

RESEARCH ARTICLE

# Profit Sharing Agreement Between Eti Country and Petuanan Area In the context of Capacity Building



Marselo Valentino Geovani Pariela<sup>1</sup>, Merry Tjoanda<sup>2</sup>, Ronald Fadly Sopamena<sup>3</sup> ✉

<sup>1,2,3</sup> Faculty of Law, Pattimura University, INDONESIA  
✉ rfsopamena@gmail.com

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**Abstract**

In Eti Village, which is located in the West Seram sub-district, West Seram Regency, there is still an agreement for marine and plantation products sharing between the Petuanan Region and the State Government of Eti Village as the parent country in the context of capacity building. This Profit-Sharing Agreement is known as the ngase system and has been implemented from 1979 to 2021. This study aims to identify and analyze the profit-sharing agreement from the Petuanan Area to the Parent State in the context of capacity building, and also the legal consequences of the revenue sharing agreement from the Petuanan Area to the Parent State in the context of capacity building. In accordance with the problems and objectives of this research, the type of research used is sociolegal research, namely a combination research method between doctrinal law research methods and empirical legal research methods. Based on the author's study, the ngase system is a profit-sharing agreement in oral form which is applied in the Eti Country and applies as an agreement so that it has binding legal consequences.

**Keywords:** *Contract, Profit Sharing Agreement, Capacity Building, Ngase System*

## 1. INTRODUCTION

The importance of the meaning of land, water, sea for human life is because human life cannot be separated at all. They live on land and obtain food by utilizing the land, sea and so on. They take advantage of natural resources on the land to meet their main life demands, namely clothing, food, and shelter or primary life. However, if the land is not managed or used properly by the community, the rights will be lost. For this reason, the community needs to pay attention to and manage the land that belongs to them so that the rights to the land are not lost. Management rights can be carried out after there is an agreement in the deliberation between the management rights holder and the managing party (Santoso, 2013: 200).

In Eti Village, which is located in West Seram District, West Seram Regency, an agreement for marine and plantation products sharing is still being carried out between the Petuanan Region and the State Government of Eti Village as the parent country in the context of capacity building. The petuanan area or territory is a village or hamlet that is in the subordinate area of a traditional village. The hamlets that become the petuanian areas of Negeri Eti as the Parent Country are Osi Island Hamlet, Osi Island Resetlmen Hamlet, Upper Kotania Hamlet, Lower Kotania Hamlet, Jaya Bhakti Hamlet, Pelita Jaya Hamlet, Loun Hamlet, Translok Mata Empat Hamlet. The Profit-Sharing Agreement with the aim of improving the economic welfare of the people of Eti Country has been implemented from 1979 to 2021. Marine and Plantation Sharing Agreement between the petuanan area and the Eti village government, That the agreed distribution mechanism includes 40% of marine and plantation products submitted to the state government and 60% to the petuanan area. However, the agreement for the sharing of marine products and plantations did not go according to what had been agreed. In this case, the Petuanan area does not carry out its

performance properly, causing losses to other parties. Based on the description that has been explained previously, the writer raised the formulation of the problem "What is the profit-sharing agreement between the Eti Country and the Petuanan area in the context of capacity building?"

The Introduction part should contain at least five previous research concerning to the topic. At this part, author should emphasize the urgency of the research, as well as the significant of the research. Authors also have to explore and combine some previous researches. It is important for reader to know the uniqueness, novelty, urgency, and significance of research. Most of reader is non-native English speaking, therefore, Author should use a formal simple language, as well as, for international reader, author also have to add and improve some global perspectives.

## **2. METHOD**

In accordance with the problems and objectives of this research, the type of research used is sociolegal research, which is a combination research method between doctrinal law research methods and empirical legal research methods. Doctrinal research is intended to carry out library research by identifying laws and regulations and collecting other data related to the problem under study. The empirical research is intended to identify the legal consequences of the profit-sharing agreement between the Petuanan Region and the Parent Country in the context of capacity building.

## **3. RESULT AND DISCUSSION**

### ***A. Profit Sharing Agreement between Eti Country and Petuanan Region for Capacity Building***

There are several factors that caused this production sharing agreement to be made, including the Eti Country has a lot of crops and sea crops but cannot manage the results themselves, the desire to enjoy the harvest without taking it themselves, and providing opportunities

for other people to take it and solely only wants to help the government of Eti Country to realize capacity building.

