Abstract

Conflicts over land between Senamanenek Indigenous Peoples of Kampar Regency and PT. Perkebunan Nusantara V has occurred since the early 1990s. While national legislation acknowledges adat (customary) as a legitimate basis for rights, the current legal framework presents significant hurdles for communities seeking to assert their land claims based on adat rights. As an empirical legal research, this study tries to propose a new dispute resolution model to deal with the problem. This research found that government intervention as the owner of State-Owned Company capital determines the resolution of customary land disputes such as the PTPN V and Senamanenek Indigenous Peoples disputes. The settlement was carried out after receiving a presidential order and the United Indonesia Cabinet Limited Meeting results by returning the land and its contents from the PTPN V to the government. Then, the government hands over to individual Senamanenek Indigenous Peoples members who are issued certificates of ownership through the TORA mechanism.
Keywords: Customary land; Land Disputes; Senamanenek Indigenous People.

A. Introduction

Conflicts over customary lands between indigenous people and plantation companies are currently in need of resolving as they are concerned with the legal certainty of the rights of indigenous people. Conflicts spread across palm oil-producing countries and have been discussed in such a way in parts of the world, such as South Chile, Kolombia, Southeast Asia, Africa, China, India, Vietnam, and Indonesia since the colonial era. Conflicts tend to increase and can be

4 Diana Klein and Ulrike Joras, Natural Resources And Peacebuilding: The Role Of The Private Sector, Environmental Law Reporter News & Analysis, June, 2012,
9 Freaddy Busroh Firman, “Mediasi Sosial Dalam Menyelesaikan Konflik Lahan Milik Masyarakat Adat Di Indonesia,” Lex Jurnalica Volume 14 Nomor 1, April 2017 P1
a major source of violence that causes death,\textsuperscript{10} clash of local values,\textsuperscript{11} modern culture,\textsuperscript{12} loss of livelihoods\textsuperscript{13} criminalization, human rights violations, marginalization, social and cultural economy\textsuperscript{14} and unfair treatment of indigenous people.\textsuperscript{15}

Indonesia is a country with a large agrarian conflict,\textsuperscript{16} land grabbing\textsuperscript{17} and conflicts will increase along with the need for increased production which requires the expansion of plantation land. A country that has vast oil palm plantations spread across 22 provinces out of 33 provinces\textsuperscript{18} and Indonesia as the largest producer of palm oil in the world, the palm oil industry has a strategic role for Indonesia, including the largest foreign exchange earner,\textsuperscript{19} encouraging Indonesia to develop plantations to meet global needs.\textsuperscript{20}

\textsuperscript{10} Persch Meri, \textit{et.al.}, “Company–Community Conflict in Indonesia’s Industrial Plantation Sector,” \textit{CIPOR No. 143, May 2016. P.1}

\textsuperscript{11} Edison Elizabeth and Devi Rugmini, “Tribal Land Alienation, Agricultural Changes and Food Culture Transition in Attappady,” \textit{South Asia Research Vol. 39 (1) P.62}

\textsuperscript{12} Baird Ian G., “Problems for The Plantations: Challenges for Large-Scale Land Concessions in Laos and Cambodia,” \textit{Journal of Agrarian Change. 2020 P.387}


\textsuperscript{14} Drbohlav Petr & Hejkrlík Jiri, “Indigenous Peoples’ Struggle for Secure Land Tenure In The Philippines: Case Study Of Higaonon Tribe in Opol, Mindanao,” \textit{Asian Social Science; Vol. 13, No. 7. P.1}


\textsuperscript{17} Gellert Paul K., “Palm Oil Expansion In Indonesia: Land Grabbing As Accumulation By Dispossession,” \textit{States And Citizens: Accommodation, Facilitation And Resistance To Globalization Current Perspectives In Social Theory, Volume 34. P.66}

\textsuperscript{18} Purba Jan Horas V. & Sipayung Tungkot, “Perkebunan Kelapa Sawit Indonesia Dalam Perspektif Pembangunan Berkelanjutan,” \textit{Masyarakat Indonesia, Vol. 43 No.1, Juni 2017 P.82}

