

**CONFLICTS OF LEGAL NORMS AND THE IMPLICATIONS OF LAND
EXECUTION
VIEWED FROM KARL MARX'S THEORY**

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(Naskah diterima: 1 October 2025, disetujui: 28 October 2025)

Abstract

Execution (forced eviction) is the final course of action taken when the losing party in a case refuses to comply with a court decision. This measure carries complex consequences, ranging from the loss of residence and livelihood to psychological impacts and the erosion of social and cultural identity. The magnitude of such losses often drives affected parties to struggle for their rights, as exemplified by the residents of Pulosari, Gunungsari Subdistrict, Dukuh Pakis District, Surabaya City, whose homes were forcibly vacated by the Surabaya District Court upon the petition for eviction execution filed by PT Patra Jasa in 2018, based on Decision No. 333/Pdt.G/2013/PN.Sby, dated January 21, 2014. The objective of this study is to examine the existence of a norm conflict in the issuance and implementation of the said eviction order. This research adopts a normative legal methodology, which analyzes the application of legal norms and their social impacts. The research approach used is descriptive-qualitative. The findings indicate that a conflict of norms exists within the Surabaya District Court's decision (No. 333/Pdt.G/2013/PN.Sby, dated January 21, 2014), which serves as the basis for the execution of eviction. The conflict arises between Article 178 of the Herziene Indonesisch Reglement (HIR) and Law No. 48 of 2009 on Judicial Power. Article 178 HIR prohibits judges from deciding beyond what is demanded (ultra petita), whereas Law No. 48 of 2009 grants judges interpretive discretion in applying legal rules, thereby allowing the issuance of an execution order that diverges from the operative part (dispositif) of the decision. The issuance of an execution order inconsistent with the original ruling reflects a conflict between judicial norms and administrative norms. This condition aligns with Karl Marx's theory of law, which posits that law functions as an instrument of interest for the ruling or propertied class.

Keywords: Execution, Conflict of Norms, Karl Marx's Legal Theory.

Abstrak

Eksekusi (penggusuran paksa) adalah pilihan tindakan terakhir yang dilakukan apabila pihak yang kalah dalam suatu perkara tidak bersedia menjalankan putusan pengadilan. Hal ini karena dampak eksekusi yang kompleks, mulai dari kehilangan tempat tinggal dan mata pencaharian, dampak psikologis, sampai dengan kehilangan identitas sosial dan budaya. Besarnya kerugian yang dialami membuat korban eksekusi melakukan perjuangan untuk mendapatkan haknya, salah satunya adalah warga Pulosari, Kelurahan Gunungsari, Kecamatan Dukuh Pakis, Kota Surabaya, yang tempat tinggalnya dilakukan eksekusi pengosongan oleh Pengadilan Negeri Surabaya atas pengajuan eksekusi pengosongan dari PT. Patra Jasa selaku Pemohon eksekusi pada tahun 2018, berdasarkan Putusan Pengadilan Negeri Surabaya register perkara Nomor: 333/Pdt.G/2013/PN.Sby., tertanggal 21 Januari



2014. Adapun tujuan dari penelitian ini adalah untuk mengetahui adanya konflik norma dalam penetapan dan pelaksanaan eksekusi pengosongan tersebut. Penelitian ini merupakan penelitian hukum normatif yang digunakan untuk mengkaji penerapan norma hukum dan dampaknya terhadap masyarakat. Pendekatan penelitian yang digunakan adalah pendekatan deskriptif kualitatif. Kesimpulan penelitian menunjukkan bahwa terdapat terdapat konflik norma dalam putusan Pengadilan Negeri Surabaya register perkara Nomor : 333/Pdt.G/2013/PN.Sby., tertanggal 21 Januari 2014, yang menjadi dasar terjadinya pelaksanaan eksekusi pengosongan, yaitu antara Pasal 178 HIR dan Undang-undang Nomor 48 Tahun 2009 tentang Kekuasaan Kehakiman. Pasal 178 HIR melarang hakim memutuskan di luar yang dituntut, akan tetapi Undang-undang Nomor 48 Tahun 2009 memberikan kebebasan kepada hakim untuk menafsirkan aturan hukum sehingga menerbitkan penetapan eksekusi yang berbeda dari bunyi amar putusan. Penetapan eksekusi yang berbeda dari amar putusan menggambarkan bahwa terjadi konflik antara norma yudisial dan norma administratif. Nampak bahwa kondisi ini sesuai dengan teori hukum Karl Marx, di mana hukum adalah alat kepentingan bagi pihak yang berpunya.

Kata kunci: Eksekusi, Konflik Norma, Teori Hukum Karl Marx.

I. INTRODUCTION

The losing party may choose to voluntarily enforce a judge's decision that has become legally binding, thus there is no problem with voluntary enforcement of the decision. However, general enforcement (executory force), sometimes known as the power of execution, can be used to enforce the decision if the losing party refuses to comply. Enforcement begins with the seizure of certain movable assets, if no pre-determined security interest has been secured. If this is deemed insufficient, the losing party's immovable assets may also be seized to cover the amount owed under the judgment and any costs associated with its enforcement.

