Differences in the Application of Substantive Law by Judges at the District Court Level and the Cassation Level in Cases of Unlawful Control of Plantation Land

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Abstract

This study aims to analyze the differences in the application of substantive law by judges at the District Court level and at the cassation level in cases of unlawful control of plantation land. Differences in decisions across judicial levels often raise questions regarding the consistency of law enforcement, particularly in the application of substantive legal norms that form the basis of judicial reasoning. This research employs a normative juridical method with a statutory approach and a case study of relevant court decisions. The differences in the application of substantive law are caused by variations in judges' interpretations of the elements of the criminal offense, particularly concerning aspects of control, ownership, and the legality of land rights. In addition, differences in assessing evidence and legal facts revealed during trial proceedings also influence judicial outcomes. At the cassation level, the Supreme Court tends to emphasize the conformity of legal application with statutory provisions and prevailing legal principles, thereby correcting errors in the application of law made by the *judex facti*. The conclusion of this study is that the differences in the application of substantive law between the District Court and the cassation level reflect the dynamics of the law enforcement process. However, they also indicate the need to enhance consistency and harmonization in legal application to ensure legal certainty and a sense of justice. Therefore, it is necessary to strengthen judicial capacity and establish clearer guidelines in interpreting substantive law in similar cases.

Keywords: *Substantive Law, District Court, Cassation, Land Control, and Plantation*.

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Introduction

The Republic of Indonesia, as a state based on the rule of law, places law as the primary instrument in regulating social, national, and state life. The principle of the rule of law requires that all exercises of power, including judicial authority, be carried out in accordance with the law, ensuring legal certainty, justice, and utility. In the enforcement of criminal law, judges hold a crucial role, as the decisions they render not only determine the fate of the defendant but also reflect the authority of the law and the public's sense of justice.[1]

From a social science perspective, crime is understood as a social phenomenon arising from structural injustice or as a manifestation of diverse human behavior, representing reactions to the socio-economic conditions of individuals or groups within society. Regardless of its origin, individuals in economically disadvantaged and pressured circumstances, compounded by a lack of moral or spiritual guidance, tend to think short-term and may justify any means to fulfill their needs.[2]

In criminal law, criminalization is part of criminal policy. Criminal policy refers to the efforts undertaken by the state to combat crime, which essentially forms an integral part of broader efforts to protect society, with the ultimate aim of achieving social welfare.[3]

The Draft Criminal Code (RUU KUHP) represents a material reform of criminal law. This reform is an effort to realize legal ideals, and thus it can be said that the RUU KUHP is a manifestation of Indonesian identity. The orientation of legal reform is not merely to improve the law but to replace it with a better one. Therefore, the RUU KUHP not only introduces necessary changes but also seeks to break away from the paradigm of colonial legal heritage. Legal reform can serve as a foundation for shaping the character of the nation. It represents a real condition moving toward an ideal condition, making the RUU KUHP a method for planned social and cultural transformation within society.[4]

The issue of unlawful control of plantation land is one of the significant problems in legal practice. This phenomenon is not only related to criminal law aspects but also involves interconnected social, economic, and agrarian dimensions. Land conflicts often involve multiple parties, such as communities, corporations, and even local governments. In many cases, such disputes lead to criminal proceedings that emphasize the proof of elements of a criminal offense. However, the dynamics observed in practice indicate that case resolution does not always proceed consistently. This is reflected in the differences in the application of substantive law by judges at various levels of the judiciary.[5]

Within the criminal justice system, judges play a role in interpreting and applying substantive law to a case. Substantive law itself refers to norms governing prohibited acts and the sanctions that may be imposed. In cases of unlawful control of plantation land, judges are required to identify the elements of the criminal offense. However, in practice, interpretations of these elements often differ between judges at the first instance level and those at the cassation level. These differences may be influenced by various factors, such as legal approaches, intellectual backgrounds, and considerations of justice. As a result, the decisions rendered may show significant discrepancies, raising questions regarding the consistency of legal application within the judicial system.

The District Court, as the court of first instance, has the function of examining and deciding cases based on facts revealed during trial proceedings. Judges at this level tend to focus on direct evidentiary proof. In cases of unlawful land control, judges assess evidence of ownership, physical possession, and the element of unlawfulness. However, in some instances, District Court decisions are considered to insufficiently take into account broader aspects, such as the history of land control or the underlying agrarian conflicts.[6] This may result in decisions that do not fully reflect a sense of justice. Consequently, such decisions are often challenged through legal remedies to higher courts. This condition indicates the existence of differences in the application of substantive law.