\textsuperscript{19} Ibid P. 83

\textsuperscript{20} Andrianto Agus, \textit{et. at.}, “Expansion of Oil Palm Plantations In Indonesia’s Frontier: Problems Of Externalities and the Future of Local and Indige-
Conflicts between indigenous people and plantation companies prove that there is a conflict of economic and social interest that the law has not been able to accommodate. Philosophically, Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles is a law that functions as a tool to bring prosperity, happiness, and justice to the state and people in the framework of a just and prosperous society,\(^ \text{21} \) and therefore requires a conflict resolution for the indigenous people as helpless and disadvantaged parties in most plantation conflicts.\(^ \text{22} \) State development fails to take into account the needs and interests of indigenous people.\(^ \text{23} \) State laws and land distribution policies tend to favor investment interests rather than the protection and respect of indigenous people.\(^ \text{24} \) Access to communal land is closed due to the presence of oil palm plantation companies. They can no longer enjoy and use customary land as a source of life because it has turned into oil palm forests.\(^ \text{25} \)

Dispute resolution by managing conflicts that provide benefits to indigenous people appears to have failed to answer all conflicts over land disputes.\(^ \text{26} \) In addition, a collaborative approach (both parties) by accommodating modern law and customary law is difficult to implement, colliding with different political,\(^ \text{27} \) economic, social, and cultural perspectives. Similarly, the method of settlement through
the courts (litigation) or mediation has not been able to resolve the problem comprehensively. The fact that indigenous people are reluctant to use courts as mediators to settle disputes is because the law of evidence (Article 1866 of Indonesian Civil Code) in Indonesia requires written evidence as the main evidence in civil cases, while customary communities in most customary lands do not have written proof of ownership of rights.

This study tries to find a new dispute resolution model between Senamanenek Indigenous People (MAS/Masyarakat Adat Senamanenek) and PT. Perkebunan Nusantara V (PTPN V). The MAS and PTPN V Ulayat land disputes have occurred since the early 1990s. The disputed MAS customary land covers an area of 2,800 hectares. The Ulayat land is owned by the tribe/inner and the members of the Domo, Potopang, Piliang, Malay, and Mandailing tribes.

In 2020, the dispute between PTPN V and MAS ended after the central government adopted a settlement policy by transferring PTPN V assets on 2,800 hectares of land. The National Land Agency (BPN) issues title certificates distributed to MAS individuals. The issuance of certificates of ownership rights on land or customary land covering an area of 2,800 hectares is the privatization of communal land (Ulayat rights) including PTPN V assets located on 2,800 hectares of land.

This is a new way (role model) for resolving Ulayat land disputes, not by negotiating with interested parties or complaining to local

28 Ibid 5
30 Firdaus, Tanggung Jawab Sosial Dan Lingkungan Perseroan Terbatas Terhadap Hak Asasi Manusia (Studi Tentang Tanggung Jawab Sosial Dan Lingkungan Perusahaan Perkebunan Kelapa Sawit Terhadap Hak Ekosos Masyarakat Lokal Kabupaten Kampar Propinsi Riau, Dissertation, Doktor of Legal Studies, Faculty of Law Universitas Islam Indonesia, Yogyakarta, 2013. P.6
31 A member of the tribe is called ‘anak kemenakan’
33 Shayne Shapero Danielle, ‘A Solution to The Silencing and Denial: How
governments, state institutions\textsuperscript{34} and people’s representatives.\textsuperscript{35} Litigation or mediation, but the handover by the government of 2800 hectares of customary land to MAS\textsuperscript{36}. 2800 hectares of land were certified by BPN on behalf of MAS,\textsuperscript{37} based on a Limited Meeting of the President of the Republic of Indonesia.\textsuperscript{38} Legally, the transfer of rights to each MAS is not uncommon. However, in the context of legal scholarship, the resolution of legal problems cannot be limited by normative logic and texts but emphasizes the legal objectives to be achieved, such as Halper’s opinion, a legal issue, and a decision should not be limited to literal meanings and logical propositions by ignoring the context and purpose of the law.\textsuperscript{39}

The transfer of rights in legal treasures is a legal act that is commonly carried out in terms of the transfer of ownership (rights) from one legal subject to another. However, the transfer of customary land rights (ulayat) and BUMN assets in the form of land and its contents is a legal act that rarely comes true. This study does not examine privatization related to the position of PTPN V as a state-owned enterprise (BUMN) which is an independent legal entity (separate legal

\textsuperscript{34} Yuni Mohd, “Konflik Pertanahan Dan Penyelesaian Menurut Adat di Provinsi Riau,” Menara, Vol. 12 No. 1 Januari – Juni 2013 P.30