Essentially, enforcement is the use of force to enforce a court decision that has long-term legal significance. If the losing party does not voluntarily comply with the terms of the judgment, enforcement can occur. The enforcement action must be cancelled if the losing party willingly and freely complies with the judgment. Therefore, it is necessary to distinguish between voluntary enforcement of a judgment and enforcement-based enforcement. In practice, it is not uncommon to find court decisions that the losing party does not actively follow or is aware of. This means not enforcing the judgment and not serving the interests of the winning party. The court can guarantee or ensure the implementation of a decision through execution to ensure compliance with the decision and the interests of the losing party are met.

Execution can also be defined as one of the rules and practices applicable in the case resolution process, namely legal action taken by the court against the losing party in a

lawsuit. This means that throughout the civil legal process, execution is an ongoing action, not a stand-alone legal action. Execution is part of the legal process as a manifestation of the application of procedural norms stipulated in the HIR or RBG. In civil cases, court orders to execute the losing party are often enforced. However, many problems arise because, as is known, execution is essentially a coercive measure to enforce a decision. Conflicts between formal legal rules and the social reality of communities that reject court decisions often occur in the execution process of civil cases, particularly land cases. Suartina explains that the diversity of Indonesian law creates a complex relationship between local norms and state law, which often gives rise to disputes when court decisions are implemented.

One of the execution cases that occurred in the Surabaya area of East Java and attracted quite a lot of public attention was the execution of land eviction in the Pulosari area, Gunungsari Village, Dukuh Pakis District, Surabaya City, in early 2018. Until now, the struggle of Pulosari residents, Gunungsari Village, Dukuh Pakis District, Surabaya City, to regain their land and residential buildings continues. The struggle was carried out by residents who at that time refused the execution of eviction and did not want to accept compensation from PT. Patra Jasa which is a subsidiary of Pertamina engaged in property development. The status of the disputed land is Eigendom Verponding which was then transferred by the state to Pertamina by issuing SHGB (Building Use Rights Certificate) and then inbreng to PT. Patra Jasa. Before the transfer of rights, the land had been controlled and managed by the local community for a long time and from generation to generation (from the 1970s) as cultivated and residential land. During the period of obtaining the use rights, PT. Patra Jasa did not physically control and utilize the land until its validity period expired, so it was considered abandoned land by the community. The community considered the land abandoned because PT. Patra Jasa did not physically control or utilize it during the validity period of the land use rights until its validity period expired. Due to inadequate government oversight and a lack of legal certainty regarding ownership status, village communities feel they have jurisdiction over abandoned land that previously had the status of Cultivation Use Rights (HGU-HGB). Instead of relying on official documentation, communities often base their claims on historical ownership and verifiable use.

Local communities' claims that they have physical authority over the land without official titles and the ambiguous legal status of colonial-era land rights (Eigendom Verponding) have given rise to varying opinions about who has the most rights to land

ownership. According to customary law, continued control and occupation of land—even without official titles—can generate customary rights, especially if done in good faith and passed down from generation to generation. Von Benda-Beckmann highlights that the overlap between official state law and customary law often results in conflicting norms in land disputes in Southeast Asia. This opinion can be seen in decision Number: 31/Pdt.G/2023/PN.Mks., which states that land rights include not only legal ownership but also non-formal elements including physical control, actual use, and recognition by local residents_ demonstrating the practical application of customary law recognition. Therefore, the judge in the decision of case Number: 31/Pdt.G/2023/PN.Mks., considered the actual use status as part of the element of loss due to unlawful acts, even though it was not accompanied by a formal certificate.

Based on the decision of the Surabaya District Court dated January 21, 2014 (case register number: 333/Pdt.G/2013/PN.Sby.), PT. Patra Jasa is the legal owner of 142,443 square meters of land in Gunungsari District, Dukuh Pakis District, Surabaya City. Based on the decision of the East Java High Court with case register number: 553/PDT/2014/PT.Sby., dated November 27, 2014, residents who do not have legal rights to the land must immediately vacate it. However, based on the results of an interview with one of the affected homeowners (initials NH), the Building Use Rights of PT. Patra Jasa only applies to a portion of the property, approximately 76,910 m². The remaining 65,553 m² of land expired in 2006 because the Surabaya National Land Agency did not grant an extension. Furthermore, the residents who were executed at that time were not the injured parties in the Surabaya District Court Decision, Case Register Number: 333/Pdt.G/2013/PN.Sby., dated January 21, 2014 in conjunction with the East Java High Court Decision, dated November 27, 2014, and registered with Case Number: 553/PDT/2014/PT.Sby. This was conveyed by another resident (initial B), who is the coordinator of the Pulosari residents. However, what can be done, the decision effectively demands that the Defendants and their heirs leave the land and declares that the land belongs to PT. Patra Jasa until its validity period expired in 2006. All land occupants, even those who were not Defendants or their heirs, were required to vacate the property, in accordance with the *Aanmaning* (warning letter) and the Decree on the execution of the land eviction. There appears to be a horizontal norm conflict here as a result of a possible misinterpretation of the wording of the verdict, resulting in a different execution order. Furthermore, the social phenomenon developing in the context of the land execution

case in Pulosari, Surabaya, demonstrates an unbalanced relationship between formal legal authority and the social legitimacy of the local community. This is because formal law is considered to ignore the social and historical aspects of land ownership. The community often views the execution as a form of structural injustice. The consequences of the execution caused Pulosari residents to be scattered across various regions after the execution. Some rented houses, returned to their hometowns, and spent time in shelters. Various socio-economic impacts emerged, including children changing schools, some people losing their jobs/livelihoods, or even experiencing physical and psychological trauma. In addition, social networks that have been built over decades, such as family ties, familiarity between neighbors, and the mutual cooperation system, are often shaken when residents are relocated to a new location. Siagian (2023) states that executions that occur in large cities, such as Jakarta residents, can cause the loss of schools, places of worship, and public areas that function as community centers, the process of "forced relocation" results in severe social alienation.

