



The Role of the Police in Settlement of Land Confiscation Cases in Buol District

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Abstract: This study aims to find out the role of the Police in solving land grabbing criminal cases, as well as what factors are the obstacles for the police in resolving land grabbing criminal cases. In this study, researchers used empirical research. This research was conducted at the Buol Polres, which was then conducted by looking at data on reports of cases of land grabbing in Buol district, as well as interviews with the Buol Resort Police. From the results of the study it can be seen that the police are very careful in resolving cases of criminal acts of land grabbing in Buol district. In the process of resolving cases of land grabbing by the Buol Resort Police, the reporter always prioritizes the importance of completing the data.

Keywords: Police; Settlement of Cases; Land grabbing.

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1. Introduction

In life, humans and land are something that cannot be separated. Land is something that sustains human life itself, because all human needs come from land, from birth to death, all humans need land. In fact, the higher the human needs in an area, the more developed the development of an area.¹Therefore, along with the times and the amount of development, the need for land use is not proportional to the area of land which will never increase.

Human dependence on land, both for the needs of a place to live and for a source of livelihood. Land is also a commodity to fulfill basic needs that must be met besides food and clothing or in other words clothing, food and shelter. While the availability of land is very limited in number and extent, while population growth is increasing.²The imbalance in the amount and extent of land available for increasing needs causes land to have a very important meaning.

The value of land for human life is so often that land becomes a source of triggering problems in human life. In this very advanced period, it has a very significant impact, so that the moral values that exist in human life are reduced. Humans become more selfish so that the impact is not so good for other humans. People will do various ways to be able to own or control land even if it would violate the law. Then it is also accompanied by low income causing criminal acts (problems). And the weakening of the control function causes social bonds to break up.³In fact, in the reality of people's lives, it is inversely proportional to the goals of the Indonesian state. Various kinds of legal problems have occurred. Patterns of human behavior are increasingly deviating and departing from the norms that grow in society and result in violations and even crimes that lead to violations of human rights.

Ownership of land without the permission of a valid attorney, which is called land grabbing, is not uncommon for us to encounter in people's lives. This is because the human need for land is increasing, while the area of land is increasingly limited.

This case of land grabbing is not something new in Indonesia. The word land grabbing itself means taking rights that are not owned or taking other people's rights arbitrarily and not obeying the rules, or in other words violating the law. For example, such as occupying land or other people's residence that is not their right. This act of expropriation indirectly constitutes an act against the law which can be classified as a criminal act. There are various kinds of land grabbing problems that often occur such as physical land occupation, land cultivation, sale of a land right, and so on.

¹ Mellisa Towadi and Waode Mustika, "Jurnal Ilmiah Penegakan Hukum Menggagas ' Sister City for Smart City ' Sebagai Optimalisasi Peran Hukum Internasional Di Gorontalo Initiating " Sister City for Smart City " as an Optimization of The Role of International Law in Gorontalo" 9, no. 1 (2022): 87-97.

² Tinjauan Yuridis, Tindak Pidana, and Penyerobotan Tanah, "AHMAD ASYRAF," 2018

³ Mohamad Taufiq and Zulfikar Sarson, "Criminal Acts Performed by Children in the Perspective of Criminology (Case Study in Gorontalo City on 2008-2012)" 1, no. 2 (2020): 205-22, <https://doi.org/10.15294/ijals.v1i2.36094>.

The government regulation in lieu of law number 51 of 1960 concerning the prohibition of land use without the rightful permission or their attorney states that the use of land without the rightful permission or their legal proxies is a prohibited act and is punishable by criminal penalties. Land grabbing is also regulated in the Criminal Code (KUHP), in cases of land grabbing, the investigation process always uses Article 167 paragraph (1) namely "anyone who forces his way into a closed house, room or yard that is used by another person by -Contradicts the law or is present there unlawfully, and at the request of the person entitled to or the order does not leave immediately, shall be punished by a maximum imprisonment of nine months or a maximum fine of four thousand five hundred rupiahs.⁴

This case of land grabbing, if you look at the cases that occurred in Buol district, it can be said that this case often occurs. From the results of an interview with a police officer at the Buol police station, every year, there are approximately 20 to 30 reports regarding cases of land grabbing.⁵

Therefore this article explores the following research questions; What is the role of the police in resolving land grabbing criminal cases in Buol district, what are the police's obstacles in resolving land grabbing cases, have the police been able to resolve land grabbing cases, and if so, can the settlement process be resolved properly?

