

FAIR SETTLEMENT POLICY FOR THE TRANSMIGRATION LAND DISPUTES IN REGISTER FORESTS

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ABSTRACT: Transmigration land disputes in registered forests are a complex issue and involve various interests, both from the government, transmigrant communities, and indigenous peoples who claim the area as their customary land. This land dispute settlement policy needs to consider the aspect of justice so that all parties involved get their rights proportionately and fairly. This study aims to analyze and find a policy model for transmigration land dispute settlement in forest registers and identify the factors that affect the success or failure of the policy. The problem that will be discussed in this study is how to resolve transmigration land disputes in registered forests fairly. The research method used is a normative research method with a statute approach and a case approach and will be analyzed in a qualitative descriptive manner.

Keywords: Policy, Dispute Resolution, Transmigration, Forest Register, Justice

INTRODUCTION

Transmigration policy in Indonesia has become one of the significant national development strategies since the independence era. This policy aims to overcome various challenges faced by the nation, both in terms of population density, resource utilization, and equitable distribution of development between regions. One of the motivations behind the transmigration policy is to improve the welfare of the community, especially those who come from areas with high poverty levels. Transmigration policies in Indonesia are an integral part of the government's efforts to realize equitable development and improve people's welfare. Despite the challenges faced in its implementation, such as social and environmental adaptation issues for transmigrants, the objectives of this policy remain relevant and important in the context of national development. By continuing to adjust policies and implementation, transmigration can be an effective tool to achieve a more prosperous and equitable Indonesia.

The land dispute in the Lampung Register Forest is a clear example of the challenges faced by the transmigration policy in Indonesia. This conflict shows the importance of careful planning, fair law enforcement, and the involvement of all relevant parties in managing natural resources and resolving land issues. With a more inclusive and transparent approach, it is hoped that this land dispute problem can be overcome so that transmigration policies can benefit all levels of society without causing harm to the environment and social welfare. Conflict management must focus on the most important thing, namely achieving a balance between existing interests. There are overlapping policies between transmigration policies and forestry policies that must be studied specially. Vacating forests from residents, for example, the Way Jepara lake area in 1970, the Gunung Balak case which was accompanied by a lawsuit to the Tanjung Karang District Court, but the result was not in favour of the transmigrants/community, namely with the decision of the lawsuit being rejected. Based on the settlement of disputes that are not in favour of the transmigrant community, it is necessary to construct policies to resolve transmigration disputes that

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arise due to the inconsistency of policies on transmigration with the forestry policy. Dispute resolution can be in the form of litigation and non-litigation. Based on this form of settlement, the land dispute problem is encouraged to be outside of litigation. Ideally, the choice of handling litigation is the last, so conflict resolution must be achieved together and think about common interests. Ideally, handling and resolving through litigation is a form of last resort or ultimate premium, so the process of handling and resolving conflicts must be directed to the mediation process through both those in the regions and at the center; without adding to the complexity of conflicts by filing cases in court. Although every citizen has the right to seek legal remedies through the courts, it is necessary to be given an understand that the mediation process is a step in handling conflicts that can be effective when the parties have the same position or standing. Based on Law Number 41 of 1999 concerning Forestry (Forestry Law) the government regulates forest protection, but also does not release the welfare of the people, as stipulated by the Minister of Environment Number P.39/MENLHK/SETJEN/KUM.1/6/2017 concerning Social Forestry in the work area of Perum Perhutani, namely the people get permission for the right to manage social forestry which consists of 5 schemes, namely Village Forest (HD), Community Forests (HKm), People's Plantation Forests (HTR), Customary Forests (HA) and partnership patterns, but the five schemes have not yet met the policy concept in settlement that occurs due to the inconsistency of forestry policies with transmigration policies. The process of handling or resolving conflicts through mediation must be carried out by changing the perspective of mediators or parties involved in agrarian conflicts, including regarding the roots, agrarian history, and equality of the parties so that the process in the non-litigation route through mediation can be carried out more fairly, so there must be a construction of dispute resolution in the form of alternative policies to ensure Agrarian Citizenship and land and citizenship right. Based on this description, the problem in this study is how to resolve transmigration land disputes in registered forests with justice to realize the welfare of the people in Indonesia.