Affected communities typically develop various social measures to address this imbalance, ranging from advocacy with civil society organizations to collective action and legal challenges. A new form of "commoning," namely the collective management of public space to protect the right to life, is reflected in patterns of community resistance, as found in research from Land Rights and Legislation (2023). This type of social mobilization is both an expression of legal awareness and a concrete, practical manifestation of community resistance. This reflects the escalation of conflict during the execution of the eviction, which can create potential conceptual contradictions between formal justice, which is based on written regulations, and substantive justice, which is based on social and humanitarian principles, rather than simply a clash between the state and the people. In addition to inadequate communication between the implementers and affected residents (in this example), this dispute also poses challenges to implementation.

The rejection and resistance to the execution by the Pulosari community in Surabaya, as well as the chronology of the eviction itself, raise further questions regarding the concept of justice and the application of legal theory to the application of legal norms in society. Karl Marx is one of many renowned figures in legal philosophy. Karl Marx argued that justice is not the primary concern and that law actually serves the interests of the wealthy. For those in power and the exploiters who use it for their own gain, law is merely a tool. Karl Marx

viewed law as a component of the superstructure that reflects and supports the economic base, particularly capitalist relations of production, rather than as an impartial body primarily seeking “abstract justice.” The conditions for capital accumulation are reproduced in Marx's framework through the emergence and operation of legal norms, judicial institutions, and political authority. This includes protecting private ownership of the means of production and maintaining stable relations of production that benefit the capitalist class. In other words, law protects the interests of the wealthy by providing them with the legitimacy and means of coercion to enforce the property rights necessary for capital accumulation.

II. RESEARCH METHODS

The methodology used in this study is a normative research method that examines the legal rules used to decide a case. The main objective of this study is to examine whether there has been a conflict of legal norms in the execution of the land and how it is viewed from the legal theory. The data collection technique used is documentation study. The type of data for the document study is the case of the Surabaya District Court Decision, case register Number: 333/Pdt.G/2013/PN.Sby., dated January 21, 2014 Jo. The East Java High Court Decision, case register Number: 553/PDT/2014/PT.Sby., dated November 27, 2014, Aanmaning and the Decree of the Chairman of the Surabaya District Court, case register Number: 108/EKS.SHT/2017/PN.Sby., dated November 7, 2017 Jo. Implementation of the Emptying Execution of the Register Number: W14-UI/1142/Hk. 02/I/2018, dated January 25, 2018. Furthermore, documentation data on the execution process was also obtained from online media reports. The analysis technique used was qualitative analysis.

III. RESEARCH RESULTS

The documentation study conducted in this research yielded the following data:

- a. Decision of the Surabaya District Court, case register No. 333/Pdt.G/2013/PN.Sby., dated January 21, 2014, in conjunction with the Decision of the East Java High Court, case register No. 553/PDT/2014/PT.Sby., dated November 27, 2014, which essentially states that:
 1. The Plaintiff (PT. Patra Jasa) is the legal rights holder of a plot of land measuring 142,443 m², in accordance with Building Use Rights Certificate No. 434, Gunungsari Village, Dukuh Pakis District, Surabaya City, with situational drawing No. 14755/1996, dated October 17, 1996, until its expiration;

2. To sentence Defendants 2 to Defendant 41 and all their heirs to vacate the disputed land with an area of approximately 65,533 m², which is part of the land registered in Building Use Rights Number 434, Gunungsari Village, with an area of 142,443 m², situation drawing Number: 14755/1996 dated October 17, 1996 and to hand it over to the Plaintiff no later than 7 (seven) days after the verdict of this case is read.
- b. Letter of Determination of the Chairman of the Surabaya District Court with case register Number: 108/EKS. SHT/2017/PN.Sby., dated November 7, 2017 Jo. The eviction execution is registered under Number: W14-UI/1142/Hk.02/I/2018, dated January 25, 2018.

Meanwhile, documentation through online media reports regarding the eviction execution process revealed that following the execution, residents of Pulosari, Gunungsari Village, Dukuh Pakis District, Surabaya City, filed several lawsuits, both with the Surabaya District Court and the South Jakarta District Court (where PT. Patra Jasa is domiciled), seeking their rights as Pulosari residents affected by the forced eviction, which disregarded the principles of social justice. Currently, residents of Pulosari, Gunungsari Village, Dukuh Pakis District, Surabaya City, are continuing their struggle by filing another lawsuit with the Surabaya District Court, following the South Jakarta District Court's previously inadmissible ruling.

