

Analysis Of The Role Of Local Government In Resolving Agrarian Conflicts Based On Business Use Rights (HGU) (Case Study Of Pt Hevea Indonesia In Bogor District)

ANALISIS PERAN PEMERINTAH DAERAH DALAM MENYELESAIKAN KONFLIK AGRARIA BERBASIS HAK GUNA USAHA (HGU) (STUDI KASUS PT HEVEA INDONESIA DI KABUPATEN BOGOR)

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Abstract

Agrarian conflict is one that has occurred frequently since the New Order. The existence of gaps or incompatibilities related to agrarian resources, particularly in gaps in tenure, perceptions, and concepts, as well as conflicting laws and policies, has been the main reason for agrarian conflict. One form of land tenure that is often a source of conflict is the Cultivation Rights Title (HGU). The role of local governments is very important in resolving HGU-based agrarian conflicts, especially in ensuring



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that land redistribution policies run well according to the principles of social justice. The research method used in this research is empirical juridical with a qualitative research approach and data collection techniques through interviews and documentation studies. The focus of the research lies on the role of local governments in resolving agrarian conflicts based on land use rights and the role of related institutions. That (1) The Regional Government has resolved the Agrarian Conflict of Land Use Rights (HGU) of PT Hevea Indonesia by forming the Agrarian Reform Task Force (GTRA) Team which assists the government in resolving land conflicts. (2) In resolving the HGU issue, BPN plays an active role in assisting the local government and BPN is the Chief Executive of GTRA.

KEYWORDS *Role of Local Government, Agrarian Conflict, Land Use Rights (HGU).*

Konflik agraria adalah salah satu yang sudah sering kali terjadi sejak Orde Baru. Adanya kesenjangan atau ketidakserasian yang terkait dengan sumber-sumber agraria, khususnya pada kesenjangan dalam penguasaan, persepsi, dan konsep, serta hukum dan kebijakan yang saling bertentangan, telah menjadi alasan utama konflik agraria. Salah satu bentuk penguasaan tanah yang sering menjadi sumber konflik adalah Hak Guna Usaha (HGU). Peran pemerintah daerah menjadi sangat penting dalam menyelesaikan konflik agraria berbasis HGU, terutama dalam memastikan kebijakan redistribusi tanah berjalan dengan baik sesuai prinsip keadilan sosial. Metode penelitian yang digunakan dalam penelitian ini adalah yuridis empiris dengan pendekatan penelitian kualitatif dan teknik pengumpulan data melalui wawancara dan studi dokumentasi. Fokus pada penelitian terletak pada Peran Pemerintah Daerah dalam menyelesaikan konflik agraria berbasis Hak Guna Usaha dan Peran Lembaga terkait. Bahwa (1) Pemerintah Daerah telah melakukan penyelesaian Konflik Agraria Hak Guna Usaha (HGU) PT Hevea Indonesia dengan membentuk Tim Gugus Tugas Reforma Agraria (GTRA) yang membantu pemerintah dalam menyelesaikan konflik pertanahan. (2) Dalam penyelesaian

permasalahan Hak Guna Usaha (HGU) BPN berperan aktif dalam membantu pemerintah daerah dan BPN merupakan Ketua Pelaksana Harian GTRA.

KATA KUNCI *an Pemerintah Daerah, Konflik Agraria, Hak Guna Usaha (HGU).*

Introduction

Agrarian conflict is one that has occurred frequently since the New Order. The existence of gaps or discrepancies related to agrarian resources, particularly in gaps in control, perceptions, and concepts, as well as conflicting laws and policies, have been the main reasons for agrarian conflicts.¹

Often, agrarian conflicts related to land management and tenure occur between individuals, groups, communities or other parties.² Each party always tries to show their strength to fulfill their interests, one of which is in terms of plantation land management and control. Partisanship is usually carried out by the government, which is more inclined to a group of people such as large investors, entrepreneurs, both local and foreign, who are considered to have control over plantation land. Companies that manage these plantations certainly have a positive impact on the community, but also have a negative impact if they ignore good environmental governance and the conditions of the community around the plantation and its surroundings.³

One form of land tenure that is often a source of conflict is Cultivation Rights Title (HGU). HGU is a form of land rights granted by the state to legal entities or individuals to manage land for a certain period of time. Based on Law No. 5/1960 on Basic Agrarian Principles (UUPA), land that has expired should be returned to the state to be redistributed to the rightful parties

¹ Rusliandy, Rusliandy. "KONFLIK PERTANAHAN PADA PENGELOLAAN LAHAN HAK GUNA USAHA ANTARA MASYARAKAT DENGAN BADAN USAHA." *ADMINISTRATIE: Jurnal Administrasi Publik* 7, no. 1 (2024): 63-72.

² Komnas, H. A. M. *Konflik agraria masyarakat hukum adat atas wilayahnya di kawasan hutan*. Komnas HAM, 2016.

