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Optimization of Land Case Settlements through Mediation Methods and Local Wisdom Approaches

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Abstract

Land cases in Indonesia consist of disputes, conflicts and land cases and their resolution through the courts is deemed ineffective. About 80% of cases in court are land related, and only about 10% can be handled annually. This study aims to find alternative land dispute resolution outside the judiciary by using normative legal research methods, normative juridical approaches, using secondary data to analyze primary, secondary, tertiary legal materials using qualitative juridical analysis techniques. The research found alternatives to land dispute and conflict resolution through mediation methods and local wisdom approaches. The research results explain that The problem with the making of laws and regulations that legislators do not pay careful attention to whether the rules they make are enforceable or not (the effectiveness of the law), and the rules that are made are not realistic, making it difficult to apply

Keywords

Dispute, Mediation and Land Court

1. Introduction:

Since the enactment of Law no. 5 of 1960 concerning Basic Agrarian Basic Regulations (in the future abbreviated as UUPA), Disputes, Conflicts and Land Cases (SKP) the graph has not been dropped, this further shows the vision and mission of the UUPA which has been 60 years old and intends to carry out a constitutional mandate (through the process of normalization of Article 33 (a) 3) into Law no. 5 of 1960) to regulate (*regelen*), manage (*bestuuren*), control (*tozichthouden*), make policies (bleid) and manage (*beheer*) control, ownership, use and utilization of land into something vague (vissingless) and without a clear direction (*missingless*) (Aslan Noor, 2019).

In fact, to date, judicial cases in Indonesia are dominated by land cases (under 80%), and this has been going on for almost three decades, Land problems in Indonesia are delegates and can be categorized as prone. The management of land rights characterized by Indonesian typical has not yet been thoroughly regulated in the legal structure in Indonesia (Umar, 2020). This can be seen from the mandate of Article 50 of the UUPA, which postulates that the Indonesian Nation's land ownership system will be further regulated by law. Not to mention the birth of the law on National Property Rights (in the 2019-2024 Rensra Prolegnas it is known as the Land Bill), land turmoil continues to be grounded as if it has never been broken by bad luck. It is indeed strange, it is odd that 60 years of the existence of the UUPA (Law No. 5 of 1960), the Law on Land Ownership for the Indonesian Nation has not been well designed, let alone legalized, is far from being burned (Ernis, 2019).

Consequently, many of the principal regulations in the substance of the new LoGA are normative an-such (elaboration norms) which in turn are stagnant in the field (Yarsina, 2018).

Driven by the desire to integrate the original owner of the Indonesian Nation with various needs, UUPA creates new uniqueness, which often makes problems in its implementation, such as: agrarian law is customary law. Still, the substance of everyday law arrangements is minimal, property rights are rights. Strongest and fulfilled, but always the weakest when dealing with State Ownership Rights (HPN), a state that is only said to control, but on the other hand has the authority to give birth to individual rights to land, prohibition of abandoning land which will be the basis for the abolition of ownership rights over land with put aside the principle that land is seen as a human right

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and so on.

The factual matters above increasingly show the number of basic rules in the UUPA that are normative an-syih (elaborate norms are not vague norms), so it is necessary to regulate with the Land Law as mandated by Article 50 of the UUPA (Yarsina, 2018).

The number of complaints from the community affected by the eviction of their land with arguments or development attributes, the slow handling of disputes and the unclear philosophical direction of solving land problems in various types of handling both in the judiciary process (litigation) and through dating (mediation / non-letdown) based on deliberation increasingly shows the complexity and be polemic of land cases in Indonesia from time to time (Ismi, 2018).

Indonesia as a democratic constitutional state, laws and regulations should be made as thorough as possible. This means that land issues have been regulated appropriately and measured. Thus, these laws and regulations can be implemented immediately without waiting for rules or technical instructions for their implementation. Thus, it will limit the arrogance of high-ranking state officials to be guilty of use (ten to corrupt) both in upholding and carrying out the mandate of justice seekers.