2. Method

In this study the authors used empirical research methods. In this case it can be said that the empirical research method is a legal research method that functions to see the law in a real sense and examine how the law works in society. It can also be said that legal research is taken from facts that exist in a society, legal entity or government agency. Then, there is also the normative-empirical research method, which is a method that combines elements of normative law which are then supported by additional data or empirical elements. This normative-empirical research method also concerns the implementation of normative legal provisions in their actions in every particular legal event that occurs in a society.

3. Definition of Role

Experts say that in general the notion of a role is a dynamic aspect of a status position. When a person has carried out his obligations according to his position, then that person has carried out his role. Role is a dynamic aspect of social status or position. That is, when a person is able to carry out his obligations and also gets his rights, then that person is already carrying out a role. The role determines what opportunities are given by society to him. According to the Big Indonesian Dictionary (KBBI) role is a set of behavior that is expected to be possessed by people who are located in society.⁶

3.1 The definition of the police, the duties and powers of the police

⁴ Bustoro Aly, Kitab Undang- Undang Hukum Pidana, PT. Serambi Semesta Distribusi. Jakarta, 2018. Hal.51

⁵Data on cases of land grabbing at the Buol Polres

⁶Peran menurut kamus besar bahasa Indonesia (KBBI)

3.2.1 Definition of police

The police are a civil public institution that maintains order, security and law enforcement throughout the country. In article 1 chapter 1 of the general provisions point 1 of law number 2 of 2002 concerning the Indonesian National Police that "the police are all matters relating to the functions and institutions of the police in accordance with statutory regulations."⁷

Based on the Big Indonesian Dictionary, WJS Poerwodanita stated that the term police implies a government agency tasked with maintaining security and public order, and is a State employee tasked with maintaining security and public order.⁸

3.2.2 The duties and powers of the police

In principle, the police universally have the same duties, namely as an apparatus tasked with maintaining public order and security as well as law enforcement officers, although the practice in each country has different work patterns and procedures. In article 13 of law number 2 of 2002 the main task of the police is to maintain public order and security, uphold the law and provide protection, protection and service to the community.⁹

Regarding the general authority of the Indonesian National Police, it is regulated in article 15 of law no. 2 of 2002 which states;

- 1) Receiving complaint reports,
- 2) Assist in resolving community disputes that can disrupt public order,
- 3) Preventing and managing the emergence of community diseases,
- 4) Keeping an eye on streams that can lead to divisions or threaten the unity and integrity of the nation,
- 5) Issuing police regulations within the scope of police administrative authority,
- 6) Carry out special inspections as part of police action in the context of prevention,
- 7) Take the first action on the scene,
- 8) Taking fingerprints and other identification and photographing a person,
- 9) Looking for information and evidence
- 10) Organizing an information center.¹⁰

3.2 Definition of crime

The term crime comes from a term known in Dutch criminal law, namely strafbaar feit. Even though this term is contained in the Dutch WvS, the Criminal Code, there is no official explanation of what is meant by strafbaarfeit. Therefore, legal experts try to provide the meaning of the term. According to Moeljatno, "strafbaarfeit" as a "criminal act" according to him, the definition of criminal is an act that is prohibited and punishable by criminal whoever violates the law. Then according to R. Tresna, a

⁷ Kementerian Hukum dan HAM RI, "Uu No 2 Tahun 2002," *Kepolisian Negara Republik Indonesia 1999* (2002), <https://peraturan.go.id/common/dokumen/ln/2002/uu2-2002.pdf>.

⁸WJS. Poerwadarminta. 1952. *Kamus umum bahasa Indonesia*, Jakarta: Bali Pustaka, H 549

⁹ Kementerian Hukum dan HAM RI, "Uu No 2 Tahun 2002."

¹⁰ Kementerian Hukum dan HAM RI.

criminal event is an act or a series of human actions that are contrary to laws or other regulations. Meanwhile, according to Wirjono,¹¹

3.3 Definition of land grabbing

According to KBBI, confiscation has the meaning of arbitrarily taking rights or assets. The person carrying out the land grabbing action also did not heed the applicable laws and regulations.¹² Thus, land grabbing can be said to be an act of seizing and controlling land belonging to another person. The article that regulates land grabbing is in article 167 paragraph (1). Not only that, land grabbing is also regulated in article 385 of the Criminal Code which is punishable by a maximum sentence of four years, this article reads as follows:

