

Suguh Hati As An Alternative Form Of Land Dispute Settlement In Plantation

Kusbianto^{1*}

Magister Hukum, Universitas Dharmawangsa, Indonesia.

Abstract

This study examines the practice of suguh hati as an alternative form of land dispute resolution in plantations, especially in PT Perkebunan Nusantara (PTPN) in North Sumatra. Land disputes in the plantation sector often arise due to differences in views between Indigenous Peoples regarding communal land tenure rights with the concept of positive law that places the state as the ruler of the land. The mediation and treat heart approach is a non-litigation effort that is used to avoid horizontal conflicts and maintain social relations between the company and the tenant community. Treat the heart is understood as a form of moral and social compensation that reflects the goodwill and faith of mutual trust between the parties to the conflict. Through the decree of the Board of Directors of PTPN III number 3.11/SKPTS/01 / 2015, suguh hati was instituted internally as a legitimate dispute resolution instrument. The results showed that suguh hati is not just a social practice, but has developed into IUs factum which has the potential to become IUs constitutum, the source of new laws in National Agrarian Reform. These findings make an important contribution to the development of agrarian law and land dispute resolution in Indonesia that is more humane, participatory, and based on local wisdom.

Keywords: Suguh Hati, Land Disputes, Mediation, Agrarian Law, PTPN.

1. INTRODUCTION

Philosophically, land disputes occur is not a matter of law alone, it is essentially the difference in the concept of land tenure rights between the community, based on the views of Indigenous people in each local area with positive laws in force in Indonesia (Kusbianto, 2023). In the view of the indigenous people of the local area (pribumi) the human relationship with the land is determined by the intensity (duration) of the real (defacto) use or control of the land, reinforced by their religious belief that the land is a gift of God that can be owned by anyone who wants to work and use it (Satjipto Rahardjo, 2008). Such a community view can be strengthened by The Theory of customary law that land is communal property or legal partnership, each member of the partnership can work the land by clearing the land first and if working continuously , the land can be individually owned. While the concept of land ownership according to positive law (Europe) personifies land ownership as ownership that was originally in the hands of the government. Agrarian Basic Law No. 5 of 1960 (UUPA) as a

*Email/Corresponding Author: kusbiantosh@gmail.com

derivative rule of the Constitution of 1945 Article 33 paragraph (3) contains the principle, that all rights to land are controlled by the state.

In the agrarian field, the main things that need to be considered are the problem of land tenure (right) and its use (use of right). Both of these things will re-seat the right to land (Muhammad Yamin Lubis, 2014). The right to control the state (HMN) is one of the rights to land with a public dimension, the subject of which is the state. The state is placed above and protects all activities on the land either carried out by the government, or the government with the people and the people with the people. HMN will cause agrarian problems if the government runs arbitrarily, creating a gap in ownership between capital owners and people who do not have money. The state must have a strong authority in making rules and implementing rules and supervising all legal acts on the ground.

2. RESEARCH METHOD

This research uses normative juridical method with conceptual approach and legislation (Ariman Sitompul (2022)). Primary legal materials consist of Agrarian Basic Law Number 5 of 1960, decree of the Board of Directors of PT Perkebunan Nusantara III (Persero) number 3.11/SKPTS/01/2015, as well as other regulations relevant to the settlement of land disputes. Secondary legal materials include literature, legal journals, and expert opinions, including the views of Prof. Dr. Muhammad Yamin Lubis, SH., MS., CN., on the concept of compensation in agrarian law. The analysis was carried out qualitatively by interpreting the legal materials to understand the position and meaning of treats in the land dispute settlement system. In addition (Maswandi, Ariman Sitompul, 2024), this study also utilizes empirical data in the form of company internal practices and policies (PTPN III) in the implementation of treats in the field, which are analyzed to find the integration between legal norms and social reality.

3. RESULT AND ANALYSIS

A. Land Dispute Settlement Mediation Form

The use of mediation as an alternative to dispute resolution is increasingly used and in demand. Even the non-litigation approach to conflict resolution is a source of inspiration for policymakers to adopt it in the judicial system known as court connected mediation.. In any conflict or dispute there are two or more parties to the dispute and have previously been involved in a particular legal relationship (Urip Santoso, 2012). The parties then engage in a dispute and confront each other due to differences in interests.