Discussion

A condemnatory decision with permanent legal force (*inkracht van gewijsde*) in a civil court decision has the right to be executed. If there is no appeal against a first-instance court decision, a default decision without objection (*verzet*), a peace decision, an appeal decision without cassation, and so on, the decision will have legal force and is binding on the parties involved in the case (both the winner and the loser). If the losing party fails to implement the decision, the clerk or appointed bailiff will carry out the execution, which the winning party can request from the Chief Justice of the competent District Court. In fact, the essence of law enforcement is the implementation of the decision, which is the actual focus of execution. One form of execution is forced eviction.

Amnesty International explains that the eviction of people from their homes or land without their free and informed consent, without adequate legal protection, and without the provision of adequate replacement accommodation is known as forced eviction [19]. Systemic injustice in society is often reflected in forced evictions. This is because forced

evictions often occur as a form of domination of power without offering just and compassionate solutions to those affected, underscoring the importance of laws that support the weak. A forced eviction occurs when a local government or the prevailing party forcibly removes people from their homes or land based on a court decision, often without providing adequate accommodation or fair compensation. Furthermore, forced evictions occur when individuals, families, or communities are forcibly removed from their homes or land without being given good reason or adequate compensation. Governments or private parties often carry out these evictions under the guise of urban planning or development.

Execution can be carried out after fulfilling certain procedures, including a notice of injunction and the determination of an execution date by the District Court. From the results of the document study, it was found that there was a difference in the sentence between the verdict in the case of the Surabaya District Court Decision, case register Number: 333/Pdt.G/2013/PN.Sby., dated January 21, 2014 Jo. The East Java High Court Decision, case register Number: 553/PDT/2014/PT.Sby., dated November 27, 2014, with the contents of the *aanmaning* and the Letter of Determination of the Chairman of the Surabaya District Court, case register Number: 108/EKS.SHT/2017/PN.Sby., dated November 7, 2017 Jo. Implementation of the Execution of the Vacate Register Number: W14-UI/1142/Hk.02/I/2018, dated January 25, 2018, where the verdict states that the vacancy execution was carried out against the Defendants, namely 40 people as Defendants and their heirs, while the *aanmaning* states that the vacancy execution also includes all residents of Pulosari, Gunungsari Village, Dukuh Pakis District, Surabaya City, who live or occupy the land. In fact, the 450 Heads of Families who live on the land are not included in the 40 people as Defendants and their heirs. According to (initial N, one of the residents), he obtained the land by purchasing it from someone who claimed to be the owner of the land based on a statement from the Pulosari land struggle committee.

Regarding this matter, the Supreme Court of the Republic of Indonesia Decision Number: 22539 K/Pdt/1985, dated July 30, 1987, states: "In principle, a decision is valid for the parties so that third parties who are not involved in the lawsuit are not obliged to implement the decision (it does not have executorial power for third parties who are not involved in the lawsuit)."

In accordance with the previously mentioned Supreme Court decision of the Republic of Indonesia, Yahya Harahap states on page 14 of his book "Scope of Execution Problems"

that: "Only decisions of a condemnative nature can be executed, namely decisions whose ruling or dictum contains an element of "punishment." The execution that must be carried out by the court must comply with the ruling. This principle is the standard that must be followed to ensure that the execution carried out does not exceed the limits of authority.

In addition, the existence of the additional phrase in the Letter of Determination of the Chairman of the Surabaya District Court, case register Number: 108/EKS.SHT/2017/PN.Sby., dated November 7, 2017 Jo. Implementation of the Execution of Vacating with register Number: W14-UI/1142/Hk.02/I/2018, dated January 25, 2018, clearly indicates a deviation from the wording of the decision, where in this case it cannot be justified based on article 178 HIR, Supreme Court of the Republic of Indonesia Number: 399 k/Sip/1969, dated February 21, 1970 and Supreme Court of the Republic of Indonesia Number: 1245 k/Sip/1974, dated November 9, 1976, which in essence states that the Judge may not issue a decision on something that is not demanded. However, at this time there is no legal framework that regulates this issue, executions that do not comply with the disputed land object cannot be held civilly responsible for errors made during the execution; instead, the district court can only be held administratively responsible by enforcing disciplinary sanctions against court officials who violate the code of ethics.

Therefore, the residents of Pulosari, Gunungsari Village, Dukuh Pakis District, Surabaya City, who were affected by the eviction are not parties involved in the case of the Surabaya District Court Decision, case register Number: 333/Pdt.G/2013/PN.Sby., dated January 21, 2014 Jo. Decision of the East Java High Court, case register Number: 553/PDT/2014/PT. Sby., dated November 27, 2014, the residents of Pulosari, Gunungsari Village, Dukuh Pakis District, Surabaya City never received a notice of eviction from the Surabaya District Court, even though a notice of eviction is an absolute requirement for the execution, as explained in Article 196 of the HIR; Therefore, neither the Determination nor the Execution of the eviction can be applied to the residents of Pulosari, Gunungsari Village, Dukuh Pakis District, Surabaya City, who live or occupy the land. The implementation of this land acquisition shows that the court/bailiff faces administrative obstacles in the announcement and socialization (aanmaning) to the affected residents, as well as physical obstacles (location access, transfer of the affected residents' assets, physical control by third parties).

