

## Summary

In 2010, the legal system for the National Agrarian Reform Program (PPAN) was still being awaited by reform advocates. In the meantime, key actors in the public and private sectors were continuing with their current roles.

The National Land Agency (BPN) pursues land redistribution targets through the Land Reform Plus Program claiming some success despite serious roadblocks to implementation. Other government agencies as well have come together with civil society organizations (CSOs) in a National Workshop to address the hard reality that poverty continues to be on the rise and land conflicts, especially seen in plantations, are escalating.

The government's land reform strategy is expressed within the framework of asset reform and implemented by means of asset legalization (or land reclamations) that CSOs point out is not the way to the needed restructuring of land ownership within a total national reform program; this is, rather, market-led land reform that will not guarantee resolution of the issues of landlessness and poverty.

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An abridged version of the paper, "Land Issue and Policy Monitoring Initiative: Indonesia Report", prepared by the Sajogyo Institute (SAINS) and Consortium for Agrarian Reform (KPA)

### List of Acronyms used

AR	Agrarian Reform
BPN	Badan Pertanahan Nasional (National Land Agency)
BRWA	Badan Registrasi Wilayah Adat (Ancestral Domain Registration Agency)
CSO	civil society organization
FAO	Food and Agriculture Organization
ha	hectare
HH	households
IDR	Indonesian Rupiah
IHCS	Indonesian Human Rights Committee for Social Justice
KPA	Konsorsium Pembaruan Agraria (Consortium for Agrarian Reform)
LAP	Land Administration Project
LMPDP	Land Management and Policy Development Project
NGO	non-government organization
PKI	Partai Komunis Indonesia (Indonesian Communist Party)
PPAN	Program Pembaruan Agraria Nasional (National Program on Agrarian Reform)
R & D	Research and Development
SAINS	Sajogyo Institute
SIRG	Sistem Informasi Rawa Gambut (Information System on Peat Swamp)
SPI	Serikat Petani Indonesia (Indonesian Farmers Union)

Towards the implementation of genuine agrarian reform (AR), CSOs have recently put up the CSOs National Data Network, a database type of monitoring tool that can inform CSO advocacy efforts and the government's policy making. The program aims to address the challenges that have to do with access and use of credible data on agrarian reform.

As part of this thrust, five CSOs led by the Sajogyo Institute (SAINS) and the Consortium for Agrarian Reform (KPA) have facilitated the development of a monitoring framework focused on the concept of "Land Issues and Policies in Indonesia". The focus on land excludes other agrarian issues that are not at a level of implementation that can be monitored such as water rights, control of coastal area resources, etc. The policy monitoring, on the other hand, provides emphasis on the critical importance of policy making and implementation at this point in Indonesia's history.

According to the three variables identified in the framework, the indicators are listed in Table 1.

**Table 1. Summary List of Indicators**

<b>Indicators</b>	<b>Specific Areas</b>
<i>Inputs</i> : Policy	<ul style="list-style-type: none"> <li>• Policy/regulations</li> <li>• Agrarian Reform initiators</li> <li>• Programs</li> </ul>
<i>Effects</i> : Land problems	<ul style="list-style-type: none"> <li>• Landlessness</li> <li>• Tenancy</li> <li>• Conflict</li> </ul>
<i>Impacts</i> : Degree of violence	<ul style="list-style-type: none"> <li>• Eviction</li> <li>• Death</li> <li>• Arrests</li> </ul>

In line with this initiative, CSOs are making the following recommendations to government, donors and CSOs:

**Government**

- Prepare the system, regulations and institutions needed to implement a genuine agrarian reform.
- Improve the database of land available for redistribution.
- Set criteria and identify the beneficiaries.
- Open political opportunities and set a base for political action to consolidate pro-reform movement, and form a state-society coalition for genuine agrarian reform.

**Donors:**

- Involve and consult with NGOs/CSOs who have been advocating agrarian reform, instead of developing plans solely with government agencies. Lessons learned from market-led land reform show that it has not successfully altered existing inequality structures.

**CSOs:**

- Share and consolidate data with urgency in order to strengthen the database that can be used as a tool to strengthen the conduct of agrarian reform.
- Develop closer cooperation with research/academic institutions (both state and private institution) especially those which have focus on agrarian reform issues.