The parties to a dispute are those persons or legal entities that by law are declared subjects of law. They have rights and obligations under the law. The number of parties to the dispute will affect the process of mediation. If

the number of parties involved is large enough, the effort to reach a conclusion or agreement will also be increasingly difficult. Therefore, the quality and style of mediation is also influenced by the number of participants from each of the parties to the dispute (Roscoe Pound, 1989). In mediation, the parties to a dispute are accompanied by a mediator as a neutral third party. Usually the mediator is a person who is an expert in the area being discussed or disputed (Simarmata ,Rikarda, 2006). The Mediator serves to assist the parties in the search for a possible resolution of the dispute. The Mediator helps the parties to frame the existing problems into problems that need to be faced together. In general, mediators do not make decisions (Aminuddin Ilmar, 2012). Mediators only help and facilitate the parties to the dispute formulate various dispute resolution options that can be accepted by both parties so that to achieve maximum results, the Mediator must master mediation techniques well.

In the mediation process, the mediator tries to resolve the problem until the parties are satisfied that their interests are protected and the good relationship between the parties continues. The role of a mediator is to "help " the different interests of the parties in a negotiation. Reaching a common point that can serve as the basis for solving the problem is the task of the mediator. The Mediator must have the ability to collect as much information as possible that will be used as material to prepare and propose various solutions to disputed issues. The Mediator is expected to be able to determine whether there are grounds for the realization of an agreement or agreement. The Mediator is obliged to keep the information provided confidential if the parties are asked to keep the information confidential. The Mediator can provide new information for the parties as well as help the parties analyze the dispute to find acceptable ways for the parties to resolve the case.

The Mediator can offer a neutral assessment of the position of each party. The Mediator teaches the parties how to engage in problem-solving negotiations effectively. Able to assess alternatives and find creative solutions to their disputes. Mediators not only act as mediators, organizers, discussion leaders but also help design dispute resolution. In the end, the mediator helps formulate a collective agreement as a problem-solving solution that will be followed up together as well.

Howard Raiffa sees the mediator's role as a line between the weakest role and the strongest role. Side role is weakest if the mediator only carry out the following roles (Howard Raiffa, 1973):

- a) Meeting organizer.
- b) Neutral discussion leader.
- c) The maintainer or guardian of the rules of negotiation so that the debate in the negotiation process takes place in a civilized manner.
- d) Emotional control of the parties.

- e) Less or reluctant to express their views.

The strong side of the role is shown by the mediator if he is able to act or do the following things in the negotiation process :

- a) Prepare and make minutes of negotiations.
- b) Formulate or articulate the meeting point or agreement of the parties.
- c) Help the parties to realize that the dispute is not a fight to be won but to be resolved.
- d) Develop and propose alternatives to problem solving.
- e) Help the parties to analyze alternatives to solving the problem.

In assisting the dispute resolution process, a mediator can use several techniques as follows;

- a) Build trust.
- b) 2. Analyze the conflict.
- c) 3. Gathering Information.
- d) 4. Speak clearly.
- e) 5. Listen attentively.
- f) 6. Summarize / reformulate the conversation of the parties.
- g) 7. Break the rules of negotiation.
- h) 8. Organizing bargaining meetings.
- i) 9. Cope with the emotions of the parties.
- j) 10. Take advantage of the small room (Caucus).
- k) 11. Express interests that are still hidden.
- l) 12. Persuading the parties / one of the parties Best Alternative To a Negotiated Agreement (BATNA)
- m) 13. Draw up an agreement and others.

The mediation steps in the settlement of land disputes between plantation companies and farming communities are as follows;

- a) Provincial or district governments form mediation teams to handle land disputes.
- b) The local government invited a meeting of the parties meeting of the tenants and the company and Related Agencies in relation to with the dispute.
- c) Provide opportunities for PTPN and tenants to provide explanations related to disputes.
- d) For the time being in order to maintain conduciveness to the community of tenants and plantation employees, it is recommended to stop activities in the disputed field in order to avoid horizontal conflicts.

