

Implementation of Land Dispute Resolution Policy Through Mediation at The Gayo Lues Land Office

Eva Rahmawati¹, Siti Hajar^{2*}, Obed Bida

¹Magister Public Administration Study, Univeritas Terbuka, Indonesia

²Universitas Muhammadiyah Sumatera Utara

³Universitas Terbuka

Abstract

The land conflict in Gayo Lues Regency is a development problem requiring a comprehensive resolution. Settlement of land disputes that give rise to this conflict really requires the role of the government to be able to resolve land disputes peacefully, both with the community and with non-governmental third parties. This land dispute case was caused by administrative irregularities in the processing of land ownership documents or documents in the Gayo Lues Regency, which triggered land disputes that eventually became ongoing conflicts. Thus, it is necessary to have a mediation system in resolving land disputes initiated by the government as a neutral party to minimize land conflicts. The government's role is also not only needed as a mediator but also as a facilitator in implementing land dispute resolution policies that must be implemented by all parties involved in the land conflict resolution process. The purpose of this study was to identify and analyze the implementation of land dispute settlement policies through mediation at the Land Office of Gayo Lues District, Aceh Province, and to analyze the inhibiting factors of the performance of the policy. The method used in achieving the objectives of this study is a descriptive research method and is analyzed qualitatively. The results of the study show that the land dispute resolution policy implemented through the mediation system is going well, although there are still several areas in the Gayo Lues Regency that have not been properly socialized regarding this policy. Thus, the regional government represented by the Land Office of Gayo Lues Regency must be more optimal in carrying out socialization related to land dispute settlement policies through a mediation system so as to minimize the occurrence of ongoing land conflicts

Keywords: public policy, land disputes, mediation service

Introduction

The correlation between humans and land is not just a shelter, but land is a resource to sustain human life. Land ownership can also show one's "prestige" and self-esteem. For some parties, especially investors, land is a commodity or commodities where both the land and its products

can be traded as long as it brings economic benefits or uses. An increase in human demand for land that is not matched by an increase in land availability will have serious consequences for the pattern of correlation between land and humans, and humans and humans who are land objects (Sarjita, 2015). The complex

land system in Indonesia includes the establishment and regulation of legal relations and legal actions between people and land which are not without problems. The complexity of the problems that occur in the land system is what becomes a land dispute and becomes a legal issue which ultimately affects other fields, namely economic, social and political.

Land issues that become disputes within the community can also have an impact on government performance, although these land issues can be viewed from two opposing points of view, namely 1) there is an assumption that from the community's point of view, problems that arise are caused by poor land management such as bad administration or weak administration of land management and public bureaucracy which can be seen from the unprofessional performance of government officials, then 2) on the part of the government apparatus caused by falsification of information and administration both from the community, village heads and even by the Land Deed Making Officials (PPAT).

Land disputes occur not only due to demands for land rights, both ownership status but also administrative matters in transactions, registration, guarantees, use, administration and customary rights, so mediation is also needed in resolving land disputes which can minimize the occurrence of mutual claims in high courts. (Muhammad Ikhsan Siregar, Mukidi, 2021) also explains that land disputes are caused by: 1) unclear land administration issues, the result is that there is land owned by two people with their respective certificates; 2) unequal

distribution of land ownership and 3) legality of land ownership which is solely based on formal evidence (certificate) without regard to land productivity. Thus, this land dispute case must have a solution provided by the relevant officials in the form of complaint services and case information, case studies, case handling and case resolution which can be pursued in two ways, namely land dispute settlement through courts (litigation) and land dispute resolution through non-litigation through mediation conducted by the Land Agency as a related official.

Various efforts to resolve land disputes through litigation (court proceedings) that currently exist are believed to be unable to resolve existing disputes. so that various alternative efforts to resolve land disputes such as mediation, facilitation and others then surfaced with the aim of minimizing land disputes that are full of interests, both for the benefit of development and for the community itself. The option of resolving disputes through negotiation/mediation has advantages compared to litigation in court which is less attractive in terms of time, money and effort. In addition, the lack of trust in the independence of the judiciary and the administrative constraints that surround it make the court the last resort for resolving disputes/disputes, bearing in mind that today's land issues, both qualitatively and quantitatively, continue to increase so that they require systematic handling that allows non-litigation dispute resolution to be possible. used. However, regarding the settlement of land disputes through non-litigation this has not been carried out optimally

for the community and public officials, including in Gayo Lues Regency.

