

Optimization of Consensus Deliberation in the Settlement of Village Assets in the Form of Land Disputes Based on Justice

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ABSTRACT

KEYWORDS

Village Government,
Disputes, Village Assets,
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Critical for rural development, village land assets often trigger disputes due to ambiguous boundaries and competing claims. Despite legal frameworks like Permendagri No. 1/2016 and Book C of the Village, consensus-based deliberation (*musyawarah*) frequently fails, necessitating court intervention. This study investigates the causes of unsuccessful non-litigation resolutions and formulates justice-based optimization strategies for deliberation in Larikrejo Village, Central Java. Using interviews and observations, empirical legal research with qualitative analysis was conducted to examine socio-legal dynamics between the Village Government and communities. Disputes stem from historical boundary ambiguities and power asymmetries, with mediation failing due to entrenched distrust. Courts provided binding solutions, but hybrid models (deliberation + litigation) are proposed to enhance fairness and efficiency. The study advocates for institutional training in mediation (BPD), legal empowerment for villagers, and cross-regional comparisons to refine hybrid dispute resolution, balancing local traditions with legal enforcement.

INTRODUCTION

Article 33, paragraph 3 of the 1945 Constitution states that the earth, water, and natural resources contained in it are controlled by the state and used for the prosperity of the people (Arsyad & Heliaantoro, 2024; Muslim & Jannani, 2020; RB & Heliaantoro, 2024; Suparto, 2020). The meaning of "controlled by the state" is that natural resources should not be controlled by individuals, legal entities, or certain groups only, but by the state as a sovereign people's power organization (Reumi, 2018; Sibarani, 2018). The state must give rights to the people who have concretely made a good-faith effort to use the land. Thus, this assumption requires that the content of regulations regarding natural resource management, including land policy, must be on the side of the people for the creation of prosperity (Anderson, 2024).

The constitution's mandate is also the basis for the right to use the land, earth, water, and space contained on it for the needs of utilization based on applicable provisions/regulations (Stankovics et al., 2020). Land rights are classified into several types, namely: Permanent rights (including Property Rights, Business Rights, Building Rights, Use Rights, Lease Rights, Land Clearing Rights, and Forest Revenue Collection Rights) (Felker et al., 2017; Rasa & Sumantry, 2021). Then what is classified as a Land Right is temporary (because these rights will be removed at any time), namely, the Land Pawn Right, Profit Sharing Business Rights, Riding Rights, and Agricultural Land Lease Rights. However, there have been additional management rights since the ratification of Law Number 11 of 2020 concerning Job Creation and Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flat Units, and Land Registration. The right to management is similar to the right to control the state.

In addition to these rights, Law No. 6 of 2014 concerning Villages gives authority to villages in managing village assets in order to increase village revenue sources (Saputra et al., 2019; Winarsi et al., 2018). Article 1, number 11 of Law No. 6 of 2014 states that village assets are village property derived from the original property of the village, purchased or obtained under the burden of the Village Revenue and Expenditure Budget or the acquisition of other legal rights. Furthermore, Article 76 paragraph (1) of Law No. 6 of 2014 states that one of the village assets can be in the form of village treasury land (Agustina et al., 2024; Karim et al., 2022; Kushandajani, 2019). The Minister of Home Affairs Regulation Number 1 of 2016 concerning Village Asset Management was promulgated as a legal umbrella for village asset management to ensure the orderliness of village treasury land management. One of the interesting provisions is Article 6 paragraph (1) of Permendagri No. 1 of 2016, which orders that all village assets in the form of land be certified on behalf of the village government.

Village land has a standard definition regulated in Article 1, No. 26 of Permendagri No. 1 of 2016 (Syukri et al., 2017). The provision explains that village land is controlled and/or owned by the village government as one of the village's income sources and/or for social purposes. This definition looks similar to the nature and use of village treasury land. While Article 1, Number 10 of the Regulation of the Minister of Home Affairs Number 4 of 2007 concerning Guidelines for Village Wealth Management defines village land as village property in the form of crooked land, graves, and titisara. Although the provision does not provide a concept offer regarding village land, the provision directly mentions the types of land that are classified as village land. The concept of village land contained in Permendagri No. 4 of 2007, it can be concluded that village treasury land, or what used to be called crooked land, is a type of village land. The regulation is a step to implement the provisions of Article 18 B paragraph (2) of the 1945 Constitution which essentially contains the state respecting and respecting customary law communities and their traditional rights as long as they exist and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia, which are based on the law.