## **Context: status of land reform in Indonesia**

Ten years since land reform re-emerged as a national agenda, the restructuring of agrarian systems has remained unfulfilled. Over time, studies indicate that while the country's total agricultural area based on census data from 1963 and 1983 had increased from 12,884,000 ha to 14,483,321 ha, the average number for each agricultural activity had decreased, from 1.05 ha in 1963 to 0.85 ha in 1983. A recent estimate from FAO (2004) in Kalsim (2010) shows that total agricultural land is 14.21 million ha in 2003.<sup>1</sup>

In general, many farmers continue to have no complete ownership over the land (70.75%) and most of them cultivate the land by themselves (82.75%). The scarcity of reliable data does not give a profile of the small farmer, but the landless are estimated for the period 1979-1984, by Gini coefficient measure at a high of 29% to 40%. Their access to land is less than 0.25 ha.

CSOs emphasize the importance of five periods in the history of AR (See Table 2).

### **Conceptual framework**

A National Workshop composed of AR leaders in government and CSOs determined the critical challenges faced by government agencies and the resistance met from various stakeholders. One workshop result is the establishment of the CSOs' National Database Network. The database system, called SMART, will receive constant input data from 15 participating CSOs including the needed

<sup>1</sup> <http://dedikalsim.files.wordpress.com/2011/03/pemb-infrastruktur-pert-2.pdf>

disaggregated data from government. The availability of complete and updated data is positioned as an important component to establish a relevant strategy for agrarian movement and policy advocacy work. The team of CSOs will analyze the data and produce a position paper annually for the use of AR stakeholders and advocates of agrarian issues and policy making.

The monitoring framework adopts a focus on "Land Issues and Policies in Indonesia" using indicators taken from the BPN programs. These indicators fall under three major variables: Input, Effect, and Impact. Further, the framework attempts to trace the progress of land reform over five periods in the country's history. The periods were defined according to significant policies or political changes marking these periods (see Table 3).

## **Findings and Analysis**

### **1. INPUTS**

#### **a. Policies**

From the Sukarno Era until the present Reformation Era, the management of agrarian resources has become more fragmented and contradictory. There are 11 acts that digress from Article 33 of the Indonesian Constitution of 1945 in their vision, mission statements, and regulated resources. As a result, there are contradictions and overlaps in responsibilities among government authorities and in implementation processes. Over time, such agrarian resource management has relegated land function and invited overt and covert conflict because of sectoral claims over

**Table 2. History of Agrarian Reform in Indonesia**

Period	Brief Description
1945 to 1960: From colonial practices to the Basic Agrarian Law of 1960	The Law was implemented until 1966, but needed supplemental regulations to operationalize land reform effectively at the regional or local levels. Results of land reform from 1961-1966: 197,395.6 ha (307,904 HH) or 8.14 % of total potential beneficiaries (4.7 M HH)
1965 to 1970: Transition from Sukarno to Suharto Era	Agrarian Basic Law diminished by other laws
<p>1973 to 1993: New Order Era</p> <p>Various laws enacted towards restructuring access and land ownership.</p> <p>From 1969 to 1980, land reform was prohibited and in the 1970s, the Government implemented the Green Revolution</p>	<p>Over three decades, the number of marginal farmers increased from 9.5 million to 10.94 million and 13.7 million in 2003. Their landholdings on the other hand, decreased from an average of 0.89 ha average to 0.83 ha in 1983 and 0.5 ha in 2003.</p> <p>In 1981, the Food and Agriculture Organization (FAO) authorized the Farmer Charter containing 17 AR principles, to guide the restructuring of access and ownership to land and water resources. The Charter was largely ignored by the government</p> <p>Government claimed 1.1 million ha were distributed through the scheme of land reform and transmigration from 1967 to 2005</p>
<p>1997-2002: Reformation Era</p> <p>AR developed on the basis of large-scale capital mechanism; conflicts increased.</p>	The issue of land for the peasants re-emerged with the issuance of Presidential Decree No.48, 1999. Two years later, pressured by advocacy groups, the Government issued the People's Consultative Assembly Decree No. IX/2001 on AR and natural resources management
<p>2003-2010: Susilo Era</p> <p>Land Management and Policy Development Project/Land Redistribution/Land Reform Plus</p>	