Various land issues (land disputes and conflicts) handled by the Directorate General of Agrarian Affairs, Spatial Use and Land Use of the Ministry of Agrarian and Spatial Planning/National Land Agency 2019/2020 consisted of 8,959 cases, 56% of which consisted of: disputes between communities, between neighbors and neighbors, boundary disputes. 15% of conflicts, between people and legal entities, between individual communities and private legal entities, between private legal entities and private legal entities (mostly HGU holders), and between communities / private legal entities and BUMN (state-owned enterprises), the rest were court cases that could not be implemented.

The inventory of land cases in the National Commission on Human Rights, averaged from 1996 to the present, has recorded 23 cases concerning compensation, 11 cases concerning evictions. This further shows that land plays a central role in the life and economy of Indonesia which is agrarian. The more turbulent land problems, the more people's respect for land (causa prima) increases and the turmoil of population growth which is increasingly booming from year to year. Within 30 years, the population growth has almost doubled (two hundred percent). Meanwhile, the land is not increasing, which is sure to decrease along with the use and the disaster factors that continue to hit Indonesian soil at the end of this xx century.

In this regard, (Alting et al., 2015) reveals that the land problems of the next quarter-century will come to a very grave point. He further stated that in 1955 alone, the land owned by the peasants was deemed no longer sufficient to support a family. It needs to be watched out, that the population will continue to increase. At the same time, the available land remains even decreasing due to disasters, tragedies and other environmental disturbances as an impact of the treatment of humans who do not comply with ecological principles (or tend to be wasteful and destructive to pursue mere economic pursuits).

The island of Java / Madura is currently more than 50% of the population in the Indonesian archipelago. Each kilo square meter of Java / Madura land is estimated to have a population density of more than 1000. Naturally, the islands of Java and Madura can be categorized as an island city (island city) (Arisaputra, 2019). This is even more so if population growth and RTRW planning are not designed as preventive efforts. Such symptoms have increasingly triggered an increase in respect for and at the same time land problems for the community. Even Javanese philosophy it states, *"sadumuk bathuk sanyari bumi*, must be covered by pati" (In cases involving women and land if disturbed, they will be defended or fought for, even if their lives are at stake. This phenomenon encourages the emergence of an individualistic ideology in the land ownership system (tends to be liberal). This factually can be proven as follows: (1) Public complaints about land issues that have been submitted to the DPR-RI during the last decade or so, are the biggest cases of evictions. (2) The average per year civil cases submitted to district courts is 81.25% of inherited land cases, the main point of which is land and house (Sidiq & Achmad, 2020).

Land problems in Indonesia are also triggered by law enforcement, getting more and more complicated every day. The judiciary was allegedly slow (barren) in resolving land cases. At this time, a booming phenomenon is a win-lose paradigm that always colors the enforcement of land law in various types of courts, rather than right and wrong. In practice, it is often found that judicial decisions are overlaid, double, obscure level, non-executive level, and so on, which results in slow/hesitant officials in following up on the decision process, such as the process of canceling a certificate, executing a separate executive and so on.

The judiciary is not the only institution for law enforcement in Indonesia. In this regard, (Wily, 2011) said that there is something wrong with the public's perception that law

enforcement is considered to be through a judicial process (judiciary process) in judicial institutions only. It needs to be underlined, that law enforcement in Indonesia is carried out through several channels with various sanctions, such as: administrative sanctions, civil sanctions and criminal sanctions (Pasaribu et al., 2018).

Law enforcement is an obligation of the whole society, therefore understanding the rights and responsibilities is absolute. The community is not an audience for how the law is enforced but must play an active role in enforcing the law. For example, people who do not throw garbage in the river participate in enforcing the law, because throwing trash in the river violates the criminal law on environmental pollution. In line with this, Keith Hawkins argues that law enforcement can be seen from two systems (strategies) as follows (Koivurova et al., 2015):

1. Compliance followed by conciliatory style characteristics, namely a kind of remedial that applies the social repair and maintenance method, the assistance of people in trouble include what is necessary to facilitate a bad situation.
2. Sanctioningfollowed by the penal style characteristic, which is accusatory and the result is binary, namely all or nothing, punishment or nothing.