In general, capacity building is a process or activity to improve the ability of a person, group, organization or system to achieve better goals or performance. It is the process of helping individuals or groups to identify and find problems and add insight, knowledge and experience needed to solve problems and make changes. Profit sharing is a means of helping fellow human beings in fulfilling their life needs. The party who owns the land gives up his land to the farmer or cultivator to be cultivated as a productive land, so that the land owner can enjoy the results of his land, and farmers who previously did not have land to cultivate crops can also try and get the same results from the land (Syah, 2020).

According to Acting Official Raja Negeri Eti, Herry Tuhuteru explained through the results of the interview, he said that the purpose of Capacity building in Eti Country is to increase the capacity of the Eti Country community, namely increasing the ability of the Eti Country community in the fields of education, agriculture, fisheries, and the economy with the aim of developing the country. Eti itself. In addition to improving the quality of Eti's human resources, there are developments created in Eti Village. For this reason, in 1974 this profit-sharing agreement was made orally without using any documents. This kind of agreement is known by the indigenous people of Negeri Eti as the ngase system.

The Ngase system is a form of cooperation between landowners and workers which is carried out at harvest time. The distribution of the results referred to as objects of the Ngase System is like annual crops such as cloves, nutmeg, besides that the Ngase system also includes fishery products such as fish cages. In this ngase system, petuanan areas provide land to be cultivated or managed by the Eti State government. The results from the harvest in the fisheries and plantation sectors are divided between the

petuanan area and the Eti State government with a percentage of 60% for the petuanan area and 40% belonging to the Eti State government.

This ngase system agreement begins when the owner surrenders his land to the tenant and makes an agreement on the owner's land, which is a sign that they have made the agreement. After the harvest of the results carried out by the workers is complete, then it does not mean that the agreement has been declared terminated, but the profit sharing is still carried out between the owner and the cultivator, the agreement of the ngase system is declared to have ended which has been carried out by both parties.

### ***B. Legal Consequences of Profit-Sharing Agreements Between Eti Country and Petuanan Areas in the Context of Capacity Building***

If viewed from the point of view of positive law, the profit-sharing agreement has been regulated in Law Number 2 of 1960 concerning Profit Sharing Agreements. However, the agreement with the ngase system cannot be linked to the Production Sharing Agreement Law because the law only regulates production sharing agreements in the agricultural sector, while the ngase system implemented in Negeri Eti does not only focus on the agricultural sector but also in the fishery sector. Not only that, but Article also 3 Paragraph (1) of Law Number 2 of 1960 concerning Production Sharing Agreements requires that a production sharing agreement between the landowner and the cultivator must be made in writing. Thus, the ngase system is not regulated by applicable laws and regulations.

In contract law, it applies to a principle called the principle of consensuality. This word comes from the Latin Consensus which means to agree. The principle of consensuality does not mean that an agreement requires an agreement or also called an agreement between two parties regarding something (R. Subekti, 1987). The consensus above is concluded based on the provisions of Article 1320

of the Civil Code, in particular other agreed terms that determine whether an agreement is valid or not.(Alif, 2015).

Even though it is not regulated in laws and regulations, this ngase system still applies as befits an agreement. Article 1320 of the Civil Code stipulates four conditions for the validity of an agreement, namely:

- a. Agree with those who bind themselves
- b. The ability to make an engagement
- c. A certain thing
- d. A lawful reason

The validity of an agreement in the Civil Code must have subjective and objective conditions, subjective conditions relating to the people or legal subjects who entered into the agreement. Subjective conditions are contained in numbers 1 and 2, namely the agreement of the parties and the parties who entered into the agreement must be capable or able to carry out a legal act, if the subjective conditions are not met, then the agreement can be canceled. Regarding the subjective conditions for the validity of the agreement, it can be related to Article 1446 of the Civil Code which reads that "All engagements made by minors or people who are placed under custody are null and void by law, and upon prosecution brought forward by or from their side. must be declared null and void, solely on the basis of his immaturity or forgiveness". The agreement between the Eti State government as the manager and the petuanan area as the landowner has gone through a negotiation process first. Negotiation is a process of trying to reach an agreement with other parties (Sopamena, 2021).

What is meant by an agreement is a statement of will between one or more people and another party. What is appropriate is a statement because the will cannot be seen / known to others. Agree which is one of the most important conditions that can be marked by an offer and acceptance in writing, verbally, secretly, and certain symbols (Y. Hetharie, n.d.).

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Thus, the parties have agreed to bind themselves to the ngase system. As for the qualification requirements, the parties involved in this agreement are representatives from each petuanan area and the government of the Eti Country who are competent to carry out legal actions.

