

Sue for Disputes Resolution of Land Conflict in South Sumatera

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Submission date: 06-May-2023 05:05PM (UTC+0700)

Submission ID: 2085827136

File name: 4865-24202-1-PB.pdf (234.2K)

Word count: 5330

Character count: 28191

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Komunitas: International Journal of
Indonesian Society and Culture
9(1) (2017): 161-169
DOI:10.15294/komunitas.v9i1.4865
© 2017 Semarang State University, Indonesia
p-ISSN 2086 - 5465 | e-ISSN 2460-7320
<http://journal.unnes.ac.id/nju/index.php/komunitas>

UNNES JOURNALS

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Received: 18 January 2016; Accepted: 5 February 2017 ; Published: 30 March 2017

¹Abstract

This paper aims to examine the roots, dynamics, and resolutions of land conflict between Rengas farmers and Limbang Jaya farmers with PTPN VII Cinta Manis in Ogan Ilir, South Sumatra. Authors use qualitative method through deepening data from depth interviews, observation and Focus Group Discussion (FGD). The results showed that the roots of the conflict are different foundation claims, lack of transparency in the mechanism of compensation, land grabbing by companies. The key findings of the conflict dynamics study was that conflict between farmers of Rengas with PTPN VII Cinta Manis led to reclaiming action by farmers which was regarded as a victory for the resistance of farmers in conflict. This reclaiming action attracted more regions into the conflict contestation, including farmers of Limbang Jaya. Rengas conflict and Limbang Jaya conflict was different: Rengas conflict had history of resistance since the beginning, while the conflict of Limbang Jaya was an escalation of the Rengas conflict. Conflict resolution was taken through advocating by civil society element and mediation by stakeholders. Both resolutions approaches have not been able to provide a sustainable resolution, due to advocacy efforts tend to be a massive confrontation, while mediation was only a procedural matter not a substantive matter.

Keywords

conflict; dynamics; resolution

INTRODUCTION

Escalation of the conflict over land in South Sumatra province over the last five years was high. Based on data from WALHI Sum-Sel, there were 56 cases of land conflicts that advocated in 2010-2014 (WALHI 2014). Characteristics of land conflicts cover two categories: conflict between local people and state-owned companies, conflict between local people and private companies. Conflicts were always followed by the destructive actions, clashes, looting, and violence that had caused loss of life and property. Based on Komnas HAM records, land con-

flicts in South Sumatra were always followed by violence resulting in high potential human rights violations during the conflict (Sumeks 2012).

Based on Kholek (2011) in studying the dynamic of the conflict between farmers versus PTPN VII Cinta Manis in Ogan Ilir, South Sumatra, there are indications of repetition land conflicts that led to violence caused by the absence of a compre-

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hensive conflict resolution by the related parties. The cycle of conflicts occurs when the violence emerged and peaked, the government addressed those conflicts only as a formality, then at the end of the day the conflicts were omitted. These conditions led conflicts to become more massive and increased significantly.

Conflict resolution can be more effective by using a model of mediation between groups and certain processes (Barsky 2000; Zhang 2013; Asah 2012). Conflicts between groups caused by the differences of the initial values and beliefs often exacerbated by stereotypes, prejudices, miscommunications, and misunderstanding. Model to deal with these conflicts between groups are debate, dialogue, problem solving, and identity based interventions (Van-Leeuwen 2010; Saarikoski 2013; Giulianotti 2011; van-Wilgen 2012; Ajayi 2014).

In line with Alfitri (2014) that the informal institution in form of customary law which is practiced through the customary court with principle of prioritizing space of dialogue, delivery of opinions in a balance way without pressure, in line with the values of democracy has been able to provide a space of peace and harmony in a sustainable way for indigenous people in South Sumatera.

Related to the methods of land conflict resolution, it is certainly required support from a comprehensive database and details from different perspectives, both from the public, corporations or governments. The focus of this research is to analyze comprehensively the roots of conflict, dynamics, and land conflict resolution, as the basic formulation of policy for stakeholders. While the existing researches (Van Leeuwen 2010; Saarikoski, Raitio & Barry 2013; Ajayi & Buhari 2014; Zhang & Fung 2013; Theisen 2012; Bob 2010; Albertus 2013) which largely focus on the conflicts, this article gives a significant look on the roots of the conflicts.