To enforce the law in the field of Regional Spatial Planning (RTRW) and Land Rights, the government must first pay attention to regulatory (*regelen*), administration *(bestuuren*) and control (*tozichthouden*) aspects, then civil sanctioning. Meanwhile, investigations and the implementation of administrative sanctions or criminal sanctions (ultimatum medium) are the final part (sluitstuk) of law enforcement relating to Control, Ownership, Utilization and Use of Land (P4T). What is important, there is first preventive action in the form of monitoring the implementation of regulations through control instruments, namely licensing tools (documents), as a manifestation of the highest philosophy of land management as a constitutional mandate in article 33 a (3) of the 1945 Constitution, Preventive supervision is intended to provide information and advice as well as efforts to wisely convince someone to move from an atmosphere of violation to the stage of fulfilling regulatory provisions. Thus, in upholding the RTRW and Land Rights law, efforts that should be made first are compliance, namely compliance with regulations or law enforcement in a preventive manner.

The principles and philosophical teachings of land management based on the Pancasila ideology and Article 33 a (3) of the 1945 Constitution are essential in establishing land law enforcement regulations and practices in Indonesia. In this regard, (Pentassuglia, 2011) said that philosophy is a thought process that includes three elements, namely what is called right and what is called wrong (commonly called logic), what is considered good and what is considered bad (commonly called ethics) and what is considered beautiful and what is considered ugly (commonly called aesthetics) (Bottazzi et al., 2016).

From the above description, it increasingly shows that the handling of land problems from time to time does not touch something philosophical (fundamental basics), so it tends to prioritize technical juridical and administrative juridical elements by prioritizing the prime strength and attributes of power and very chronic arrogance of authority, not logical, unethical and without heeding the values that live and develop in society (*volkgeis*) or are now more trand are called local wisdom values from the past to the present.

2. Method:

The research method uses a normative legal research typology, using a juridical-normative approach that is supported by a non-juridical approach (philosophical and empirical approaches) that uses primary data. The use of this method is adjusted to the focus of the problem. The first problem is using a normative and non-juridical juridical approach that aims to find a philosophical basis for handling Agrarian Disputes and Conflicts. The second problem is using a non-juridical system which aims to find the characteristics (characteristics, characteristics, and elements) of local wisdom, which are the elaboration (normativisation) of other unwritten customary laws into laws and regulations relating to the settlement of cases of local agrarian resources in the regions. Conflict (research location). The third problem, using a normative and non-juridical juridical approach, aims to find the state's authority in developing a Model for Handling Agrarian Disputes and Conflicts in the Implementation of Agrarian Reform based on Presidential Decree No. 86 of 2018.

Specificity is descriptive-analytic, which aims to provide a description of accurate data facts on the provisions of the applicable laws and regulations related to legal theories and practices for handling disputes and agrarian conflicts in relation to the state's role regulate, manage and control the use of resources. rustic for the community in the context of implementing the agrarian reform program in Indonesia

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3. Results and Discussion:

3.1 Position of Government (Executive), DPR (Legislative) and Judicative Institutions (Judicative) in Handling Disputes, Conflicts and Land Cases in Indonesia

Article 19 paragraph (1) of the UUPA states that to ensure legal certainty by the government, land registration is held throughout the territory of the Republic of Indonesia according to the provisions stipulated in a Government Regulation. Meanwhile, Article 19 paragraph (2) states that land registration in paragraph (1) of this article includes:

a. land measurement, mapping and bookkeeping;
b. registration of land rights and transfer of these rights;
c. giving letters of proof of rights, which act as a strong means of proof.

The elucidation of Article 19 of the UUPA shows that the Ministry of Agrarian and Spatial Planning / National Land Agency guarantees legal certainty over land rights because it has issued a certificate as proof of rights that acts as a vital means of evidence for community members.

If the Ministry of Agrarian Affairs and Spatial Planning / BPN as the executive agency in Indonesia is responsible for legal certainty of land rights, of course there are other government agencies responsible for providing legal protection for certificates that have been issued by the government agency, namely the judiciary (Supreme Court of the Republic of Indonesia) and ranks). In short, if the executive branch produces the product, of course, the judiciary will test and defend the product at the same time. In this regard, John Locke said that the state was obliged to protect it when the right was born immediately. This means that when something basic is born, all parties (individuals, society, Nation and state) must respect and uphold its existence.

