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# 1 Patterns of Social Justice based Conflict Resolution in Land Procurement: A Case Study in Yogyakarta International Airport Development

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The inhibition of the construction of the International Airport in the Special Region of Yogyakarta is caused by the rejection of the affected community because some of the land that is the construction site belongs to the community and the other part belongs to the PAG (Paku Alam Ground). It is because of the status of this land that causes the community to take the fight in addition to the compensation factor being unclear, lack of certainty of relocation and employment problems. If the conflict does not receive serious attention and does not look for a solution that can be accepted by all parties to the dispute, it is feared that it will accumulate in the form of violence. This study intends to formulate a pattern of conflict resolution based on social justice in land acquisition for the construction of an International Airport in the Special Region of Yogyakarta. This research is an empirical study, using a sociological juridical approach. The data analysis uses descriptive qualitative methods. The pattern of conflict resolution is based on social justice. A resolution of conflicts outside the court in the form of deliberation and mediation, with due regard to the same rights in politics, economics and social, among others is by the right to express an opinion, the right to get compensation and the right to get a job, and so produces a fair decision in the sense that no party feels disadvantaged and it can be accepted by the parties to the dispute, so that the principle of social justice can be created.

**Key words:** *Land acquisition, development, conflict resolution, social justice.*



## Introduction

1 Land conflicts are classic problems, and are always everywhere. Therefore conflicts related to land always take place continuously, because everyone has interests related to land (Sarjita, 2004). In the current reform era, land conflicts arise because of conflicting personal interests and conflicting interests between groups. In addition, it is also due to a conflict between the public interest and the interests of individuals and community groups. A concrete example of a vertical conflict is between the farmers of Tanak Awu Village and PT Angkasa Pura (Government's Interest). Horizontal land conflicts that occur among the community are caused by inheritance issues, regional splitting and blurring of boundaries as happened in the Weru Subdistrict, namely the border conflict between Nunggi village and Werapada village in 2006 (Asmara et al., 2010).

1 Land issues are issues that always arise and are always actual from time to time, along with the increasing spread of developmental development, and increasingly widespread access to various parties who acquire land as basic capital in various interests (Pahlevi, 2014). According to the opinion of Sumardjono (2001), who conveyed the existence of land issues, these are grouped into four, namely: (1) the problem of cultivating the people on land in forestry, plantation and other areas (2) Problems relating to violations of the provisions regarding land reform, (3) Excesses in providing land for development purposes and (4) Civil disputes relating to land issues.

In connection with the above, what needs to be done is to find a way or pattern of resolving the conflict. History has proven that the resolution of conflicts between communities and the government, whether that causes violence or not, shows that conflicts cannot be resolved with violence such as seen in the Kedung Ombo case in Solo, the iron sand case in Kulon Progo and so on.

1 The construction of the International Airport in the Kulon Progo Special Region of Yogyakarta is an effort of the government in anticipating the condition of the Adi Sucipto International Airport which is in a condition that cannot be developed anymore. For this reason the government relocated Adi Sucipto Airport to Kulon Progo. This is based on Regional Regulation Number 1 of 2012 concerning the spatial planning and Kulon Progo area of 2012-2032 which is supplemented by Law Number 2 of 2012 concerning land acquisition for development for public use, and is also based on DIY Governor's decree number 68 / KEP / 2015 and Supreme Court's cassation ruling No. 456 K / TUN / 2015.

These various policies did not make it easy to carry out the airport construction process, and even the process has stalled since June 2015 following the decision of the Yogyakarta State Administrative Court (PTUN) Judge which revoked the construction permit. The revocation



is a response to Wahana Tri Tunggal's claim to reject airport construction. This was done by the affected communities because most of the land that became the construction site was owned by the community, this land status factor caused the community to take to the fight, aside from the unclear compensation factor as well as the uncertainty of relocation for the affected communities, which then resulted in the airport construction process being hampered.

If the land conflict in Kulon Progo, which resulted in delays in the construction of the international airport, does not receive serious attention and does not look for a settlement pattern that can be accepted by the parties to the dispute, is feared to accumulate into the form of violence. This happens because the conflict resolution pays little attention to social justice for the parties to the dispute. In this connection, this research intends to formulate a pattern of land justice resolution based on social justice in land acquisition for the construction of an International Airport in the Special Region of Yogyakarta. Based on the background above, the problems examined in this study are: What is the pattern of resolving conflicts based on social justice in land acquisition for the construction of an international airport in the Special Region of Yogyakarta?

### Research Methods

This research is an empirical legal research, while the approach used in this study is a sociological juridical approach. This research was conducted in the Temon Subdistrict, the Kulon Progo Regency, the Special District of Yogyakarta and right in five villages, namely Palihan Village, Glagah Village, Sindutan Village, Jangkaran Village and Kebonrejo Village. Sources of data were obtained from informants who had been chosen purposively, consisting of cons community members who were members of the Trinity vehicle, PT Angkasa Pura, BPN parties, the local government and the Legal Aid Institute. Data analysis in this study was conducted in a descriptive qualitative manner.