The Supreme Court, as the court of cassation, has the authority to review the application of law by lower courts. In cassation proceedings, judges no longer examine factual matters but instead focus on legal aspects. Cassation judges play a role in maintaining uniformity in the application of law. However, cassation decisions do not always align with those of the District

Court. These differences often arise in interpreting the element of "unlawfulness" or in determining whether an act can be qualified as a criminal offense. This demonstrates that the application of substantive law remains dynamic and open to interpretation.

Problems arise when, in the same case or in cases with similar characteristics, there are differing decisions between the District Court as *judex facti* and the cassation level as *judex juris*. These differences often lie not only in the rulings but also in the legal reasoning employed at each level of the judiciary. Such conditions have the potential to create legal uncertainty and differing perceptions regarding the application of criminal law norms.[7]

Differences in the application of substantive law between the District Court and the cassation level can have implications for legal certainty. Legal certainty is a fundamental principle within the legal system that ensures consistent application of the law. When differing decisions occur, this may create uncertainty for the parties involved. Moreover, such conditions may also affect public trust in judicial institutions, as society may question the objectivity and consistency of judges in adjudicating cases.[8]

Although Indonesia adheres to a civil law system, in which legislation serves as the primary source of law, judicial practice shows that many legal norms are open to multiple interpretations, incomplete, or even subject to legal gaps. This situation requires judges to interpret the law in order to determine meanings that are appropriate and relevant to specific legal events.[9]

In cases of unlawful control of plantation land, there are various aspects that must be considered by judges. In addition to criminal law aspects, there are also agrarian law considerations that cannot be overlooked. Many cases originate from unresolved disputes over land rights at the administrative level, yet they are brought into the criminal domain. This creates challenges in the law enforcement process. Judges are required to understand the interconnection between these different fields of law. However, not all judges possess the same level of understanding, which can result in differences in the application of substantive law between one level of the judiciary and another.

In addition to normative factors, differences in the application of substantive law are also influenced by non-juridical factors. These include the educational background, experience, and perspectives of judges in handling a case. Judges, as human beings, cannot be entirely free from subjectivity in making decisions. Therefore, interpretations of the law may vary from one judge to another. Judges are required to balance legal certainty with a sense of justice; however, achieving such balance is not always easy.

As illustrated in the case reflected in District Court Decision Number 444/Pid.Sus/2023/PN Kis and Cassation Decision Number 4987 K/Pid.Sus-LH/2024, the District Court ruled that the defendants were proven to have committed the acts charged but that such acts did not constitute a criminal offense (*onslag van alle rechtsvervolging*), and therefore released the defendants from all legal charges. In contrast, at the cassation level, the court declared the defendants legally and convincingly guilty of unlawfully cultivating, using, and controlling plantation land, and imposed a sentence of one year of imprisonment for each defendant.

Based on the cassation decision, at the Kisaran District Attorney's Office, the defendants Ahmad Bandung and Marimin were charged by the public prosecutor for participating in unlawfully cultivating, using, occupying, or controlling plantation land under Article 107 paragraph (1) letter (a) of Law Number 39 of 2014 concerning Plantations in conjunction with Article 55 paragraph (1) point 1 of the Criminal Code. In the indictment, the public prosecutor sought a sentence of one year and six months of imprisonment for each defendant.

From this criminal case, research on the differences in the application of substantive law becomes important to provide a clearer picture of judicial practice. So far, many studies have focused solely on normative aspects without examining their implementation in practice. In fact, the gap between theory and practice often becomes a source of problems in law enforcement. Furthermore, this research can identify weaknesses within the judicial system. Thus, the findings of this study are expected to contribute to the development of legal scholarship.

Practically, this research also has implications for law enforcement officials, particularly judges. By understanding the factors that cause differences in the application of substantive law, judges are expected to exercise greater caution in making decisions. In addition, this study may serve as an evaluative reference for the Supreme Court in carrying out its supervisory function. This is important to ensure that the law is applied consistently. With greater uniformity in legal application, legal certainty can be better guaranteed, and public trust in judicial institutions can be enhanced.

Based on the above discussion, the differences in the application of substantive law by judges at the District Court level and at the cassation level in cases of unlawful control of plantation land constitute a phenomenon that warrants further examination. These differences not only reflect the dynamics of legal interpretation but also highlight the challenges in achieving legal certainty.

Research Methodology Type of Research

This study employs a normative juridical legal research method, which focuses on the examination of legal norms, legal principles, and doctrines related to differences in the application of substantive law by judges at the District Court level and the cassation level in cases of unlawful control of plantation land. This approach is chosen because the study aims to analyze the consistency of judicial application of law and the legal consequences arising from disparities in judicial decisions.

