Indonesia

Monitoring Report of Agrarian Conflicts for 2017-2018¹

By Konsorsium Pembaruan Agraria (KPA)

BACKGROUND

grarian reform is one of the priority programs of the Joko Widodo presidency in order to reduce the land tenure gaps and bring about more just economic development. Approximately nine million hectares are targeted for distribution and legalization of ownership.

Agrarian reform is being implemented today because the people have long demanded it, because the Indonesian constitution mandates it, and because the government now vows to pursue it.

Assessing the track record of the Jokowi administration in addressing agrarian problems is not easy. The significant number of agrarian conflicts, land expropriations, and violent evictions perpetrated by the government that promised agrarian reform undermines the hope and belief that progress will be achieved. The work of resolving agrarian structural inequality remains to be done.

This report is based on the monitoring activity conducted on agrarian conflicts which occurred in Indonesia during the period January 2017 to August 2018.

Citation:

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AGRARIAN CONFLICT

Structural agrarian conflict

For purposes of this report, the term "agrarian conflict" is defined as structural agrarian conflict, i.e. the kind which is extraordinary in size, affecting significant numbers of victims and having extensive social, economic, and political impacts. They arise from government actions and policies which affect control over resources and livelihoods, and usually involve human rights violations.

Therefore, ordinary land disputes such as the ones involving inheritance, or conflicts between individual claimants, are not covered in this study.

The 1960 Basic Agrarian Law (UUPA 1960) defines "agrarian" as "concerning earth, water and aerial space".

Methodology and indicators of conflict

The data indicator used in this report is the agrarian conflict case, which is an incident of natural resource conflict collected and recorded in the period monitored. Given such an indicator, a conflict recorded in one year can be recorded again if it recurs in another year.

This data on conflicts is drawn from: (a) agrarian conflict victims who report the agrarian conflict events directly to the KPA either through its National or Regional Secretariats (KPA members, Regional KPA and National Council); (b) victims who report the occurrence to the KPA's national or regional networks, and whose cases become subjects of agrarian assistance or case documentation; (c) data collection results in localities; (d) agrarian conflict case investigations in the field; (e) results of monitoring mass media (press and electronic); and, (f) contributions of conflict data from organizations within the agrarian reform network.²

The figures presented by the KPA are perhaps only a fraction of the actual number of agrarian conflict cases, considering that not all cases in all regions are observed, either by the organizational structure of the KPA or by the mass media.

² In 2017, the KPA collaborated with the Koalisi Rakyat untuk Keadilan Perikanan (KIARA) for improving data monitoring in coastal areas.

INDONESIAN AGRARIAN CONFLICT CASES IN 2017-2018³

In the KPA's record, 2017 witnessed at least 659 agrarian conflict cases in all districts and provinces in Indonesia, comprising 520,491.87 hectares of land area.

These conflicts involved at least 652,738 families. From January to August 2018, 278 cases were recorded, involving 624,239.30 hectares of land and affecting 58,505 families. From January 2017 to August 2018 therefore, there was a total of 937 cases involving 711,243 families.

Agrarian conflicts per sector

For identifying kinds and causes of agrarian conflicts in Indonesia, the KPA categorizes them into seven sectors, i.e. 1) plantation; 2) infrastructure; 3) property; 4) forestry; 5) mining; 6) coastal area and maritime; and, 7) agriculture.

In 2017, the highest number of conflicts was recorded in the plantation sector, with 208 conflicts constituting 32 percent of total conflicts. This was followed by the property sector (199 cases, 30 percent), infrastructure sector (94 cases, 14 percent), agricultural sector (78 cases, 12 percent) forestry (30 cases, 5 percent), coastal area and maritime (28 cases, 4 percent), and finally the mining sector (22 cases, 3 percent).