\textsuperscript{35} Bachtiar Maryati, “Peranan Lembaga Adat Melayu Riau dalam Penyelesaian Konflik Tanah Ulayat Di Provinsi Riau,” Jurnal Hukum Respublica, Vol. 16, No. 2 Tahun 2017 P.307

\textsuperscript{36} Lestari Rika dan Sukisno Djoko, “Kajian Hak Ulayat Di Kabupaten Kampar Dalam Perspektif Peraturan Perundang-Undangan dan Hukum Adat,” Jurnal Hukum IUS QUIA IUSTUM NO. 1 VOL. 28 JANUARI 2021 P.97


entity) that has received recognition in Law No. 19 of 2003 concerning State-Owned Enterprises\(^4\), and its assets as state assets separated (Chapter 2 of the Law No. 17, 2003 concerning National Finance Concern). This study also does not examine the position of customary land as land reserves/land banking for the children and grandchildren of indigenous people.\(^4\)

The researcher focuses more on the study to find a new way: privatization as an option for resolving the conflict between PTPN V and MAS by the government over 2800 hectares of customary land. This settlement is clear evidence of state protection for the rights of indigenous people, especially rights to customary land; this method can be a reference for resolving similar conflicts, a model for legal service to provide access to justice for indigenous people.\(^4\)

Departing from the above background, the author seeks to explore a critical question concerning the privatization of PTPN V assets in the context of resolving MAS customary land disputes. The data was obtained directly from interviews with the Senamanenek Indigenous People and the PTPN V figures, which were subsequently analyzed using applicable legal norms, jurisprudence, and legal doctrine.

### B. Internal Consolidation

#### 1. Conflict within MAS

One of the obstacles faced by the Senamanenek indigenous people in the struggle to seize customary land from PTPN V which took

\(^4\) Rahadiyan Inda, “Kedudukan BUMN Persero Sebagai Separate Legal Entity Dalam Kaitannya Dengan Pemisahan Keuangan Negara Pada Permodalan BUMN,” *Jurnal Hukum Ius Quia Iustum No. 4 Vol. 20 Oktober 2013 P. 625*


quite a long time was the existence of conflicts within the indigenous people themselves. The conflict was caused by a conflict of interest between groups or individuals in the struggle for MAS *ulayat* land.\(^{43}\) Edi Hermanto explained that the conflict began with a dispute between the views of the tribal ninimamak (elders) and the Senamanenek Village Government regarding the 2800 hectares of MAS *ulayat* land controlled by PTPN V.\(^{44}\)

Meki Herlon noted that MAS was divided into two camps. First, the camp defends some of the PTPN V company’s interests and the community’s *ulayat* land. He also argued that each camp defends its interests and forces the other party to recognize or fulfill its interests land.\(^{45}\) Fisher’s perspective, conflicts within MAS are open conflicts which have roots or have causes and need efforts, steps, or strategies to resolve them, because they will impact the MAS’s life, especially in fighting for *ulayat* land.\(^{46}\)

Meki Herlon argued that actors involved in conflicts within the body of indigenous people are customary-traditional leaders and village leaders of Senamanenek. The conflict led to the emergence of rival ninikmamak (*pusako*) in each of the respective tribes, namely the Piliang Tribe, Malay Tribe, Pitopang Tribe, and Mandailing Tribe. Of them, only the Domo Tribe did not have a rival ninikmamak as they used to live in harmony with each other. The existence of a rival ninikmamak has nothing to do with a conflict within the existing tribes, but there are external interests that cause the emergence of a rival ninikmamak. Without the interests of outsiders, all disputes

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\(^{44}\) Interview with Hermanto, ninikmamak Piliang Tribe of MAS, 2021

\(^{45}\) Meki Herlon, et. al., “Social Network and Land Conflict in Rural Communities (Case Study In Senama Nenek Village Tapung Hulu Sub Regency Kampar Regency),” *Jurnal Social Economic of Agriculture*, Volume 6, Nomor 1, April 2017.

within MAS can undoubtedly be resolved.\textsuperscript{47} Dispute resolution by MAS as in general Indonesian indigenous people in resolving disputes relies on the principle of balanced justice, the parties consult (restorative justice) in dispute resolution.\textsuperscript{48}

