

2016 Land Conflict Monitoring in Indonesia

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According to Indonesia's Basic Agrarian Law No. 5 enacted in 1960, 'agrarian' is defined as the whole land, water and outer space, including natural resources contained therein, in the territory of Republic of Indonesia (Article 1 number 2). Thus, this definition of agrarian can also be interchangeable with 'natural resources'.

This Land Monitoring report was released in the second year of President Joko Widodo's, popularly known as Jokowi, government. After winning presidential elections in 2014, Jokowi introduced his *Nawacita*, or 'nine promises' program.

Agrarian Reform is one of Jokowi's *Nawacita* programs. *Nawacita* is interpreted by the National Development Planning Board (Bappenas) to mean land redistribution of 4.5 million hectares and legalization/certification of government land of as much as 4.5 million hectares. Due to this interpretation, civil society organizations (CSOs)

have done two things in the first two years of Jokowi's term: (1) demand for the implementation of *Nawacita*, and (2) consolidate to strengthen Jokowi's agrarian reform planning which CSOs consider antiquated.

As Jokowi's term progresses, there are not many changes that have taken place, despite promises made. One reason for this is that the previous governments' overlapping regulations on land and natural resources have not been revised much, or even reviewed. When revisions do happen, these are toward simplification of regulations to facilitate the flow of investments which Jokowi's government calls 'Economics Package'.

Monitoring Result

This report sums up agrarian conflicts from January to September 2016. In this report, KPA focuses on agrarian conflicts which are structural. Under the



KPA model, the definition of agrarian conflict is continuous claim on government land, natural resources, and territories with big enterprises involved in infrastructure, production, extraction and conservation; and the conflicting parties make an attempt and act directly or indirectly to eliminate the other party's claim.

In Indonesia, agrarian conflict is usually initiated by the granting of permits/rights by public officials, including the Minister of Forestry, Minister of ESDM (Energy And Mineral Resources), Head of BPN (National Land Agency), Governor and Regent, who allow big enterprises control over government land, natural resources, and entire territories for infrastructure, production, extraction and conservation projects.

Data Collection

Data produced in this report were obtained through two ways: (1) direct report from the victims to KPA's National Secretariat, Regional Secretariat or networks and alliances formed by KPA, and (2) monitoring of mass media (printed or online).

Data presented by KPA are certainly not a representation of all agrarian conflicts that take place in Indonesia. This is due to limitations of KPA and its networks, as well as limitations of mass media in covering agrarian conflicts. The data presented by KPA could be the minimum number of agrarian conflicts taking place in the country. However, KPA is confident that the aggregate

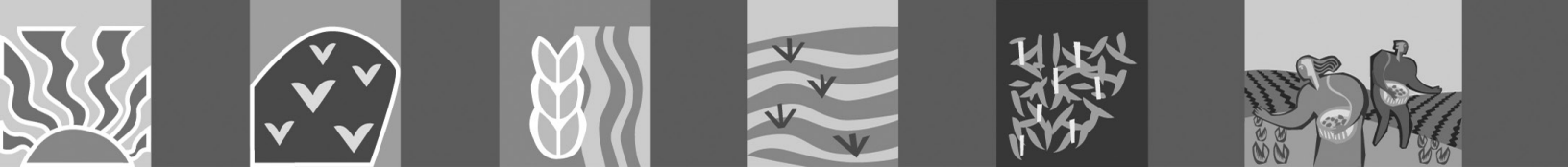
data presented in the report is a representation of the face of agrarian conflicts in Indonesia.

Record of Agrarian Conflicts

Agrarian conflicts in 2016 can be categorized into: plantation, housing, public infrastructure, forestry, mining, coastal, oil and gas, and food production (agriculture). From January to September 2016, KPA recorded 401 agrarian conflicts covering 2,763,467 hectares and involving 68,012 households. Details on each category are as follows: plantation (99 conflicts), housing (79), infrastructure (61), forestry (24), mining (19), coastal (10), oil and gas (7), and agriculture (2).

With this data, it can be said that every day there were agrarian conflicts involving 225 households (744 lives) covering an area of at least 9,180 hectares.





Agrarian conflicts from January to September 2016 were dominated by plantation, housing and infrastructure sectors. In the plantation sector,

conflicts took place due to continuous expansion of land by many enterprises. Conflicts involving the housing sector are newly released data by

KPA because evictions on people due to property development have become a recent trend due to expansion of cities or development of new urban areas.