Normative facts related to village asset management have been listed in various laws and regulations on Villages and Village Asset management. The regulations also detail the definitions, stages, and various village asset management methods. However, in empirical facts, regulations regarding village asset management have not been optimally implemented in people's lives when viewed from practice. There are still various land disputes over village assets that are unresolved through family methods or non-litigation and are resolved through the courts. This is due to the complexity of the problem of village asset land involving the village government and the village community. As a result of the absence of deliberation for consensus in village asset management disputes, there will be conflicts or prolonged disputes. This does not concern the individual, but rather a larger community, such as the Village Government and the village community. Therefore, the aspirations and involvement of the village community in deliberations for consensus related to village asset management are very important. Efforts to resolve disputes between the village government and villagers related to village assets can be made through family methods such as consensus and non-litigation deliberations. Through this method, the settlement of village asset disputes is expected to provide encouragement for the parties to work together to reach an agreement according to their interests and help maintain good relations between the parties.

This study offers original contributions by examining the unresolved challenges of consensus deliberation (*musyawarah*) in village land disputes, unlike Novita Puspaningrum's (2018) prior work on procedural land exchanges, which focused on regulatory compliance in Purwosari Village. While Puspaningrum highlighted the legal requirements for land

registration under Article 19 of the UUPA, this research investigates why traditional dispute resolution fails in Larikrejo Village, despite mediation efforts (Desa, 2019)—and proposes justice-based optimization through hybrid models that integrate *musyawarah* with formal litigation. By bridging the gap between normative frameworks (e.g., Permendagri No. 1/2016) and empirical conflicts, the study advances Diniyanto's (2019) legal reforms, emphasizing socio-legal reconciliation (Ali, 2009; Nuna et al., 2021) to enhance both fairness and enforceability in village asset disputes.

METHOD RESEARCH

The method or type of research the researcher uses is empirical research with qualitative data analysis techniques. Empirical legal research aims to analyze the facts contained in the field by looking at the law from socio-cultural realities. Empirical legal research emphasizes how the implementation of law is understood, how law relates to daily life, using direct observation of human behavior, and existing legal situations. Primary data sources were obtained through interviews and observations. The research location focuses on Larikrejo Village, Undaan District, Kudus Regency, Central Java Province. The resource person in this study is the Head of the Larikrejo Village Government, Mr. Muchamad Rochim.

RESULT AND DISCUSSION

The Cause of Dispute Resolution through Non-Litigation or Consensus Deliberation Is Not Successful in Settling Disputes of Village Assets in the Form of Land

From the elaboration of the answer from the interview conducted with Mr. Muchamad Rochim as the Head of Larikrejo Village, it can be analyzed that the main cause of the dispute over land assets of village assets in Larikrejo Village is the area of land assets of the village with the area of land belonging to the village community adjacent to each other, belonging to large villages and belonging to small communities if based on the data of Book C of the Village. Book C of the Village is the legal basis for the Village Government. However, the village community did not want to follow Book C because the land used to be in the form of swamps, so it is not known which boundaries are expanding, which land belongs to the community, while the land of village assets is decreasing. In the past, in addition to swamps, the land also had fish ponds because the water was relatively high. If the water level is not too high, it can be arranged for the boundaries of the land.

Because at that time, the boundaries were set only using galengan, which was prone to being claimed carelessly by the village community as their land. The dispute over the land assets of the village has been going on for a long time since the position of the village head before 1989. As time went by, many years passed, and there was a change in the position of the village head. The case became clearer, and the village community and the BPD (Village Consultative Body) demanded that the new village head take care of the case. However, the village government remains silent and does not implement it, even though the one who has the authority to take care of village assets is the village government in the sense of the village head. Until 2007, when Mr. Muhammad Rochim began to serve as the Village Head, there were demands from the BPD, and then Mr. Muhammad Rochim followed up and looked at the legal basis from Book C of the Village.