The January to August 2018 period witnessed 278 agrarian conflict cases, with almost half of them taking place in the plantation sector (100 cases). This was followed by the property sector, with 86 cases, agricultural sector (40 cases), mining (20 cases), forestry (13 cases), coastal area and maritime (10 cases), and finally the infrastructure sector (nine cases). In total, the January to August 2018 period had 937 cases.

Although the number of agrarian conflicts in forest areas is not high, conflicts in the plantation and mining sectors originate from the forestry sector. Plantation and mining operations in Indonesia obtained their sites from the leasing of forest areas into plantations, and use rights licenses for mining operations. That is why the national agrarian inequality is rooted in the forestry sector.

From the above data, it is clear that the highest number of conflicts in 2017-2018 occurred in the plantation sector.

 $^{^3}$ Cited from the 2017 End-year Records of the KPA and the Agrarian Conflicts Monitoring up to August 2018

In terms of commodity, the kind of plantation that contributed the highest number of agrarian conflict cases in 2017 is the oil palm plantation. Although it is the plantation commodity that yielded the highest foreign exchange revenue to the State, palm oil has a dark record of agrarian conflicts. The government's license moratorium for oil palm plantations failed to reduce and resolve agrarian conflicts for it was not followed by a thorough review of issued licenses.

In the last ten years, the area of palm oil plantations increased by an average of 5.9 percent. By 2016, the area of oil palm plantations in Indonesia was 11.67 million hectares.⁴ This pace of expansion was not accompanied by improvements in location license, business license systems and comprehensive impact studies of such plantations. Review of issued licenses is therefore now urgent.

Aside from the plantation sector, it is worth noting that there has been a significant increase in conflicts in the property sector, which is linked to the development of toll roads, airports and railway networks in certain regions. It has been found that the provision of access facilities (roads, railroads, etc.) in an area is usually followed by property development in the form of housing projects, shopping malls, hotels, etc.

The acquisition of land for infrastructure development by the government is worth noting too, for the Jokowi administration is pushing itself to complete all planned infrastructure constructions such as airports, highways, railways, and seaports. The planning is unfortunately not accompanied with pro-people land system and policy, so that conflicts erupt with them and local people are frequently evicted from their lands.

There are five main causes of the agrarian conflicts in land acquisition: (1) the planning process of projects do not welcome any public participation, resulting in problems on the site settlement; (2) land prices are set out in such a manner that landowners receive irrational payments for their lands; (3) corruption and blackmail in the acquisition process; (4) the mobilization of thugs, police and military personnel; and, (5) alternatives of compensation such as stipulated in the No. 2/2012 law for evicted people such as replaced lands, rehousing, capital distribution (share ownership), and other forms which are agreed upon by both parties.

Data from the General Directorate of Plantation of the Agricultural Ministry, 2016.

Agrarian conflict-affected area per sector

Of the total land area of 520,491.87 hectares affected by agrarian conflicts in 2017, some 194,453.27 hectares were in the plantation sector. Of all the sectors, this sector constitutes the largest land area affected by land conflicts. From this figure, oil palm plantations contributed the largest area with 95,565.27 hectares or 49 percent of the total in the plantation sector. Including the conflicts recorded up to August 2018, the agrarian conflict affected area totals 444,277.02 hectares.

Forestry sector conflict cases comprised an area of 137,204.47 hectares in 2017. From January to August 2018, the conflict area consisted of 63,504.52 hectares.

In the infrastructure sector, conflicts comprised a total area of 52,607.90 hectares in 2017, and 4,577.62 hectares from January to August 2018. The mining sector conflicts covered 45,792.80 hectares in 2017 and 22,681.60 hectares from January to August 2018.

The coastal and maritime sector conflict area was 42,109.47 hectares in 2017 and 54,052.60 hectares from January to August 2018. In the agricultural sector, the figures are 38,986.24 hectares (2017), and 22,450.69 hectares (January to August 2018).

Finally, the property sector conflicts covered 10,337.72 hectares (2017) and 12,567.44 hectares (January to August 2018).