Suppose this is interpreted in-depth in Article 19 of the UUPA. In that case, the executive agency (Ministry of Agrarian Affairs and Spatial Planning/BPN) is administratively responsible for the correctness of the physical and juridical data contained in the certificate (tends to the formal truth). However, juridically the material must of course be tested by the judiciary (court). This is what the Ministry of Agrarian Affairs and Spatial Planning / BPN calls guarantees of legal certainty, and courts provide legal protection, of course, against valid and valid data.

In fact, in the National Land Law in land registration, the form of responsibility of each government agency is based on an opposing principle with a positive tendency. This means that every physical data and juridical data presented in the land book and certificate must be considered correct until the court decides otherwise.

In practice, Article 19 of the UUPA has problems. Suppose the government guarantees the certainty of rights registered in the land offices. In that case, the principle of land registration in Indonesia is not a negative principle, but a positive land registration principle (land title certificates apply absolutely).

Understanding the increasingly complex and complex land issues, the government, through Presidential Decree No. 10 of 2006, established a deputy under the authority of the National Land Agency, namely the Deputy for the Study of Disputes, Conflicts and Land Cases, which intends to deal with land issues which are increasingly in quantity and quality. Thus, formally, there are at least 4 authorities in handling land issues in Indonesia, namely: BPN, Courts, Commission II DPR-RI and Komnas HAM, and informally there are still mediation institutions, customs and so on, which manifest as values. - the value of local wisdom.

The deputy for the Assessment of Disputes, Conflicts and Land Cases (SKP) at the National Land Agency (BPN), does not intend to interfere with judicial authorities, but rather the handling of SKP if the court needs actual, concrete and registered data. In addition, the settlement of the SKP was guided by mediation substances. However, suppose the conflicting parties do not have a common ground, especially inland cases where crime is indicated. In that case, the resolution will still be carried out by the relevant and competent judiciary.

In a description of the duties and functions of the Directorate General of Land Disputes and Conflict Handling based on Government Regulation 10 of 2006 concerning BPN in conjunction with Presidential Decree 17 of 2020 concerning the Ministry of ATR / BPN is Perpres 47 of 2020 concerning the Ministry of Agrarian Affairs and Spatial Planning and Presidential Regulation 48 of 2020 concerning the National Land Agency, distinguished understanding and implementation of disputes, conflicts and land cases. Disputes are interpreted as differences in interests, opinions, or values between individuals or individuals and legal entities, legal entities and legal entities, or with government agencies regarding certain land status, location status and certain land boundaries, specific tenure and ownership status, the quality of certain rights base, the status of certain decisions related to land.

Conflict is interpreted as differences in interests, opinions, or values between community groups, customary law communities, communities and public legal entities and private legal entities, between government agencies and between local governments regarding certain land status, location status and certain land boundaries, tenure status or specific ownership, the status of certain rights, the status of certain decisions related to land.

A case is a dispute or conflict which a judicial institution handles.

Implementatively, the Directorate General of Land Disputes and Conflict Handling (formerly the Deputy for Disputes, Conflict and Land Cases) has produced a Situation Map of Disputes, Conflicts and Land Cases, as follows: 322 cases, as many as 1065 cases, and a total number of SKP as many as 2810 cases.

In handling it, efforts have been made through Responsive, Responsible, Reliable, Sympathize & Tangible methods, as follows:

a. Build a map of land problems and Root Problems Assessment.
b. Build a service counter system for complaints of disputes, conflicts and land cases.
c. Empowerment of regions (Provincial BPN Regional Offices and District / City Land Offices) to directly handle land disputes and conflicts that arise in their respective areas.

Furthermore, a joint agreement with the Attorney General's Office, Police, and the formation of an Adhoc Committee with BPN-RI has also been established, which, among other things, is as follows::

a. Build the same perception about the meaning of national land law
b. Developing communication and coordination in handling land cases that have indications of criminal acts
c. Resolving land cases that have signs of criminal acts and legal problems in the city and state administrative fields in accordance with their respective authorities.

As a result, Ben and the ad hoc team formed in all provinces and at the district / city level have resolved around 30% of these cases in the 2007-2008 period and the 2015-2020 period was even able to solve 50%. Meanwhile, the recommendation of the DPR in resolving land cases is also considered adequate to recommend it to the court or the Ministry of Agrarian Affairs and Spatial Planning / National Land Agency, and about 15% of land cases can be resolved.