Table 1. Distribution of agrarian conflicts in Indonesia's provinces

Province	Month								
	Jan.	Feb.	Mar.	Apr.	May	Jun.	Jul.	Aug.	Sept.
Papua Barat									
Bali			1				1		
Gorontalo						1			
Sulawesi Tenggara									1
Sulawesi Selatan			1	1		1			3
Sulawesi Tengah		1	1						2
Sulawesi Barat		1				1		1	
Sulawesi Utara		1	1	1	1	2			2
Kalimantan Utara					1				
Kalimantan Barat				3	1		1		1
Kalimantan Selatan		2	1	1	1				1
Kalimantan Tengah		2	1		1	3		1	2
Kalimantan Timur	2	1	2	2	1	1	1	4	1
NTB			1	2			1		3
NTT	1		1		1	2			1
Maluku Utara							1		
Maluku	2					1			
Bengkulu						2		1	
Kepulauan Bangka Belitung		1				1			
Riau	2	1	3	1		6	6	1	1
Lampung	2		2		1		1	3	2
Jambi			3	2	1	3	1		
Aceh	4		4	2	4	1	1	2	
Sumatera Barat				2					
Sumatera Selatan	2		2	1	2	4	3	2	1
Kepulauan Riau	1					2		1	2
Sumatera Utara		2	2		3	7	5	7	1
Yogya	1	2			1				
Banten	2		1	2				1	2
Jawa Timur	4	3	2	3	2	7	2	3	2
Jawa Tengah		1	2	3	3	1		1	1
Jawa Barat	4	2	4	2	2	2	4	5	3
DKI Jakarta	1	1	2	2	2		1	2	1

Distribution of Agrarian Conflicts in Indonesia

Nine provinces afflicted most by agrarian conflicts are as follows: East Java (30 cases), West Java (29), North Sumatra (28), Riau (23), Aceh (18), South Sumatra (17), East Kalimantan (15), Jakarta and Central Java (12).

For West Java, East Java, North Sumatra, Riau and Aceh, agrarian conflicts in the plantation sector dominates.

Victims of Agrarian Conflicts

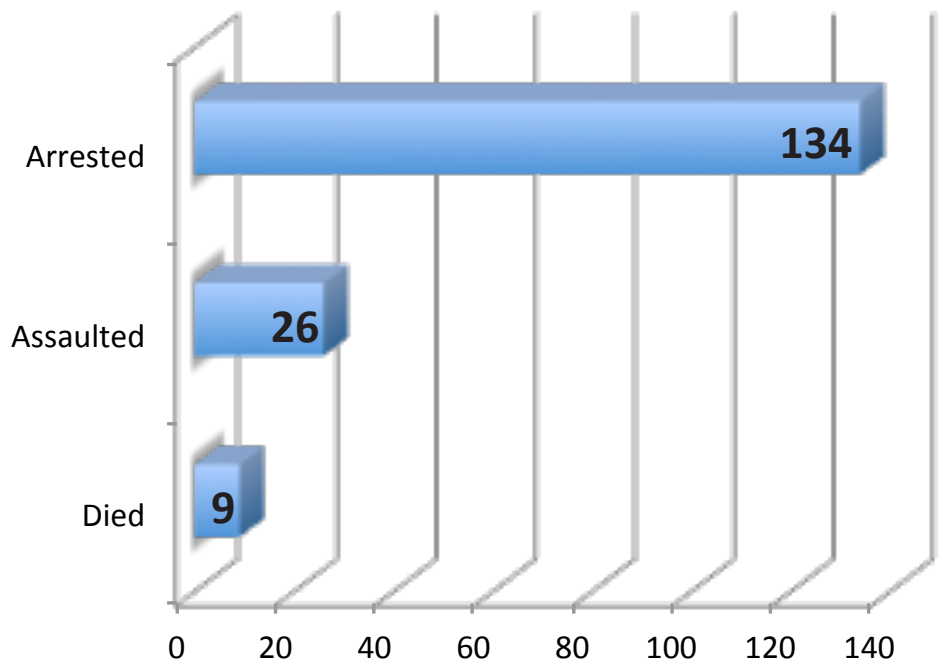
From January to September 2016, agrarian conflicts claimed 9 lives and jailed 134 agrarian fighters. In addition, 26 people were assaulted during the same period.