Furthermore, according to Harahap in his book discussing the scope of the issue of execution, parties who control disputed assets but are not parties to the case may still be subject to execution requirements if they meet the following criteria:

"And against every person who receives rights from the Defendant" is a sentence that must appear in the judgment. A sentence stating that the judgment applies to all individuals who receive rights from the Defendant must be included in the judgment, even if all or part of the disputed assets are in the possession (control) of someone not directly involved in the case. These individuals cannot be included in a sentence directed only at the defendant. The judgment could read, for example, "Ordering the Defendant to vacate and hand over the disputed land to the Plaintiff." Even if they own all or part of the disputed land, other parties are not covered by this sentence. The following must be included in the judgment to be effective against those who control the disputed assets: "Ordering the Defendant and every person who receives rights from the Defendant to vacate and hand over the disputed land to the Plaintiff." Most importantly, the sentence must clearly indicate that all persons who derive rights from the defendant are included in it".

Based on the above, it can be concluded that there has been a horizontal norm conflict in the process of executing the land eviction against Pulosari residents, Gunungsari Village, Dukuh Pakis District, Surabaya City, where there is a difference between the wording of the verdict in the Surabaya District Court Decision case register Number: 333/Pdt.G/2013/PN.Sby., dated January 21, 2014 Jo. East Java High Court Decision case register Number: 553/PDT/2014/PT.Sby., dated November 27, 2014 with the wording in the Stipulation of the Chairman of the Surabaya District Court case register Number: 108/EKS.SHT/2017/PN.Sby., dated November 7, 2017 Jo. Implementation of the Execution of Emptying the Register Number: W14-UI/1142/Hk.02/I/2018, dated January 25, 2018. In addition, there are also differences between the Decision of the Supreme Court of the Republic of Indonesia Number: 22539 K/Pdt/1985 dated July 30, 1987, the Decision of the Supreme Court of the Republic of Indonesia Number: 399 k/Sip/1969, dated February 21, 1970, and the Supreme Court of the Republic of Indonesia Number: 1245 k/Sip/1974, dated November 9, 1976, and Article 178 of the HIR with Law Number 48 of 2009 concerning Judicial Power. Article 178 of the HIR and the Decision of the Supreme Court of the Republic of Indonesia state that judges may not decide something that is not demanded, while

the judicial power regulated in Law Number 48 of 2009 states that judges have the freedom to interpret the law based on the authority granted by the constitution.

That with the addition of a sentence by the judge in the Determination Letter of the Chairman of the Surabaya District Court, case register Number: 108/EKS.SHT/2017/PN.Sby., dated November 7, 2017 Jo. Implementation of Execution of Emptying of Register Number: W14-UI/1142/Hk.02/I/2018, dated January 25, 2018, which is inconsistent with the wording of the decision in the case of the Surabaya District Court Decision with case register Number: 333/Pdt.G/2013/PN.Sby., dated January 21, 2014 Jo. The decision of the East Java High Court, case register Number: 553/PDT/2014/PT.Sby., dated November 27, 2014, is suspected to have been made based on the article in the Law on judicial power so that the judge who decided the case used his personal interpretation in interpreting the decision to become a Letter of Determination for the Implementation of the Execution of Vacating which is actually different from the decision, however, if referring to Article 178 HIR which prohibits judges from deciding something that is not demanded, then this action shows a horizontal conflict or norm conflict. Furthermore, a conflict of norms is also indicated by the difference in the wording of the verdict (judicial norm) and the execution order (administrative norm), as follows:

Excerpt from the Surabaya District Court Decision, case register No. 333/Pdt.G/2013/PN.Sby., dated January 21, 2014, as follows:

"...4. Ordering Defendants 2 through 41 and all their heirs to vacate the disputed land, covering an area of approximately 65,533 m², which is part of the land registered under HGB No. 434, Gunungsari Village, with an area of 142,443 m², and a situational drawing No. 14755/1996 dated October 17, 1996, and to hand it over to the Plaintiff no later than 7 (seven) days after the pronouncement of this decision."

Excerpt of the Determination of Execution of case register Number: 108/EKS.SHT/2017/PN.Sby., dated November 7, 2017 Jo. Implementation of Execution of Emptying of register Number: W14-UI/1142/ Hk.02/I/2018, dated January 25, 2018 as follows:

"To: 2. Mr. Kodin, residing at RT. III, RW. I, Gunungsari Village, Dukuh Pakis District, Surabaya etc., And all residents of the disputed land with an area of approximately 65,533 m² which is part of the land recorded in HGB Number 434,

Gunungsari Village with an area of 142,443 m², situation drawing Number 14755/1996 dated October 17, 1996 “.