The resolution of land disputes really requires land policies that are oriented towards mediation services for cases of land conflicts. As for the obstacles in the implementation of land dispute mediation services in Gayo Lues Regency, the land dispute mediation policy has not been socialized evenly throughout the Gayo Lues region, so that there are still many people who experience ongoing land conflicts and are not resolved properly and safely. (Ilyas, 2020) and (Oldy Rosy et al., 2021) explain that land mediation carried out or organized by the land office/service is different from that carried out by courts where the mediation must be based on the 4th (fourth) precept which requires efforts to resolve a dispute through deliberation to reach a consensus and must be based on a family nature, which can mean that land dispute settlement should be resolved by peace through negotiations to obtain a mutual agreement. Mediation is a form of service and administrative services provided by the Gayo Lues District Land Office where in the mediation process it can give the parties a sense of equality and efforts to achieve the final negotiated outcome are achieved peacefully without pressure or coercion, the solutions offered prioritize win-win solutions. Mediation as a form of public service is very important to implement because the mediation process itself is one of the indicators of the goals and objectives of the services of the Gayo Lues Regency Land Service, namely reducing conflicts over land cases with the aim of improving the economy of the Gayo Lues community through

land arrangement, control, ownership, use and utilization. Then, the third party that helps resolve disputes is the mediator. The assumption is that third parties will be able to change the social forces and relationship dynamics in question by influencing the personal beliefs and behavior of the parties by providing knowledge or trust information by using a more efficient negotiation process and thereby helping the parties to resolve existing issues.

The mediator does not have authority over the dispute resolution, but is fully responsible for helping find common ground for the disputing parties. The experience, ability and integrity of the mediator must expedite the negotiation process between the disputing parties. Mediation can also be understood as an effort to resolve a dispute by involving a third party that is neutral and does not have the authority to decide the problem which also helps the conflicting parties reach a settlement (solution) agreed upon by both parties. However, in practice mediation is difficult to define because this definition is often used by people for different purposes according to their respective interests. From this formulation it can be concluded about the meaning of mediation including the following elements:

1. Mediation is a dispute resolution process based on negotiations
2. The mediator is involved and accepted by the conflicting parties in negotiations;
3. The mediator is responsible for helping the disputing parties reach an agreement;
4. The mediator has no power in making decisions during the negotiation process;

It is hoped, (Khoirruni et al., 2022) that with mediation as an alternative to dispute resolution, the main objectives of mediation can be achieved, namely:

1. There is an alternative settlement that is agreed upon and acceptable to the parties to the dispute.
2. Thus, the mediation process is a process that "looks to the future" and not "to the past", not about finding the truth and the applicable legal basis, but resolving the dispute itself.

The explanations above reinforce that the implementation of land dispute settlement policies through mediation is very important as a peaceful step that can solve complex problems. As explained by (Munir et al., 2019) argues that the existence of policy implementation is a very broad matter as a legal administration tool which can simultaneously view phenomena in a complex manner as a process in resolving public issues. Furthermore, (Jefry Crisbiantoro, 2019) that policy implementation can be viewed as a legal administration tool carried out by actors, both organizations and individuals based on procedures and techniques in achieving the desired goals. Then, (Damianus Krismantoro, 2022) argues that policy implementation is a stage that is carried out to produce an outcome and product based on the function that carries out the policy in accordance with its aims and objectives. Furthermore, in this study the implementation of the policy is seen from several components put forward by George C. Edward III (Sasmitha, 2022). This approach was theorized by Edward III, where there are four

variables that will determine the success of policy implementation, namely: 1) Communication; 2) Resources; 3) Disposition and 4) Bureaucratic structure.