In its implementation, this research utilizes several approaches, namely the statutory approach, the case approach, and the conceptual approach.[10] The statutory approach is used to examine relevant legal provisions, such as the Criminal Procedure Code and regulations related to plantations. The case approach is conducted by analyzing court decisions that demonstrate differences, particularly decisions of acquittal or release from all legal charges in similar cases. Meanwhile, the conceptual approach is employed to understand the concept of such decisions and their implications within the criminal justice system.

The legal materials used consist of primary legal materials in the form of statutory regulations and court decisions, secondary legal materials such as textbooks, academic journals, and expert opinions, as well as tertiary legal materials including legal dictionaries and encyclopedias that support conceptual understanding.[11]

Data Collection Methods

Data collection in this study is carried out through library research, by inventorying, examining, and processing various legal materials relevant to the research problem. Primary legal materials are collected by tracing statutory regulations and court decisions related to rulings of release from all legal charges in cases of unlawful control of plantation land.[12]

Secondary legal materials are obtained through the review of literature, including legal textbooks, journal articles, previous research findings, and other scholarly works relevant to the research topic. These materials are used to strengthen the analysis and provide a theoretical foundation for the issues being examined.[13]

In addition, this research also employs documentation techniques to collect and analyze legal documents, including judicial considerations contained in the decisions under review. The data collection process is conducted systematically by classifying legal materials based on their relevance and connection to the research problem.[14]

Through this method, it is expected that comprehensive data will be obtained, enabling a clear understanding of the legal consequences arising from differences in decisions of release in cases of unlawful control of plantation land.

Results Differences in the Application of Substantive Law by Judges at the District Court Level and the Cassation Level in Cases of Unlawful Control of Plantation Land

Differences in decisions of release from all legal charges in cases of unlawful control of plantation land between the District Court level and the cassation level reflect the dynamics in

the practice of criminal law enforcement. This disparity indicates that judges possess a relatively broad scope of interpretation in assessing facts and applying legal norms.[15]

A decision of release from all legal charges is essentially rendered when the act charged is proven, but it does not constitute a criminal offense. In cases of land control, differences in assessment often arise in determining whether the act falls within the domain of criminal law or civil law.[16]

At the District Court level, judges tend to emphasize empirical facts and the evidence presented during trial proceedings. As a result, the decisions rendered are highly dependent on the quality of evidence and the arguments of the parties. In contrast, at the cassation level, the Supreme Court focuses more on the application of law and the conformity of the decision with statutory provisions. Therefore, differences in rulings often arise due to the differing approaches between fact assessment and legal evaluation.[17]

Differences in the interpretation of the element of "unlawfulness" constitute one of the main factors causing disparities in decisions. This element is often interpreted differently by judges, both in a formal and material sense.[18] In addition, the construction of evidence also influences the outcome of decisions. Judges may hold differing views regarding the strength of evidence, particularly in cases involving land ownership documents.

The legal consequence of such differences in decisions is the emergence of legal uncertainty for the parties involved. Parties who feel aggrieved may not obtain certainty regarding the legal status of the disputed land.[19] These differences not only reflect variations in legal interpretation but also illustrate differing approaches in evaluating facts and legal norms.

At the District Court level, judges acting as *judex facti* have the authority to assess the facts revealed during trial proceedings. In such cases, judges place greater emphasis on proving the elements of the criminal offense based on the evidence presented by both the public prosecutor and the defendant. The evaluation of witness testimony, documentary evidence, and expert opinions becomes a dominant factor in determining whether the element of unlawful control of land has been fulfilled.

Judges at the District Court level tend to apply an empirical approach in assessing cases. This means that the primary focus is on concrete facts occurring in the field, including how the defendant controlled the land and whether there is valid proof of ownership. This approach often results in decisions that depend heavily on the strength of evidence presented during trial. However, such an approach may give rise to issues when judges do not sufficiently examine aspects of substantive law. In several cases, it has been found that the element of unlawfulness is not analyzed in depth, thereby creating the potential for errors in the application of law.

In contrast, judges at the cassation level in the Supreme Court act as *judex juris*, focusing on the application of law. At this stage, the Supreme Court no longer evaluates factual matters but instead determines whether the law has been correctly applied by the lower courts. This distinction forms the primary basis for differences in decisions between the two levels of the judiciary.[20]

In several cassation decisions, the Supreme Court tends to correct the application of substantive law that is deemed inaccurate. Such corrections may involve reinterpretation of the elements of the criminal offense, including aspects of land control, the legality of rights, and the existence of the element of unlawfulness.