³ Raja, Nur Azizah. "Analisis peran pemerintah daerah dalam penyelesaian konflik agraria (studi kasus konflik antara pt. pp. london sumatra dengan masyarakat di kabupaten bulukumba)." *Government: Jurnal Ilmu Pemerintahan* (2019): 53-66.

through an agrarian reform mechanism (Harsono, 2007).⁴ However, in practice, many HGU lands continue to be managed by companies without a transparent and participatory evaluation process. This has triggered protests from communities who feel they have the right to work the land.

Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which refers to the right to control from the state, should be cited as the basis for granting land rights to the Indonesian people. The right to control from the state does not mean that the land is fully controlled by the government. The territory of the Republic of Indonesia is no exception to the issue of land use rights in public life. Local communities located right next to land that has been granted HGU by the government usually suffer losses due to this issue. This is triggered by the unclear boundaries of the usufruct rights granted by the government to entrepreneurs as companies that manage the usufruct rights.

As is the case in many parts of Indonesia, some people still depend on the agricultural sector, either as owner farmers or tenant farmers, to this day. However, the reality is that many farmers not only own or control very little farmland, but they do not even control any farmland at all. As many plantation companies control millions of hectares of agricultural land through HGU facilities, farmers do not have much control over agricultural land. This tenure gap leads to conflicts between communities and plantation companies.

Land tenure inequality between HGU-holding companies and tenant farmer communities in Indonesia is a complex and long-standing issue. This inequality often stems from unequal agrarian policies, where large companies have broad access to land, while local farmers have limited access. According to 2003 Agricultural Census data, more than half of the farming household population (51.2%) controlled only 12.8% of the total agricultural land area, with less than 0.5 hectares per household (Suhendar & Suhendar, 2021).⁵ In contrast, large companies

⁴ Harsono, Budi. "Hukum agraria Indonesia: sejarah pembentukan undang-undang pokok agraria, isi dan pelaksanaannya." (No Title) (2007).

⁵ ILLAHI, BENI KURNIA. "Pilihan Konstitusional Hubungan Pemerintah Pusat Dengan Pemerintah Daerah Dalam Perimbangan Keuangan Pada Kondisi." DALAM

often control thousands of hectares of land through the HGU scheme, which is granted by the state for a certain period of time.

Data from the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) shows that around 68% of agricultural land in Indonesia is controlled by large corporations, while only around 32% is controlled by smallholders (ATR/BPN, 2021). This inequality leads to unequal access to land resources, with HGU-holding companies having greater access to productive land than tenant farmers who often only own small amounts of land or even have no ownership rights at all. This inequality is exacerbated by the weak implementation of agrarian reform aimed at distributing land more fairly. According to the Agrarian Reform Consortium (KPA) report, from 2015 to 2020, agrarian conflicts continued to increase with more than 1,500 cases occurring in the plantation and agriculture sectors (KPA, 2020, p. 12). This fact shows that although the government has initiated various agrarian reform policies, implementation in the field still faces various obstacles, including resistance from large corporations and weak law enforcement.

This imbalance has triggered various agrarian conflicts. One example of agrarian conflict cases in Bogor Regency, such as the conflict between PT Hevea Indonesia and sharecroppers in Nanggung Subdistrict, is the case of PT Summarecon in Bogor Regency centered on the alleged grabbing of 65 hectares of land in Nagrak Village, Sukaraja Subdistrict. This land, which has been owned by residents since 1972 with a Certificate of Ownership (SHM), was allegedly transferred without the knowledge and consent of the original owner to PT Adiguna Shipyard in 1975 through an allegedly fake deed. Subsequently, the land changed hands to PT Gunung Geulis Sentra Rekreasi and finally to PT Kencana Jaya Properti Agung, a subsidiary of PT Summarecon Tbk, in 2009 and 2012. On the land, PT Summarecon has built luxury housing without any sale and purchase transactions or compensation to the legal owner. Mediation efforts have been made several times between

landowners and PT Summarecon at the Bogor District Land Agency Office and other relevant agencies, but have not reached an agreement. The landowners have also filed complaints to various government agencies, including the President of Indonesia, but to date there has been no satisfactory resolution. This case reflects the complexity of agrarian issues in Indonesia and the importance of legal protection for legitimate landowners. Communities that depend on cultivated land must face repressive measures when resisting evictions or demanding their land rights (Taufik, 2020, p. 78).

