better meets the demands of justice and efficiency. ADR is part of the restorative justice concept, which places the judiciary in the role of mediator.[6]

The United Nations Office for Drug Control and Crime Prevention (UNODC) states that restorative justice is a new term for an old concept. The restorative justice approach has been used to resolve conflicts between parties and restore peace in society. Retributive or rehabilitative approaches to crime have been deemed unsatisfactory in recent years, leading to a shift toward a restorative justice approach. The restorative justice framework involves the perpetrator, the victim, and the community in an effort to create balance between the perpetrator and the victim.[7]

According to Adam Graycar, Director of the Australian Institute of Criminology, restorative justice practice requires the support of reintegrative shaming theory in resolving conflicts. Graycar explains, citing Braithwaite's opinion on reintegrative shaming theory, that there are two main aspects inherent in the restorative process. First, to achieve successful reintegration, the process must involve the presence and participation of the community to support the perpetrator and victim. Second, the process requires a feeling of shame (shaming) as a form of condemnation (confrontation) for the wrongdoing between the perpetrator and victim. This restorative approach aims to explain to the perpetrator that the act is reprehensible in society, and to support and respect someone even though their actions are reprehensible. Thus, the goal of the restorative program is to return the perpetrator and victim to society, so that they can become responsible

[6]Muladi, Human Rights, Politics and the Criminal Justice System, Diponegoro University Publishing Agency, Semarang, 1997, p. 67.
[7]United Nations Office For Drug Control and Crime Prevention, Handbook on Justice for Victims, center for International Crime Prevention, New York, 1999, p. 42- 43.

members of society, obey the law, and uphold the values that exist in society.[8]However, the implementation of penal mediation in land grabbing cases is currently elusive. Most criminal land grabbing cases are resolved through prosecution in court, which is time-consuming and expensive, clearly detrimental to landowners.

2. Research Methods

This research is sociological juridical research, so that this research is expected to produce a descriptive study regarding the values of justice for the benefit of society in general and the method of implementing penalties as an alternative to resolving land grabbing cases, this thesis research uses a sociological juridical approach.[9]

3. Results and Discussion

3.1. Penal Mediation in Current Land Grabbing Crimes

Mediation is a criminal law effort to realize restorative justice. Mediation is regulated in the Republic of Indonesia National Police Regulation Number 8 of 2021 concerning the Handling of Criminal Acts Based on Restorative Justice. Article 1 paragraph (3) of the Republic of Indonesia National Police Regulation Number 8 of 2021 concerning the Handling of Criminal Acts Based on Restorative Justice states that:

Restorative Justice is the resolution of criminal acts by involving the perpetrator, victim, the perpetrator's family, the victim's family, community leaders, religious leaders, traditional leaders or stakeholders to jointly seek a just resolution through peace with an emphasis on restoring the situation to its original state.

Article 2 of the Republic of Indonesia National Police Regulation Number 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice states that:

(1) Handling of Criminal Acts based on Restorative Justice is carried out in the following activities:

a. implementation of criminal investigation functions;

b. investigation; or

c. investigation.

[8]Australian Institute of Crimonology, Trends and Issues in Crime and Criminal Justice, Bullying and Victimization In School: A Restorative Justice Approach, No. 219, February 2002, pp.2-3. http://www.aic.gov.au
[9]Soerjono Soekanto, Introduction to Legal Research, Rajawali Press, Jakarta, 1986, p. 42.

(2) The implementation of the Criminal Research function as referred to in paragraph (1) letter a, is carried out by the Community Development and Samapta Polri function holders in accordance with their duties and authority.

(3) The investigation or inquiry as referred to in paragraph (1) letters b and c, is carried out by National Police investigators.

(4) Handling of Criminal Offenses as referred to in paragraph (1) letter a, can be done by resolving Minor Criminal Offenses.

(5) Handling of Criminal Acts as referred to in paragraph (1) letter b and letter c, may result in the Investigation or Inquiry being stopped.

Article 3 of the Republic of Indonesia National Police Regulation Number 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice states that:

(1) Handling of Criminal Acts based on Restorative Justice as referred to in Article 2, must meet the following requirements: a. general; and/or b. specific.