3.2 Settlement of Disputes, Conflicts and Land Cases through Mediation and Local Wisdom Approaches as well as Agrarian Reform

Mediation Institution

The mediation institution prioritizes deliberation to reach a consensus initiated by a professional and expert institution in land dispute handling, which in the end is peaceful. So the primary and first back is the *dading.*

In the world of justice, dating decisions are considered to be the most ideal in overcoming all land problems. Provided that the implementation is not followed by elements of coercion (*dwang*), deception (*bedrocht*) and abuse of circumstances (*bedrong*). Because dading decisions (peaceful) both in theory and practice are often the main and first introdusir that judges often offer if they want to open / hold cases in various types of judicial institutions, and therefore, the only decision that has no legal remedy is the decision. peace (Reus-Smit, 2014).

Mediation comes from the word media which is interpreted as mediating something trouble. Recently, many people have taken the path of conciliation by utilizing local wisdom in handling land cases. This further shows that there is a feeling of dissatisfaction if the community takes the formal judiciary process in solving land problems.

In this regard, (Raximov, 2019) stated that mediation is based on the willingness of the warring parties to make peace, namely the actions of each in creating and maintaining a balance between freedom and order. He further stated that many people who seek justice had taken the mediation route in handling land issues, inseparable from complaints against law enforcement, which include the following (Pentassuglia, 2011):

a. Legal officials have been charged with corruption or bribery
b. The Mafia of Justice has been accused of being rampant
c. It is as if the law can be played, twisted, even in favor of those who have high social status
d. Law enforcement is weak and loses public trust
e. The community is apathetic, derides and conducts street court proceedings.

Local Wisdom Values

In addition to mediation based on consensus deliberation to find common ground (peace), another approach in handling land cases is to mobilize potential local capabilities and advantages in the legal community (*gemenschapen*) both territorially and in the legal community (*gemenschapen)* genology.

In heterogeneous societies such as in big cities, this does not bring a big contribution, but inhomogeneous societal structures such as in rural areas can be felt. The ability of leaders and elders or custom/community administrators such as the customary law community who also involved regional muspida in West Sumatra in solving the problems of communal land, tribal ulayat and ulayat Nagari is very effective (Ernis, 2019).

West Sumatra Province is in the second rank after DKI land cases in Indonesia. In 2007 there were 1324 cases recorded, 621 patients were completed, and the remaining 703 were incomplete. This shows that the mediation program with the local wisdom approach expresses significant solving cases in a year (Mebri, 2017).

Likewise, in Bali Province, the traditional elders and elders of the Balinese paramilitary community initiated by the muspida element were felt to be very efficient and effective in handling land cases (Siombo, 2011).

The description above shows that the mediation program with the local wisdom approach is getting better, more effective, and fulfilling the community's sense of justice in handling various land cases, especially those of a conflict and dispute in nature.

Agrarian Reform

In addition to mediation with a local wisdom approach to solving land problems that arise, there is one more government, people, nation and state program mandated by the constitution through Article 33 a (3) of the UUD45, namely the implementation of Agrarian Reform, as regulated in Presidential Decree 86/2018 concerning Agrarian Reform.

The National Agrarian Reform Program (Agrarian Reform), as well as the handling of disputes, conflicts and land cases, have become the government's plan as conveyed in the political speech of the President of the Republic of Indonesia in early 2007.

Conceptually, no government wants to see its people suffer, what is there is that the government was formed for the welfare of its people. The Preamble of the UUD45 is implied, that the government was created to protect the entire Nation of Indonesia and all spilled Indonesian blood and realize the welfare of the people. Then, one of the most critical access to the attainment of people's welfare island as mandated by Article 33 a (3) of the UUD45. Thus, besides being the glue of the Nation, the land also functions for welfare (Nuriyanto, 2020).

The constitutional mandate as outlined in Article 33 a (3) of the UUD45 which states that land for the welfare of the people will be realized through a significant

national and state program called Agrarian Reform as stated in Point II point 7 Explanation of the UUPA, which is in the practice of UUPA so far. Referred to as Land reform.