### Non-Litigation Conflict Resolution

Resolving conflicts that occur in society in general can be done in two ways, namely: by using the court (litigation) and by staying outside the court (non litigation). Both ways of resolving conflicts have different views according to the goals, culture or values that are believed by the parties to the dispute.

Conflict resolution outside the court (non-litigation) is taken to avoid long and convoluted bureaucratic mechanisms, and non-judicial aspects in the form of interference from certain parties outside the authority to adjudicate, so that it will have implications for decisions that deviate from the nature of justice, which in turn ultimately causing the formal mechanism to



not always get a broad response from the community. This condition is often exacerbated by the inability of the judiciary to handle cases that are increasingly piling up (Abdullah, 2002). Conflict resolution by using the court (litigation) the process takes a long time, the cost is expensive, is not responsive, the ability of judges is very limited, the decision is confusing, the decision does not provide legal certainty and does not solve the problem and can even actually add to the problem (Harahap. 1997; Harahap, 2007).

<sup>1</sup> Dispute settlement outside the court according to Galenter provides an illustration that justice is not only obtained through state courts, but justice can also be obtained in certain social environments such as family, neighbourhood, workplace, kinship relations, business relations, etc., as social institutions of the norm system and local rules according to traditions maintained by the community (Galenter, 1981).

As for the forms of conflict resolution, Ralf Dahrendorf's (1967) opinion can be stated as follows; First, the form of conciliation in this form of conflict is resolved through parliament or parliamentary seats. Both parties discuss and debate openly to reach agreement. Second, the form of mediation, which is a process of resolving conflicts between two or more parties through negotiations or by means of consensus with the help of neutral parties (third parties) who do not have the authority to decide (Rahmadi, 2010). Mediation is a simple and practical effort in adjusting disputes, which is preceded by finding and bringing together problem-solving agreements, assisted by one or more people acting as a mediator who are neutral and only functions as a facilitator. The final decision rests with the authority of the disputing party as <sup>5</sup> outlined in a joint decision (Absori & Mahdi, 2016). Dispute resolution <sup>6</sup> through this form, based on the agreement of the two parties to the dispute, has the problem resolved through the assistance of someone or an expert advisors or through a mediator (Sarjita, 2005). Third, the form of arbitration means that both parties agree to get a legal decision as a solution to the conflict. Here the person in the role of resolving conflicts is an arbitrator.

#### <sup>10</sup> Arbitration and Alternative Dispute Resolution in Indonesia

Conflict resolution has, in addition to the three methods mentioned above, in practice in Indonesia, also <sup>6</sup> known ways of resolving conflicts through deliberations whose existence is recognized by Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. This is stated in article 6 and its explanation, which states:

"In Chapter II it is regulated regarding alternative dispute resolution through deliberation by the parties to the dispute. Alternative dispute resolution (ADR) is a dispute resolution agency or dissent through a procedure agreed by the parties, namely settlement outside the court by means of consultation, negotiation, mediation, conciliation or expert judgment".



In general, negotiation is a way or effort to resolve conflicts by parties without going through a judicial process with the aim of reaching mutual agreement on the basis of more harmonious and creative cooperation. Here the parties to the conflict come carefully face to face in discussing what the conflict in a cooperative and open way. Another opinion expressed by Hadi Mulyo which states that deliberation is a process that takes place voluntarily between the parties directly face to face to obtain agreement that can be accepted by both parties regarding a particular issue or problem (Hadimulyo, 1997).

Of the several ways of resolving the conflict, the deliberation method of resolving conflicts in accordance with the methods carried out by the community to resolve land conflicts in the construction of the International Airport in Yogyakarta Special Region. This shows the existence of community adherence to the ideal norms that live in society. The phenomenon is seen from the functional structural theory, in that a person's actions are influenced by the values prevailing in society. In this perspective, the role of culture is a determinant of one's behaviour, including using forums to resolve conflicts faced by such behaviour oriented to values, which is related to normative standards that control individual parties (Ritzer, 1988).

Deliberation is carried out to formulate the wishes or desires of the community, from the results of the deliberations it then moves to mediation. Mediation is carried out by the parties to the dispute which can consist of one or more people, in this case the party whose role as mediator is an entity with the disputing party and is impartial. In this case the mediator only facilitates the parties and the disputing parties themselves submit the solution. The mediator is an intermediary (or liaison) for the parties to the dispute (Absori & Mahdi, 2016). In this case the mediator does not have the authority to decide disputes between the parties. But in this case the parties try the help of the mediator to help them solve the problems between them. Mediation as a form or method of dispute resolution can be found in several laws and regulations in various forms of dispute context, one of which is mediation for the resolution of land disputes (Absori, 2014).

The alternative dispute resolution model according to John Burton (1969) is closer to the settlement model called settlement of dispute, in which there is authority and law, which can be asked to the parties by the mediator to be implemented. In this case the traditional approach to management and dispute management is generally based on mediation and negotiation. This approach will only work if the parties to the dispute agree to negotiate and have something tangible to offer (Absori, 2014).