Of course, the village suffered a lot of losses. This is because the village experienced a significant shortage of land, the shortage reached thousands of m² (square meters). If the land area is small, the village government can understand and deliberate on it in a family way. However, if the area is up to thousands of m² (square meters), it causes community leaders such as RT, RW, youth organizations, and LPMD to be socially jealous. On the other hand, every year, the land of the village's assets is rented out to plant crops, which has also reduced

the village's income. The income of this village is the APBD. If Larikrejo Village focuses on agriculture with a high selling price, then the land rental price will also increase. The proceeds of land leases from village assets can be used and managed for village infrastructure development, community empowerment, and other community interests. Therefore, after the dispute over village assets in the form of land is resolved, village income can increase again.

The family method or consensus deliberation did not resolve the village assets' land dispute. This is due to the significant differences between the Village Government and the village community in dispute. The Village Government seeks to resolve it familiarly through special village deliberations between the Village Government and BPD. The family method was repeated up to 2-3 times in the village by inviting the village community concerned, but it was also unsuccessful. Then mediation was continued to the sub-district level with the help of the Sub-district Head, the Police, and the Army, consisting of local babinsa, but it was still deadlocked and unsuccessful. Meanwhile, the village community, which has a dispute, insists on continuing to the court level. The Village Government also follows the will of the village community. However, when going to court, there was also another village deliberation because they wanted to know the response of the village community, whether they agreed or not. The Village Government tries not to be seen as arrogant towards the village community. This is because the Village Government is neutral.

Optimization of Consensus Deliberation in the Settlement of Village Assets in the Form of Land Based on Justice

Based on the description of the discussion of interview questions and answers with Mr. Muchamad Rochim, it can be analyzed that the Larikrejo Village Government basically still prioritizes family or consensus deliberation when dealing with any problems in the village. A family settlement is the best and most important step. This is the main key to running a village government that is in direct contact with the village community. The village government also follows the will of the disputed village community. The village does not want to go directly to the court, but the community wants it because it has insisted and urged. The Village Government is neutral and does not take sides with anyone. However, the village still has a clear legal basis from Book C of the Village. Problems related to land disputes over village assets do need to be taken care of and should not be allowed to drag on. However, it is passed through the existing stages according to the procedure.

If not taken care of, social jealousy will arise. The social impact of land disputes over village assets also affects the daily lives of village communities. There is a gap between the village community in dispute, the family, and the Village Government. The gap makes the village community in dispute, and their families are less likely to follow the village's direction and the village's program. The village head was ignored because he was considered problematic within the village community. Even though it is not a personal issue. The village community does not consider the village head as the person who runs the village government; rather, it considers it personal, which causes social disparities. Many people expect the village assets to be fully returned. However, the community also expects, especially through village meetings. If everything has been agreed upon, the village must take care of it.

The process of managing village asset land disputes starts from the family stage through deliberation in the village, mediation at the sub-district level, and the court route, and people tend not to want to know the process and stages. Therefore, the village government is in charge of processing the settlement. There are also rules about the authority of the Village Head, namely, the Village Government represents all fields in and outside the court. An example of representing outside of court is family mediation. Various ways of settlement through family or deliberation were carried out, but were unsuccessful. Finally, the last resort was through legal force (court). After the final decision was issued, there was no more problem between the

Village Government, the Village community, and other parties involved because there was already a binding legal force.

So, through legal channels, there is an effort to execute the plan, and the land of the village assets is legally returned to the village. So that the village can manage and reuse the land assets of the village in full for the village community and development. The cause of the dispute over the land of village assets has lasted for decades due to political influence in the election of the village head position. In their campaigns, Several village head candidates will not mention the issue of land disputes over village assets. So, the land and village assets dispute has not been handled and is getting more protracted.

CONCLUSION

The study on optimizing consensus deliberation in village land disputes found that unresolved conflicts often stem from deep disagreements between the Village Government and the community, leading to failed mediation and eventual court intervention, which provided a binding resolution. While the Larikrejo Village Government prioritizes kinship-based deliberation, legal frameworks like Village Book C ensure transparency, with courts as a last resort. Future research should investigate *hybrid dispute resolution models* combining traditional *musyawarah* and formal legal processes, focusing on: (1) sequential vs. parallel resolution effectiveness, (2) community trust in hybrid approaches, (3) training for village bodies to prevent deadlocks, (4) legal empowerment for villagers, and (5) cross-regional comparisons to balance local wisdom and legal certainty. This could enhance equitable and efficient conflict resolution in village governance.

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