From the available data, there are nine groups involved in agrarian conflicts: (a) conflicts between communities and private plantation parties (118 cases); (b) conflicts between communities and central and regional governments (70); (c) conflicts between people and



State-owned enterprises (BUMN) (48); (d) conflicts among people (30); (e) conflicts between people and the military/police (22); (f) conflicts between BUMN and private parties (5); (g) conflicts between government entities (5); (h) conflicts between government and BUMN (2); and, (i) conflicts among private enterprises, From this data, we can get an illustration that the most number of conflicts took place between communities and private plantation parties. The reason for this is because permits granted to private enterprises for plantation, housing, forestry and mining are often on the communities' land (see Table 2).

Diagram 1. Number of Victims in Agrarian Conflicts



Size of Land in Agrarian Conflicts

In terms of the size of land covered by agrarian conflicts, the plantation sector was very dominant, with 41 percent or 1,137,379 hectares involved. This is followed by the agriculture sector follows with 496,805.7 hectares (18%), forestry sector with 493,861.4 hectares (18%), coastal sector with 219,397.6 hectares (8%), property sector with 195,104.3 hectares (7%), infrastructure sector with 139,190.8 hectares (5%), oil and gas sector with 43,841.4 hectares (2%), and mining sector with 37,887.12 hectares (1%). See diagram 2.

Monitoring and Advocacy Policies in 2016

Land Bill

The Land Bill was announced as one of the priority laws by the Indonesian parliament since 2009. From the beginning, KPA has conducted

an advocacy campaign on the Land Bill with several principal objectives: (a) Land Bill is implementation of UUPA 1960, not a replacement; (b) Conducting agenda of Agrarian Reform; (c) Settlement of agrarian conflicts; (d) Abolishing sectionalism in land administration or promoting single administration in the land sector; (e) Strengthening recognition of indigenous people's rights; (f) Priority of right over the land for marginalized groups, especially farmers, women and indigenous people; and, (g) Conservation of nature.

This view has been expressed by KPA since the Bill's discussion in Parliament covering the period 2009 to 2014. KPA has given its official review several times to Parliament's legislative bodies, Commission II and political parties, especially the PKB Party, Gerindra's Party and PDIP Party.

A closer look at the Land Bill reveals several weaknesses. First, the Land Bill regulates

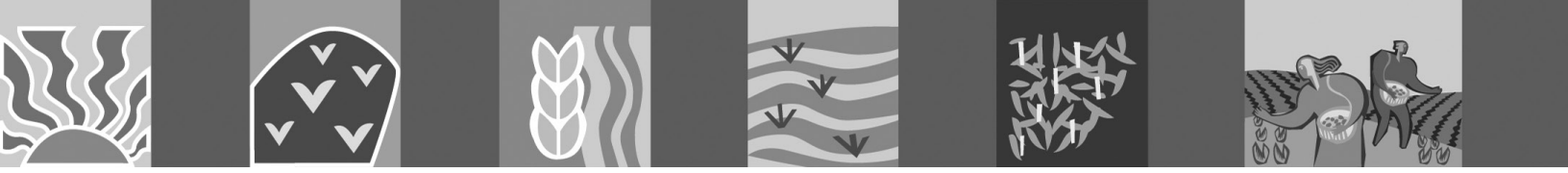


Table 2. Actors involved in agrarian conflicts from Jan. to Sept. 2016

Actors	Month								
	Jan.	Feb.	Mar.	Apr.	May	Jun.	Jul.	Aug.	Sept.
Police officer	3	1		2		2	4	4	5
Communities vs. gov't.	8	7	8	6	11	13	5	4	7
Communities vs. state-owned company	6	3	7	6	5	10	2	6	3
Gov't. vs. state-owned company	1		1						
Among communities	2	1	3	1		5	5	5	7
Communities vs. private company	6	9	16	12	12	17	14	14	10
State-owned company vs. private company	1		1		1			2	
Gov't. vs. gov't.	1		1	2				1	

implementation of agrarian reform as a solution to land redistribution, thus it is not a genuine nor a comprehensive agrarian reform bill.

Furthermore, the Land Bill, in its present form, is not meant to become a catalyst for the growth of businesses owned by villagers, farmers, fishermen and other marginal groups as it does not prescribe modern land management methods. Therefore, this Bill does not explain the need for an ad hoc body reporting to the President, such as BORA or the National Committee for Implementation of Agrarian Reform.

The Land Bill does not seriously abolish sectionalism in the land sector and building strong and reliable land governance institutions. Supposedly, this bill proposes the formation of a Land Ministry, which regulates all planning, administration, spatial information, registration and rights over all land under national body.