Research Methods

Research design is a set of procedures or methods used to analyze and collect data to determine which variables to study. Research design can also be defined as a strategy carried out by researchers to systematically link each research component so that the analysis and determination of research focus is more effective and efficient. (Hajar, 2022) that a research design is a plan or design made by researchers as a forecast of activities to be carried out. In other words, research design is the design of all research activities carried out in a study, both analysis and observation. The research design used is a qualitative research method with descriptive data analysis which aims to provide a complete and detailed description of the events of the various phenomena studied which are complexly interesting. A qualitative approach is a problem-solving technique that is studied by describing the current state of the research subject/object using observable facts to understand the phenomena experienced by the research subject. such as behavior, perception, motivation to act and others through verbal and language descriptions in certain natural contexts using various natural methods.

Qualitative research aims to gain general understanding. This understanding cannot be determined a priori, but arises after analyzing the phenomena that are the focus of research and drawing conclusions in

the form of a general understanding of these facts. This qualitative research process involves asking questions, collecting specific data from participants, and analyzing data (John w. Creswell, 2014). There are several reasons for using a qualitative descriptive method, for example because this method is widely used and can cover more aspects than other research methods. This method makes a significant contribution to science by providing up-to-date information, helping to identify factors that aid in conducting research, and can be used to create conditions that may exist in certain situations.

The nature of this investigation is descriptive explanatory which provides a detailed description of the background, nature and characteristics of the cases being investigated. This study uses a descriptive method to gain a deeper understanding of how the implementation of land dispute resolution is carried out through mediation at the Gayo Lues Regency Land Office, and to find out the factors that hinder land dispute resolution through mediation at the Gayo Lues District Land Office, Aceh Province. The data analysis technique used in this study is descriptive qualitative data analysis, namely describing the data collected, analyzing it in relation to existing problems and theories that are consistent with them, providing interpretations of the relevant results and then drawing conclusions and suggestions. Qualitative descriptive research aims to explain the phenomenon as deeply as possible through data collection (Kriyantono, 2017). In this study, data analysis activities were carried out by grouping data from data sources

related to the implementation of land dispute resolution through mediation at the Gayo Lues Regency Land Office.

Results and Discussion

Gayo Lues Regency is also a district that is not free from land dispute problems because Gayo Lues Regency occupies a very strategic position, namely it is located in the middle lane of Aceh Province where various districts in Aceh Province can be traversed directly from this district. This affects the dynamics of land values and people's behavior towards land. Due to high economic growth, rapid development and population growth rates in several districts around Gayo Lues, Gayo Lues has become a channel of mobilization for these districts. This development had a positive impact, but did not escape side effects in the form of land problems, including increasing the need for land for agricultural and plantation activities, increasing land value, and increasing people's access to land which they saw as objects of investment. Finally, the community's interest in land has shifted from being merely a place to live and a place to make a living into an investment commodity. Over time, there have been many community clashes in Gayo Lues Regency due to various interests in land.

The emergence of various problems regarding land in Gayo Lues Regency shows that the use, control and ownership of land has not been orderly and directed. There are still many land uses that overlap in various interests that are not in accordance with their designation and are also caused by differences in perceptions and perspectives on who has the right to the land. In order to realize the

maintenance of security and order in society, dispute cases that arise must be resolved immediately. One of the efforts to resolve land disputes is mediation, although mediation techniques are not yet very popular in the Gayo Lues community due to minimal socialization, a narrow understanding of the dispute resolution itself and in resolving land disputes the mediation route sometimes encounters obstacles due to limited human resources. and financial resources, there is a lack of confidence in the effectiveness of mediation but mediation in resolving disputes must be developed because in its settlement it prioritizes deliberation and consensus.