B. Alternative Forms Of Settlement Of Plantation Land Disputes

In North Sumatra, plantation companies use conflict resolution / plantation land disputes in the form of “treats”. The word suguh hati is even officially stipulated in the decree of the board of Directors of plantation companies for the settlement of land disputes (Takdir Rahmadi, 2010). The

term is used in administrative processes, both with external and internal parties of the company. The word "suguh hati", according to PTPN, is a more appropriate term and accepted by the plantation community in North Sumatra. The initial concept of giving heart treats was inspired by the practice of local wisdom that developed in Java. In the handling of various social conflicts, the term is known as the gift of compassion or spiritual money (Aburohmad, 2008). PTPN then searched for similar word matches that grew and developed in the North Sumatra region. Found several terms, such as compassion, compensation, and treats. This becomes a discussion in the company's internal the term treat heart is chosen to begin to be communicated with the community, stakeholders or other parties (Elza Syarif, 2012). The word indemnity is not used because according to PTPN it is not appropriate for the company to pay compensation to farmers who work on land controlled by the company itself. The term tali asih is also considered inappropriate because psychologically the meaning is degrading (Kusbianto, 2019).

PTPN believes that giving treats is the company's good faith to resolve land disputes between them and sharecroppers that have been so protracted. Giving treats is done considering the dispute resolution process through litigation in court and non-litigation that has been taken so far has not maximally resolved the existing problems. The community rejected the decision of the court that issued the execution of land clearing. In the event of clashes, the company is often the target of anger, PTPN is accused of violence and other accusations. Giving heart treats is an option to minimize all land conflicts in plantation areas while solving problems without new problems. Giving treats is seen as effective, humane and can improve the company's relationship with the community of tenants. This is also in line with the internalization of corporate values that care about the community in the plantation environment (Syafuruddin Kalo, 2003).

Giving heart treats continues to be socialized by the company to the community through various opportunities. The idea slowly began to be accepted by farmers. One by one, farmers representing their families expressed their willingness to receive treats from the company (Boedi Harsono, 1982). Those who had signed the handover of the gift of hearts then left the land. The abandoned land will then be cleared by the company and given a limit in the form of stakes. This influenced the views of other sharecroppers who had not yet decided to accept the company's offer of treats. From time to time, the number of sharecroppers who are willing to accept liver treats is growing. Suguh hati policy outlined in the decision of the Board of Directors of PT (M Yahya, 1997). Perkebunan Nusantara III (Persero) number: 3.11/SKPTS/01/2015 dated March 31, 2015, on the implementation of treats for Garden arable areas/units of PT. Perkebunan Nusantara III (Persero). With the issuance of the decree, the process of

implementing treats that have been and / or are in progress is stated to still refer to the provisions of the directors ' letter. This decision letter is valid from the date set until the land dispute resolution team has completed carrying out its duties (Eddy Pranyoto WS, 2006). The issuance of the decree of the Board of Directors on the implementation of sugarcane is also a milestone and legalization in the internal company of PTPN III, that the practice of sugarcane as one of the mechanisms for resolving conflicts or land disputes between PTPN III and the tenant community. Treat heart to be legal and legitimate internally PTPN III corporate mechanism. This became a kind of" internal legal basis " for PTPN III.

Although the policy of heart treats is general-for the entire community of sharecroppers in the area of HGU PTPN III-but in its application, the provision takes place partially. Treats are only given on behalf of individuals as representing the family of each house/arable land. It happens because of some considerations:

- a) The area of arable land owned by each farmer / family is different from each other.
- b) The types of plants that are processed by farmers/their families differ from each other, including the condition of the plants (nurseries, annuals, perennials, etc.).
- c) Not all farmers/families are necessarily willing to accept the gift of treats from the company.

The issuance of the decree of the Board of Directors of PTPN on the implementation of treats for Garden arable areas / units of PT. Perkebunan Nusantara III (Persero) is based on a number of Juridical considerations, including aspects of Land, Company and dispute resolution procedures. PTPN first formed a team to complete the implementation of Suguh Hati to the Garden / PTPN Unit. The team consists of PTPN employees who are considered capable and able to carry out tasks and agencies from outside the PTPN related. Before the treat is given, the team also first needs to prepare a plan, conduct data collection or field survey which then the results are set out in a planning document for the implementation of the treat. The document contains a statement of willingness of the community tenants receive a treat, complete with data/map of the location of the land, land area and types of plants on it.