The MPR-RI Decree Number IX / MPR / 2001 concerning Agrarian Reform and Natural Resource Management mandates the government, among other things, to carry out the restructuring of the control, ownership, use and utilization of land (land reform) that is just by paying attention to land ownership for the people and resolving conflicts. Conflicts relating to natural resources that have arisen so far can at the same time anticipate potential land conflicts in the future in order to ensure the implementation of law enforcement (Law Enforcement). Furthermore, the provisions on Agrarian Reform are regulated in MPR-RI Decree Number 5 / MPR-RI / 2003 concerning the Assignment of the MPR-RI Leadership to submit suggestions for implementing the MPR-RI decisions the President, DPR, BPK, MA at the MPR-RI Annual Session. The 2003 year,

Article 2 paragraph (2) UUPA, the State is given the authority to:

a. Regulate and administer the designation, use, supply and maintenance of earth, water and space;
b. Determine and regulate legal relationships between people and earth, water and space.
c. Determine and regulate legal actions concerning earth, water, and space.

Presidential Regulation Number 10 of 2006 concerning the National Land Agency as amended by Presidential Decree 17 of 2015 concerning the Ministry of Agrarian Affairs and Spatial Planning / National Land Agency as amended by Presidential Decree 47 of 2020 concerning the Ministry of Agrarian Affairs and Spatial Planning jo Perpres 48 of 2020 concerning the Land Agency Nationally, governmental duties in the land sector are nationally, regionally and sectorally carried out by the National Land Agency of the Republic of Indonesia. Thus, BPN is a government agency as the executor of the authority of Article 2 paragraph (2) of the UUPA and at the same time as the implementer of Agrarian Reform as mandated by TAP IX / MPR / 2001 in conjunction with Presidential Decree 86 of 2018 concerning Agrarian Reform.

The President of the Republic of Indonesia in his 2007 Early Political Speech on January 31, 2007, stated firmly that Land for Justice and People's Welfare. As its implementation, the President of the Republic of Indonesia has launched the Agrarian Reform program as regulated in Presidential Decree 86/2018 concerning Agrarian Reform, which is called the National Agrarian Reform Program (PPAN) (Maladi, 2013).

In the context of realizing a just land for people's welfare, the principles of land management must: (1) make a real contribution and give birth to new sources of people's prosperity; (2) to increase the order of life together which is more just about the control, ownership, use and utilization of land; (3) ensuring the sustainability of the social, national and state systems of Indonesia by providing the widest possible access for future generations to the economic resources of society and land; and (4) contributing significantly in creating a harmonious co-existence by overcoming various land disputes and conflicts throughout the country and arranging a management system that no longer creates disputes and conflicts in the future (Nurrochmat et al., 2020).

In connection with the principles of land management, the Indonesian National Land Agency has formulated 11 Priority Agenda as follows:

a. Build public trust in the Indonesian National Land Agency
b. Improve services and implementation of land registration, as well as land certification as a whole throughout Indonesia
c. Ensuring the strengthening of people's rights to land
d. Resolving land issues in areas affected by natural disasters and conflict areas throughout the country
e. Handling and resolving land cases, problems, disputes and conflicts systematically
f. Developing a National Land Management Information System (SIMTANAS) and a land document security system throughout Indonesia
g. Addressing KKN problems and increasing community participation and empowerment

h. Build a large-scale land tenure and ownership database
i. Implement consistently all established land laws and regulations
j. Organizing the National Land Agency of the Republic of Indonesia
k. Develop and update politics, law and land policy.

As a strategic step towards realizing the above 11 Priority Agenda, it is essential to accelerate the National Agrarian Reform Program (PPAN) and handle disputes, conflicts, and land cases. The following is the realization of the 2015-2019 Agrarian Reform Implementation by the Agrarian Reform Task Force, which is carried out daily by the Ministry of Agrarian Affairs and Spatial Planning.

National Agrarian Reform is a joint effort of all components of the Nation to restructure the ownership, control, use and utilization of land by the principle of land for the welfare of the people with justice. However, in doing so, it is possible to create new potential disputes and problems that we do not want together. The possibility of potential conflicts in question could arise due to our mutual lack of understanding of the implementation of the National Agrarian Reform Program. These problems may arise, among others, in determining objects and subjects, allocating land, and granting land rights and registration.

The Idea of Establishing an Agrarian Judiciary Towards Independent Land Law

Land law lies between the territory/competence of the state administrative law regime and the territory /competence of the civil law regime. However, its scope can expand, land law can enter the territory/competence of the criminal law regime and religious law (especially inheritance).