Datuk Bendaharo as the highest leader of the 5 (five) Datuk Tribes in MAS was unable to reconcile the two disputing parties. The position of Datuk Bendaharo in the organization at MAS is similar to that of Minang Kabau indigenous people, where the ninikmamak plays the functions to leads, regulates indigenous people, and plays a role in the economic, social, and cultural fields.\textsuperscript{49} Not everyone can sit as a datuk Ninikmamak Pusako unless he has a lineage from the tribe, chosen by tribal members within the customary communities.\textsuperscript{50}

Traditional leaders, as long the conflict is concerned, can influence the community, scrambling to find supporters to succeed in their respective struggles. As a result, MAS was split into two camps following each conflicting figure. Fajri (2021) stated that Ninikmamak who have the right to control and have the right to manage ulayat land are those who have been appointed by indigenous people in customary communities, not by any outside authorities.\textsuperscript{51}

The situation of pros and cons within the community becomes a major obstacle in the struggle to regain ulayat land. Conflict is inherent in people’s lives, but if the conflict is not managed correctly, it will harm the common interest.\textsuperscript{52} It is also difficult for outside parties

\textsuperscript{47} Meki Herlon, \textit{Loc.Cit}
\textsuperscript{49} Mutolib Abdul, \textit{et. al.}, “Konflik Agraria Dan Pelepasan Tanah Ulayat (Studi Kasus Pada Masyarakat Suku Melayu Di Kesatuan Pemangkuan Hutan Dharmasraya, Sumatera Barat),” \textit{Jurnal Penelitian Sosial Dan Ekonomi Kehutanan} Vol. 12 No. 3 Desember 2015.
\textsuperscript{50} Interview with Fajri, member of Karang Taruna of Senamanenek Village, 2021
\textsuperscript{51} Interview with Fajri, member of Karang Taruna of Senamanenek Village, 2021
\textsuperscript{52} Freaddy Busroh Firman, “Mediasi Sosial Dalam Menyelesaikan Konflik Lahan Milik Masyarakat Adat Di Indonesia,” \textit{Lex Jurnalica Volume 14 Nomor 1, April 2017} P.4
to help resolve disputes with PTPN V because there are divisions within MAS. The question arises, which ninikmamak is entitled to receive ulayat land if it is returned by PTPN V, as there are two ninik-mamak managements in each tribe?\(^53\)

This situation became the impetus for MAS figures to carry out peace efforts within MAS. Mukhlis stated that on the advice of Rosti Uli Purba, Member of the Regional Representatives Council for 2014 – 2019, MAS figures were motivated to make peace. They realized that if there was still a conflict, it would be difficult for MAS to fight PTPN V to get 28,000 hectares of customary land. MAS was aware that despite a legal right they have, their struggle would not succeed as long as the conflict existed. There was no other way except to unite the views and interests of the entire community and MAS figures.\(^54\)

2. The Young Peacemaker

One fascinating thing in MAS conflict peace was the role of youth (Karang Taruna) in which young people initiated conflict resolution efforts and appeared as mediators who resolved conflicts between traditional and village leaders. In many conflicts, there are usually youth who are in conflict, and their parents carry out mediation. However, in this case, the youth of MAS took on the role as mediators to reconcile the two parties in conflict.

The youth of MAS acted as a third party carrying out mediation by holding meetings,\(^55\) and assisting the negotiation process in solving problems, and not taking sides with anyone camp.\(^56\) Mediation is

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53 Ibid
54 Interview with Datuk Mukhlis, ninikmamak of Senamanenek Indigenous Peoples, 2021.
by the rule of law in Indonesia is regulated in the Civil Code (KUH Perdata), Reglement of Civil Procedures (RBG), and Updated Reglement of Civil Procedures (HIR), as well as scattered in other laws and regulations that apply in Indonesia, among others on Supreme Court Regulation Number 1 the Year 2016 concerning Mediation Procedure in Court.\(^{57}\)

Concern over the conflict of figures encouraged MAS youth who were gathered in the Karang Taruna organization to take a role in finding solutions.\(^{58}\) Karang Taruna intensively discussed the conflict in the struggle for ulayat land. For them, MAS’s struggle to seize ulayat land from PTPN V was unlikely to be successful if the community and customary leaders were divided into different interests. Therefore, Youth Karang Taruna was determined that youth had to arise and move on. Conflicts had to be terminated and all had to unite to reclaim ulayat lands.\(^{59}\) Edi Hermanto also stated that Youth Karang Taruna initiated a meeting to reconcile the two parties.\(^{60}\)

The idea of holding a meeting received strong support from the MAS community. Pressure to end the conflict immediately and strong support from the community launched and event and encouraged both parties to the conflict to attend the meeting. In 2017, Karang Taruna Youth organized a meeting inviting both parties to the conflict (Abdurahman Cs and Abdul Razak Cs) and was attended by other MAS members in the Senamanenek Village Sports Hall.