Alternative dispute resolution models with mediation according to C.W. Moore (1991) are described as an intervention against a dispute or negotiation by an acceptable third party, who is impartial and neutral, and does not have the authority to take decisions in helping the disputing parties in an effort for them to reach agreement voluntarily in resolving the



disputed problems of the parties (Absori et al., 2008). The purpose of dispute resolution through mediation is first, to produce a future agreement plan that can be accepted and carried out by the parties to the dispute. Second, prepare parties to the dispute to accept the consequences of the decisions made. Third, reduce the worries and other negative impacts of a conflict by helping the disputing parties to reach consensus resolution (Emirzon, 2001).

The pattern of resolution of land conflicts based on social justice, refers to the well-known theory of social justice from John Rawls (1999). The principle of Rawls justice consists of two things. The first principle states that every person or citizen must get the same rights from the entire social system in getting the most essential freedom offered to humans. This freedom is contained in a set of rights inherent in each individual, such as the right to express an opinion, the right to associate, the right to participate and be active in the political and social system, and the right must apply equally to each individual. This first principle is called the principle of freedom and basic human rights that needs to be obtained equally for every individual.

The second principle states that social and economic inequality are regulated in such a way as to provide the greatest benefits to the most disadvantaged in society. With the presence of the principles of both parts (1), section (2) provides a fair opportunity for everyone to get an equal opportunity in the whole social, political, economic system. Then the task of government, society, and individuals is absolutely necessary to be carried out in order to fulfil all of these principles.

John Rawls has perfected the principles of justice as follows: First, everyone has the same claim to fulfil his basic rights and freedoms of the same type and freedom for all people, and the same political independence is guaranteed with values that are guaranteed to be fair; Second, social and economic inequality can be met on the basis of two conditions, namely: (a) is attached to positions that are open to all people under conditions of equal opportunity; and (b) maximum benefits for the most disadvantaged members of the community (Faiz, 2009).

The principle of social justice is what John Rawls applied to the main social institutions that support social structures such as political constitutions, economic and social principles. The principle of social justice regulates how major social institutions distribute primary values including freedom and opportunity, income and wealth. The point is that the main problem of social justice is political, economical and social (Samsuri et al., 2018).

John Rawls stressed that in the context of the welfare state as in the implementation of social justice the values of justice must be reflected in each of the legal products. These values show that every person has the same right to the most basic freedoms, the same freedom for



all. The socioeconomic gap must be set in such a way as to benefit the most disadvantaged and all positions are open to all.

<sup>1</sup> The synchronisation of the concept of social justice and the welfare state is in line with the value of social justice stipulated in the Pancasila as the ideological foundation and the 1945 Constitution as the constitutional basis of Indonesia. The meaning of the precepts of Pancasila being God, Justice, and Civilization has become a synergistic measure. Justice, freedom, and welfare in that unjust freedom will only bring destruction. The democratic system must lead to the welfare of society, because democracy without the welfare of society becomes useless. Welfare must bring justice, because unjust welfare is not equitable welfare for all Indonesian people (Asshiddiqie, 2011).

Social justice includes economic justice, political justice, legal justice, and so forth, given the concept of social justice is related to complex social welfare and related to various aspects in society. Thus the values in social justice in the form of values that give priority to the community in disadvantaged conditions so that disadvantaged people are able to meet their basic needs. Values protect the interests balanced and equal, and are values agreed upon by the community with a valid agreement (Saksono, 2008; Pramono & Sularto, 2017).

The Divine Precepts require recognition of human existence by realising human rights that God has created humans with guaranteed rights. <sup>8</sup> just and civilised precept of humanity requires justice in relations between individuals through the realization of the rights and obligations of each individual, providing a balance by dividing the rights and obligations of each individual. The precepts of Indonesian unity are reinforced by the populist precepts led by wisdom for representative deliberation requiring the recognition of the right of individuals to express their aspirational rights freely, and to agree on values which must then be obeyed. The principle of social justice requires a balance in the realisation of justice of each individual in ensuring equality in the realisation of basic rights. Thus the value of social justice is effectively accepted by the community as a regulated party if the principle is able to guarantee and accommodate the interests of all parties, it reflects a balanced distribution of rights and obligations, has the same benefits and burdens, and all parties gain freedom and equality in realising basic rights. The concept of justice has actually been put forward a lot, including justice is proportional; justice is a balance between rights and obligations and so forth. Likewise the classification of justice, for example Aristotle divides justice into commutative and distributive justice. There is also a division of justice into legal justice, moral justice, and social justice (Syamsudin, 2013).





## Conclusion

The pattern<sup>1</sup> of conflict resolution based on social justice, namely by using the method of resolution<sup>1</sup> outside the court in the form of deliberation and mediation by taking into account the same rights in politics, economics and social aspects, among others, the right to express an opinion, the right to get compensation and the right to get relocation or work, so as to produce a fair decision in the sense that no party is harmed and the decision can be accepted by<sup>2</sup> the parties to the dispute. Besides that the value of social justice, which can be realised<sup>2</sup> if it is able to guarantee and accommodate the interests of all parties, reflects a balanced distribution of rights and obligations, has the same benefits and burdens, and all parties gain freedom and equality in realising basic rights.



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