Based on the examples of agrarian conflict cases in Bogor Regency described above, the conflict that occurred between the Nanggung Sub-district Tenant Farmers and PT Hevea Indonesia (Hevindo) was caused because in 1988, PT Hevea Indonesia obtained a 1,200 hectare HGU spread across Nanggung Village, Cisarua Village, and Curugbitung Village, Nanggung Sub-district, Bogor Regency. However, from 1993 to 2013, the company did not manage the land, causing it to become abandoned. Seeing the neglected condition of the land, the local community began to utilize the land for agricultural activities since 1997. Around 900 families of tenant farmers manage the land, turning it into a productive community garden with high economic value. In addition, they also built various public and social facilities on the land. The Sertifikat Hak Milik Bersama (SHBM), which is divided into 37 blocks of land, is the form of land redistribution desired by the farmers. This is done to ensure that land rights are managed collaboratively and that farmers and local residents receive elements of justice and equality (Agung, 2024).⁶

The role of local governments is very important in resolving HGU-based agrarian conflicts, especially in ensuring that land redistribution policies work well according to the principles of social justice. Local governments are responsible for facilitating mediation between communities and companies, overseeing the implementation of agrarian law, and proposing settlement

⁶ Ribuan Petani Amanat Tolak Perpanjangan HGU PT.Hevindo di Lokasi Prioritas Reforma Agraria Nanggung <https://www.kpa.or.id/2024/05/06/ribuan-petani-amanat-tolak-perpanjangan-hgu-pt-hevindo-di-lokasi-prioritas-reforma-agraria-nanggung/>.

measures that favor the interests of the people (Sirait, 2009).⁷ In addition, local governments also have the authority to submit recommendations to the National Land Agency (BPN) regarding the extension or revocation of a company's HGU. Many cases show that local governments' indecisiveness in handling HGU disputes can prolong conflicts and have negative impacts on the community. In Bogor Regency, for example, a dispute between tenant farmers and PT Hevea Indonesia shows how the slow process of land redistribution can trigger social instability (Maulana & Shohibuddin, 2022).⁸ Therefore, synergy between the local government, BPN, and community groups is needed to ensure that agrarian policies run fairly and in favor of the interests of the small people.

As part of conflict resolution efforts, local governments need to develop dialog and deliberation-based resolution mechanisms involving all stakeholders. In addition, transparency in the process of evaluating and granting HGU must be improved so that no party is disadvantaged. With policies that are more in favor of the interests of the community, it is hoped that agrarian conflicts can be minimized and the welfare of tenant farmers can be better guaranteed.

Method

The research method used is Qualitative, with an empirical legal approach and qualitative descriptive data collection techniques. The data sources of this research are primary and secondary data. Primary data is obtained directly from literature study, observation and interviews. The research location is at the Bogor Regency Regional Secretariat Office and the Bogor Regency Land Office (ATR/BPN).⁹

⁷ Sirait, Martua. "Indigenous peoples and oil palm plantation expansion in West Kalimantan, Indonesia." The Hague: Cordaid Memisa (2009).

⁸ Maulana, Ilham Rizkia, and Mohamad Shohibuddin. "Zona Interaksi Politik dan Respon Aktor Pemerintah: Kasus Perjuangan Agraria di Nanggung, Kabupaten Bogor." *Politika: Jurnal Ilmu Politik* 13, no. 1 (2022): 75-100.

⁹ Soekanto, Soerjono. "Penelitian hukum dan pendidikan hukum." *Jurnal Hukum & Pembangunan* 6, no. 6 (1976): 429-439.

Result & Discussion

A. The Role of Local Government in Resolving Agrarian Conflicts Based on Cultivation Rights Title (HGU) by PT Hevea Indonesia in Bogor Regency

1. Enforcement of Regulations and Policies

Enforcement of regulations and policies is the backbone of HGU-based agrarian conflict resolution. This is because regulations and policies provide a clear legal framework for all relevant parties, including local governments, HGU-holding companies and communities.¹⁰ Strong and implementable regulations are key to ensuring that conflicts can be resolved in a fair and sustainable manner.

The enforcement of regulations and policies carried out by the local government in resolving the former PT Hevea Indonesia HGU has been in the process of completion. The Bogor District Government has formed an agrarian reform task force (GTRA) consisting of the Regional Government (Pemda), the National Land Agency (BPN), and Forkopimda to issue the Minutes of Agreement by the GTRA team and is in accordance with the Team Decree and is complete and listed each GTRA Team task.

The resolution of agrarian conflicts based on Cultivation Rights Title (HGU) by PT Hevea Indonesia in Bogor District refers to several important regulations. These regulations provide a strong legal basis to ensure that the conflict resolution process is fair, transparent and sustainable.

The following is a detailed explanation of each regulation mentioned:

1. Law No. 5 of 1960 on the Basic Regulation of Agrarian Principles

UUPA is a major milestone in the regulation of land

¹⁰ Verawati, Raras, Wimbi Vania Riezqa Salshadilla, and Sholahuddin Al-Fatih. "Kewenangan dan peran peraturan daerah dalam menyelesaikan sengketa agraria." EKSPPOSE: jurnal penelitian hukum dan pendidikan 19, no. 2 (2020): 1109-1121.

in Indonesia. It aims to regulate the control, ownership, use, and utilization of land in a fair and equitable manner. Some of the key points of this law include¹¹:

- a. Article 28: Regulates the Cultivation Rights Title (HGU), which is the right to cultivate land directly controlled by the state for a certain period of time. HGU has a maximum time limit of 35 years and can be extended if it meets certain conditions. After the HGU expires, the land must be returned to the state for redistribution to the rightful parties.¹²
- b. Principle of Nationalism: This law affirms the principle that the land, water, and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people. This principle is the basis for the implementation of agrarian reform.
- c. Landreform: One of the main objectives of the UUPA is the implementation of land reform, including the redistribution of land to communities in need. Land reform aims to reduce inequality in land tenure and provide fairer access to the community.