The research method used is a normative research method.

By using the statute approach and case approach related to the policy of resolving transmigration land disputes in fair register forests. The statute approach is to examine matters related to legal principles, views and doctrines of law, and laws and regulations on the policy of resolving transmigration land disputes in register forests that are fair, with accurate data and can be accounted for the truth related to the policy of resolving transmigration land disputes in register forests that are fair. In addition, an in-depth examination of the legal facts is also carried out to then try to solve the problems that arise in the symptoms concerned.

RESULT AND DISCUSSION

1. Politics of Land Law and Transmigration in Indonesia

The political history of land law in Indonesia has been influenced by various factors, including the colonial period of the Netherlands, agrarian reform, and the establishment of the Agrarian Law in 1960. Although there have been agrarian reforms in the past, many issues have not been fully resolved, such as accurate land mapping, land dispute resolution, and the granting of land rights to indigenous peoples. The politics of land law in Indonesia are also influenced by political forces and diverse economic interests. Political groups, large corporations, and local elites often have a dominant role in determining land policy. Abuse of authority, corruption, and oligarchic practices often hinder the implementation of policies that favour small people and indigenous peoples.

The main challenges in land law politics in Indonesia include unresolved land mapping issues, agrarian conflicts between indigenous peoples and corporations, and the sustainability of natural resource management. The lack of legal protection for indigenous peoples, weaknesses in law enforcement against land violations, and the need for deeper agrarian reform are crucial issues that need to be addressed. Although there are many challenges, there are also positive prospects in land law politics in Indonesia. The emergence of awareness of the importance of environmental sustainability and community rights to land, as well as pressure from civil society and international organizations, has prompted the government to take reform steps. The drafting of more inclusive laws, active community involvement in decision-making, and increased transparency and accountability in government can be key to creating a more equitable and sustainable land system in the future.

Land law politics in Indonesia is a complex arena, influenced by history, political forces, and economic dynamics. The challenges faced require a holistic and sustainable approach, taking into account community rights, environmental sustainability, and social welfare. Only by addressing these issues can Indonesia achieve the goal of inclusive and sustainable development in terms of land. To promote the general welfare, the relationship between Indonesia people and their land is carried out and summarized in the provisions of Article 33 paragraph (3) of the 1945 Constitution, which affirms the basic policy regarding the control and use of existing natural resources, in the words: The earth and water and the natural resources contained therein are controlled by the State, and used for the greatest prosperity of the people. Regarding the formulation of Article 33 paragraph (3), Moh.

Mahfudz stated that from such a philosophical background, the politics of agrarian law (land-pen.) if excavated from the 1945 Constitution there are at least two interrelated, namely: First, the Earth, water and natural resources are controlled (in the sense that they are best regulated) by the state; Second, control by the state is aimed at building the prosperity of the people.

The word controlled or controlled by the state here cannot be interpreted as the state directly owning all natural resources. Mastering in law is defined as "regulating". Individual property rights are still recognized as outlined in Article 28H paragraph (4) of the 1945 Constitution which reads: "Everyone has the right to have personal property rights and these property rights must not be arbitrarily taken over by anyone." Indeed, to compensate for this, there is a provision in Article 33 concerning the right to control by the state which allows the state to revoke land rights for the public interest. But the two provisions should not be contradicted, but should be seen as a general and special relationship. In general, people may have property rights, but in special circumstances (for the public interest), then the property rights can be taken by the state in a non-arbitrary way. Regarding the right to control the state, indeed in the body or explanation of the 1945 Constitution, there is no explanation of the nature and scope of the right to control the state, which includes the earth and water, and the natural resources contained in it. In the explanation of the 1945 Constitution, only affirmation is given, that the earth and water and the natural resources contained in the earth are the main points of the people's prosperity, therefore they must be controlled by the state and used for the greatest possible prosperity of the people.