A fundamental issue in legal theory is norm conflict, which occurs when two or more legal rules provide conflicting directives or prohibitions on the same legal event. Formal standards derived from statutory constraints and prevailing social and customary norms often clash in the Indonesian rural context. When living law and positive law (also known as positivistic law) clash, a struggle for legitimacy arises over the true source of justice. According to Hans Kelsen's Pure Law Theory, legal norms are hierarchically structured, and the legitimacy of a norm is determined by how well it complies with previous/higher norms. However, there are many examples in Indonesian agricultural practice where this hierarchy does not function properly. The rights of indigenous groups or landowners who have owned land for generations are often not aligned with national laws and regulations. This is where the contradiction between formal law and empirical law in the field, as a concrete manifestation of normative conflict, occurs. Next, in a legal system, a normative conflict occurs when two or more legal norms (statutes, regulations, or formal rules) provide conflicting directives, prohibitions, or legal consequences when applied to the same situation hierarchically, substantively, or operationally. Legal uncertainty, public rejection, or uneven application of the law can result from this normative conflict, which can occur between norms of equal standing, norms with different hierarchies, or norms with different scopes. Inconsistencies between central government regulations and regional regulations can also lead to normative conflict, which can be confusing and unclear for those enforcing these regulations, both in legislative and executive bodies.

Another explanation for normative conflict is that when two or more legal norms applicable within a single legal system are applied to the same scenario, this can result in conflicting decisions, regulations, or actions. These standards can exist at multiple hierarchical levels (constitution, statute, government regulations, regional regulations), or they may be at the same level but have different objectives or scopes. Some characteristics of normative conflict include:

- a. Inconsistency: one norm permits or regulates something that another norm prohibits.
- b. Conflicting provisions: for example, special norms vs. general norms (*lex specialis* vs. *lex generalis*), hierarchical norms above vs. below (*lex superior* vs. *lex inferior*).

- c. Legal uncertainty: when law enforcers (judges, enforcement officials) have difficulty deciding which norm to apply.

Modern theory of norm conflict emphasizes that norm conflict is not only a technical normative issue, but also concerns legitimacy, substantive justice, and social consequences for those without power. Some opinions that have emerged regarding this norm conflict are:

- a. *Lex superior derogat legi inferiori* → Higher norms override lower norms if there is a conflict. For example, UUPA norms must take precedence over conflicting regional or sectoral regulations.
- b. *Lex specialis derogat legi generali* → Special norms have priority over general norms within the same scope. For example, specific regulations for the new capital city (IKN) may conflict with the general provisions of the UUPA, necessitating the development of specific regulations that do not deviate from basic agrarian principles.
- c. The principle of legality and hierarchy of norms → Norms must comply with the hierarchical order (constitution → laws → government regulations → regional regulations), and lower norms must not violate higher norms.

Furthermore, contemporary theory does not simply view norm conflicts as formal conflicts between regulations, but expands them to include:

- a. Social legitimacy: norms are only considered valid if they are also recognized by society; the use of formal norms without social legitimacy can lead to resistance.
- b. Substantive justice values: norm conflicts should not only be resolved formally (whichever norm is higher) but must also take into account social impacts, morality, and the balance of justice for the vulnerable.
- c. Openness and legal certainty: Modern theory emphasizes that the resolution of norm conflicts must be transparent and the norms clear so that society understands which norms apply and avoids uncertainty.

Furthermore, when two or more legal norms at the same level clash and it is unclear which rule should prevail, this is known as a horizontal normative conflict. To resolve norm conflicts, judges can employ the technique of disavowal, which involves rejecting existing conflicting rules, to resolve the dispute. This rejection can potentially influence particular interests (a conflict of interest). Judges can also resolve these conflicts using a reinterpretation approach, which involves reinterpreting multiple rules to produce a new interpretation deemed more consistent with the underlying principles. These two methods of

resolving norm conflicts can influence judges' deliberations. Particularly in cases where customary norms hold significant social authority, judges' considerations in various decisions can represent normative tensions between formal legislative standards and local social practices and beliefs.

Normative conflicts between judgments, enforcement orders, and human rights protection standards can arise during the implementation phase of court decisions related to land disputes. The socioeconomic rights of affected communities are often violated when final court decisions mandate land evictions. Eviction without relocation and adequate compensation violates the concept of social justice, as emphasized by Suharto. This issue illustrates a conflict of obligations, as constitutional standards guaranteeing access to adequate housing and livelihoods conflict with civil law norms that require the implementation of decisions. This results in a contradiction between sectoral rules (*lex specialis*) and basic norms (*lex superior*) within the scope of agrarian law. Although *lex superior derogat legi inferiori* states that higher standards take precedence over lower standards, in practice, the application of the law often serves specific political and economic purposes.

Asshiddiqie (2023) emphasizes that the notion of substantial justice must be taken into account when resolving contradictory rules, in addition to systematic or hierarchical interpretation. Judges who adopt a progressive stance are expected to understand the social and historical background of the case at hand, in addition to the textual legal rules. This requires considering the social legitimacy of land ownership as a basis for substantive justice in the agrarian environment. For example, rather than simply enforcing formal legal rules, restorative justice methods can be used to resolve land conflicts and restore social balance. Restoring social relations and a more equitable distribution of justice should be the focus of the reconstruction of legal theory, as Head (2023) argues, rather than the procedural dominance of formal law. Consequently, the clash of legal norms in the Indonesian agrarian context is a complex phenomenon involving elements such as economic interests, social legitimacy, and underlying legal ideology, in addition to statutory regulations. To ensure that the law is a genuine guarantee of substantive justice for society and not simply a tool to legitimize authority, an awareness of social reality must coexist with an understanding of norm conflict theory.