In the settlement of the former HGU of PT Hevea Indonesia, this law was used to emphasize that land that has expired must be returned to the state for redistribution to the rightful community, especially tenant farmers who have long managed the land.

2. Government Regulation No. 18 of 2021 on Management Rights, Land Rights, Flat Units, and Land Registration

Government Regulation No. 18/2021 technically regulates land rights, including Hak Guna Usaha (HGU), Hak Guna Bangunan (HGB), and Hak Milik. Some important aspects of this PP include:¹³

¹¹ Izka, Zahrotul, Suci Hartati, and Kanti Rahayu. *Konflik Agraria: Proyek Investasi Rempang Eco City Pulau Rempang*. Penerbit NEM, 2024.

¹² Sari, Indah. "Hak-hak atas tanah dalam sistem hukum pertanahan di Indonesia menurut Undang-Undang Pokok Agraria (UUPA)." *Jurnal Mitra Manajemen* 9, no. 1 (2020).

¹³ Zakaria, Aditya Darmawan. "Kebijakan Pemberian Hak Guna Usaha Di Atas Hak

- a. Procedures for Rights Determination: This regulation regulates the procedure for determining land rights, including the administrative and technical requirements that must be met by the applicant. This process aims to ensure that land rights are granted transparently and in accordance with the rule of law.
- b. Land Registration: This PP emphasizes the importance of land registration to provide legal certainty for land owners or managers. Land registration also helps avoid future ownership disputes.
- c. HGU extension: If the HGU land is not utilized as originally intended, the rights can be revoked and transferred to another party. This forms the basis for an evaluation of PT Hevea Indonesia as to whether they meet the requirements to extend the HGU or whether the land should be returned to the state.

In the case of PT Hevea Indonesia, it was used to evaluate whether the company was eligible to extend the HGU or whether the land should be returned to the state for redistribution to the community.

3. Decree of the Head of the National Land Agency Number 25 of 2002 on Guidelines for the Implementation of Applications for Affirmation of State Land as Objects of Land Tenure Arrangements/Land Reform.

This decree provides technical guidance for designating state land as land reform objects. Some important points include:

1. Identification of State Land: The process of confirming state land is carried out to ensure that the land really belongs to the state and can be used for the land reform program. This identification is important to avoid double claims on the land.
2. Land Redistribution: Land that has been designated as an object of land reform will be distributed to

people in need, especially tenant farmers. This redistribution aims to reduce inequality in land tenure and improve people's welfare.

In the former PT Hevea Indonesia HGU settlement, this decision was used to ensure that land that had expired could be used as land reform objects and distributed to tenant farmers who had long managed the land.

4. Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 18 of 2021 concerning Procedures for Determining Management Rights and Land Rights.

This regulation regulates the procedures for establishing management rights and land rights, including administrative and technical procedures. Some important aspects include:

1. Establishment of Management Rights: Regulates how a party can be granted land management rights, either by the government or a business entity. Management rights can only be granted if the land is utilized in accordance with its original purpose, such as for agriculture or industry.
2. Criteria for Granting Rights: Land rights can only be granted if the land is utilized in accordance with its original purpose, such as for agriculture or industry. If the land is not utilized in accordance with the provisions, the right can be revoked.

In the case of PT Hevea Indonesia, this regulation was used to evaluate whether the ex-HGU land could be given to the community or continue to be managed by the company.

5. Decree of the Head of the Regional Office of the National Land Agency of West Java Province Number 84/SK-32. NP.02.02/2022 Regarding the Determination

of the Location of Data and Information on Land Tenure, Ownership, Use and Utilization (DIP4T) Activities for Fiscal Year 2022.

This decision determines the location of data and information collection activities related to land tenure, ownership, use and utilization (DIP4T). The main objectives are:

- a. Data Collection: Collect accurate data on land status to support agrarian reform policies. This data includes information on ownership, use, and conflicts that occur on the ground.
- b. Conflict Mapping: Identifies potential agrarian conflicts, including conflicts between companies and communities. This mapping assists the government in formulating appropriate solutions to resolve conflicts.

In the case of PT Hevea Indonesia, this decision was used to map the status of the former HGU land and identify communities entitled to land redistribution.