Fajri stated that these meetings resulted in peace and both parties agreed to end the dispute or conflict. He also suggested that Meeting resulted; (1) the parties agree, there is no longer any difference in the struggle to seize communal land, all are united in the


\(^{59}\) Interview with Fajri, member of Karang Taruna of Senamanenek Village, 2021.

\(^{60}\) Interview with Hermanto, *ninikmamak* of Piliang Tribe of MAS, 2021.
MAS platform. (2) the other parties forgive each other. (3) the party who made the mistake (ninimamak counter) is required to pay a customary fine. (4) the agreement is written and signed by the parties as evidence that there are no divisions within the MAS.

Legally, the outcomes of the MAS meeting containing the results of the community’s agreement and the peace of the disputing parties are authentic evidence of peace. As regulated in Article 1858 of the Civil Code, authentic evidence of a peace agreement has legal force for the parties. Evidence of peace has the same position as a court decision. Peace is an agreement/agreement born from an agreement or agreement. Article 1338 of the Civil Code, all agreements made following the law apply as law for those who make them, or what is called the principle of the binding power of agreement (pacta sun servanda).

C. Aspirations from the Regent to the President

The results of the peace agreement became the fundamental point of the struggle for MAS in reclaiming ulayat land from PTPN V. Ulayat land has been embedded into the lives of indigenous people since ancient times from their ancestors. Due to their ancestral roots, Ulayat land are embedded in the lands on which they live. Starting from the peace deed, MAS figures submitted to the Kampar Regent a proposal to return MAS ulayat land from PTPN V, and asked the local government to facilitate the return of ulayat land to the central government and PTPN V. Supportively, the Regent responded to MAS’ request to strengthen peace. Both parties to the conflict were summoned by the Regent and reaffirmed the peace agreement, and also

64 Interview with Mukhlis, Ninikmamak MAS, 2021
determined *ninikmamak* who are entitled to receive customary land, if one day it is handed over by the government to MAS by PTPN V.\(^{65}\) Local governments are authorized to initiate and empower communities in various dimensions, which aims to improve the welfare of the community\(^{66}\), including the resolution of agrarian conflicts stated. Following Articles 11 and 12 of Law Number 23 of 2014 concerning Regional Government\(^{67}\), instead of Law number 32 of 2004, it is stated that land is indeed a concurrent business of the regional government but for *ulayat* land affairs, there is an authority in the regional government.

With the support of the Regent, the proposal for the return of customary land was submitted to the Ministry of State Enterprises in Jakarta. The beginning of 2019, just before the presidential election, became a momentum for MAS to submit a request to the central government. MAS was good at reading the opportunities ahead of the 2019 Presidential Election by utilizing political networks in fighting for *ulayat* land.

Through the Presidential Candidate Success Team, Joko Widodo, MAS could meet and conveyed aspirations to the Presidential Chief Staff. MAS’ request for the return of *ulayat* lands received a response from the President’s Chief Staff to *Datuk* of MAS. The President’s Chief Staff expressed that the proposal would be investigated first, and if the results did not have a solid legal basis, it would not be followed up. Otherwise, it would be submitted to the President.

Without taking long time after the proposal, the Presidential Chief Staff followed up on it from MAS to President Joko Widodo. With the support of President Joko Widodo’s Success Team, the President and MAS met after the implementation of the Presiden-

\(^{65}\) Ibid


tial ELECTION campaign in the city of Dumai on March 23, 2019 (news.detik.com/berita, oct 2021). After hearing the aspirations expressed by MAS, President Jokowi said he understood and immediately called and ordered the Minister of State Agencies State-Owned Enterprises to execute; (1) the land area of 2800 hectares in Kampar Riau which was struggled for by the Datuk from MAS is ready to be handed over. (2) existing problems are resolved later (3) form for the Team to go down to Riau to check the land. (4) I will give 15 (fifteen) days to complete.