Settlement of land disputes at the Gayo Lues District Land Service refers to the Regulation of the Head of the Land Agency of the Republic of Indonesia Number 21 of 2020 concerning Handling and Settlement of Land Cases while the implementation of the mediation process is regulated in the Decree of the Head of the National Land Agency Number 34 of 2007 concerning Technical Instructions for Handling and Settlement of Land Problems in conjunction with Technical Instructions Number 05/JUKNIS/D.V/2007 concerning Mediation Mechanisms, however, in implementing regulations for land dispute settlement through mediation, sometimes there are obstacles. This is evidenced by the many cases of land dispute complaints received by the Gayo Lues Regency Land Office. Complaints received by the Gayo Lues Regency Land Office were carried out formally and informally by the community either through complaint letters complete

with documents or simply through consultations. Land dispute cases submitted to the Gayo Lues District Land Office in 2020 can be seen in the table below.

Table of List of Land Conflict Problems in Gayo Lues Regency

No	Lokasi	Luas	Penyelesaian	Keterangan
1	Desa Blang Tenggulun Kec. Blangkejeren	6 Ha	Litigasi	Selesai
2	Kec. Blangpegayon	0,5 Ha	Non Litigasi	Selesai
3	Desa Bustanussalam Kec. Blangkejeren	6 x 30 m ²	Litigasi	Selesai
4	Desa Bustanussalam Kec. Blangkejeren	5.500 m ²	Litigasi	Selesai
5	Kec. Dabun Gelang	75 Ha	Non Litigasi	Belum Selesai
6	Desa Penampaan Uken Kec. Blangkejeren	60 x 30 m ²	Non Litigasi	Belum Selesai
7	Desa penggalangan Kec. Blangkejeren	2 Ha	Non Litigasi	Selesai
8	Desa Sangir Kec. Dabun Gelang	4 Ha	Non Litigasi	Belum Selesai
9	Kec. Pantan Cuaca	70 x 75 m ²	Non Litigasi	Belum Selesai
10	Kec. Pantan Cuaca	40 x 70 m ²	Non Litigasi	Belum Selesai
11	Desa Suri Musara Kec. Pantan Cuaca	5.551 m ²	Non Litigasi	Belum Selesai
12	Desa Rerebe Kec. Tripe Jaya	10.000 m ²	Non Litigasi	Belum Selesai

Source: 2020 Gayo Lues Regency Land Service

As can be seen from the table, the most land disputes in Gayo Lues Regency occurred in Blangkejeren District with 5 (five) cases, in second place were Pantan Weather District with 3 (three) cases, then in third place was Dabun Gelang District with 2 (two) cases, Tripe Jaya District with 1 (one) case and Blangpegayon District with 1 (one) case. The table also shows that 3 (three) land dispute cases were resolved through judicial procedures (litigation) and 8 (eight) cases were resolved through non-litigation (mediation) with a non-litigation case settlement rate

(mediation) of 2 (two) out of 9 (nine) cases that must be resolved or only about 22%. The trigger for land disputes in Gayo Lues Regency was based on community reports to the Land Office and was caused by a lack of public knowledge about the integrity of land documents and a lack of local regulations for land dispute resolution.

In terms of resolving public issues regarding land disputes, the National Land Agency makes a public policy which is part of its public administration duties by issuing Regulation of the Head of the Indonesian Land Agency Number 21 of 2020 concerning Handling and Settlement of Land Cases, replacing the Decree of the Head of the National Land Agency Number 11 of 2016 concerning Settlement of Land Problems. As executor of government duties in the land sector, the Gayo Lues District Land Office does not only handle or issue certificates but also has the authority to resolve land issues such as land disputes and conflicts. Based on Article 30 of the Decree of the Head of the National Land Agency Number 4 of 2006 concerning the Organization and Work Procedure of Regional Offices of the National Land Agency and land offices, the main task of the land office is to carry out some of the duties and functions of the National Land Agency in the Regency/City concerned, hereinafter referred to in Article 53 Regulation of the Head of the National Land Agency of the Republic of Indonesia Number 4 of 2006 explains that the duties of the Dispute, Conflict and Case Section are to prepare materials and carry out activities for handling disputes, conflicts and land cases, bearing in mind that the

settlement of existing land disputes requires the collection of legal data and physical administration through investigation/ research on mechanisms and procedures for handling land issues that apply locally in the region. The scope of work of the Gayo Lues Regency Land Service in resolving land disputes in Gayo Lues Regency is limited to resolving disputes between the regional government and the community which includes land boundary disputes, where this task was previously in 2017 still the responsibility of the Assets section of the Regional Secretariat Gayo Lues Regency and only in 2018 the task was transferred to the Gayo Lues District Land Office.