(2) The general requirements as referred to in paragraph (1) letter a, apply to the handling of Criminal Acts based on Restorative Justice in the implementation of Criminal Research, Investigation or inquiry functions.

(3) The special requirements as referred to in paragraph (1) letter b, only apply to the handling of Criminal Acts based on Restorative Justice in Investigation or Investigative activities.

Article 7 of the Republic of Indonesia National Police Regulation Number 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice states that:

The special requirements as referred to in Article 3 paragraph (1) letter b, are additional requirements for the following Criminal Acts:

a. electronic information and transactions;

b. drugs; and

c. then Iintas.

Based on the provisions above, it is clear that the Regulation of the Republic of Indonesia National Police Number 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice only regulates that mediation based on restorative justice can only be carried out on:

a) Minor crimes;

b) Information and electronic transaction crimes;

c) Criminal acts of drug use and addiction; and

d) Traffic violation.

In such a situation it is clear that the problem of criminal acts of land grabbing as referred to in Article 167 and Article 385 of the Criminal Code cannot be resolved through mediation. Basically, land dispute mediation can be carried out by the National Land Agency. Article 2 of Presidential Regulation of the Republic of Indonesia Number 63 of 2013 concerning the National Land Agency of the Republic of Indonesia states that "The National Land Agency of the Republic of Indonesia has the task of carrying out government duties in the land sector nationally, regionally, and sectorally in accordance with the provisions of laws and regulations." Then Article 3 letter h of Presidential Regulation of the Republic of Indonesia Number 63 of 2013 concerning the National Land Agency of the Republic of Indonesia then states that:

In carrying out the duties as referred to in Article 2, the BPN RI carries out the function of formulating and implementing policies in the field of reviewing and handling land disputes and cases.

Based on this understanding, dispute resolution through mediation needs to be popularized, particularly for land disputes. This is because, in addition to its potential use, the National Land Agency's primary duties and functions can include dispute resolution through mediation, as regulated in Presidential Regulation of the Republic of Indonesia Number 63 of 2013 concerning the National Land Agency of the Republic of Indonesia. regarding mediation in land grabbing cases is specifically regulated in the Regulation of the Minister of Agrarian Affairs 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. According to Article 1 paragraph (11) of the Regulation of the Minister of Agrarian Affairs 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, it states:

Mediation is a method of resolving cases through a negotiation process to reach an agreement carried out by the parties facilitated by the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency, Regional Office of the National Land Agency, Land Office according to its authority and/or land mediator.

Article 5 of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 21 of 2020 concerning the Handling and Settlement of Land Cases states:

Cases that constitute Disputes and Conflicts are classified into 3 (three) classifications:

a. Serious Cases are cases that involve many parties, have complex legal dimensions, and/or have the potential to cause social, economic, political and security unrest;

b. Moderate Cases are cases between parties whose legal and/or administrative dimensions are clear enough that if the resolution is determined through a legal and administrative approach, it will not cause social, economic, political or security upheaval;

c. Minor Cases are Complaint Cases or requests for guidance that are technical and administrative in nature and the resolution is sufficient with a Settlement Instruction Letter to the complainant or applicant.

Article 6 of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 21 of 2020 concerning the Handling and Settlement of Land Cases states:

(1) Handling of Disputes and Conflicts is carried out through the following stages:

a. Case Review;

b. Initial title;

c. Study;

d. exposure of research results;

e. Coordination Meeting;

f. Final degree; and

g. Case Resolution.

(2) Dispute and Conflict Handling is carried out in sequential stages.

(3) In the case of Disputes and Conflicts classified as Moderate or Light Cases, handling can be carried out without going through all the stages as referred to in paragraph (1).

(4) Documents resulting from the Handling of Disputes and Conflicts as referred to in paragraph (1) which are still in process are confidential.

Although provisions regarding mediation in land grabbing cases have been established, in reality, aggrieved parties often resort to criminal law. This societal paradigm results in many land grabbing cases being resolved through criminal law.