This research uses qualitative approach, with consideration that the data will be more dig in and understood through using the researcher as the main instrument. The data was obtained through deep interview,

focused group discussion, and observation. Primary data and secondary data are analyzed and interpreted in accordance with the primary objective of the research.

This research analyze conflicts between Rengas and Limbang Jaya farmers and PTPN VII Cinta Manis in Ogan Ilir, South Sumatera. These two locations were chosen because both locations have the same roots of conflict. However, those two conflicts have different time span. Thus, it will give an idea for conflict resolution mechanism to strengthen the argument in the further recommendations of resolution process this research.

Conflict history

PTPN VII Cinta Manis was established by the Minister of Agriculture Decree No. 076/Mentan/I/1981 On February 2, 1981 on authorizing the founding principle of sugarcane plantations and mills in South Sumatera, which was as the government's efforts to meet the domestic sugar self-supporting. At first, the land needed for the construction reaching 21 358 hectares. The land provided for the plantation and sugar factory construction were initiated by decree of the Governor KDH level I of South Sumatera No. 379 / I / 1981 dated 16 November 1981.

The government and the company promised that local people will get compensation for their land such as job opportunity, education facilities, and health facilities. In fact, the land acquisition process through forced evictions, community marginalization, and intimidation by security forces. It was occurred in some area, including Rengas and Limbang Jaya. This action makes the agricultural land which has been managed from generation to generation of the local people switch its function become plantation project.

Based on data from the Rengas farmers' movement, the land which became plantation area is 2,535 hectares, while the compensation for that land only 824 hectares. Re-measuring of land by Rengas people based on a map of the village and the documents of compensation by TIM 9 Acquisition of land. As for the land in the Limbang

Jaya, company took over 641 hectares.

The structure of the agricultural society finally shifted since the presence of the company. The people became laborers, migrated, and had to leave the village for several years to be agricultural labor in other areas. This condition also affected economic resources of the society.

The Differences of Claim Basis

Formal legal logic became the basis of the company's claim against the people land, for example the people will get land compensation if they could show the legal evidence of land possession. In addition, the claim basis relies on the land that had evidence of crops as one proof of ownership. While local people had different indicators as the claim basis of land ownership encompassed land area, land boundaries and management rights. The differences in the claim basis construction are the initial trigger of contestation conflicts land.

Generally, people of Rengas, Limbang Jaya and South Sumatra governed by the clan government and the rule of the society is under the Act of Simbur Cahaya. Land tenure for farming and land management regulatory explicitly stated in the chapter on "Aturan Dusun dan Berladang". For example, in the article 27) of the Act Simbur Cahaya states that: "If there is a people who farming in Foreign clan, he shall ask permission to its *pasirah* and he shall pay rent to the owner of the land for 1 rupiah, and it is money at many people. And anyone who violates this rule will be fined 6 R "Maling Utan". And article 28) "If anyone farming or gardening in another land or clan, he shall go back to his own village, and every crop he had is belong to the land lord".

According to Collins (2008), land tenure by communities in South Sumatra based on consensus, one community may give the rights to entrants to manage custom or customary land. Differently, from the formal property rights, management rights by individuals only lasts for the land under cultivation. If the land is abandoned or no longer as a farm, the ownership rights back to the community.

However, since the enactment of the formal law legal recognition of land tenure and land management, as well as the elimination of clan rule, basic claim which have been internalized within the community became weaker when it compares to a formal approach by the state and the company. Company's legitimacy with a formal law in the conflict becomes a main trigger spread and conflict institutionalization.

Intensity and Conflict Dynamics

An important finding in mapping conflict of Rengas is socio-political setting has contributed to the presence of the conflict as a natural response of any policies which are considered negated the people. Historically Rengas conflict has gone through two phases of socio-political preconditions, first in the period before the reformation (New Order), and the second is after the reformation;

Before the Reformation (1981-1998)

The presence of the plantation company since 1981 along with the practice of land acquisition was not transparent. There are no room for dialog which become the historical roots of massive and ongoing conflict this far. The condition is illustrated in the following table 1.