VICTIMS AND PERPETRATORS ON AGRARIAN CONFLICT

Victims of violence and criminalization

In Indonesia, agrarian conflicts frequently involve brutal violence perpetrated by State security apparatus or by companies against local people who resist eviction. Almost every year, tens of people are killed for defending their land. For purposes of identifying violence victims, KPA makes use of four categories: i) killed, ii) persecuted, iii) shot, and iv) criminalized (imprisoned).

In 2017, there were 13 people killed, six shot, 369 criminalized (351 males and 18 females), and 224 injured (170 males and 54 females). Thus, a total of 612 citizens were victimized in agrarian conflicts. In the period January to August 2018, nine people were killed, six shot, 152 put in jail, and 94 beaten (81 males and 13 females).

In 2017, out of a total 659 agrarian conflict cases, there were 289 which were between private companies and local peoples. 140 cases were between government and locals, while 112 cases were conflicts between communities. Also, there were 55 cases of local people versus State-owned enterprises, and 28 cases between State apparatus and local people.

During the period January to August 2018, most conflicts were between local inhabitants and private enterprises (164 cases). Locals versus government conflicts accounted for 35 cases, followed by peoples versus peoples (28), people versus State-owned enterprises (22) and finally people versus police/military (14).

Perpetrators of violence and criminalization

Violence and criminalization is perpetrated directly against local people on site. In Indonesia, the KPA identifies the perpetrators of such violent actions: military, police and private security personnel.

In 2017, the police was the perpetrator of the most violence and criminalization with 21 cases, followed by private company security (15 cases), and the military (12 cases). Meanwhile, from January up to August 2018, private company security personnel were involved in 16 cases, and the police were the perpetrators in 10 cases.

CAUSES OF STRUCTURAL AGRARIAN CONFLICT

The causes of structural agrarian conflict are complex, varied and in many cases, intertwined. There is a "jungle of laws and regulations" on land and natural resource administration, often overlapping and sometimes contradictory. This is compounded by lack of coordination and capacity among the various government agencies, as well as differing perspectives on the agrarian problem. Predictably, the results are gaps between policy and implementation, particularly the lack of law enforcement and affirmative action against company and State violence, malpractice and corruption. Agrarian conflict resolution mechanisms and efforts have also been largely ineffective.

At the core of the problem is the liberalization development paradigm which views land as a commodity. Aligned with this is the global trend towards agricultural business and monoculture cropping. These trends lead to elimination of people's rights/access to land and livelihoods, as well as environmental destruction. Also at the core of the problem is discrimination against indigenous peoples, peasants and other marginalized groups.

AVAILABLE MECHANISMS, EFFECTIVENESS, CSO POSITION

The table below presents the various conflict resolution mechanisms available in the country, and assessment of the effectiveness of each.

Table 1. Available conflict resolution mechanisms and their effectiveness

Level	State institutions, formal/informal mechanisms	Assessment of effectiveness
Village	Village Government/Mechanism: Village assembly and/or caucuses based on local context governance	■ Depends on the position of village government/apparatus (community vis a vis the village government/apparatus)
District	District Government	 Political or conflict interest/opportunity Short term agenda, time consuming Capacity, knowledge, and awareness
	District Parliament (institution, elites/politician)	 Political or conflict interest/opportunity Short-term agenda Capacity, knowledge, and awareness Authority in execution, recommendation Budget issue
	Police and/or Court System	 Litigation, criminal-approach (law bias, formal rights) Time consuming Expensive Expert witness issue Gap between court decision and execution
	National Land Agency	 No breakthrough regulations (clear & clean approach) Depends on national mechanism and decision Time consuming Limited sectoral focus/ "sectoral ego"
	Task Force on Conflict Resolution	 Political interest/opportunity Short term agenda/will Capacity, knowledge and awareness Budget issue
Province	Provincial Government	 Strong political interest/opportunity Short term agenda/will, time consuming Capacity, knowledge and awareness Authority in execution (national dependency), recommendation only
	Provincial Parliament (institution, elites/politicians)	 Strong political interest/opportunity Short term agenda/will Capacity, knowledge and awareness Limited authority in execution, recommendatory Budget issue