- 1) Whoever, with the intention of unlawfully benefiting himself or another person, sells, exchanges or encumbers with a creditverband a certified land right, a building, structure, planting or seeding on uncertified land, even though it is known that the owner has or also has the right above it is someone else,
- 2) Whoever with the same intention sells, exchanges or encumbers with a creditverband, a land right that has not been certified which has been encumbered by a creditverband or a building. Planting or seeding on land that has been burdened in this way, without notifying the existence of such burden to other parties,
- 3) Whoever with the same intention holds a creditverband regarding a land right that has not been certified. By concealing from other parties that the land related to the said right has been mortgaged,
- 4) Whoever with the same intention mortgages or leases land with uncertified land rights even though it is known that another person owns or co-owns the land rights,
- 5) Whoever with the same intention sells or exchanges land with uncertified land rights that have been mortgaged, even though the other party has not notified that the land has been used,
- 6) Whoever with the same intention sells or exchanges land with land rights that have not been certified for a period, even though it is known that the land has been leased to another person for that period.¹³

In addition to what is stated in article 167 paragraph 1 and article 385 of the Criminal Code, it is explained that something can be said to be land grabbing, if a person or group takes, sells, exchanges other people's property.

3.4 Theory of Protection and Theory of Legal Certainty

3.5.1 Legal Protection Theory

¹¹ S R Sianturi and E Y Kanter, "Asas-Asas Hukum Pidana Di Indonesia Dan Penerapan," *Storia Grafika*, 2002, 507-11.

¹² Penyerobotan menurut kamus besar bahasa indonesia

¹³ Bustoro Aly, *Kitab Undang- Undang Hukum Pidana*, PT. Serambi Semesta Distribusi. Jakarta, 2018. Hal.116

The theory of legal protection is the development of the concept of recognition and protection of human rights (HAM) that developed in the 19th century. The concept of protection of human rights is the existence of restrictions and placing obligations on society and the government.

According to Satjipto Raharjo, legal protection is providing legal protection for human rights (HAM) that are harmed by other people and this protection is given to the community so that they can enjoy all the rights granted by law.¹⁴

The theory of legal protection from Satjipto Raharjo was inspired by Fitzgerald's opinion about the purpose of law, namely to integrate and coordinate various interests in society by regulating the protection and limitations of these various interests.

Legal protection is divided into two, namely preventive and repressive legal protection. Preventive protection is legal protection that aims to prevent disputes from occurring, while repressive legal protection is legal protection that aims to resolve disputes.

3.5.2 Legal Certainty Theory

This theory of legal certainty contains two meanings namely; First, there are rules that are general in nature so that individuals know what actions may or may not be done. individual.¹⁵

From the aspect of the instrument "Legal Certainty" which is often interpreted as a literal application or applying rules (laws) in accordance with the rules of the law itself.¹⁶

Meanwhile, according to Roscoe Pound, the existence of legal certainty allows for predictability. Predictability or also called predictability is the extent to which correct predictions or forecasts of the state of the system can be made. Van Apeldoorn said that this view was inaccurate because in reality judges could also give other decisions than what law seekers had expected.

Peter Mahmud Marzuki in his book says that, in maintaining legal certainty, the role of government and courts is very important. Legal certainty is not only in the form of articles in laws but also consistency in judge's decisions between one judge's decisions and another.¹⁷

In the book State Science and State Leadership Typology by Alwi Wahyudi, it is said that legal certainty is related to order (order) and peace.¹⁸

4. Research Results and Discussion

4.1 The role of the police in solving criminal cases of land grabbing in Buol district

¹⁴Satjipto raharjo, ilmu hukum, Bandung, Aditya Bakti,2000, H 53

¹⁵ <https://www.gamedia.com/literasi/teori-kepastian-Hukum>

¹⁶ Sutrisno, Puluwulawa Fenty, and Lusiana Margaereth Tijow, "Penerapan Asas Keadilan, Kepastian Hukum Dan Kemanfaatan Dalam Putusan Hakim Tindak Pidana Korupsi," *Gorontalo Law Review* 3, no. 2 (2020): 168–87.

¹⁷ Peter Mahmud Marzuki, Pengantar Ilmu Hukum, Jakarta, Kencana, 2011, Hal 138

¹⁸ Alwi Wahyudi, Ilmu Negara dan Tipologi Kepemimpinan Negara, Pustaka Pelajar, 2014, Hal 215

The police are a tool of the state that plays a role in maintaining public order and security, enforcing the law and providing protection and service to the community in the framework of maintaining domestic security. The police play an important role in the country, having the designation of law enforcement is the consequence of being given such a designation because the police are required to know the law. Not just know, but must have mastery of the law from all aspects. In carrying out their duties the police must comply with applicable law.