Phase before the reformation (New Order), characterized by a strong dominance of the state to the people, so there is no room for democratic life. Oppression and marginalization of the people in the interest of national economic growth became a spectacle and responded through non-violent resistance by the people. Social and political setting is the precondition of a conflict between people of Rengas with the company and the country at that time.

Besides the New Order (Orba) social and political preconditions framing the conflict, issues and real conditions underlying the conflict are: first; land acquisition practices were not transparent, second; restitution of land at very cheap prices, third; compensation process without negotiations, fourth; repressive action by the security forces when they conduct land acquisition.

Table 1. Mapping Actors and Issues in Community Conflict Rengas and PT. PTPN VII Phase Before the Reformation

Phase Before the Ref-ormation (1981-1998)	People of Rengas	PTPN VII
Issues and Legiti-macy	<ul style="list-style-type: none"> - The compensation cost - Acquisition of land was not transparent - The process of compensa-tion without negotiations - Land grabbing - Measures repressive ap-paratus - The system of tenure of lo-cal / indigenous ownership 	<ul style="list-style-type: none"> - Decree of the Minister of Agriculture No. 076 / Ministry of Agriculture / I / 1981 dated February 2, 1981, on authoriz-ing the founding principle of sugarcane plantations and mills in South Sumatra - Decree of Governor KDH level I of South Sumatra No. 379 / I / 1981 dated 16 November 1981
Actor	<ul style="list-style-type: none"> - Kriyo (Village Head) - Some of Family Head - Some of Public Figures 	<ul style="list-style-type: none"> - Task Force and Employees - Management of PT. PTPN VII (Public Relation) - Security Forces (Army) - Local Government (Team 9)
The Approach	<ul style="list-style-type: none"> - Refusing the compensation - Protest in a small scale - Litigation (Trial) 	<ul style="list-style-type: none"> - Litigation (Trial) - Mediation, through compensation - Cooperation with Local Government
Resolution	<ul style="list-style-type: none"> - Not Achieved 	<ul style="list-style-type: none"> - Compensation only for half of people

Source: Primary Data Analysis, June 2015

sition. The underlying basic for legitimacy of claims of the community to secure land tenure system is local or customary law, while PTPN VII on the basis of a legal claim, are 1) the Minister of Agriculture Decree No. 076 / Ministry of Agriculture / I / 1981 dated February 2, 1981, on authorizing the founding principle of sugarcane plantations and mills in South Sumatra. 2) Decree of the Governor of South Sumatra level KDH No. 379 / I / 1981 dated 16 November 1981, concerning the provision of land.

The actors who were involved in the contestation conflict: first-party Rengas society is Kriyo / Village Head. In this phase there were still a few people who were involved and took part in the rejection of the presence of the company. At the beginning of the company's project, resistance strategy performed by the Rengas actors was taken through refusing compensation, doing a protest on a small scale within the scope of family. From the company side, actors who involved in the conflict were from the Management Company (Public Relation department), the Task Force and Employees, security forces (Army), Local Government (Team 9). To smooth the company's plan

and operation, the company used strategy by develop collaboration with local govern-ments, the Security Forces, mediation, com-pensation and litigation (judicial).

In 1996, end of the first phase, Ren-gas people turned the resistance strategies into filing a lawsuit. Litigation was taken by groups of people who felt that Rengas has never received compensation from their land which were evicted by the company. Li-tigation were the people initiative which was assisted by legal counsel, Syahziar Syaara-ni, S.H. This lawsuit, which was brought to Supreme Court, was won by Rengas people.

The decision of the Supreme Court stated that the land that has not been ac-quired is owned by the Rengas people. Ho-wever, the Court didn't execute the decision until the end phase of the conflict in the New Order era. Another obstacle of litigati-on processes is that local people are not al-ways able to pay the attorney. As the result, not all local people who have the certificate win after the court. Whereas according to Misbah, if a lawyer could win a case which has the same particular matters with other cases, that means those other cases could win after the court.

After Reformation (1998-Present)

In the era of Reformation, it affects to the using more varied strategies and tricks in the constellation of the conflict between Rengas people and the company, as illustrated in the following table 2.