Law No. 30 of 1999 does not specifically regulate mediation or its meaning. However, Article 6 paragraph (3) of this Law states that "in the case of a dispute or difference of opinion as referred to in paragraph 2 it cannot be resolved through the assistance of one person or more expert advisors or through a mediator". In summary, mediation can be said to be a process of resolving conflicting parties to reach a satisfactory agreement through a neutral third party (mediator). The success of mediation can be influenced by several factors, including: the quality of the mediator (professional training), the efforts of the disputing parties, the trust in the parties in mediation, the trust in the mediator. Then Rahmah (2017) states that mediation is a negotiated settlement process, in which outside parties who are in conflict in a fair and neutral manner cooperate with the disputing parties to help them reach a satisfactory agreement, unlike judges

or arbitrators, the mediator does not have the power to decide disputes between the parties. However, in this case, the parties authorize the mediator to help them resolve the problems between them. Lowrance Boule (Oldy Rosy et al., 2021) states that there are 4 (four) mediation models, namely:

1. Settlement mediation Also known as compromise mediation, mediation whose primary purpose is to facilitate reaching a compromise between the claims of two opposing parties.
2. acilitative mediation is referred to as interest-based mediation (interest-based) and problem solving, namely mediation intended to replace the disputing parties and to strictly negotiate their needs and interests rather than their legal rights.
3. Transformative mediation, also known as therapeutic mediation and conciliation, is mediation that focuses on finding the underlying causes of problems between conflicting parties, in order to improve their relationship through mediation, recognition and empowerment as a basis for resolving (solutions) of existing conflicts.
4. Evaluative mediation, also called normative mediation, is a mediation model that seeks an agreement based on the legal rights of the parties to the dispute in the area granted by the court.

Settlement of land disputes through mediation is an alternative effort that is considered quite effective and efficient in many aspects, both in a simple process, in a short time, costs can be reduced (Ilyas, 2020). Where

the decision-making process in mediation is based on an agreement between the two disputing parties by promoting the principle of "win-win solution". The implementation of the mediation itself has been regulated in the Decree of the Head of the National Land Agency Number 34 of 2007 concerning Technical Guidelines for Handling and Settlement of Land Problems in conjunction with Technical Instructions Number 05/JUKNIS/D.V/2007 concerning Mediation Mechanisms. Thus, the land dispute settlement policy through mediation implemented in Gayo Lues Regency can be seen through its components, as follows:

1. Communication

According to George Edward III, communication is a means for disseminating information and what is the aim or target of a policy must be disseminated or transmitted to the target with the aim of reducing implementation distortions. One of the elements that determine the success of a policy is communication. In the aspect of communication in the implementation of land dispute settlement policies through mediation, it is still lacking, both socialization carried out to the community which does not touch all levels of society in Gayo Lues district where activities are carried out only in a few sub-districts or in terms of the intensity of socialization which is not carried out continuously or continuous. On the clarity of information indicator, the results of the study revealed that the land dispute settlement policy through mediation had been clearly accepted by the executors and there were no conflicting policy messages between a policy order and other policies which

were clearly regulated in the main tasks and functions.

2. Resources

Information or implementation instructions may be passed on to the implementer in a good, clear and consistent manner, but if the implementer lacks the resources needed to implement the policy, the implementation will not work effectively. Thus the resource is a very important factor in implementing public policy. In the aspect of resources, namely human resources, it is revealed that at the educational level of the implementer's ability, it is known that on average they have completed a Bachelor's degree (S1) but the current educational background of the executors is not in accordance with the field of work carried out at the Gayo Lues District Land Office, coupled with very minimal number of staff/executors and unavailability of certified professional mediator human resources in carrying out the mediation process. While the research results for information indicators show that the executor at the Gayo Lues Regency Land Office has very little information regarding the policy of resolving land disputes through mediation, where the research results show that the executor has never received skills training or capacity building regarding the implementation of mediation policies either from the government regional and central government. On the other hand, indicators of supporting facilities for the implementation of mediation policies reveal that budget support from the local government is still lacking. This can be seen in the absence of a special room for carrying

out mediation at the Land Office of Gayo Lues district, the lack of supporting facilities and infrastructure such as tables and chairs, infocus, laptops and ATK which activities.