6. Presidential Regulation Number 62 of 2023 on Accelerating the Implementation of Agrarian Reform

This Presidential Regulation aims to accelerate the implementation of agrarian reform to reduce inequality in land tenure. Some important points include:

- a. Location Prioritization: Establish priority locations for agrarian reform implementation, including areas affected by agrarian conflict. This prioritization aims to ensure that land that has expired its HGU is immediately distributed to the community.
- b. Inter-agency Collaboration: Strengthen coordination between the central government, local governments, and relevant institutions to accelerate the implementation of agrarian reform. This collaboration is important to ensure that the conflict resolution process runs effectively.
- c. Land Redistribution: Ensure that land that has expired its HGU period is distributed to people in need.

Redistribution aims to improve community welfare and reduce land tenure inequality.

In the case of PT Hevea Indonesia, this Perpres was used to ensure that the ex-HGU land was included in the agrarian reform program and distributed to tenant farmers.

7. Regent Decree Number: 500.17/410/Kpts/Per-UU/2023 on the Establishment of the Agrarian Reform Task Force at the Bogor Regency Level.

This decree establishes the Agrarian Reform Task Force (GTRA) at the Bogor District level to resolve agrarian conflicts. GTRA is tasked with:

- a. Conflict Mediation: Facilitating dialog between companies and communities.
- b. Land Status Evaluation: Assessing whether the former HGU land can be extended or should be returned to the state.
- c. Land Redistribution: Ensuring that land that has expired its HGU period is distributed to the rightful community.

8. Bogor Regent Decree No. 600.2/707/Kpts/Per-UU/2024 on Amendment to the attachment of Bogor Regent Decree No. 500.17/410/Kpts/Per-UU/2023 on the Establishment of Bogor Regency Level Agraria Reform Task Force.

This decree is an amendment or improvement to the previous decree (No. 500.17/2023) to strengthen the structure and function of GTRA. Some important points include:

- a. Structure Adjustment: Adjusting the GTRA membership structure to make it more effective in carrying out its duties. This adjustment includes the addition or replacement of several strategic positions, such as the addition of representatives from relevant agencies that have direct authority in handling agrarian conflicts. The main objective is to improve

- inter-agency synergy in resolving land issues.
- b. Improved Inter-Agency Coordination: One of the main focuses of this change is to strengthen coordination between the various parties involved in the GTRA, including the Local Government, National Land Agency (BPN), Police, Sub-district Heads, and community leaders. With better coordination, it is expected that the conflict resolution process will be faster and more transparent.
 - c. Acceleration of Conflict Resolution: This decision also aims to ensure that the agrarian conflict resolution process is not protracted. In this regard, GTRA is mandated to prioritize the resolution of long-delayed cases, such as PT Hevea Indonesia's former HGU conflict in Bogor Regency. This affirmation is done by providing clear deadlines for each stage of the settlement.
 - d. Strengthening the Mediation Function: One of GTRA's main functions is as a mediator between disputing parties, namely between HGU-holding companies (such as PT Hevea Indonesia) and tenant farmers. Through this change, GTRA is given greater authority to facilitate dialog and find a fair solution for both parties.
 - e. Periodic Monitoring and Evaluation: The decree also provides for a mechanism for periodic monitoring and evaluation of GTRA's performance. This aims to ensure that all programs and policies implemented by GTRA are in line with the original objective, which is to resolve agrarian conflicts in a fair and sustainable manner.

In the PT Hevea Indonesia ex HGU settlement, this decision was used to ensure that the conflict resolution process involved all relevant parties. In addition, this decision is also the basis for the local government to take concrete steps in distributing the ex-HGU land to the rightful community, especially tenant farmers who have long managed the land.

Through strengthening the structure and function of GTRA, it is expected that agrarian conflicts in Bogor Regency can be resolved effectively and sustainably, so as to improve people's welfare and reduce land tenure inequality.

On the basis of the above, in order to resolve the problem of PT Hevea Indonesia's ex HGU land in the Nanggung District area and to provide legal certainty over the status of the land to the tenants and PT Hevea Indonesia, the Gugus Reforma Agraria (GTRA) Team has taken steps to accelerate the settlement of the PT Hevea Indonesia ex HGU land problem, as follows:

1. Made as Agrarian Object Land which will be completed by the redistribution process, with a certificate scheme a.n individual / communal.
2. The land is proposed as abandoned land so that its ownership returns to the state and then the settlement is made by the state to be handed over to the community or utilized by the state.
3. Returned to the company with the condition of providing kerohiman to the tenant farmers.
4. Ensure the existence of 282 parcels of land to avoid inequality in the control of ownership of resources
5. Issuance of land rights certificates.

Follow-up solution for handling the ex HGU PT Hevea Indonesia issue through the Agrarian Reform Task Force (GTRA) Team (Regent Decree Number: 600.2/707/Kpts/Per-UU/2024). Formation of the Agrarian Reform Task Force (GTRA) Team to resolve the ex-HGU PT Hevea Indonesia conflict led by the Regent of Bogor Regency.