From the description above, it can be concluded that land law is resistance to public law and private law. So that the development often experiences ups and downs, obstruction and it is difficult to guarantee certainty. In such a situation, what must be addressed is not only the material law but also the formal or procedural law (Franco, 2008).

When Book II of the KUHPdt was revoked, it was marked by the issuance of a primary sacred law in Indonesia, namely Law no. 5 th. 1960 (better known as UUPA), has signaled that land affairs are unique. Therefore, land is no longer subject to property law as regulated in the Criminal Code. Earth objects are very unique, sacred and non-commodity. Land objects have multiple aspects (political, economic, social, cultural and religion) and a multi-function.

As an adherent of a continental European legal system, Indonesia should have separated land courts from general courts since a long time ago, such as separating the land law regime from civil law. In solving land cases, the general courts' inability to create the justice demanded by the litigants because land has multi-aspects, multy laws and multi-dimensions. This is considered urgent. 48 years of UUPA has not been able to solve land problems because it requires a special procedural law(McCarthy, 2010).

Recognizing and capturing the signal for the formation of the SKP Deputy at BPN-RI through Presidential Decree No. 10 of 2006 concerning the National Land Agency, increasingly shows signs that stagnant cases in the judiciary require special handling, which allows all groups to be satisfied with the results. Considering the complexity and complexity of land problems, and observing the quantity and quality of cases that continues to develop from year to year, as well as the difficulty of codifying land laws or transforming them into independent directions in theory and practice, LoGA and its instruments should have their own procedural law, which is unique and in harmony with an earth spirit that was considered to be multidimensional.

4. Conclusion:

It is often found that land cases end in civil courts, the beginning of entering the criminal justice, PTUN and Religious Courts. This means that the land law has not been able to be independent until now, which results in the absence of legal certainty for those who feel that their rights have been harmed (until now, land cases can only be resolved 10% per year). Moreover, the intentions of the defenders of justice themselves tend to win and

lose rather than rightly wrong. If this is the case, the land case will never get fair and thorough treatment. This is because all gaps can be an opportunity to reverse justice itself.

60 years of UUPA and 50 years of existence of Law no. 14 years old 1970 concerning Justice, both of which should be in line and inline in handling land cases and cases, instead appear to be running independently. In such a situation, the land case does not decrease, but the quantity and quality of the land increase from year to year. Hikmahanto Juwana postulated a picture of the problems of law enforcement in various types of the judiciary in Indonesia, as follows:

a. The problem with the making of laws and regulations that legislators do not pay careful attention to whether the rules they make are enforceable or not (the effectiveness of the law), and the rules that are made are not realistic, making it difficult to apply
b. People, especially in big cities, always try to win and avoid punishment. Thus, it tends to look at winning, losing rather than right and wrong, and law enforcement is vulnerable as a political commodity.
c. Law enforcement tends to be discriminatory and is challenging, law enforcement is carried out in a discriminatory manner, such as corrupt suspects and sandal thieves who will receive different treatment and sanctions. This means that high social status will be treated preferentially by the apparatus.
d. At the beginning of the independence of the judges and prosecutors, the poor quality and integrity of human resources were very honorable. Not a few of them become professors at various universities. The face of law began to tarnish when investment began to enter the Indonesian business world. The large salaries of lawyers seemed to be prohibiting any means
e. Advocates know law versus advocates know connections, according to Amir Samsudin, can be edited between ideal and desperate advocates. or lawyers who know the law and who know judges, prosecutors, police. In short, a well-connected advocate.
f. Budget limitations, budgeting for law enforcement infrastructure by the state is not budgeted adequately, such as court institutions that are supposed to show authority through the buildings and courtrooms, many of which are even concerned that the size is not comparable to its rank.
g. Law enforcement by the mass media, namely the impact of the drowning of law enforcement in a case as if it depended on the mass media. In particular, public control over the neutrality of notification, and so on.

Settlement of land cases through mediation methods and local wisdom approaches is considered adequate as implemented by the Ministry of Agrarian Affairs and Spatial Planning / National Land Agency. 11 of 2016 concerning Settlement of Land Cases. from almost all of 8,959 cases since 2015 have been handled.

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