As illustrated in District Court Decision Number 444/Pid.Sus/2023/PN Kis and Cassation Decision Number 4987 K/Pid.Sus-LH/2024, the District Court ruled that the defendants were proven to have committed the acts charged but that such acts did not constitute a criminal offense (*onslag van alle rechtsvervolging*), and therefore released them from all legal charges. In contrast, the cassation decision declared the defendants legally and convincingly guilty of unlawfully cultivating, using, and controlling plantation land, and imposed a sentence of one year of imprisonment for each defendant.

Based on the cassation ruling, at the Kisaran District Attorney's Office, the defendants Ahmad Bandung and Marimin were charged by the public prosecutor for participating in unlawfully cultivating, using, occupying, or controlling plantation land under Article 107 paragraph (1) letter (a) of Law Number 39 of 2014 concerning Plantations in conjunction with

Article 55 paragraph (1) point 1 of the Criminal Code. The public prosecutor demanded a sentence of one year and six months of imprisonment for each defendant.

The case originated in 2017, when a 156-hectare plantation area was awarded to PT Pulahan Seruwai based on a Supreme Court decision. Following the execution of the decision by the Kisaran District Court, the land was handed over to PT Pulahan Seruwai. Subsequently, the company planted oil palm trees on the 156-hectare plantation area, which had previously been controlled by Defendant I Ahmad Bandung (also known as Amat Bandung), Defendant II Marimin, and other defendants whose prosecutions were handled separately. At present, the oil palm trees planted on the land have already been harvested by PT Pulahan Seruwai.

In 2022, while employees of PT Pulahan Seruwai were harvesting palm oil fruit, the defendants, together with their associates, arrived carrying hoes and banana seedlings, and proceeded to plant areca nut and banana trees on approximately 30 spots within the 156-hectare plantation area. In addition, the defendants constructed a wooden hut with a zinc roof and installed a wooden sign reading "No Entry."

In this case, PT Pulahan Seruwai held legal ownership based on Cultivation Rights Title (HGU) Certificate Number 3 dated December 29, 1995, covering an area of 1,508.64 hectares, which was subsequently renewed under the Decree of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 13/HGU/KEM-ATR/BPN/II/2022 dated February 14, 2022, concerning the Pulahan Seruwai Plantation and Trading Company in Asahan Regency, North Sumatra Province. The company also possessed a Plantation Business Permit (IUP) Number 503/IUP/BPPPM/0758/V/2013 dated May 10, 2013.

Based on these facts, as revealed during trial proceedings, the public prosecutor argued that the defendants fulfilled the elements of the criminal offense as charged in the single indictment under Article 107 letter (a) of Law Number 39 of 2014 concerning Plantations in conjunction with Article 55 paragraph (1) point 1 of the Criminal Code. The defendants' actions were proven to constitute participation in unlawfully cultivating, using, occupying, and/or controlling plantation land, thereby legally and convincingly fulfilling the elements of the charged offense. These elements include "any person" and "those who commit, order, or participate in unlawfully cultivating, using, occupying, and/or controlling plantation land."

From a legal theory perspective, this case illustrates that differences in judicial decisions can be understood as a consequence of judicial freedom in interpreting the law. Such freedom is part of the independence of the judiciary as guaranteed by the constitution. However, this freedom must be balanced with the responsibility to maintain consistency and legal certainty. Supreme Court jurisprudence plays an important role in ensuring such consistency, as cassation decisions can serve as references for judges at the District Court level when handling similar cases.

Differences in the application of substantive law between the District Court and the cassation level represent a phenomenon that occurs within society. These differences are influenced by various factors, including legal interpretation, evaluation of evidence, and judicial competence. While such differences reflect the dynamic nature of the criminal justice system, they also underscore the importance of efforts to enhance consistency and legal certainty in law enforcement.

Conclusion

Based on the results of the study, it can be concluded that the differences in the application of substantive law by judges at the District Court level and the cassation level in cases of unlawful control of plantation land reflect differences in the interpretation of the elements of criminal offenses as well as in the legal constructions used to assess facts during trial proceedings. Judges at the District Court level, as *judex facti*, tend to focus on the proof of facts and the evidence presented in court, so their considerations are more influenced by the evaluation of empirical conditions revealed during the trial. Meanwhile, judges at the cassation level, as *judex juris*, place greater emphasis on the application of law, including the accuracy in interpreting substantive legal norms and their conformity with applicable statutory regulations.

These differences are also influenced by variations in legal interpretation regarding the concepts of land control, the legality of ownership, and the element of unlawfulness in the cases examined. In addition, differences in assessing the strength of evidence and the relevance of legal facts also contribute to disparities in decisions between the two levels of the judiciary. In several cases, the Supreme Court, through its cassation decisions, has corrected errors in the application of substantive law made by the District Court, thereby resulting in different rulings.

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