	T	T
Province (cont.)	Police and Court System	 Litigation, criminal-approach (law bias, formal rights) Time consuming Expensive Expert witness issue Gap between court decision and execution
	National Land Agency	 No breakthrough regulations (clear & clean approach) Dependent on national mechanism/decision Time consuming
	Task Force of Conflict Resolution	 Political interest/opportunity Short term agenda/will Capacity on knowledge and awareness Budget issue
National	Ministry of Agrarian Affairs: Department on Land Dispute Settlement	Lack of coordinationNo breakthrough regulations; clear & clean approach
	Ministry of Environment and	Reactive approach; case by case basis Time consuming
	Forestry Ministry of Agriculture	 Changes in officials Transparency of relevant data/information Bias on definition or terminology
	Police and Supreme Court	 Litigation, criminal-approach (law bias, formal rights) Time consuming Expensive Expert witness issue Gap between court decision and execution
	National Commission on Human Rights	 Less authority (recommendatory role) Investigation, mediation Bias on human rights violence perspectives
	Ombudsman	 Less authority (recommendatory role) Investigation Maladministration/procedural approach
	Corruption Eradication Commission	 Mainstreaming corruption on land related issues Evidence based approached/on the spot violence
	President Executive Office Task Force on Agrarian Conflict Resolution Online complaint/reporting mechanism	 Complaint handling mechanism Facilitating and coordinating related parties for dialogue/mediation process, investigation
	National Parliament Commission 2 (Land Affairs) Commission 3 (Police Affairs) Fractions: complaints and reporting mechanism Elites, politicians	 Complaint handling mechanism Facilitating and calling related parties for clarification or mediation process Investigation Political interest/opportunity Short term agenda/will Capacity, knowledge and awareness Time consuming

PROPOSALS TO RESOLVE AGRARIAN CONFLICTS (policy and institutions)

The following are the proposals of civil society on resolving agrarian conflicts:

- Implementation of Basic Agrarian Law 1960 and House Assembly Decree No. IX/2001; there is a need for the State's corrective action against sectoral or contradictory laws/regulations;
- Establishment of a comprehensive and systematic conflict resolution mechanism from national to local level; led directly by the President through a special and ad-hoc institution/commission on conflict resolution; with multi-sectors and multi State-actors; and with people's participatory involvement;⁵
- Paradigm change on land and agrarian resources definition;
- Conflict resolution through agrarian reform implementation; urgency to address land conflict areas; bottom up approach (LPRA) should be recognized; implementation of Presidential Decree 86/2018;
- Formation of Task Force on Agrarian Reform (national to district level) within three (3) months after the issued decree; implementation of Presidential Decree 86/2018;
- Conflict resolution through recognition of IPs; customary forest recognition: and, implementation of Constitution Court Ruling No.35 on Customary Forest Recognition; and,
- Adoption of alternative development models/approaches that prioritize the protection and respect over peoples' rights to land and livelihood.

CONCLUSION

After four years, the process of conflict resolution in the agrarian reform framework of the Jokowi-Jusuf Kalla era does not seem to show any significant progress. On the other hand, various investments and developments projects seem to have accelerated, without any enhancement in people's land tenure security.

In short, land investments are at the center of national land policy. The effect is that agrarian conflicts are increasing, and repressive procedures continue to be used in containing them. Casualties and other forms of violence are inevitable.