Land law politics in Indonesia has a long history that is closely related to various development policies, including transmigration programs. As a country with a growing population and a growing need for land, issues related to land ownership, management, and distribution are of paramount importance. In the context of transmigration, land law politics plays a crucial role in determining the success of the program, as well as its impact on community welfare and natural resource management. This essay will discuss the relationship between land law politics and transmigration policy in Indonesia, the challenges faced, and its implications for society and the environment. Land law politics in Indonesia is based on the 1960 UUPA (Basic Agrarian Law), which is the main legal basis in regulating land ownership and management in Indonesia. The UUPA aims to create justice in land tenure, prevent excessive concentration of land ownership, and regulate land redistribution for the public interest. However, in its implementation, land law politics often faces challenges, such as conflicts of interest, complicated bureaucracy, and lack of legal certainty.

In the context of transmigration, land law has an important role in determining land allocation for transmigrants and ensuring that the land provided is free from conflict and overlapping ownership. However, challenges in land law politics often cause problems in the implementation of transmigration programs, such as land disputes, unclear ownership status, and injustice in land distribution. The transmigration program has been one of the strategic policies

of the Indonesia government since the New Order era, to overcome population density on the island of Java and encourage development in areas outside Java. However, in its implementation, this program is often faced with various challenges related to land law:

- a) Unclear Land Status: Many lands allocated for transmigration programs have unclear legal status. Some lands are part of state forest areas, customary lands, or land that has been controlled by local communities for generations. This ambiguity is often a source of conflict between transmigrants, local communities, and governments.
- b) Overlapping Land Ownership: Land law politics that have not been fully socialized and properly implemented has led to many cases of overlapping land ownership. This is not only the case between transmigrants and local communities, but also with companies that have concessions on the same land.
- c) Lack of Legal Certainty: The lack of legal certainty regarding land tenure for transmigrants often poses a long-term problem. Many transmigrants face difficulties in obtaining certificates of ownership of the land they occupy, which has an impact on their economic and social instability.

Land law politics and transmigration policy in Indonesia are two interrelated elements that have a major impact on national development and community welfare. Although the transmigration program has great potential to promote equitable development and address the problem of population density, its success depends heavily on how the politics of land law are regulated and implemented. By implementing the necessary legal reforms, strengthening institutions, and actively engaging the community, Indonesia can overcome existing challenges and realize more just, sustainable, and inclusive development.

2. Policy for Resolving Transmigration Land Disputes in the Register Forest with Justice

Transmigration land disputes in the Register Forest area are one of the complex and sustainable problems in Indonesia. These disputes involve not only transmigrants and local communities, but also governments, private companies, and indigenous communities. These prolonged conflicts often result in legal uncertainty, social tensions, and significant environmental damage. In this context, land dispute settlement policies must be carefully designed to ensure that justice for all parties can be realized. Forest Registers in Indonesia, including in areas such as Lampung, are state forest areas that are often used as transmigration locations by the government. However, the status of land in the region is often unclear, with overlapping interests between migrants, indigenous peoples, local farmers, and concessionaire companies. The unclear status of this land is the main source of disputes, where the parties involved feel that they have the same rights to the land.