Sociologically, eviction incidents exemplify structural and social injustice resulting from disparities in social and economic structures. Residents of Pulosari, Gunungsari Village, Dukuh Pakis District, Surabaya City, who had occupied the land for decades, were finally forced to leave by officials and business owners who claimed to have valid land documents, thus giving rise to this social injustice. Residents of Pulosari, Gunungsari Village, Dukuh Pakis District, Surabaya City who are economically disadvantaged are unable to challenge court decisions that they believe are biased and favor those in power. Because they have ignored the principle of substantive justice, strict legal procedures have actually exacerbated social conflict in resolving land disputes. Residents' objections to execution are often linked to the belief that formal rules are unfair because they ignore physical existence, history of use, or local non-documentation; as shown by the results of field research conducted at the Kuningan District Court. When local norms are ignored, residents believe that court decisions, even though technically valid, still cause social wounds.

According to Karl Marx, the dominant class uses law as an ideological instrument and a reflector of the economic system. One way to view law in the Pulosari case is as a tool for the reproduction of power, particularly to protect the interests of those with capital or state-recognized certification. Rather than existing as an apolitical discourse, law functions as a support system for the existing economic order. It is important to recognize that when the government or courts execute execution orders on land belonging to the Pulosari community, they do so as an institutional mechanism to secure formal ownership, which often benefits actors with financial resources, administrative connections, and political influence. According to Siddiqui (2023), legal systems in capitalist societies often protect formal ownership rights regardless of the actual conditions of production. In agrarian capitalism, where small-scale land ownership is not officially recognized due to non-compliance with state-established administrative systems, land certificates serve as a sign of legitimacy. Legalizing property claims through execution based on certificates or court decisions serves to effectively reinforce the formation of formal ownership. Certificates and judgments, in Marx's view, are ideological tools that legitimize administrative records at the expense of revealing the historical context of property relations, including the processes of dispossession, transfer of rights, and inequalities in access to legal instruments. Thus, communities relying on factual control or customary rights face greater difficulties in enforcing their claims in court. Consequently, the expropriation of the Pulosari residents' land

constitutes both a legal and ideological act, further solidifying the superiority of formal law over social law.

When the wealthy and powerful exploit the law for their own benefit at the expense of the middle and lower classes, as in forced evictions, Karl Marx argued, systemic injustice occurs. To prevent the appearance that land transfers unfairly benefit corporations or the government, judges must also consider the community's physical control and informal or customary evidence when determining the validity of such transfers. Modern empirical research confirms this pattern: in Indonesian agricultural litigation, powerful parties and those with administrative evidence have an advantage, but arguments based on factual control are rarely given due weight in the formal legal system. Resident resistance in the Pulosari case took the form of demonstrations, historical claims, or community advocacy initiatives. These are local manifestations of class conflict, aimed at maintaining access to resources (land, livelihoods, social space) in the face of legal mechanisms that allow formal rights holders to transfer economic control.

According to historical materialism and Karl Marx's class theory, the ruling class—owners of capital and the means of production—uses the state and law to maintain their dominance over the proletariat—the working class—one of which includes forced evictions (executions). For this group, the practice of forced evictions is simply another way for the powerful (the state and landowners) to exploit the law to maintain their control over land and property. Social and economic alienation, or the loss of cultural meaning and productive relationships associated with one's land, can occur when the state establishes property rights that eliminate social and communal connections to the land—a concept also highlighted by Marx. Beyond the obvious financial losses, this has far-reaching consequences for things like social capital, community cohesion, and the ability to sustain life.

In the context of housing and property, forced evictions are exploitative and alienating because they can cause displaced people to lose physical space essential to their survival. This is because land and property are viewed as commodities regulated by the laws of capitalism to benefit a small elite, further illustrating how displaced people are cut off from the means of production and resources they need for a decent life. Cases of land grabbing against indigenous communities demonstrate how formal norms that benefit investors or the state, dominant economic interests, and a lack of *de facto* recognition of indigenous peoples' rights often complicate the implementation of regulations protecting their rights. As a result,

indigenous peoples often experience land loss without adequate restitution or an open and honest mediation process.

Legal processes (auctions, execution orders) serve to reproduce legitimate ownership according to capital, even though they may violate the socio-customary legitimacy of local communities. This is emphasized in Marxist interpretations of land expropriation cases (such as Pulosari) and how formal laws (certificates, decrees) reinforce the claims of actors with economic/political power. In other words, capitalist property purchases are facilitated by legal actors (courts, execution authorities), but local communities' demands for justice (factual control, customary rights) are simply ignored.

It has been proven that PT. Patra Jasa, as the owner of the Building Use Rights (HGB), never used the land (in the eviction case involving residents of Pulosari, Gunungsari Village, Dukuh Pakis District, Surabaya City). Previously, the land was cultivated and developed by local residents for farming, raising livestock, and building housing. However, PT. Patra Jasa, as the owner of the Building Use Rights Certificate, should have taken steps to utilize the land productively (absentee ownership). Absentee ownership of land—when the formal owner does not manage or is not physically present—gives rise to problems with unclear land use, disputes between local users and the certificate holder, and challenges in monitoring and enforcing rights when the legitimate owner is absent or not managing the property. Landowners relying on certificates have the legal right to file lawsuits, but when the official owner refuses to vacate or enforce the judgment, the *de facto* land user often suffers losses.