**Table 2 cont'd.**

<p>Five program components:</p> <ul style="list-style-type: none"> <li>• Developing Policy Framework and National Land Policies</li> <li>• Developing Institutional Aspect, Capacity and Training</li> <li>• Program Implementation Accelerated with Land Titling</li> <li>• Developing Land Information System</li> <li>• Supporting/Driving the Developing of Local Government Capacity</li> </ul>	<p>BPN indicators for the five components include the low number of certificates issued for people's land parcels. The general observation was that land redistribution programs started in 2007 by President Yudhoyono did not make much headway.</p> <p>Land Reform Plus has claimed that the recorded rate of redistributed land is more than 40,000 ha per year since 2005, or doubled from previous periods. BPN has allocated the budget and has conducted better coordination among their working units. As a result, the number of beneficiaries has increased since 2005 from 34,195 households per year in 1961 to 2004 to 72,991 households per year in 2005 to 2008</p>
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resources. These claims have dispossessed rural farmers from their lands.

**b. Agrarian Reform Initiatives**

Based on BPN data, the yearly indicators for AR implementation for the period 2005-2008 show the increases in land allocated, land redistributed, number of beneficiaries,

and number of land certificates issued. The government strategy for asset legalization is very clear from the numbers of land certificates that skyrocketed in only three years (between 2005 and 2008) to 13 million certificates while only 34,195 land certificates were issued between 1961 and 2004.

**Table 3. Land Issue and Policy Monitoring Framework**

Periods	Input: Policy				Effect: Land Problems			Impact: Degree of violence		
	Policy/regulations	AR Initiatives	Programs	Budget	Landlessness*	Tenancy**	Conflict	Eviction	Death	Arrests
1945-1960										
1965-1970										
1973-1983-1993										
1997										
2003-2010										

\*Landlessness: state of owning no land or a very small parcel of land (less than 0.2 ha)

\*\*Tenancy: (lease, mortgage, use permit)

**Table 4. Indicators for AR Implementation**

Indicators	1961-2004 (Business as Usual/BUA)	2005-2008 (Acceleration/ ACC)	Average distribution per year		Level of increase between BUA & ACC
			BUA	ACC	
Allocated land	54,500 ha	349,519 ha	1,267 ha	116,506 ha	91 times
Redistributed land	26,600 ha	367,701 ha	618 ha	121,949 ha	196 times
Number of land reform beneficiaries (HH)	34,195 HH	72,991 HH	795 HH	24,330 HH	29 times
Number of asset legalization/ land certificates	34,195 certificates	13 million certificates	795 certificates	4.3 million certificates	5,450 times

Source: National Land Agency (2008)

### c. Program

Starting with Land Administration Project in 1994 and followed by Land Management and Policy Development Program (LMPDP/ LAP) in 2004, both programs concentrated on land registration and titling, with focus on strengthening the land adjudication and legalization administrative system. Under this program, the National Land Agency (BPN) was transformed into a land administration body instead of a land policy making institution.

In 2006, under a new leadership, BPN broadened its poverty reduction strategy through land redistribution. BPN started to reform its bureaucracy and prepare a legal basis for what they called a Land Reform Plus Program.

In 2007, the program was inserted under land registration program while waiting for a specific regulation for land reform.

However, to this day, BPN continues to face political struggles between ministries and other executive bodies in issuing the legal system for the Land Reform Plus program.

### d. Budget

#### *Agrarian Budget*

The state's budget for National Program on Agrarian Reform (PPAN) or the Land Reform Plus under the name of Land Management Program was IDR23 billion in 2008. More recent data can be found in the Revised State Plan on Revenue and Expenditure Budget, 2010. Expenditure allocated for BPN is IDR2,951.6 billion or IDR7 billion (0.20%) higher than what was determined in the State Plan on Revenue and Expenditure Budget, 2010 before revision.<sup>2</sup> Increasing budgets are allocated for three items, one of them being AR, as seen in Table 5.