Land disputes in the Register Forest not only hinder development and community empowerment efforts but also cause serious social and environmental impacts. Tensions between migrants and local communities can lead to open conflict, while illegal land clearing often leads to uncontrolled environmental degradation. To achieve a just

settlement of land disputes, several basic principles must be upheld:

- a) Legal Certainty: Legal certainty is the main foundation in land dispute resolution. All parties involved must have certainty regarding the status of ownership and management of the land they occupy. This requires consistent and transparent enforcement of the law, as well as recognition of traditional and customary rights.
- b) Community Participation and Engagement: Land dispute resolution must involve all relevant parties, including indigenous peoples, migrants, and governments. An inclusive and participatory process is essential to ensure that all voices are heard and rights are respected.
- c) Distributive Justice: Land dispute resolution policies must ensure that land distribution is carried out fairly. This includes the provision of decent compensation for those affected, as well as fair land allocation for migrants and local communities.
- d) Environmental Sustainability: Land dispute resolution must consider long-term environmental impacts. Protection of forests and natural resources must be integrated into policies, to ensure that dispute resolution does not damage local ecosystems.

To overcome the above challenges and realize equitable settlement of land disputes, several strategic steps can be taken:

- a) Strengthening Law Enforcement and Agrarian Reform: The government needs to strengthen law enforcement related to land and carry out comprehensive agrarian reform. This includes accelerating the land certification process, recognizing the rights of indigenous peoples, and resolving overlapping land permits.
- b) Inclusive Mediation and Arbitration: The mediation and arbitration process of land disputes must involve all parties involved transparently. Governments can facilitate dialogue between transmigrants, indigenous peoples, and companies, using neutral and competent mediators.
- c) Fair Compensation and Restitution: For those who have lost their land rights, the government should provide decent compensation and fair restitution. This can be in the form of financial compensation, allocation of replacement land, or economic empowerment programs.

Resolving transmigration land disputes in the Register Forest requires a holistic and equitable approach. By prioritizing legal certainty, community participation, distributive justice, and environmental sustainability, Indonesia can overcome existing challenges and realize equitable solutions for all. The right policies will not only resolve existing conflicts, but also promote inclusive and sustainable development, which will ultimately improve people's well-being and protect the environment for future generations.

The policy of resolving transmigration land disputes in forests in Lampung Province, based on the principle of equitable agrarian citizenship, requires concrete and direct steps to create a fair and harmonious environment for all parties involved. To achieve this goal, several strategic steps are needed which include a new paradigm of equitable transmigration policy, a policy for resolving land disputes based on agrarian citizenship, strengthening the synergy of related institutions, and the preparation of Standard Operating

Procedures (SOP) in the management of transmigration land in forest areas (social forestry). By implementing these measures, it is hoped that the policy of resolving transmigration land disputes in forests in Lampung Province can run more effectively, efficiently, and fairly, and be able to provide sustainable benefits for local communities, transmigrants, and the environment.

Transmigration land disputes in forest areas in Lampung Province have become a complex and prolonged issue, with significant impacts on the welfare of local communities, migrants, and environmental sustainability. This dispute reflects the overlapping interests between various parties, including migrants, indigenous peoples, the government, and the private sector. To solve this problem fairly and sustainably, a policy approach based on the principle of agrarian citizenship is needed, which recognizes the rights of all citizens to agrarian resources, while ensuring social justice and environmental sustainability. Strategic steps that need to be taken to realize a policy for resolving transmigration land disputes in forests in Lampung Province that is fair, effective, and sustainable.

a) A New Paradigm of a Just Transmigration Policy

Transmigration policies in Indonesia, especially in Lampung, need to be based on a new paradigm that is more oriented towards social justice and the recognition of the agrarian rights of all parties involved. This paradigm includes several important aspects:

- 1) Recognition of Customary and Communal Rights: Transmigration policies should recognize and respect the rights of indigenous and communal peoples to land. This recognition is important to prevent overlapping land claims and reduce potential conflicts in the future.
- 2) Economic Empowerment of Transmigrants and Local Communities: Transmigration programs must be designed not only to address population density but also to empower transmigrants and local communities economically. This includes providing access to productive land, skills training, and market access support.
- 3) Ecological Balance: Any transmigration policy must consider its impact on the environment. Transmigration land clearing in forest areas must be carried out with ecological sustainability in mind, including forest conservation and biodiversity protection.