When providing compensation for crops in the form of treats, the team is guided by the results of the assessment or estimated price made by the appraiser. Determination of the value of the compensation price of the crop made by the appraiser is valid for six months and every two years a revision is made. The costs incurred due to the implementation of the provision of treats are charged to PTPN. Based on the decree of the Board of Directors, the parties are determined to be the settlement team with certain tasks, namely:

- a) Land appraiser, hereinafter referred to as an appraiser, is a natural person who conducts assessments independently and professionally who has obtained a license to practice appraisal from the Minister of Finance and/or has received a license from the land agency to calculate the value/price of objects.
- b) Cultivators are people who work, cultivate land in areas that are used specifically for agriculture by PTPN III plantation businesses.
- c) Acreage is related to the area of the Earth's surface that is used for special agricultural purposes.

Suguh hati team has the following duties and responsibilities:

- a) Provide an explanation or socialization to the community/tenants who will receive the treats.
- b) Hold an inventory of land, buildings, plants and other objects that are on the PTPN area that will be given treats.
- c) Conduct research on the legal status of the land to be given a treat.
- d) Request and receive the results of the assessment of the price of land and/or buildings and/or plants and / or other objects related to land from the appraiser.
- e) Holding deliberations with the owners/holders of land rights in order to determine the form and/or amount of compensation, treat.
- f) Propose the determination of the form and/or amount of compensation for land rights whose rights will be released or handed over to the director or officer one level below the director or General Manager / Head of Unit in the form of a nominative list for approval.
- g) Making minutes of release or transfer of land rights including receiving and checking all documents related to ownership of land rights, buildings, plants, and other objects on the ground.
- h) Accompanying the implementation of the payment or delivery of compensation/treats hatikepada the owners or their authorized representatives or holders of rights to land, buildings, plants, and other objects on the ground.
- i) Conduct administrative processes and document each stage of the process of treats and report on the results of the implementation of Team tasks and submit all files treats to the director.

View Of Prof. Dr, Muhammad Yamin Lubis, SH., MS.,CN, professor of Agrarian Law, University of North Sumatra, Suguh hati is not a legal term. In law, the term treat of the heart comes into the sense of compensation. Compensation is the balancing of rights after the termination of the rights of a person with his authority. In compensation, it is also known as compensation and compassion. However, the term treat heart differs in meaning from compensation as a legal term enshrined in law. It is also different from the notion of love from the sociological side because it has a lower connotation. Suguh hati is also not a term in customary law because

it does not apply to certain indigenous peoples. In customary law, this form of compensation is better known in terms of recognition.

The basic principle of the implementation of suguh hati is the trust and goodwill of the parties to the conflict to resolve land disputes between them. If the two elements are not there then treat the heart can not be done. Settlement of land disputes in plantations in the form of treats as an alternative to dispute resolution is a model that belongs to PTPN and is local (domestic). The legal basis used by the decree of the Board of Directors with reference to the law related to land issues and compensation.

The findings (something new) from the results of our research that treats the heart is an existing practice has been done as a pattern or an alternative form of settlement of land disputes on plantations. Suguh hati hidup develops and is recognized as one of the ways to resolve conflicts. At this level, treats constitute *iusfactum*, a fact that lives in society and is accepted by society. As *iusfactum*, treat heart can be transformed into *iusconstitutum*, a new source of law in legislation. The practice of heart treats can be a legal idea to form a new positive law in the future this point is the important thing of our research. This, in fact, is the enrichment of legal knowledge, especially one of the questions that can be input in agrarian reform (agrarian reform) Indonesia.

4. CONCLUSION

Land disputes in plantations are basically rooted in differences in the concept of land tenure between communal customary law and positive law that places the state as the holder of the highest tenure rights. Mediation and the treat heart approach emerged as an effective alternative to non-litigation dispute resolution, because it is able to promote the principles of deliberation, humanity, and harmonious social relations between the company and the tenant community. Treat of the heart is not a formal legal term, but can be substantially categorized as a socially recognized form of moral compensation. This practice has been institutionalized through PTPN III's corporate policy and is proven to reduce land conflict tensions. In a legal perspective, suguh hati can be categorized as *IUs factum* that lives in the community and has the potential to become *IUs constitutum* — a new legal source that can enrich the National Agrarian legal system. Therefore, suguh hati needs to be considered as a model of dispute resolution based on local wisdom in Indonesia's agrarian reform in order to realize social justice and sustainable agrarian order.