Agrarian reform requires political will. While the current government favors agrarian reform, it is not firm and consistent enough. This can be seen in the

⁵ CSO proposals have included (1) the creation of a *Komisi Nasional untuk Penyelesaian Konflik Agraria* (KNuPKA, or (National Commission for Agrarian Conflict Resolution) during the Megawati Administration, and (2) the establishment of a *Pembentukan Unit Kerja Presiden untuk Penyelesaian Konflik Agraria* (UKP2KA, or Presidential Work Unit for Agrarian Conflict Resolution) under the Jokowi Administration.

fact that the necessary laws supporting agrarian reform implementation have not yet been passed after three (3) years of this administration.

Various deadlocks are easily identified in the process of land reform. These can be found in areas in which conflicts erupt involving State-Owned Enterprises (BUMN), State Plantation Enterprises (PTPN), State Forest Enterprises (Perhutani), abandoned lands, and forest area extraction. Such conflicts were easily identified during the years 2017 and 2018. Unfortunately, one of the main tasks of land reform – which is the resolution of land conflicts – cannot be said to be progressing.

The ideal government-sponsored land reform is a restructuring that is rapid, drastic, and systematic. It is not supposed to be partial, for it is meant to be the cure for the chronic infirmity in land tenure and ownership in a country.

These principles should be the foundation for conflict resolution, and not simple land certificates distribution which does not touch the essential problem of agrarian conflicts. More powerful and non-partial legal and institutional instruments are needed so that the resolution of old and new agrarian conflicts can be the main focus for the realization of agrarian reform.

The President has to assure that land reform can be implemented for curing structural inequality and solving agrarian conflicts. It is hoped that the President will convene all Ministries which share the responsibility to implement land reform. He should examine the commitment of the Agrarian Reform Team to work under the supervision of the Coordinating Ministry for Economic Affairs and its three task forces including other related ministries and agencies (Presidential Staff Office of the Republic of Indonesia, Ministry of State-Owned Enterprises, Ministry of Agriculture, Ministry of Finance, and the Indonesian National Police). Regional governments are also need to be mobilized to support the agrarian reform agenda and the efforts to resolve agrarian conflicts.

Most importantly, the Jokowi administration needs to deal with assault on the fundamental rights of citizens over their lands and livelihoods. The dark record of agrarian conflict, violence, evictions, and criminalization perpetrated against farmers, customary communities and fisherfolk in 2017 and 2018 has to be reversed through real land reform.

Severe legal punishment has to be applied to corruptors in the agrarian sector, officials who are negligent in issuing licenses or concessions, big speculators and land middlemen, and domestic and foreign investors who have evicted people from their communities and villages.

The goal of this 2017-2018 agrarian conflicts monitoring is to emphasize to everyone that the agrarian reform program in Indonesia has to be accelerated and rectified. •

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LIST OF ACRONYMS

AMAN	Indigenous People's Alliance of the Archipelago
ANGOC	Asian NGO Coalition for Agrarian Reform and Rural

Development

BIJB Kertajati/West Java International Airport

BUMN State-Owned Enterprise
CSOs civil society organizations
IPs Indigenous Peoples

JKPP Indonesian Community Mapping Network
Kementrian The Minister of Agrarian and Spatial Planning

ATR/BPN

KIARA People's Coalition for Fisheries Justice
KLHK The Minister of Forestry and Environment
KNPA National Committee for Agrarian Reform

KNuPKA National Commission for Agrarian Conflict Resolution

Komnas HAM RI National Commission of Human Rights

KPA Consortium for Agrarian Reform

KSP Presidential Staff Office

LPRA Agrarian Reform Locations Priority
NYIA New Yogyakarta International Airport

PTPN State Plantation Enterprise RRI Rights Resources Initiative

SP Women's Solidarity

TNI Indonesian National Armed Force
TORA Land as an Object of Agrarian Reform

UKP2KA Presidential Works Unit for Agrarian Reform Resolution

UPT Settlement Unit on Transmigration Programs

UU P3H Law on Forest Destruction Prevention and Eradication

UUPA 1960 The Indonesian Basic Agrarian Law

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