b) Agrarian Citizenship-Based Land Dispute Resolution Policy

The principle of agrarian citizenship emphasizes the importance of recognizing citizens' rights to land and natural resources. In the context of resolving transmigration land disputes in Lampung, policies based on this principle must include:

- 1) Inclusive Mediation and Negotiation: Land dispute resolution must be carried out through a mediation and negotiation process that involves all parties involved inclusively. The active participation of transmigrants, indigenous peoples, governments, and the private sector is essential to achieve equitable solutions.
- 2) Recognition of Rights and Legality: The government must ensure that all parties involved in disputes have fair access to their rights to land. This includes the recognition and legalization of legal land ownership, as well as the

provision of decent compensation for those who lose their land rights.

- 3) Restoration of Agrarian Rights: For those whose agrarian rights have been violated or ignored, policies should provide a just remedy mechanism. This includes land restitution, the provision of replacement land, or equivalent financial compensation.

c) Strengthening the Synergy of Related Institutions

The success of resolving transmigration land disputes in Lampung is highly dependent on the synergy between the various institutions involved, both at the national and regional levels. Some of the steps to take include:

- 1) Inter-Agency Coordination: Stronger coordination is needed between the Ministry of Agrarian and Spatial Planning, the Ministry of Environment and Forestry, local governments, and local customary institutions. This coordination should be focused on aligning policies and actions that support dispute resolution.
- 2) Institutional Capacity Strengthening: Institutions involved in land dispute resolution must be strengthened in terms of human resources, finance, and infrastructure. This is important to ensure that they can handle dispute cases efficiently and fairly.
- 3) Supervision and Evaluation: The dispute resolution process should be monitored and evaluated periodically to ensure that the policies implemented are truly effective and fair. An independent and transparent oversight mechanism must be established to oversee the implementation of the policy.
- d) Preparation of Standard Operating Procedures (SOP) in Transmigration Land Management in Forest Areas
To avoid future conflicts, the preparation of clear and justice-oriented SOPs is an indispensable step. This SOP must include:
 - 1) Land Allocation Criteria and Procedures: SOPs should establish clear criteria for the allocation of transmigration land in forest areas, taking into account legal, social, and environmental aspects. Transparent procedures must be implemented to ensure that land allocation is carried out fairly and by the law.
 - 2) Dispute Resolution Mechanisms: SOPs should include effective and fair dispute resolution mechanisms, including mediation, arbitration, and legal settlement procedures. This mechanism must be easily accessible to all parties involved.
 - 3) Sustainable Land Management: SOPs should regulate sustainable transmigration land management procedures, including the protection of protected forest areas, the wise use of natural resources, and environmental impact mitigation measures.

The policy of resolving transmigration land disputes in forests in Lampung Province must be based on the principle of fair agrarian citizenship, by prioritizing the recognition of agrarian rights of all parties, inclusive participation, and environmental sustainability. By implementing a new paradigm of transmigration policy, strengthening the synergy of related institutions, and developing a comprehensive SOP, it is hoped that the settlement of land disputes in Lampung can run more effectively, efficiently, and fairly. These measures will not only provide sustainable benefits to local

communities and transmigrants but will also help preserve the environment, thereby creating better social harmony and well-being for all.

CONCLUSION

Based on the results of research related to the policy of resolving transmigration land disputes in registered forests that are fair, concrete and directed steps are needed to create a fair and harmonious environment for all parties involved. To achieve this goal, several strategic steps are needed which include a new paradigm of equitable transmigration policy, a policy for resolving land disputes based on agrarian citizenship, strengthening the synergy of related institutions, and the preparation of Standard Operating Procedures (SOP) in the management of transmigration land in forest areas (social forestry). By implementing these measures, it is hoped that the policy of resolving transmigration land disputes in forests in Lampung Province can run more effectively, efficiently, and fairly, and be able to provide sustainable benefits for local communities, transmigrants, and the environment.

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