<sup>2</sup> Indonesian Agency for Agricultural Research and Development Ministry of Agriculture <http://www.litbang.deptan.go.id/berita/one/762/>

**Table 5. Allocation for Added-Budget (2010)**

	Program	Budget Allocation (IDR)
1	So-called "AR implementation" and National Land Management Program	3.5 billion
2	Program of Spatial Planning and Land Use Program	2.5 billion
3	Infrastructure availability through partnership between government and private sector/PPP scheme	1.0 billion

Source: Gunawan, IHCS

The IDR3.5 billion for AR implementation is just a small percentage of BPN's total budget (IDR2,944.6 billion), reflecting the government's lack of serious implementation of AR. The allocation also includes the budget for drafting acts and government decrees on land issues. The outputs will be: i) issuance of AR Government Regulation to sanction law and political system and also the implementation of Land Reform Plus; and ii) Socialization of Government Regulation on Idle Land Policing and government regulation on Agrarian Reform.

### *R&D expenditure in agriculture as percentage of total agricultural budget*

The Ministry of Agriculture reported in October 2009 that R&D expenditure was IDR2,571.7 billion or less than 0.30% of the Agriculture Gross National Product (GNP) (IDR857,241.4 billion<sup>3</sup>). Data reported by the Ministry for 2006 showed expenditures at IDR600-700 billion.

### *Official Development Assistance (ODA) in agriculture and AR*

#### Some of this data involving 19 international

<sup>3</sup> BPS [http://www.bps.go.id/tab\\_sub/view.php?tabel=1&daftar=1&id\\_subyek=11&notab=1](http://www.bps.go.id/tab_sub/view.php?tabel=1&daftar=1&id_subyek=11&notab=1)

development agencies collaborating with the Ministry of Agriculture, namely Food and Agriculture Organization (FAO), World Bank, Islamic Development Bank (IDB), Asian Development Bank (ADB) and others are available. For example, the loan amounts from World Bank for land legalization was 70% of the total needed budget in 2009.<sup>4</sup> Other data, however, like the forms of assistance and amounts of aid given by each of these organizations, are not readily available.<sup>5</sup>

## 2. EFFECT INDICATORS

These indicators are landlessness, tenancy, and conflict cases.

### a. Landlessness

#### *Ownership*

Data on many indicators including the number of landless farmers are limited but there are some useful data available like the increasing land allocations for large-scale capital, e.g., palm plantation (the commodity with the biggest expansion). The increasing number of

<sup>4</sup> <http://economy.okezone.com/read/2009/10/07/320/263549/320/bank-dunia-bantu-dana-ke-bpn>

<sup>5</sup> Indonesian Agency for Agricultural Research and Development Ministry of Agriculture [http://www.deptan.go.id/tampil.php?page=dir\\_asing](http://www.deptan.go.id/tampil.php?page=dir_asing)

oil palm areas has resulted in the exclusion of farmers and the increase of agrarian disputes.

Data on ownership (by category) according to size of landholdings based on sectors e.g., plantation and agriculture were available:

- Land ownership of palm plantations in 30 provinces until February 2010 (Sawit Watch, 2010)

Existing and expansion areas of palm plantations from 2006 to 2009 are increasing, and consequently, so are agrarian conflicts in these communities. Women's livelihood activities have also been affected. After paddyfields and gardens were converted to oil palm plantations, the women working those lands became contracted plantation workers with minimum wage of IDR 30,800 per day and no guarantee of health and safety.

- Land ownership of marginal farmers (SPI and IHCS, 2008 citing BPS data, 2003)

Over three decades (1983-2003), the number of marginal farmers has increased from 9.5 million to 13.7 million. Their landholdings however, have decreased from an average of 0.89 ha to 0.5 ha in 2003.

- From 1990 to 1991, land use changes or conversion cases were documented from forest to dry land agriculture and to permanent structures. The

highest percentages were 29% and 41%, indicating that the number of marginal farmers and the landless have increased with the change of forest status (Bachriadi & Wiradi, 2011).

## **b. Tenancy**

Landlessness reached a high of 25% to 38% of the rural population with access to land at less than 0.25 ha. In 1973, the rate of landlessness was 35%; in 1983 it decreased to 25%, but increased again to 33% in 1993 and to 38% in 2003 (Bachriadi and Wiradi, 2011).

### *Percentage of sharecroppers*

In 1999, 49.5% of farmers were landless in Java and 18.7% in islands outside Java (CASER in Bappenas). This is approximated data as to the number of sharecroppers due to the unavailability of documentation, census, or other sources.

### *Percentage of sharecroppers with legal document*

No data available.