2. Coordination with BPN

The local government has coordinated with BPN, namely through the Coordination Meeting with the Agrarian Reform Task Force (GTRA) Team which is recorded in the Regent Decree Number:

600.2/707/Kpts/Per-UU/2024, then in the meeting the local government also suggested the aims and objectives for which a meeting was held with the internal management according to the Regent Decree, the second from the parties, namely PT Hevea Indonesia and Representatives of the Tenant Farmers, so in the meantime the problem of PT Hevea is mainly in the HGU land area. This coordination is very intense, conducting Preparatory Meetings, Pre-GTRA Meetings, and conducting discussions before the GTRA meeting of the whole team so that the mechanism is a family approach so that how PT Hevea Indonesia is also not harmed and the community is also not harmed for that the local government chooses to resolve like that.

There are basic rules for the implementation of the settlement of the former PT Hevea HGU, namely:

1. Decree of the Head of the West Java Province BPN Regional Office Number: 427/SK-32.NP.02.02/XI/2029 concerning the Determination of the Location of Land Redistribution Activities of Category V Land Reform Objects.
2. Budget Implementation List (DIPA) of West Java Provincial BPN Regional Office Number: SP DIPA-056.01.2.429692/2019 Dated December 05, 2018 Fiscal Year 2019.

BPN has also carried out settlement activities for the former PT Hevea Indonesia, namely:

1. On December 17, 2019, a Coordination Meeting was held with the Sub-District Head and Village Heads at the Bogor District Land Office.
2. On December 26, 2019 a Socialization of Land Redistribution of Land Reform Objects was held at SDN Parakan Muncang 2 in Nanggung Village, Nanggung District.

It can be seen that the Local Government together with the GTRA Team has carried out the settlement of the former PT Hevea Indonesia HGU by coordinating meetings between the parties, namely PT Hevea

Indonesia and the Tenant Farmer Representatives.

The role of local government in resolving HGU-based agrarian conflicts by PT Hevea Indonesia in Bogor Regency is closely related to the principles of Good Governance. Rule of law, transparency, participation, accountability, efficiency, and consensus orientation are the basis for local governments in resolving conflicts in a fair and sustainable manner. Therefore, to avoid conflicts of interest in the management and utilization of agrarian resources, including in the resolution of agrarian conflicts, the government as the executor of state power has a role in accordance with its power to regulate the management and utilization of agrarian resources in order to achieve the greatest public welfare (Ramli, 2016).¹⁴

B. Constraints Faced by the Local Government in Resolving Agrarian Conflicts Based on Cultivation Rights Title (HGU) by PT Hevea Indonesia in Bogor Regency

1. Land Status Uncertainty

The unclear status of PT Hevea Indonesia's former HGU land has become an issue involving conflict between the company and the community. Since 1993, the land has not been managed by the company according to its allocation, leading to legal uncertainty and demands from aggrieved communities.

The conflict stems from various factors, including land grabbing, customary rights claims and inequality in land tenure. Neighboring communities want clarity on land rights that have long been abandoned by the company, while the company seeks to extend the HGU despite the lack of significant activity.

The land in Nanggung Sub-district was formerly owned by PT Cengkeh Zanzibar and was transferred to PT Hevea Indonesia on September 21, 1993 by sale and

¹⁴ Ramli, Asmarani, Aminuddin Salle, Marwati Riza, and Farida Patittingi. "The Nature of Justice to Implement Nationality Principle in the Agrarian Law." *JL Pol'y & Globalization* 46 (2016): 80.

purchase. PT Hevea Indonesia is the owner of the land cultivated by tenant farmers. Because the land has been abandoned for a long time, the tenant farmers claim that the land belongs to them because they have been working on the land for a long time.

PT Hevea Indonesia has applied for the extension of its Cultivation Rights Title covering an area of 271, 5014 Ha (2,715,014 M²) located in Cisarua, Nanggung and Curug Bitung Villages, Nanggung Sub-district, Bogor Regency, West Java Province on September 15, 2010 to the Head of BPN RI through the Head of BPN Regional Office of West Java Province, namely on the land of Cultivation Rights Title No.1/Nanggung, No.1/Cisarua and No.1/Curugbitung, a.n.. PT Hevea Indonesia (PT HEVINDO) dated September 15, 2010.

Most of the area of PT Hevea Indonesia's former Cultivation Rights Title has been cultivated by the community and PRONA certificates were issued in 1981 and redistributed in 1983. The land owned by PT Hevea Indonesia until now still controls \pm 5s / 10Ha.

On the extension application submitted by PT Hevea Indonesia, the community did not agree and filed a refusal to stop the process of extending the Cultivation Rights Title on the grounds that the Cultivation Rights Title holder had abandoned the land for a long time so that it had been cultivated by the community since 1997.