The answer for settlement of land conflicts offered in this Bill is to form a land court. However, this proposal will only be effective if the government is able to solve land issues like

partiality and establish credible land governance institutions. The land court will not work in cases of thousands of land conflicts, such as the Mesuji and Bima cases, which are categorized as 'extraordinary cases' by the transitional land institution. The government needs first to answer the clamor for justice sought by the affected communities, or else the land court will just be like the National Committee for Settlement of Agrarian Conflicts once proposed by Indonesia's National Committee for Human Rights (Komnas HAM), which would have been responsible for registering, verifying and filing cases submitted by communities collectively; facilitating settlement and giving recommendation for binding solution.

Draft of Presidential Decree on Agrarian Reform (RA)

In 2015, those concerned with the struggle of agrarian reform were suddenly stunned by the announcement of the winner of the bid for reviewing the draft Presidential Decree on Agrarian Reform (RA), which was PT. Mahaka. The announcement aroused widespread curiosity because a very important regulation was suddenly



conducted by third party, and a private company at that.

In addition, KPA also criticized the content of the draft Presidential Decree on RA (Ranperpres RA) designed by the government and that company, as very far from the values of agrarian reform mandated by UUPA and from the President's *Nawacita*. The KPA's critique was sent to the Ministry of ATR/BPN-RI.

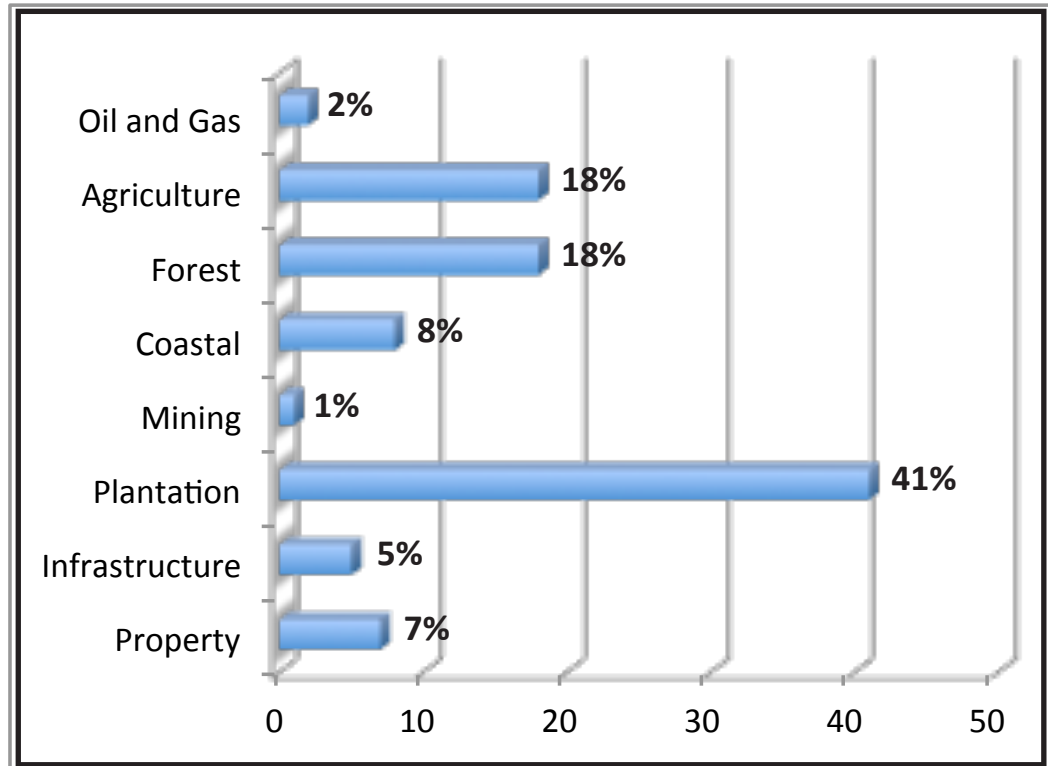
The critique was accommodated by BPN and for the past two years, KPA and then KNPA has been involved in reviewing the Ranperpres RA, as well as the Draft of Perpres produced by the previous Ministry of ATR/BPN.

After thorough review, the Ranperpres manuscript was sent to the Ministry of State Secretariat. However, as of this writing, the Ranperpres has not yet been approved.