3. Disposition

The disposition or attitude of the implementer is one of the factors that has important consequences for an effective policy implementation, if the executor has a positive attitude or provides support for the implementation of the policy, then it is likely that the implementation of the policy will be carried out in accordance with the objectives of the policy and vice versa if the executor is negative or rejects policies for various reasons such as conflicts of interest and others, the implementation of policies will experience many obstacles. Disposition or attitude is a reaction to a stimulus from an object which is followed by a tendency to act and behave either in a rejecting or supportive manner. From the aspect of the disposition or attitude of the implementer, the indicators seen are the removal of the bureaucracy which includes the response and actions of the implementer in the form of support or the form of rejection of the policy and also relates to incentive indicators in influencing the actions of the implementer. Based on the presentation of the results on the disposition or attitude aspect of the implementers, it was found that the implementers had a positive attitude towards the land dispute resolution policy through mediation and were very supportive of the implementation of the policy. The results of the study found that all implementers had a fairly good

response to the mediation policy, because it was considered that the policy helped a lot of people who had land dispute problems with the local government to resolve it amicably, but on the incentive indicator it was known that the lack of incentives in implementing the policy also affected the executor's encouragement in carrying out activities, executors only carry out activities according to the available budget so that no new innovations are created in implementing policies.

4. Bureaucratic Structure

The bureaucratic structure is one of the institutions that most often even as a whole implements activities. The definition of organizational structure refers to an organization that aims to mobilize energy in a directed and sustainable manner to achieve certain goals, in other words, a bureaucracy is an organization that has a hierarchical nature, which is determined rationally to coordinate work for the benefit of carrying out administrative tasks. Bureaucracy exists not only in government structures but also in private organizations. In implementing policies, the existing bureaucratic structure must also support in order to achieve the goals set in a policy, because a good policy at the conceptual level will not necessarily succeed in accordance with the objectives without the support of all actors and will lead to failure if it does not see and pay attention to all influential aspects of a policy. In the aspect of bureaucratic structure that researchers observe, namely the fragmentation or distribution of responsibilities concerning the division of tasks and indicators of the availability of

regulations or Standard Operating Procedures (SOP). Based on the presentation of the results in the bureaucratic structure, it was revealed that there was no standard Standard Operating Procedure (SOP) related to mediation policies at the Gayo Lues District Land Office, executors in this case tended to assume the flow of mediation activities themselves so that there were many different views on the implementation of the policy plus not yet the existence of regional regulations governing mediation policies that can be used by executors as guidelines or technical instructions in the regions. Whereas in the segmentation indicator or the distribution of responsibilities between executors related to tupoksi, efforts have been made in the form of elaboration of tupoksi for each executor which has been included in the Land Office document of Gayo Lues Regency so that there is no overlap in the implementation of policies.

Conclusion

The implementation of the land dispute settlement policy through mediation at the Land Office of Gayo Lues District, Aceh Province has been implemented but has not run optimally. This is reflected in the implementation of activities that have been carried out by the Gayo Lues District Land Office, such as the implementation of social outreach activities related to mediation in land dispute resolution. village officials) as well as with the Gayo Lues National Land Agency (BPN) in carrying out land dispute resolution and there is a high commitment in the form of support from Human Resources implementing activities at the Gayo

Lues District Land Office in carrying out land dispute resolution activities through mediation. The existing SOP at the National Land Agency (BPN) has also not been properly implemented because land surveying does not involve the owner of the directly adjacent land and is only based on appointment by the land owner, so that during mediation the certificate that has been issued becomes the basis for claim land ownership so that a mediation agreement is difficult to reach.

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