This is demonstrated by the widespread occurrence of land disputes within the community. These disputes often lead to legal disputes regarding land ownership. This situation is evident in cases of unlawful acts related to land use and status regulations that violate Articles 4 and 16 of Law Number 5 of 1960 concerning Basic Agrarian Provisions. One such case is the division of the HGB (right to build) belonging to the Pantai Indah Kapuk Housing Complex in the coastal area of North Jakarta.

The luxury housing complex Pantai Indah Kapuk (PIK) in North Jakarta, initially had the legal status of its land as a former forest land and was owned by the State. Thus, if the cultivated land has been cultivated for more than five years, a certificate will be issued. The object of the land dispute is the former forest land for which Building Use Rights (HGB) No. 3514 covering an area of 666,000 m² and (HGB) No. 3515 covering an area of 481,500 m² were then issued, on March 19, 1997, located in Kapuk Muara Village, Penjaringan District, North Jakarta, or now known as the luxury housing complex Pantai Indah Kapuk (PIK).[10]

The initial problem arose when HGB no. 3515 was split into four parts, but it contained the owner of 86 hectares of land within the HGB 3515 area has not received compensation from Mandara Developers and is suing in court. Four land certificates are fragments of the HGB 3515 certificate. collateralized to Bank Panin, it succeeded in attracting credit of Rp. 825billion, which ultimately became problematic, and Bank Panin filed for an auction execution through the courts. This was because the issuance of the four HGB certificates for the collateralized land was a fragment of the parent HGB certificate No. 3515, which had long been problematic and had not been resolved through formal legal means.[11]

The land dispute in the coastal area of Indah Kapuk Beach is still being examined in court under case number 438/Pdt.G/2021/PN.Jkt.Utr. Meanwhile, coastal areas are regulated by lex specialis under Law No. 27 of 2007 in conjunction with Law No. 1 of 2014 concerning the Management of Coastal Areas and Small Islands. Spatial planning also uses a different legal basis because it is subject to the coastal zoning plan.[12]

The above case shows that all parties involved, such as banks, developers, the National Land Agency (BPN) and the DKI Jakarta Provincial Government, must be responsible for state land in the Pantai Indah Kapuk Housing area by exposing fraudulent land ownership practices by entrepreneurs who violate the provisions of banking law, land law and permits issued by the DKI Jakarta Provincial Government.[13]

The next case concerns a land grab in Baelangu Kidul Village, Gegesik District, Cirebon. The problem began when the plot of land was included in the mass land certification program for the PTSL (Complete Land Registration) program. However, the land area was reduced, and even more bizarrely, several families noticed signatures from family members who had never been identified in the PTSL

[10] https://www.neraca.co.id/article/6831/kasus-pantai-indah-kapuk-ketika-tanah-negara-dijadikan-agunan, accessed on June 11, 2025.
[11] *Loc, cit.*
[12] *Loc, cit.*
[13] *Loc, cit.*

documents.[14]In this case, it was also resolved through civil court channels at the Cirebon City District Court.

This act clearly falls into the category of land grabbing. Land grabbing isthe act of controlling, occupying, or taking over land belonging to another person unlawfully, against rights, or in violation of applicable legal regulations to clarify this land grabbing case, one approach is through penal mediation, where the parties involved are obligated to provide strong evidence regarding land ownership rights in the land grabbing case. However, in reality, Indonesian National Police Regulation Number 8 of 2021 concerning Handling does not regulate mediation in land grabbing cases. According to AKP Adam Gana, Head of the Criminal Investigation Unit of the Cirebon Police, resolving land grabbing disputes through the courts will result in high costs and lengthy resolution of land grabbing cases. Furthermore, judges often fail to rule in favor of the plaintiff. This will result in increased losses for land grabbing victims, particularly material losses.[15]This situation clearly shows injustice for victims of land grabbing.