The issue in the reformation phase is a continuation of the previous phase. The victory of the Rengas people in the Supreme Court become the basic formal legitimacy, after in the previous phase rely solely on claims by local tenure system. While the claim basis and the legitimacy according to the company is still the same, based on the decision letter the Minister of Agriculture and the Governor, as well as documents for compensation.

Entered the phase of reformation the amount of actors from people who involved in resistance against the company is increased. The actors are from community leaders, religious leaders, and youth leaders and supported by almost all communities. The increasing number of actors and the masses involved in the conflict cannot be separated from social and political condition

which is more open.

The confrontation began to play on the stage of a feud between the community and the company. Offsetting the increasingly massive movement of people, the company remains with the formal legal approach and to strengthen support for the political economy of the stakeholders to be involved in the constellation of the conflict through the using of the security forces, in this case the police. This phase emerges many strategy approaches taken by both side. Then, the role of government began to present in spaces of dialogue to find solution that never reached.

Local actors have brought the conflict to the space escalation which culminated into violent conflict. Mass mobilization in massive scale and action to control the land become an important strategy in the conflict for the community. Such actions are rewarded with precautions by companies supported by the task force and the security forces, but the accumulated frustration of the people of the never ending conflict make the situation that leads to violence carried out

Table 2. Mapping Actors and Issues in Conflict between Rengas people and PT. PTPN VII in the Reformation Phase

Reformation Phase (1998-Present)	Rengas People	PTPN VII
Issues and Legitimacy	<ul style="list-style-type: none"> • Land grabbing • Repressive action by apparatus (death of Kriyo) • Win Lawsuit in Supreme Court 	<ul style="list-style-type: none"> • SK Mentan No. 076 / Ministry of Agriculture / 1 / 1981 dated February 2, 1981, on authorizing the founding principle of sugarcane plantations and mills in South Sumatra • SK Governor KDH level I of South Sumatra No. 379 / 1 / 1981 dated 16 November 1981
Actor - Task Force and Employees - The management of PT. PTPN VII (PR)	<ul style="list-style-type: none"> • Community Leaders • Religious leaders • WALHI Sum-sel (third party) • LBH Palembang (Third Party) • SPI (Third Party) 	<ul style="list-style-type: none"> • Task Force and Employees • The management of PT. PTPN VII (Public Relation)
Approach	<ul style="list-style-type: none"> • a collective struggle • The demonstration, protests • Confrontation • Mediation 	<ul style="list-style-type: none"> • Litigation • Mediation
Settlement	<ul style="list-style-type: none"> • Reclaiming 	<ul style="list-style-type: none"> • Withdrew

Source: Primary Data Analysis, June 2015

by both side.

In 2009, the peak of the conflict which was erupted into violence between the community, the company and the security forces. According to Kholek (2011), the report showed that there were 12 victims of people of Rengas getting shoot during a violent conflict in the disputed land. Case of shooting by members of Brimob South Sumatera to securing the company's assets was a brutal act and was regarded as the peak of the crisis of the conflict.

After the conflict, there was support from of civil society which gave a new power and more systematic movement built by the Rengas people. WALHI and SPI play quite important in the strategy of confrontation with the demonstrations of systematic pressure on policy makers. While LBH Palembang more emphasis on the human rights violations for firing people of Rengas done by Brimob in initiating the conflict.

In 2010, the community is supported by the civil society do reclaiming disputed land area of 1,529 Ha. Reclaiming conducted by the public as the final action because the process of settlement through mediation and dialogue did not find the desired deal. The cornerstone reclaiming action is the victory in the Supreme Court, local tenure systems, the re-measuring done by the people in a participatory way, and based on information about the company who does not have rights of exploitation in disputed land. Until now people have managing those lands, and distributed to all citizens of Rengas who participating resistances against the company.