### *Percentage of contract farmers' area in relation to total agricultural area*

No data available.

## **c. Conflict cases**

### *Number of cases received*

KPA is an NGO that collects and reports cases of agrarian disputes at the national



**Table 6. Percentage of Category of Peasant Landholders, 1973-2003**

Category of Landholding (ha)	1973	1983	1993	2003
<0.10	3.4	7.3	8.1	10.9
0.10-0.19	12.5	10.4	12.3	12.4
0.20-0.49	29.8	26.8	28.2	27.9
0.50-0.99	24.7	23.4	22.2	19.7
1.00-1.99	18.1	18.6	16.8	16.1
2.00-5.00	9.4	11.2	11.0	11.4
>5.00	2.1	2.3	1.4	1.6
Total number (million)	14.4	18.8	21.2	24.3

Source: Bachriadi & Wiradi 2011

level. There are three approaches employed by KPA to identify indicators based on data collection.

In addition to KPA's data, the Government's (BPN data, 2008) showed that total number of cases reported was 7,491 (in Gunawan, 2010), including cases from the past 40 years. Number of cases resolved was 1,778 and based on validation against data in 2007, of the 7,491 total cases, 4,581 were land disputes; 858 conflicts; and 2,052 were land cases on trial.

Further, from 2004 to 2010, the IHCS (2010) identified 43 criminalization cases and officer violence in land disputes. The Human Rights Commission (in Gunawan 2011) noted that in 2009 there were 4,000 cases of human rights violations, 62% of them agrarian and environment-related issues.

#### *Number of cases investigated*

Not all cases received by KPA were

investigated. In 2002, out of 1,455 cases, 165 were investigated by stakeholders involved, such as government, legal aid agencies or NGOs. Identified were cases dating back to 1945 until 2000. The other 1,290 cases were not investigated and subsequently categorized as unclear or ongoing. On the distribution of 1,455 cases received: i) 1,290 cases (89%) not investigated; ii) 84 cases (6%) investigated but not adjudicated; and iii) 81 cases (5%) investigated cases and adjudicated.

#### *Number of cases adjudicated*

Data for these indicators are linked with a number of investigated cases. Until 2000, of 1,455 registered cases from 1945 to 2000, 81 cases were adjudicated (KPA 2002). About 87.65% adjudicated cases happened in the New Order era. Other data of Supreme Justice mention that 60% to 70% of processed cases, a very significant percentage, are land-related issues according to the IHCS (2010).

**Table 7. Agrarian disputes as collected by KPA**

Approach	Key Finding
First approach determined the number of cases per regime: Sukarno Era, New Order and Reform Era	<ul style="list-style-type: none"> <li>Majority of recorded cases occurred during the New Order era with 1,039 cases (92.44%)</li> </ul>
Second approach referred to other data collected by KPA i.e. number of cases based on type of disputes (e.g., irrigation, industry/ manufacturing, forest, etc) in 26 provinces dated since unknown year to 2000	<ul style="list-style-type: none"> <li>Until September 2002, KPA had received 1,918 cases in 26 provinces</li> <li>West Java, Jakarta, South Sumatra had the most number of identified agrarian disputes, i.e. 502 cases (26%), 186 cases (9.7%) and 181 cases (9.4%) respectively</li> <li>The highest number of cases was plantation-related agrarian disputes and others/farms and compensation, i.e., 428 cases (22.31%) and 289 cases (15.07%) respectively</li> </ul>
Third approach presented data on disputes in 1978 to 2007 (with missing data on 2001)	<ul style="list-style-type: none"> <li>From 1978 to 2000, there were 150 cases, however only 102 cases with year-dates of disputes (68%), only 146 cases specifically located with province names and only 98 cases included type of disputes</li> <li>Compared to the first two sets of data, the third approach presents more complete data for 1978 to 2007, covering 29 provinces</li> </ul>

*Land grabbing cases*

Data are still to be ascertained as there is yet no agreement on the definition of land grab. Nevertheless, cases reported by the IHCS (2010) totaled 43 with 7 reporting violence/criminal acts. Other cases entailed violent arrest, fight with officers, imprisonment, molestation, shooting and killing. Land grab has been recorded in Sumatra Island: Aceh, West Sumatra, South Sumatra, Bengkulu and Jambi.