D. Submission by the Government

1. Limited Meeting of United Indonesia Cabinet

Following up on President Joko Widodo’s orders, a Limited Cabinet meeting was held on May 3, 2019, and only discussed the handover of 2800 hectares of customary land belonging to MAS which had been controlled by PTN V. The meeting was attended by the President, some ministers of United Indonesia Cabinet, Presidential Chief Staff, Governor of Riau, Regent of Kampar, representatives of PTPN V and of MAS.68

The results of the meeting demonstrated that the president ordered the relevant ministries, including PTPN V to hand over 2800 hectares of land to MAS69 and the Ministry of Agrarian Spatial Planning and the National Land Agency (ATR/BPN) were appointed to be in charge of the handover of MAS Ulayat land from PTPN V.70

Presidential orders in the context Government law is the implementation of the president’s responsibilities as head of government in the context of the welfare of the people, as Bagir Manan said, one of the duties and authorities of the president is in the administration and implementation of public welfare.71 The Presidential Decree is the

68 Interview with Mukhlis, Ninikmamak MAS,
70 Interview with the head of the law devision PTPN V, Sept 2021.
71 Prasetyaningsih Rahayu, “Menakar Kekuasaan Presiden dalam Pembentukan Peraturan Perundang-Undangan Menurut Undang-Undang Dasar
result of a cross-cultural dialogue process from various groups (government, MAS, and PTPN V) in creating dispute resolution.\textsuperscript{72}

Following up on President Jokowi’s orders and the results of the RATS, on May 11, 2019, the Ministry of ATR/BPN represented by the Director-General of Land Procurement immediately held a meeting with the Regent of Kampar, the Director-General of Land Procurement of the Ministry and the President Director of PTPN V who discussed the continuation of the submission and issuance of land certificates, so that immediately can be handed over to the MAS community.\textsuperscript{73}

\textbf{2. From PTPN V to the Government and Indigenous People}

The 2800 lands were not directly handed over from PTPN V to MAS, but PTPN V returned the land and assets on it to the state through the National Land Agency (BPN). The return was based on the Minutes of Return of Land Tenure signed by the President Director of PTPN V on July 5, 2019, a land area of 2800 hectares was handed over to the state through the Head of the Kampar Regency BPN Office and witnessed by the Kampar Regent (Berita Acara Pengembalian Penguasan Tanah Nomor 5/SPR/BA/01/VII/2019). The legal action in the form of returning land and assets is following the legal provisions of the limited liability company (Article 1 number 4 of the Law Number 40 of 2007), because it has received approval from the shareholders through the General Meeting of Shareholders (GMS) TPN V Number: S-374/MBU/05/2019 which was held on 29 May 2019 regarding the approval of the Write-Off and the Release of Tetat Assets at Sungai Kencana Plantation and Terantam Plantation.

The return of 2800 hectares of land and the assets contained therein is not included in the nomenclature of asset write-off and

\textsuperscript{72} Maria Schultz, et. al., “Deliberative multiactor dialogues as opportunities for transformative social learning and conflict resolution in international environmental negotiations,” \textit{Int Environ Agreements} (2018) 18:671–688, P. 685

\textsuperscript{73} Kominfosandi.kamparkab.go.id, Oct, 2021.
disposal of state-owned assets as stipulated in the Regulation of the Minister of State for State-Owned Enterprises Number: Per-02/MBU/2010 concerning Write-off and Transfer of Fixed Assets of State-Owned Enterprises. As separated state assets, the return of PTPN V assets to the government is different from the disposal of assets to third parties as regulated in Article 2 letter G of Law no. 17 of 2003 concerning State Finance.

The government returned MAS customary land using land distribution using the Land Objects for Agrarian Reform (TORA) system. 2800 hectares of customary land were distributed to MAS, totaling 1385 certificate books. The handover was shared with each individual in the form of a certificate of private property rights (chapter 16 verse (1) point a the Law Number 5 of 1960), not in the submission of a certificate of ownership of communal land rights of MAS. TORA is the government’s choice for resolving customary land disputes (chapter 2 paragraph (b) of Regulation of the President of the Republik Indonesia No. 86,2018). TORA was closely related to the efforts of the government of President Joko Widodo in carrying out agrarian reform.