Lack of land use can result in the land becoming abandoned, preventing PT Patra Jasa from meeting the requirements for extending its Building Use Rights (HGB). This is evidenced by the refusal of the Surabaya National Land Agency to extend the land for an area of approximately 65,553 m², occupied by residents of Pulosari, Gunungsari Village, Dukuh Pakis District, Surabaya City. Consequently, the land, with an area of 65,553 m², has been classified as state land since 2006.

Ultimately, PT. Patra Jasa sued the Surabaya District Court for the residents of Pulosari, Gunungsari Village, Dukuh Pakis District, Surabaya City, to vacate the land, which was granted as described above. The issue of concern is that the demand was granted with many irregularities, including the status of the land being executed as state property (the Building Use Rights had expired or were no longer valid at the time of the lawsuit), discrepancies between the text of the verdict and the letter of determination for the execution

of the eviction, and the fact that the evicted residents of Pulosari, Gunungsari Village, Dukuh Pakis District, Surabaya City, were not parties to the case between PT. Patra Jasa and 40 people as Defendants. Therefore, based on this, it can be concluded that the process of executing the execution of the land vacated by the residents of Pulosari, Gunungsari Village, Dukuh Pakis District, Surabaya City, reflects Karl Marx's view of law, where law is a tool of power for those who own it. In terms of policy, Marxist theory goes beyond mere normative critique and provides practical guidance. First, there needs to be a socio-historical verification mechanism that encourages courts and executors to consider the principles of factual control and substantive justice before carrying out executions. Second, there needs to be procedural reform that finds a middle ground between formal ownership protection and citizens' rights to life and livelihood. Finally, there needs to be the development of alternative settlement instruments that reduce the role of law as a tool for unilaterally transferring ownership in favor of property owners, such as community-based mediation and restorative agrarian justice.

IV. CONCLUSION

Execution is a coercive measure to enforce a court decision that has permanent legal force. Execution is carried out if the losing party fails to comply with or fulfill the terms of the decision voluntarily. Execution, as a legal action taken by the court against the losing party in a case, is a continuation of the rules and procedures of the case examination process. One such execution case in Surabaya City involved the eviction of land in the Pulosari area, Gunungsari Village, Dukuh Pakis District, Surabaya City, in February 2018.

Execution can be carried out after fulfilling certain procedures, including a notice of intent and the determination of an execution date by the District Court. A document review revealed discrepancies in the wording of the Surabaya District Court's decision and case register No. 333/Pdt.G/2013/PN.Sby, dated January 21, 2014, in conjunction with the case registration number 333/Pdt.G/2013/PN.Sby. The decision of the East Java High Court registers Case Number: 553/PDT/2014/PT.Sby., dated November 27, 2014 with the contents of the *aanmaning* and the letter of determination of the Chairman of the Surabaya District Court registers case Number: 108/EKS.SHT/2017/PN.Sby., dated November 7, 2017. Implementation of the Execution of Vacating with register Number: W14-UI/1142/Hk.02/I/2018, dated January 25, 2018. That the wording in the verdict states that the execution is carried out to 40 people as the Defendant and their heirs, however the *aanmaning*

and the letter of determination of the execution of vacating states that the execution is carried out to 40 people as the Defendant and their heirs along with all residents of Pulosari, Gunungsari Village, Dukuh Pakis District, Surabaya City, who occupy the land. The additional phrase in the decision letter for the execution of the vacated case indicates a deviation from the text of the verdict, which could be due to a misinterpretation by the judge deciding the case. Under Law Number 48 of 2009, judges have the freedom to interpret the law based on the authority granted by the constitution. Meanwhile, Article 178 of the HIR, Supreme Court of the Republic of Indonesia Decision Number 399 k/Sip/1969, dated February 21, 1970, and Supreme Court of the Republic of Indonesia Decision Number 1245 k/Sip/1974, dated November 9, 1976, essentially states that judges may not issue a verdict on something that is not demanded. A conflict of norms also occurs when there is a contradiction/difference between the text of the verdict (judicial norm) and the order of execution (administrative norm).

Based on the foregoing, it can be concluded that a horizontal conflict of norms has occurred. The judge's solution in this situation is disavowal, which is the denial of the existing conflict of norms. This denial can lead to the potential for being influenced by certain interests (conflict of interest). Judges can also use the reinterpretation method, namely by reinterpreting different norms so that they give rise to new interpretations that are considered more in accordance with the basic idea, in the case of the execution of the eviction of Pulosari land, Gunungsari Village, Dukuh Pakis District, Surabaya City, namely by adding a new phrase to the Determination Letter for the implementation of the eviction execution that is different from the wording of the verdict in the case. Where the addition of the new phrase is not in accordance with applicable legal regulations and is detrimental to the community.

Execution reviewed from the legal theory, is in accordance with the theory of Karl Marx which states that law is a tool of interest for those who have wealth. It appears in the case of the execution of the eviction of Pulosari land in Gunungsari Village, Dukuh Pakis District, Surabaya City, that the opponent of Pulosari residents is a legal entity/capital owner who has power and wealth, so that they have the privilege to carry out the eviction execution which is contrary to the principles of justice and Human Rights.

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