Conflict Limbang Jaya, as Escalation

The main trigger of conflict Limbang Jaya and PTPN VII Cinta Manis is the victory of Rengas people in recapturing their land which was managed by the company, through the effort of reclaiming. Case Limbang Jaya could not be found in historical records people's resistance against the presence of the company. The cause of conflict between Limbang Jaya people and the company was since several people join the organization "Gerakan Petani Penesak Bersatu" (GPPB),

since 2011. The establishment of GPPB is as the institutionalization of community resistance movement against PTPN VII Cinta Manis. This movement was inspired by the victory of Rengas people in recapturing their land which was managed by the company since 1981, through the action of reclaiming.

GPPB covers an area of 7 (seven) districts and 22 village with a total membership of approximately 6,611 households. The land area required by GPPB was 21,000 hectares, the land was spread in seven (7) districts, including Limbang Jaya Village area with an area of 641 hectares. GPPB demanded an urgent return of land managed by the company on the basis of the following arguments: first, compensation process was still problematic; second, the existence of the company in that area has changed the people structure from productive farmers into farm laborers; third, lack of employment of local people; fourth, repressive actions from the security forces; fifth, minimal contribution from company for local area development.

Various strategies carried out by the organization in order to achieve that goal. Movement was built with a relatively broad coverage resulting less than the maximum control range. The experience of the Rengas farmers' resistance and also the strategies applied with almost the same pattern were adopted. The issue of land acquisition and compensation was being emerged to evoke the spirit of the actor in mobilizing the masses in each village to get into a conflictual space.

The intensity of the conflict between Limbang Jaya people and PTPN VII Cinta Manis was increased since confrontation became the main strategy used by the actors of the conflict. Many criminalization occurred during the conflict which made the security forces involved in the conflict. This condition has almost the same pattern with the Rengas case and other land conflicts.

The conflict was getting worse when hundreds of police entered to Limbang Jaya to arrest one of the actors of the movement. Repressive approach has sparked public anger. As the result, several local people were

shot, and one of them was died, Angga (12 years old), shot by the police (Brimob) in Limbang Jaya on July, 27, 2012.

Demonstration, criminalization, repressive action and casualties are common in land conflict contestation. In company's perspective, the use of security force to escort the asset and bring the case to the court are the strategy to shield them from engaging directly into open conflict and *shock therapy* for the local people in which the people see the conflict as a resistance to the state. On the other hand, using violence is a way for people movement to raise the issue and to obtain support from stakeholders involved in the conflict. However, in Limbang Jaya Case, violence and criminalization impact on the declining spirit and the community involvement. Many main actors withdraw from the conflict contestation. Accordingly, Rengas case which ended up with reclaiming process could not be reached by Limbang Jaya people and GBPP as well. This condition was shifted back to the latent conflict, which whenever it can be burst again.

Conflict Resolution Efforts

Advocacy by NGO (Non Government Organization)

Conflict of Rengas began advocated by the NGO intensively after the shooting of 12 farmers in disputed land in t 2009, whereas Limbang Jaya Sedangkan Limbang Jaya was 2 years later after the establishment GPPB in 2011. Rengas was advocated by Walhi Sum-Sel, SPI, and Legal Aid Institution (LBH) Palembang, whereas Limbang Jaya was advocated by local organization, namely Gerakan Petani Penesak Bersatu (GPPB).

Conflict resolution both Rengas and Limbang Jaya through advocacy focused on taking actions in an organized and systematic strategy, propaganda, lobby, demonstra-

tion, confrontation, and mediation (Kholek, 2011). Those patterns were applied the same way in both cases, even though in the different timeline.

Those tabel gives an overview about advocacy done by NGO and local people as the subject of the conflict. Both Rengas Case and Limbang Jaya Case were taken same actions for conflict resolution, such as lobby, mediation, demonstration, and confrontation. However, those two conflicts advocacy count heavily on demonstration, confrontation, or direct restitution.

Demonstration and confrontation were not the last step taken on conflict resolution, but the first step to push the government. For example in rengas Case after the shooting, there were many times the local people urged the government in to resolve land disputes. The issue that was raised during the protest was to urge the policy maker to take action on conflict resolution.

Rengas and Limbang Jaya people engagement on protest in regency, province, or national level is a symbol of people struggle to reach land conflict resolution. However, if that action is considered as a first step to encourage conflict resolution, it is not enough because the stakeholders' commitment on conflict resolution in any level is still not take that matters as an urgent and serious matters. Moreover, they seem to ignore it and considered it as other's responsibility.