The agrarian reform program is a restructuring of the structure of control, ownership, use, and utilization of land that is more equitable through Asset Management and is accompanied by Access Management for the prosperity of the Indonesian people (chapter 1 point 1 of the Regulation of the President of the Republik Indonesia No. 86 of 2018). MPR-RI Decree No. IX/MPR/2001 on Agrarian Reform and Natural Resource Management, served as one of the foundations of the reform program in the government of President Joko Widodo. Agrarian reform is contained in the fifth Nawacita of Joko Widodo’s government through the Indonesia work and Indonesia prosperous program through agrarian reform of 9 (nine) million hectares for peasants and farm workers, subsidized flats, and social security. TORA aims to provide legal certainty over land tenure by communities in forest areas and resolve conflicts in forest areas.

74 nasional.kontan.co.id, sept 2021.
through land redistribution and asset legalization. New land distribution best addresses land conflicts between indigenous people and companies.

E. Conclusion

The fact that Senamanenek indigenous people faced obstacles in reclaiming their customary land from PT. Perkebunan Nusantara V was obvious. However, the internal conflicts within their own community arising from divergent interests and perspectives among the traditional leaders and village authorities had made this problem even worse. The failure to resolve the conflict was apparently resulted from the absence of a progressive approach instead of litigation model. The efforts of the youth organization (Karang Taruna) to initiate mediation successfully brought peace and agreements, as well reunification of the community’s perspective to reclaim their land. This had finally brought about privatization based on presidential instructions through the United Indonesia Cabinet Limited Meeting, ordering PTPN V to return assets (land) to the state through BPN Kampar. Subsequently, the government issued land certificates in the names of each MAS for the land returned by PTPN V using the TORA program. It is understood that the existence of the third party played significant role in resolving the conflicts. Not only was the customary land brought back the owner, but also the conflict resolution among the customary peoples was resolved. By addressing internal conflicts, engaging with government authorities, and promoting sustainable land management practices, indigenous communities like the Senamanenek could assert their rights to ancestral lands and contribute to broader efforts towards social justice and environmental conservation.

Bibliography


Andiki Febri, Peralihan Hak Tanah Ulayat Di Kabupaten Dharmasraya, Notarius, Volume 12 Nomor 2 (2019)


Arwana Yudha Chandra dan Arifin Ridwan, Jalur Mediasi Dalam Penyelesaian Sengketa Pertanahan Sebagai Dorongan Pemenuhan Hak Asasi Manusia, Jambura Law Review, Volume 1 Issue 02 July 2019

Bachtiar Maryati, Peranan Lembaga Adat Melayu Riau dalam Penyelesaian Konflik Tanah Ulayat Di Provinsi Riau, Jurnal Hukum
Returning the Stolen Land

Respublica, Vol. 16, No. 2 Tahun 2017
Baird Ian G., Problems for The Plantations: Challenges for Large-Scale Land Concessions in Laos and Cambodia, Journal of Agrarian Change. 2020
Drbohlav Petr & Hejkrlik Jiri, Indigenous People’ Struggle for Secure Land Tenure In The Philippines: Case Study Of Higaonnon Tribe in Opol, Mindanao, Asian Social Science; Vol. 13, No. 7.
Edison Elizabeth and Devi Rugmini, Tribal Land Alienation, Agricultural Changes and Food Culture Transition in Attappady, South Asia Research Vol. 39 (1)
Firdaus, Tanggung Jawab Sosial Dan Lingkungan Perseroan Terbatas Terhadap Hak Asasi Manusia (Studi Tentang Tanggung Jawab Sosial Dan Lingkungan Perusahaan Perkebunan Kelapa Sawit Terhadap Hak Ekosos Masyarakat Lokal Kabupaten Kampar Propinsi Riau, Disertasi Program Doktor (S3) Ilmu Hukum Fakultas Hukum Universitas Indonesia, Yogykarta, 2013
Freaddy Busroh Firman, Mediasi Sosial Dalam Menyelesaikan Konflik Lahan Milik Masyarakat Adat Di Indonesia, Lex Jurnalica Volume 14 Nomor 1, April 2017
Gellert Paul K., Palm Oil Expansion In Indonesia: Land Grabbing As Accumulation By Dispossession, States And Citizens: Accommodation, Facilitation And Resistance To Globalization Current Perspectives In Social Theory, Volume 34.