*Percentage of land grabbed area*

Due to limited data, it is difficult to account

for the percentage of land grabbing as of the writing of this report.

*Average time needed for conflict resolution*

No reliable data available. Data obtained show the categories of data: “not clear”, “ongoing”, “win or lose” for the people (KPA, 2002).

*Annual loss due to conflict*

No specific indicator.

*Financial loss*

No reliable data available. So far, the data accessed are in terms of losing land for agriculture, costs incurred for medical treatment after experiencing violence, and loss for the children like their absence/inability to join national tests in school.

### 3. IMPACT INDICATORS

#### a. Evictions

##### *Number of households evicted from agricultural land*

The IHCS (2010) states that there were nine eviction cases from 2005 to 2007 occurring in Pasuruan (256 households [HHs]), Tulungagung (148 HHs), and West Nusa Tenggara (2,361 farmers). Additionally, there were also seven cases at the village level, but these were not available. Data from the IHCS were for sampling purposes and not enough to provide data at the national level. Other data of SPI (2010) from showed the numbers of households who were evicted/displaced from farms are 24,257 in 2007; 31,267 in 2008; and 5,835 in 2009.

##### *Number of households made homeless due to eviction*

There is no data available for this indicator.

#### b. Number of people killed

Data gathered revealed:

- 18 people died during the period 2007 to 2009 (SPI)
- 4 women were killed and 8

injured after military shooting because of agrarian conflicts in Alastlogo, Lekok Sub-District, Pasuruan Regency, East Java (Solidaritas Perempuan, 2007).

- At least 19 farmers and activists died in their struggle for land in 20 provinces during the Reform Era (KPA, 2000)
- 2 farmers' criminalization cases caused 6 deaths (IHCS, 2010)

#### c. Number of people arrested

Data gathered revealed 936 farmers arrested in 1997 to 2000 (KPA 2002); 102 people arrested from 2006 to 2010 (IHCS 2010).

#### d. Cases of violence or harassment

- Forms of violence experienced by farmers and activists were molestation, killing, shooting, kidnapping, arrest, house firing/ devastation, direct terror, intimidation, disappearances or rape (KPA, 2002). A total of 5,200 victims in 26 provinces were reported.
- About 66 people in 21 cases were reported victims of violence in agrarian disputes.
- Another source, IHCS (2010) reported that between 2006 to 2010 there have been 43 cases of intimidation/terror, arrest, molestation, beating, fight with officers, demonstration, kidnapping, shooting and killing. But 13 out of 43 do not mention the number of victims, saying

only that they were indigenous or rural people. The other 30 cases mentioned the numbers of HH, people or land areas.

- Other data from SPI (2010) show the number of people who experienced agrarian conflict with those in control of resources. There were 166 in 2007, 312 in 2008, and 84 victims in 2009.

## Conclusion

Based on the indicators, CSOs have concluded that agrarian reform in Indonesia after the 1960s has not progressed as reflected in documentation and studies done by NGOs. What was stated by President Yudhoyono in 2007 about land redistribution for poor farmers has not yet been realized. Presently, no regulation has been produced as a legal basis for agrarian program implementation in Indonesia. On the other hand, poverty has increased in 2007 by 16% to 17%, and military involvements in land conflicts have escalated from 2007 to 2010.

Land reclaiming actions, as a response to government inaction in resolving problems of increasing landlessness and poverty, are current modes of access to land. Land redistribution became secondary to asset legalization. The performance indicators of BPN programs overall, are based on numbers of land certificates produced by local offices that were unable to provide additional factual information about land/agrarian problems.

## Government:

- Prepare the system, regulations and institutions needed to implement a

genuine agrarian reform.

- Improve the database of land available for redistribution.
- Set criteria and identify the beneficiaries.
- Open political opportunities and set a base for political action to consolidate pro-reform movement, and form a state-society coalition for genuine agrarian reform.

## Donors:

- Involve and consult with NGOs/CSOs who have been advocating agrarian reform, instead of developing plans solely with government agencies. Lessons learned from market-led land reform show that it has not successfully altered existing inequality structures.

## CSOs:

- Share and consolidate data with urgency in order to strengthen the database that can be used as a tool to strengthen the conduct of agrarian reform.
- Develop closer cooperation with research/academic institutions (both state and private institution) especially those which have focus on agrarian reform issues.

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