The police have an important role in law enforcement. The pattern of law enforcement is influenced by the level of community development, where the law applies or is enforced. In a simple society, the pattern of law enforcement is carried out through simple procedures and mechanisms. However, in a modern society which is rational and has such a high level of specialization and differentiation, the organization of law enforcement has become more complex and highly bureaucratic.¹⁹ Even so, law enforcement is one of the main pillars of the state and even has its own part in the legal system. With law enforcement, every problem can be solved. Buol District is no exception in this case, namely one of them is carrying out law enforcement regarding cases of land grabbing.

One of the reasons behind the criminal case of land grabbing in Buol district is the economic factor. The large number of people's needs for land so that this underlies the rampant cases of land grabbing.

In order to further deepen this research, researchers have conducted interviews with one of the Buol resort police officers, Mr. Imbran Basri. The research was carried out 2 times, namely the first on Wednesday, May 11, then the researchers conducted another study on 6-8 June, the second research was carried out to complete the research data, in the interview it was explained that: who do not have a certificate which then harms other parties who have ownership rights, namely certificates. There are also problems regarding land grabbing because land has more than 1 certificate, this has an impact on losses to several parties.

In the following, the researcher will present a table of the number of reported cases of land grabbing in Buol district in 2021:

Table 1
Number of reports of cases of expropriation at the Buol Police
Year 2021

No	Year	Number of Reports	Type of violation
1	2021	26 cases	Land grabbing

Buol police data

Based on the case data above, we know that criminal cases of land grabbing in Buol district often occur. The proof alone is that there have been more than 20 reports regarding the criminal act of land grabbing, and that is not a small number. The report

¹⁹ Mohamad Rusdiyanto U. Puluhalawa "Kemandirian Kekuasaan Kehakiman Terhadap Penegakan Hukum." Cakrawala Perubahan, Universitas Negeri Gorontalo, 2013. Hal. 391-392

regarding the land grabbing case was based on community unrest towards the perpetrators of the land grabbing.²⁰

In this land grabbing case, based on an interview with Mr. Imbran Basri as a police officer on duty at the Buol Resort Police, he explained that there were several factors that triggered reports regarding land grabbing issues, including namely;

1. Planting land that has been certified by another person,
In this case, there were several people who were determined to plant seeds on other people's land that had been certified.
2. budland,
This land usually has many certificates inside and many also claim to own the land.
3. Land that has crops and is sold,
This problem is most often encountered in Buol district, where there are several parties who sell their land, which has crops in the form of long-term crops such as coconut. This land owner sells the land, but not the plants on it.²¹

In its completion, the Buol resort police resolved through two channels, namely litigation and non-litigation.²²The litigation is a legal settlement through the court, in this settlement process the buol police submit it to the court if in the process of fulfilling the report files both fulfill the basis of their rights, in this case, namely the reporter and the reported.²³Then Non-Litigation is the process of legal settlement outside the court, this settlement process is recognized in the laws and regulations in Indonesia, in Article 3 of Law Number 14 of 1970 through its explanation explaining the main provisions of judicial power stated "settlement of cases outside the court, on the basis of peace or through a referee (arbitration) is still permitted", in the non-litigation settlement process the Buol Resort Police applies it if the reporting party cannot fulfill the grounds of rights, this out-of-court settlement (non-litigation) is an attempt to bargain or compromise to obtain a mutually beneficial solution, the presence of a neutral third party is not to decide, but the parties themselves decide.²⁴

The following table reports cases of criminal acts of land grabbing in Buol district which were resolved through litigation and non-litigation;²⁵

²⁰"Results of an interview with Mr. Imbran Basri, as a member of the Buol Resort Police. Buol Police, Wednesday, 08 June 2022"

²¹"Results of an interview with Mr. Imbran Basri, as a member of the Buol Resort Police. Buol Police, Wednesday, 08 June 2022"

²²<https://komisiinformation.bantenpriv.go.id/read/arsip-artikel/86/perbedaan-litegasi-Dan-non-litegasi.html#YqrvKyV8qEc>.