Reclaiming action in Rengas Case is a real effort of people confrontation. It was taken after people done protests to urges and encourages stakeholders to present in a settlement was failed. Reclaiming was considered as a short term conflict resolution to ensure the disputed land can be managed by the people. Although reclaiming cannot be considered as a land conflict settlement, people see it as a manifestation of people

Tabel 3. Conflict Resolution Advocacy of Rengas and Limbang Jaya Cases

No	Subject of conflict	Advocacy			
		Demonstration	Confrontation	Lobby	Mediation
1	Rengas	+	+		
2	Limbang Jaya	+	+		

Source : Researcher Analysis, 2015

resistance towards the company and the government as well. As to Limbang Jaya case, reclaiming process was not success as Rengas case since Limbang Jaya did not have historical base on people resistance. Therefore, confrontation action was not entirely supported by the people.

Mediation by Stakeholders

Advocacy has given a positive effect in which stakeholders, Local government, central government, legislative institution, National Land Agency, State-Owned Enterprises Ministerial, and Police Department, gave feed back towards that action. Mediation was an alternative way taken by stakeholders to reduce negative impact of the conflict in which this way yet a comprehensive and sustain conflict resolution. Mediation was only a temporary solution. .

Rengas case has taken mediation several times in order to achieve agreement from both sides. However, both parties did not come to an agreement of resolution. The company and the government rejected people's demands and arguments which was considered would trigger a violation of law from the perspective of law enforcement officers. Meanwhile, representatives of people assumed that they (the company's offers) will be the root of the settlement of protracted conflicts.

The provincial government enacted Decree of South Sumatera Governor No. 896/KPTS/1/2013 on Integrated Team Facilitation Conflict Management of Land Between the Farmer / Residents About Plantation in Cinta Manis with PTPN VII Unit Usaha Cinta Manis in Ogan Ilir Regency (Tentang Pembentukan Tim Terpadu Fasilitasi Penanganan Konflik Pertanahan Antara Petani/Warga Sekitar Perkebunan Cinta Manis Dengan PTPN VII Unit Usaha Cinta Manis di Kabupaten Ogan Ilir). This team used verification method specifically data comparison from the local people who claim the land and compensation data from PTPN VII Cinta Manis based on legal documents.

This measure was not effective since conflict resolution perspective only based on compensation documents and certifica-

te of ownership put aside historical records of land acquisition and the recognition of customary laws regarding land ownership society that has grown for generations. Those facts were one of weakness in conflict resolution mediated by the government, so that a win-win solution never be achieved in the mediation room.

Both Rengas case and Limbang Jaya case have the same kind of team to solve the conflict resolution. However, that team was unable to provide a sustain conflict resolution. Due to space settlement is reached does not touch the substance of the problem, conflict only temporarily muted, and likely recurrence of conflict into open violence will arise in the future.

CONCLUSION

The important findings in this research as the conclusion encompass: *First*, the conflict history of Rengas was since the existence of PTPN VII Cinta Manis in 1981. The root of the conflicts is the land which has been managed for generations became area of land preparation by local governments at that time which limited local people access into that land. *Second*, the conflict dynamic of Rengas people and PTPN VII Cinta Manis has been up and down which occurred in two phases, New Order Era and Post Reformation Era. *Third*; Limbang Jaya conflict is an escalation of Rengas conflict in which determined as a victory of farmers over the company and government as a way to acquire the land through reclaiming. *Fourth*, in Post Reformation Era, conflict escalation raised and shifted into a systemic violence, and the widespread involvement of actors in the arena of conflict. *Fifth*, Resolution processes, both through advocacy and mediation, were unable to provide settlement that accommodates the interests of both sides of the conflict. *Sixth*, The weaknesses of the settlement that has been done were mediation has not been practiced substantively yet and the absence of stakeholders representative in mediation process. It also caused by the lack of commitment from policy makers in conflict resolution. *Seventh*, Besides

weaknesses in aspects of conflict resolution approaches, policy makers seem procedural, through formal law, so the results do not accommodate the interests of the public, which is always subordinate of the process.

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