The local government has taken steps to handle conflict resolution through the Agrarian Reform Task Force (GTRA) by making Land Agrarian Objects that will be completed by the redistribution process, with a certificate scheme a.n individual / communal, Land proposed as abandoned land so that ownership returns to the state for later settlement made by the state to be handed over to the community or utilized by the state, Returned to the company with the condition of providing kerohiman to the tenant farmers, Ensuring the existence of 282 parcels of land to avoid inequality in the control of resource ownership, and Issuing land rights certificates.

2. Limited Resources

PT Hevea Indonesia's former HGU land, which was largely unutilized, created uncertainty for communities dependent on natural resources. Until 1997, about 75% of the land was not properly managed, leading to lost resource potential and dissatisfaction among communities.

Resource limitations on PT Hevea Indonesia's former HGU land include:

1. Access to water as all three villages rely on the rain cycle for irrigation of their agricultural land. There is a spring that flows from the TNGHS, but it cannot meet the needs of the entire agricultural land.
2. Agricultural technology is still very traditional.
3. The irrigation system is not well managed.
4. Land management relies on organic fertilizer.
5. Marketing management is still conventional and collector services.
6. Some farmers have minimal knowledge and experience, which means that harvests are not maximized.

The local government in overcoming the existing problems together with the GTRA Team by implementing asset structuring from the legal regulation of land which will arrange access for the future of the farming community who work there on the plantation will be assisted by the local government and the GTRA Team on how to develop the area there is structuring access, cooperation after asset structuring means the status of the land that is redistributed by PT Hevea with the community, this can be community cooperation assisted in terms of providing fertilizer and the produce is given to PT Hevea and it can support national regulations.

3. Lack of Inter-Agency Coordination

One of the major obstacles in resolving agrarian conflicts is the lack of coordination between institutions. The conflict resolution process often involves various parties, including the central government, local governments, BPN, and law enforcement officials. In the case of PT Hevea Indonesia, the GTRA team has

conducted deliberations and produced minutes of agreement between the company and the tenant community. However, this proposal must be reviewed by the ministry before a final decision is made.

4. Lack of Community Participation in the Decision-Making Process

Another obstacle faced by local governments is the lack of community participation in the decision-making process. Tenant communities often do not fully understand the relevant regulations, making it difficult for them to actively participate in the conflict resolution process. To address this issue, the local government has encouraged the establishment of a tenant association forum as a platform to convey their aspirations. Nonetheless, challenges remain, especially regarding the lack of socialization of regulations to the community. This often results in communities not being able to optimally participate in the decision-making process. Therefore, local governments need to increase socialization efforts to ensure that communities understand their rights. In this context, community capacity building through education and training programs is key to encouraging more active participation.

5. Difficulties in Achieving Win-Win Solutions

One of the obstacles in resolving agrarian conflicts is the difficulty in reaching a win-win solution between companies and communities. In the case of PT Hevea Indonesia, the local government attempted to mediate between the two parties to reach a fair agreement. For example, PT Hevea Indonesia retained some of the land for commercial use, while the rest was distributed to the tenant communities. However, the implementation of this solution still faces challenges, especially regarding the overlapping authority between the central and local governments.

6. Limited Human Resources Capacity and Budget

Another constraint faced by local governments is limited human resource capacity and budget. Local governments often face limitations in terms of experts

and budget to optimally address agrarian conflicts. This affects the effectiveness of conflict resolution, especially in terms of data collection and land status evaluation. To address this issue, local governments have proposed a Joint Ownership Certificate program, where ex HGU land is distributed to communities in the form of joint ownership. This program aims to prevent the sale of land by certain individuals and ensure that land remains in common use. In addition, BPN has also launched a community empowerment program through filstaf, which aims to increase the community's capacity to manage land independently.

One of the main obstacles is the unclear status of former HGU land, which often leads to conflicts between companies and tenant communities. In the context of social justice theory, this uncertainty reflects distributive injustice, which is an imbalance in the distribution of land resources that should be distributed fairly based on individual needs and contributions.¹⁵

According to John Rawls (1971), the distribution of resources should be done in such a way that every individual has equal access to opportunities and welfare.¹⁶ However, in practice, ex HGU land is often not distributed to people in need, but remains controlled by certain parties without a clear legal basis. This contradicts the principle of distributive justice, which emphasizes the importance of equitable distribution of resources to reduce social and economic inequality.

Lack of coordination between institutions is also one of the major obstacles in resolving agrarian conflicts. The conflict resolution process often involves various parties, including the central government, local governments, BPN, and law enforcement officials. However, as expressed by Mr. Masarmon, the final decision often depends on approval from the ministry, which can slow down the conflict resolution process.

¹⁵ Colchester, Marcus, and Sophie Chao, eds. *Conflict or consent?: The oil palm sector at a crossroads*. The Forest Peoples Programme, 2013.