John Rawls defines justice as the primary virtue inherent in social institutions. However, this virtue for the entire society cannot override or challenge the sense of justice of every individual who has attained it, especially those in the weaker sections of society who seek justice.[16]Furthermore, John Rawls essentially views social justice more as an aspect of the form of distribution of justice within society. Justice is translated as fairness, a principle developed from utilitarian principles. This theory is adopted from the maximin principle, namely the process of maximizing a minimum in a society carried out by each individual in an initial position where there is no bargaining regarding the role and status of a member of society. This principle seeks to answer as far as possible about maximizing a minimum that is closely related to the benefits of the lower, weak sections of society.[17]

Based on John Rawls's Theory of Justice, there are two main objectives to be conveyed, namely: First, this theory wants to articulate a series of general principles of justice that underlie and explain certain conditions of a person specifically to obtain justice seen from the social actions carried out by a person. Second, the concept of distributive justice is basically developed from the concept of utilitarianism by providing more appropriate limits to individuals. That justice is

[14]Interview with Wahyudin as a resident affected in the caseland grabbing in Baelangu Kidul Village, Gegesik District, Cirebon, on September 12, 2025.
[15]Interview with AKP Adam Gana, Head of Criminal Investigation Unit of Cirebon Police, on September 12, 2025.
[16]Pan Muhammad Fais, John Rawls' Theory of Justice, Constitutional Journal, 2009, p. 135.
[17]John Rawls, Theory of Justice, Pustaka Pelajar, Yogyakarta, 2011, translated by Uzair Fauzan and Heru Prasetyo, pp. 12-40.

seen as a more appropriate and ethical way to provide benefits to individuals in accordance with ethical moral decisions.[18]

According to Rawls, the concept of justice must be initiated based on a person's true position, not their status or position in the social sphere. To attain this true nature, a person must attain their true position, known as the veil of ignorance. This veil of ignorance is intended to place a person in the same position as other members of society, in a state of ignorance. Therefore, in this situation, others are unaware of the benefits of giving something to someone who has reached the point of "the veil of ignorance."[19]

Furthermore, in the "veil of ignorance" condition, society is tasked with distributing the primary goods that each individual desires to have. Primary goods are basic human needs as rights that must be fulfilled. Thus, society's way of distributing rights is by applying the principle of justice, which consists of: a) freedom to participate in political life; b) freedom of speech; c) freedom of belief; d) freedom to be oneself; e) freedom from arbitrary arrest and detention; f) the right to defend private property.[20]

In conclusion, John Rawls's justice seeks to place each individual's rights as they should be by removing the attributes of their position within the social structure, thus ensuring equal distribution of rights.

3.2. Weaknesses in the Regulation of Penal Mediation in Criminal Land Grabbing Cases

1) Weaknesses of Legal Substance

The weakness of the legal substance related to the implementation of mediation in the provisions of the Republic of Indonesia National Police Regulation Number 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice only regulates that mediation based on restorative justice can only be carried out on:

a. Minor crimes;

b. Information and electronic transaction crimes;

c. Criminal acts of drug use and addiction; and

d. Traffic violation.

As for mediation in cases of land grabbing, it can be done on the basis ofPresidential Regulation of the Republic of Indonesia Number 63 of 2013

[18]John Rawls, A Theory of Justice, Oxford University, London, 1973, pp. 50-57.
[19]John Rawls summarized by Damanhuri Fattah, Theory of Justice According to John Rawls, TAPIs Journal Volume 9 No.2 July-December 2013, p. 42.
[20]Ibid., p. 43.

concerning the National Land Agency of the Republic of Indonesia. However, this provision does not regulate the supervision of mediation results in land grabbing cases.

Presidential Regulation of the Republic of Indonesia Number 63 of 2013 concerning the National Land Agency of the Republic of Indonesia also does not clearly regulate the mechanism related to the implementation of the BPN's role as a mediator in carrying out its mediation function in land grabbing cases. The regulation of mediation in land grabbing cases is specifically regulated in the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 21 of 2020 concerning the Handling and Settlement of Land Cases. Although the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 21 of 2020 concerning the Handling and Settlement of Land Cases specifically regulates the mechanism of the BPN's role in mediating in land grabbing cases, the provisions of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 21 of 2020 concerning the Handling and Settlement of Land Cases still do not regulate several important matters, namely:

1) Regulation of the Minister of Agrarian Affairs 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 has not regulated the definition and elements of acts in land grabbing.

2) Regulation of the Minister of Agrarian Affairs 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 has not yet regulated the administrative sanctions that can be imposed on perpetrators of land grabbing by the BPN in order to protect the rights of victims of land grabbing.