REFERENCE

- Abu Rohmad, 2008, *Paradigma Resolusi Konflik Agraria*, Walisongo Press, Semarang.
- Aminuddin Ilmar, 2012, *Hak Menguasai Negara Dalam Privatisasi BUMN*, Kencana, Jakarta.
- Ariman Sitompul (2022) , *Metode Penelitian Hukum Normatif (Strategi Praktis Penulisan Skripsi, Tesis dan Disertasi*, Mazda Media, Malang, 2022,
https://scholar.google.com/citations?view_op=view_citation&hl=en&user=o6ripa8AAAAJ&cstart=20&pagesize=80&citation_for_view=o6ripa8AAAAJ:blknAaTinKkC
- Boedi Harsono, 1982, *Hukum Agraria Indonesia, Himpunan Peraturan Peraturan Hukum Tanah*, Penerbit Jambatan, Jakarta.
- Eddy Pranyoto WS, 2006, *Antinomi Norma Hukum Pembatalan Pemberian Hak Atas Tanah Oleh Peradilan Tata Usaha Negara Dan Badan Pertanahan Nasional*, Sutomo CV, Bandung
- Elza Syarif, 2012, *Menuntaskan Sengketa Tanah Melalui Pengadilan Khusus Pertanahan*, Gramedia, Jakarta.
- Harahap M Yahya, 1997, *Beberapa Tinjauan Mengenai Sistem Peradilan Dan Penyelesaian Sengketa*, Citra Aditya Bakti, Bandung.
- Howard Raiffa, Einführung indie Entscheidungs theorie: Dasamerikanische Original ubersetztearmin Mucha, Walter de Gruyter GmbH & Co Kg. Jerman, 1973.
- Kusbianto, 2019, *Penyelesaian Sengketa Tanah Garapan Di Perkebunan Litigasi, Non Litigasi Dan Sugh Hati*, Universitas Dharmawangsa Perss (UNDHAR PERSS), Medan.
- Kusbianto, Sugh Hati Sebagai Bentuk Alternatif Penyelesaian Sengketa Tanah Di Perkebunan, Pidato Pengukuhan Guru Besar Universitas Dharmawangsa, 26 Januari 2023.
- Maswandi, Ariman Sitompul (2024), *Metode Penelitian Hukum Normatif (Mekanisme Dalam Penulisan Ilmiah)*, Mazda Media, Malang,
https://scholar.google.com/citations?view_op=view_citation&hl=en&user=o6ripa8AAAAJ&cstart=20&pagesize=80&sortby=pubdate&citation_for_view=o6ripa8AAAAJ:O3NaXMP0MMsC

Muhammad Yamin, 2019, *UUPA Dan Hak Rakyat*, Harian Waspada, 27 September 2014.

Roscoe Pound, 1989, *Pengantar Filsafat Hukum*, Penerbit Bhratara Niaga Media, Jakarta.

Satjipto Rahardjo, 2008, *Biarkan Hukum Mengalir, Catatan Kritis tentang Pergulatan Manusia Dan Hukum*, Penerbit Buku Kompas, Jakarta.

Simarmata, Rikarda, 2006, *Pengakuan Hukum Terhadap Masyarakat Adat Di Indonesia*. Regional Initiative on Indigenous Peoples Rights and Development (RIPP) UNDP Redional Center in Bangkok.

Syafruddin Kalo, (2003), *Masyarakat dan Perkebunan: Studi Mengenai Sengketa Pertanahan Antara Masyarakat Versus PTPN-II dan PTPN-III di Sumatera Utara*, Disertasi, Program Pascarajana Universitas Sumatera Utara, Medan.

Takdir Rahmadi, 2010, *Mediasi Penyelesaian Sengketa Melalui Pendekatan Mufakat*, Raja Grafindo Persada, Jakarta.

Urip Santoso, 2012, *Hukum Agraria Kajian Komrehensif*, Kencana Prenanda Group, Jakarta.