Hartanto Wenda, Kewenangan Pengelolaan Tanah Dan Kepariwisataan Oleh Pemerintah Untuk Mencapai Cita Negara, Jurnal Legislasi Indonesia Vol. 15 No. 01 Maret 2018.


Herlon Meki, et. al., Social Network and Land Conflict in Rural Communities (Case Study In Senama Nenek Vilage Tapung Hulu Sub Regency Kampar Regency), Jurnal Social Economic of Agriculture, Volume 6, Nomor 1, April 2017.


John F. McCarthy and R. A. Cramb, Policy Narratives, Landholder

Kitab Undang-Undang Hukum Perdata

Lestari Rika dan Sukisno Djoko, Kajian Hak Ulayat Di Kabupaten Kampar Dalam Perspektif Peraturan Perundang-Undangan dan Hukum Adat, Jurnal Hukum IUS QUIA IUSTUM NO. 1 VOL. 28 JANUARI 2021


Mutolib Abdul, *et. al.*, Konflik Agraria Dan Pelepasan Tanah Ulayat (Studi Kasus Pada Masyarakat Suku Melayu Di Kesatuan Pemangkuan Hutan Dharmasraya, Sumatera Barat), *Jurnal Pene-litian Sosial Dan Ekonomi Kehutanan Vol. 12 No. 3 Desember 2015*


Priyono Ery Agus, Aspek Keadilan Dalam Kontrak Bisnis Di Indone-
Firdaus, Rahmad Hendra, Samariadi, & Hengki Firmanda

sia (Kajian pada Perjanjian Waralaba), Jurnal Law Reform Volume 14, Nomor 1, Tahun 2018.

Purba Jan Horas V. dan Sipayung Tungkot, Perkebunan Kelapa Sawit Indonesia Dalam Perspektif Pembangunan Berkelanjutan, Masyarakat Indonesia, Vol. 43 No.1, Juni 2017


Rahadiyan Inda, Kedudukan BUMN Persero Sebagai Separate Legal Entity Dalam Kaitannya Dengan Pemisahan Keuangan Negara Pada Permodalan BUMN, Jurnal Hukum Ius Quia Iustum No. 4 Vol. 20 Oktober 2013


Rosana Ellya, Konflik Pada Kehidupan Masyarakat (Telaah Mengenai Teori Dan Penyelesaian Konflik Pada Masyarakat Modern), Al-Adyan/ Vol.X, No.2/Juli-Desember/2015


Sandefur Rebecca L., Seconds to Impact? : Regulatory Reform, New Kinds of Legal Services, and Increased Access To Justice, Law And Contemporary Problems Vol. 84 No. 3 2021

Schilling Janpeter, at. el., A local to Global Perspective on Resource Governance and Conflict, Conflict, Security & Development 2018, VOL. 18, NO. 6, 433–461

Shayne Shapero Danielle, A Solution to The Silencing and Denial: How ADR Can Harmonize Catholic Law With The International Communities Demand To End The Sexual Victimization Of Children In The Catholic Church, Cardozo Journal Of Conflict
Resolution Fall, 2019

Surat Tim Penyelesaian Pengembalian Lahan Ulayat Kenegerian Sinama Nenek 2.800 Hektar Dan Kuasa Hukum,Tanggal 09 Juli 2012


Undang-Undang Nomor 17 Tahun 2003 Tentang Keuangan Negara.

Van Der Muur Willem, Forest Conflicts and The Informal Nature of Realizing Indigenous Land Rights In Indonesia, *Citizenship Studies*, 2018 VOL. 22, NO. 2


https://kominfosandi.kamparkab.go.id/2019/05/11/bupati-kampar-ptpn-v-dan-kementerian-atr-bpn-lakukan-pertemuan, diunduh pada tanggal 1 Oktober 2021

Berita Acara Pengembalian Penguasan Tanah Nomor 5/SPR/BA/01/VII/2019

Undang-Undang Republik Indonesia Nomor 40 Tahun 2007 Tentang Perseroan Terbatas
https://nasional.kontan.co.id/news/warga-senama-nenek-kampar-
menerima-sertifikat-1385-atas-tanah-seluas-2571-ha, dikunjungi
tanggal 23 September 2021
Undang-Undang Nomor 5 Tahun 1960 tentang Peraturan Dasar Po-
kok-Pokok Agraria.
Peraturan Presiden Republik Indonesia Nomor 86 Tahun 2018 Ten-
tang Reforma Agraria