2) Weaknesses of Legal Structure

The problem of the legal vacuum in regulating mediation in land grabbing cases as explained above results in Land grabbing mediation still has several weaknesses. that is:[21]

1) Parties with bad intentions often exploit the mediation process as a way to stall for time, feign forgetfulness, or demonstrate dishonesty in resolving disputes. This first factor is often encountered in mediation at the Land Office, for example, when a relevant party, such as a sub-district head or village head who co-signed the letter

[21]Eva Mardalena, "Land Dispute Resolution Through Mediation Process at the Kepahiang Regency Land Office: An Islamic Law Perspective", Qiyas, Vol. 7, No. 2, 2022, p. 130.

of determination of heirs, claims to have forgotten about one of the heirs and therefore does not include their name in the list of heirs.

2) The low level of participation of the disputing parties in resolving land disputes, for example, one of the parties does not fulfill the invitation to attend the mediation process, one or both of the disputing parties find it difficult to make time to carry out mediation so that the BPN often follows the schedule of the parties until it takes more than 30 days for the settlement and one of the parties is reluctant to meet with each other.

3) Lack of Human Resources in the Land Office, especially in the Sub-Section for Handling Land Disputes, Conflicts, and Cases, which is tasked with resolving land cases at the local Land Office. With the large number of disputes, conflicts, and cases in the area and only two human resources, there is a dire need for additional manpower so that land cases can be resolved optimally and within the regulatory timeframe of 30 days.

4) There are no strict sanctions from the BPN if one of the disputing parties deliberately obstructs the mediation process, so that the invitation to summon mediation is only considered half-hearted.

3) Weaknesses of Legal Culture

According to Ferawati, Head of the Dispute Control and Handling Section of the Cirebon ATR/BPN Office, the reasons why the community is unwilling to resolve land grabbing disputes through mediation at the BPN are:[22]

a. The problem of land grabbing is long-standing and complex:

Long-standing disputes become increasingly complex. The longer a case is delayed, the more difficult it is for the mediator to find a solution.

b. Distrust:

Communities may not trust third parties or mediators, especially if there is interference from other parties or land mafia practices that make the mediation process feel unfair or intransparent.

c. Unclear land administration:

Problems such as duplicate certificates or unclear ownership documents (for example, still in the form of girik) make people prefer legal channels in court, where legally issued decisions are considered stronger and more binding.

[22]Interview with Ferawati as Head of the Dispute Control and Handling Section of the Cirebon ATR/BPN Office, on June 12, 2025.

d. Lack of good faith:

One or both parties may not demonstrate good faith in resolving the dispute amicably, as evidenced by their failure to attend scheduled mediation sessions.

e. Bad negotiation experience:

Disputing parties may give up quickly or fail to maximize their efforts during mediation. This often occurs because they have too high expectations or become discouraged quickly.

f. Preference for legal channels:

Some people may believe that litigation (court) is more effective because it can produce a firm and final decision. They consider mediation too "soft" and doesn't provide the same legal certainty.

4. Conclusion

Mediation in cases of land grabbing is not regulated in Regulation of the Republic of Indonesia National Police Number 8 of 2021 concerning Handling of Criminal Acts, but specifically regulated in Presidential Regulation of the Republic of Indonesia Number 63 of 2013 concerning the National Land Agency of the Republic of Indonesia, and Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 21 of 2020 concerning the Handling and Settlement of Land Cases. Despite these regulations, mediation in resolving land grabbing cases has not been optimally implemented in the community. This is indicated by some communities resolving land grabbing disputes through criminal justice. The weakness of legal substance in the implementation of mediation regulations in land grabbing cases is that the Regulation of the Minister of Agrarian Affairs 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 has not regulated the definition and elements of acts in land grabbing acts, then the Regulation of the Minister of Agrarian Affairs 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 has not regulated the administrative sanctions that can be imposed on perpetrators of land grabbing by the BPN in order to protect the rights of victims of land grabbing. The weakness of the legal structure is that the role of the BPN is not yet optimal in socializing the existence of a land dispute mediation mechanism to the community, while the weakness of the legal culture is the low level of public trust in resolving land disputes through mediation at the BPN.

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