²³"Results of an interview with Mr. Imbran Basri, as a member of the Buol Resort Police. Buol Police, Wednesday, 08 June 2022"

²⁴"Results of an interview with Mr. Imbran Basri, as a member of the Buol Resort Police. Buol Police, Wednesday, 08 June 2022"

²⁵"Results of an interview with Mr. Imbran Basri, as a member of the Buol Resort Police. Buol Police, Wednesday, 08 June 2022"

Table 2
Settlement of cases in litigation and non- litigation
Year 2021

No	Year	Number of cases	Litigation settlement	Non-litigation Settlements
1	2021	26 cases	2 cases	24 cases

Buol police data

There are 26 reports regarding cases of land grabbing problems, in this case there are only 2 reports that continue the case, because only 2 of these cases can fulfill the basis of rights. In cases that cannot fulfill their rights, the case is returned to the complainant and the case is not continued, but then mediation is carried out by the police and then directed to resolve the problem amicably. As for the cases where the case was continued because it fulfilled the grounds of rights, however in these 2 cases both the reporting party and the one being reported both had grounds for their rights, therefore in this case the police handed them over to the court.²⁶

Based on the explanation above, it can be seen that the resolution of cases is through mediation, in this case the settlement is through family talks. This familial settlement can be classified as restorative justice. Restorative justice is the settlement of criminal cases by involving the perpetrator, victim, perpetrator's family and victim's family, then other related parties to then seek a fair solution by emphasizing restoration to its original state and not retaliation.

The explanation regarding the fulfillment of the basis of rights in the process of settling the criminal case of land grabbing is to fulfill the conditions for settling the case. The basis of this right is an important requirement in submitting land rights applications, namely evidence of sales and purchase agreements, delivery, inheritance or physical possession for tens of years.

In the process of handling reports regarding criminal cases of land grabbing, the Buol Resort Police carried out several stages, namely;

a. Investigation

During the investigation process, the police asked for evidence in the form of legal rights from the reporting party, whether in the form of a letter of sale, handover, grant, inheritance or proof of physical possession for decades. If at this stage the reporting party cannot fulfill the evidence in the form of the rights requested by the police, the police return it back to the reporting party, and the police then provide mediation directing the reporting party to settle it amicably.

b. Investigation

In this process the police often direct the civil case first, if the report leads to a criminal scope, then the investigation process continues. based on interviews with the buol police, every year there are more or less reports

²⁶"Results of an interview with Mr. Imbran Basri, as a member of the Buol Resort Police. Buol Police, Wednesday, 08 June 2022"

regarding cases of land grabbing, but there are only about 2-3 cases that are continued into the investigation process.

c. Submission of cases to court

The process of submitting the case to the court was due to findings during the investigation process regarding land ownership. In many reports investigated in Buol district, there are many lands that have the same object. Then there were several cases that both fulfilled the basis of rights which were also submitted to court.²⁷

4.2 Factors hindering the police in resolving land grabbing cases

In the process of resolving cases of criminal acts of land grabbing in Buol district, there are not so many obstacles if you can fulfill the basis of rights. However, there is one thing that has become a finding, namely that of the many reports regarding cases of land grabbing, there were several problems with multiple certificates, because of that the police handed over the case to the court.²⁸

5. Conclusion

Based on the results of the research conducted by the researcher, it can be concluded that; The role of the police in solving criminal cases of land grabbing in Buol Regency is by conducting an investigation first and then proceeding to the investigation so that later no mistakes will be found at a later date. There are not so many factors that constrain the police in resolving land grabbing cases, but there are a number of cases that encounter a number of obstacles due to the incompleteness of the evidence provided by the complainant, and the lack of public knowledge of the land grabbing problem.

Reference

- Kementerian Hukum dan HAM RI. "Uu No 2 Tahun 2002." *Kepolisian Negara Republik Indonesia* 1999 (2002).
<https://peraturan.go.id/common/dokumen/ln/2002/uu2-2002.pdf>.
- Sianturi, S R, and E Y Kanter. "Asas-Asas Hukum Pidana Di Indonesia Dan Penerapan." *Storia Grafika*, 2002, 507-11.
- Sutrisno, Puluhulawa Fenty, and Lusiana Margaereth Tijow. "Penerapan Asas Keadilan, Kepastian Hukum Dan Kemanfaatan Dalam Putusan Hakim Tindak Pidana Korupsi." *Gorontalo Law Review* 3, no. 2 (2020): 168-87.
- Taufiq, Mohamad, and Zulfikar Sarson. "Criminal Acts Performed by Children in the Perspective of Criminology (Case Study in Gorontalo City on 2008-2012)" 1, no. 2 (2020): 205-22. <https://doi.org/10.15294/ijals.v1i2.36094>.

²⁷"Results of an interview with Mr. Imbran Basri, as a member of the Buol Resort Police. Buol Police, Wednesday, 08 June 2022"

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Yuridis, Tinjauan, Tindak Pidana, and Penyerobotan Tanah. "AHMAD ASYRAF," 2018.