Some of KPA's main points on this Ranperpres are as follows:

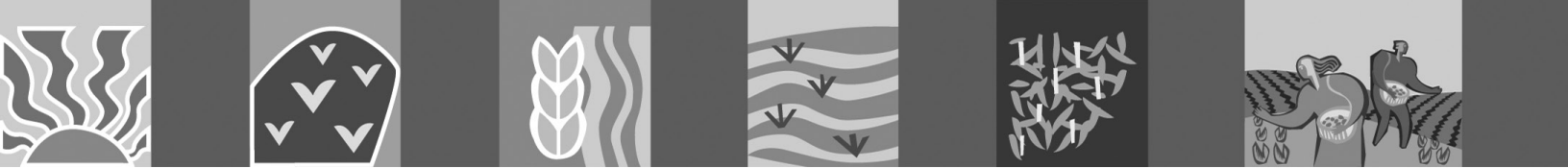
1. To correct the agrarian reform scheme in RPJMN, divided into two major jobs which are land redistribution of as much as 4.5 million hectares and legalization of land assets of as much as 4.5 million hectares. Besides lowering redistribution targets to half of what was originally set, legalization of assets or certification is not agrarian

Diagram 2. Size of Land in agrarian conflicts based on sectors



reform because certification is aimed at reducing agrarian structure partiality. On the contrary, it could legitimize the existing partiality through a land certificate.

2. KPA promotes that agrarian reform is not a continuous program. According to KPA, agrarian reform is a program to be implemented with a clear time frame. For KPA, continuity or sustainability is the continuity of reform benefits, not just a land redistribution program.
3. As for institutions, KPA proposed that RA implementation be subsumed under an ad hoc body directly led by the President. This body should involve community organizations fighting for agrarian reform. This involvement should be from planning, execution to evaluation stage, to prevent fatal mistakes in implementation of agrarian reform – often taking the form of



wrong object (location of agrarian reform) and wrong subject (beneficiary of land redistribution) – from happening.

4. As to the beneficiaries of land redistribution, KPA suggested that community organizations of farmers, indigenous people, the youth, and women should benefit from agrarian reform. These groups can be formed into cooperatives so that RA can directly impact community economies and effect genuine social transformation.
5. KPA suggested that RA should be in line with the objectives of agrarian reform. If agrarian reform is aimed at reducing agrarian partiality and solving agrarian conflicts, agrarian reform should be prioritized in areas with high numbers of agrarian partiality and conflicts.

Implementation of Joint Regulation of 4 Ministries

At the end of SBY's era, on October 4, 2014, the government signed a regulation considered very good by KPA in promoting settlement of land issues in forest areas – called the Joint Regulation about Settlement Procedures on Land Acquisition in Forest Area.

This regulation is the result of Joint Agreement Note 12 KL, encouraged by KPK in March 2013. Though KPA was not directly involved in reviewing this joint regulation involving four Ministries, KPA viewed this regulation as important and progressive and encouraged its implementation.

Under this regulation, the community must prove that they have lived in the area for more than 20 years so that they will be granted right of ownership. Otherwise, they can still apply for right of ownership through agrarian reform and

community forestry schemes. In this regulation, disputes in release of forest area can be solved by modifying forest area borders. This solution is particularly appropriate in regions with less than 30 percent forest area such as Java, Bali and Lampung, and in regions where the forest is considered as 'state asset' because it is given to *Perhutani/Inhutani*.

Unfortunately, this regulation was abandoned, having faced stiff opposition from KLHK because it was viewed as 'not legally strong' and was not given priority by BPN and regional governments. This regulation is being revised and subject for approval by the President.

Closing

Jokowi's government has been in power for two years, but fundamental changes in the agrarian sectors have yet to take place. The land redistribution agenda by Jokowi is not agrarian reform because his administration did not make any arrangement on control, ownership and utilization of lands undergoing conflict.

So far, Jokowi's government has not shown good will to make people realize that agrarian reform is a priority. In fact, Jokowi tends to treat agrarian-related assets as commodities in the stock market. Various policies being designed by the Jokowi government have not shown any signs of being for the interest of agrarian sectors. Agrarian conflicts characterized by violence, land grabbing and environmental damage are still taking place all over the country.

The main priority that Jokowi should take concerning the agrarian sectors is law enforcement – considering that agrarian conflicts stem from overlapping government regulations. Then, the government must collect data on



land conflicts (in plantation, forestry and coastal sectors). Next, the administration of Jokowi has to set who the beneficiaries of land reform should be, and the land (area, location) to be redistributed. The Ministry of Agrarian and Spatial Management/BPN plays a very important role in this undertaking. ■