¹⁶ Rawls, John. "A theory of justice: Revised edition." (1999).

This lack of clarity of authority between the central and local governments creates a situation where tenant communities do not have legal certainty over the land they manage. In the view of Nancy Fraser (1997), this reflects an injustice in the recognition of community rights.¹⁷ Tenant communities are often not recognized as entitled to land, even though they have been managing it for a long time. Without clear recognition, communities find it difficult to obtain legal protection for their rights.

The lack of community participation in the decision-making process is also a significant obstacle. Tenant communities often do not fully understand the relevant regulations, making it difficult for them to actively participate in the conflict resolution process. In the context of social justice theory, this lack of participation reflects injustice in the recognition of individual identity and rights. According to Fraser (1997), public policies should provide space for all parties to express their aspirations, especially vulnerable groups.¹⁸ However, in practice, the voices of tenant communities are often not heard or ignored in the decision-making process. This hampers efforts to achieve social justice, as the resulting policies do not always reflect the needs and aspirations of the community.

In addition, the difficulty in reaching win-win solutions between companies and communities is also a major challenge. In the case of PT Hevea Indonesia, the local government attempted to mediate between the two parties to reach a fair agreement. However, the implementation of this solution still faces obstacles, mainly related to the overlapping authority between the central and local governments. Although a win-win solution has been reached at the local level, its implementation still requires approval from the central level. In Amartya Sen's (2009) view, public policy should

¹⁷ Fraser, Nancy. *Justice interruptus: Critical reflections on the "postsocialist" condition*. Routledge, 2014.

¹⁸ Li, Tania Murray. "Land's end: Capitalist relations on an indigenous frontier." In *Land's End*. Duke University Press, 2014.

be oriented towards improving the welfare of society as a whole.¹⁹ However, if the final decision relies on the center without considering the needs of local communities, then the policy will not achieve the goal of social justice.

Limited human resource capacity and budget are also constraints that affect the effectiveness of conflict resolution. Local governments often face limitations in terms of experts and budgets to optimally handle agrarian conflicts. This affects their ability to collect data and evaluate land status. In the context of social justice theory, these limitations reflect inequities in access to resources. According to Nussbaum (2011), public policies should ensure that every citizen has equal access to basic services.²⁰ However, if local governments do not have adequate resources to resolve agrarian conflicts, then tenant communities will be further marginalized and lose access to the land they have traditionally managed.

Thus, the constraints faced by the local government in resolving PT Hevea Indonesia's HGU-based agrarian conflict reflect deep structural injustices. Uncertain land status, lack of inter-agency coordination, minimal community participation, difficulties in reaching win-win solutions, and limited human resource capacity and budget all contribute to inequities in resource distribution, recognition of community rights, and access to basic services.

To address these issues, local governments need to improve inter-agency coordination, socialize regulations to communities, and strengthen resource capacity to ensure that conflict resolution is fair and sustainable. In social justice theory, agrarian conflict resolution should prioritize equitable distribution of resources, recognition of community rights, and a needs-based approach to achieve shared prosperity. This is because justice can largely only be pursued by the state because the policies

¹⁹ Brown, Chris. "On Amartya Sen and the idea of justice." *Ethics & International Affairs* 24, no. 3 (2010): 309-318.

²⁰ Nussbaum, Martha C. *Creating capabilities: The human development approach*. Harvard University Press, 2011.

taken by the state have the greatest benefit on the development of structures relevant to political, economic, social, cultural and ideological processes (Ramli, 2012).²¹

Conclusion

The role of local government in resolving agrarian conflicts based on Cultivation Rights Title (HGU) by PT Hevea Indonesia in Bogor Regency includes enforcement of regulations and policies and coordination with the National Land Agency (BPN). Local governments enforce regulations such as the UUPA and PP No. 18 of 2021 to ensure that ex-HGU land that has expired is returned to the state or distributed fairly to tenant communities. In addition, the local government actively coordinates with BPN through the Agrarian Reform Task Force (GTRA) forum, which involves various stakeholders such as the Regent, Bogor Police, and community representatives to reach a win-win solution.

The constraints faced by the local government in resolving agrarian conflicts based on the Cultivation Rights Title (HGU) by PT Hevea Indonesia in Bogor Regency include the unclear status of the former HGU land which often leads to disputes between the company and the tenant community, the lack of coordination between related institutions which hampers the final decision because the authority to determine is at the central level, the lack of community participation in the decision-making process due to low understanding of regulations, and the difficulty in achieving a win-win solution that satisfies all parties. In addition, limited human resource capacity and budget are also obstacles in collecting data, evaluating land status, and optimally implementing the land redistribution program.

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²¹ Ramli, Asmarani. "Telaah Atas Reforma Agraria Untuk Keadilan dan Kesejahteraan Dalam Tataran Teori Kebenaran." *Jurnal Ilmu Hukum Amanna Gappa* 20, no. 1 (2012): 47-57.

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