The objective conditions for the validity of the agreement are contained in numbers 3 and 4, namely what was agreed upon by the parties must be clear enough and what was agreed upon must be something lawful in the sense that it should not conflict with the law, public order or decency. The objective conditions are related to the object of the agreement, if the objective conditions are not met then it is null and void. The object of this agreement is the sharing of agricultural and fishery products between the parties, while the profit sharing itself is not something that violates the law or the norms of decency and decency so that the objective requirements of the ngase system have been met. Thus, the ngase system applies and has legal force as befits an agreement even though it is not made in written form.

In the implementation of an agreement, the principle of binding force is sometimes difficult to implement if there is a change in circumstances, and these changes greatly affect the ability of the parties bound in the agreement to fulfill their achievements (M. Tjoanda, M.V.G Pariela, Y. Hetharie, 2021). If one of the parties does not carry out what was agreed upon, or more clearly what is the obligation according to the agreement they made, it is said that the party is in default (M.V.G. Pariela, n.d.).

Default is a condition in which a debtor does not fulfill his obligations or is late in fulfilling them or fulfilling them but not as agreed. A debtor who defaults can be sued before a judge and the judge will make a decision that is detrimental to the debtor itself (Benyamin & Thabrani, 1987).

Defaults can take the form of three kinds, namely, the authorities do not carry out their promises at all, the authorities are late in carrying them out, the authorities



carry them out but not properly and/or not as well as possible (Prodjodikoro, 2012). If the debtor (debtor) does not do what he promised, then he is said to have committed a "default". He is negligent or "negligent" or broken promises. Or also he violates the agreement, if he does or does something that he is not allowed to do. The word *wanprestasi* comes from the Dutch language, which means bad performance. One of the parties in this *ngase* system can be considered to be in default if that party is negligent in carrying out its obligations.

The legal consequences for debtors who have defaulted in an agreement are the following legal penalties or sanctions:

- 1) Debtors are required to pay compensation for losses suffered by creditors (Article 1234 of the Civil Code).
- 2) If the engagement is reciprocal. Creditors can demand the cancellation/cancellation of the engagement through a judge (Article 1266 of the Civil Code).
- 3) In an agreement to give something, the risk passes to the debtor since the default occurs (Article 1237 paragraph 2 of the Civil Code).
- 4) The debtor is required to fulfill the engagement if it can still be done, or the cancellation is accompanied by payment of compensation (article 1267 of the Civil Code).
- 5) The debtor is obliged to pay court fees if he is brought before the District Court, and the debtor is found guilty.

#### **4. CONCLUSION**

The profit-sharing agreement between the Main Country and the Petuanan Region in West Seram Regency has long been carried out for the sake of increasing the capacity of the community in the area. The agreement, known as the *ngase* system, is made orally by the parties and has legal force as an agreement. Failure to implement this agreement will cause harm to the other party and may lead to a claim for compensation based on default.



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## 5. DECLARATION OF CONFLICTING INTERESTS

None

## 6. FUNDING

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### ABOUT AUTHORS

Marselo Valentino Geovani Pariela is a lecturer at the Faculty of Law, University of Pattimura, Ambon Indonesia. Some of his publications such as Wanprestasi dalam Perjanjian Waralaba (SASI 23 (1), 35-45, 2019), Perlindungan pengetahuan tradisional secara sui generis untuk menyongsong masyarakat ekonomi Asean (SASI 24 (1), 1-10, 2018), and Wanprestasi Manajer Investasi Terhadap Investor Reksadana (SASI 23 (2), 129-135, 2018).

Merry Tjoanda is a lecturer at the Faculty of Law, University of Pattimura, Ambon Indonesia. Some of her recent publications such as Tanggung Jawab Pelaku Usaha Obat Herbal Atas Pencantuman Nomor Izin Edar Fiktif (TATOHI: Jurnal Ilmu Hukum 2 (7), 660–677, 2022), Fungsi Pengawasan Majelis Pengawas Daerah Terhadap Penegakan Kode Etik Notaris (PAMALI: Pattimura Magister Law Review 2 (2), 161–171, 2022), and Sub Contractors in Government Procurement Contract of Goods and Services (Jurnal Magister Hukum Udayana (Udayana Master Law Journal) 11 (1), 44-58, 2022).

Ronald Fadly Sopamena is a lecturer at the Faculty of Law, University of Pattimura, Ambon Indonesia. Some of his recent publications such as Choice of Law in International Business Contracts (Balobe Law Journal 2 (2), 45–50, 2022), Salinan Akta Perjanjian dalam Kredit Perbankan (Bacarita Law Journal 2 (2), 54-61, 2022), and Meningkatkan Pemahaman Masyarakat Atas Hak-Hak Konsumen (AIWADTHU: Jurnal Pengabdian Hukum 2 (1), 35–41, 2022).