Abstract—This paper discusses the main issues regarding mapping and handling land conflicts in North Sumatra. The information obtained in this paper illustrates the existence of complicated issues regarding land ownership based on State regulations and communal ownership (tanah ulayat). The complicated issue of land ownership in North Sumatra refers to the overlapping laws relating to agrarian affairs which are not based on the 1945 Constitution and the 1960 BAL. This has resulted in lands being occupied by the community, especially small communities in the countryside and far inland, which have become unprotected, vulnerable to land grabbing justified in the name of development and investment. Land disputes which often arise in the society are partly due to struggle over land rights, resulting in the destruction of social relations. Disputes regarding indigenous lands, including communal lands, often occur among the tribal communities. The causes of communal land disputes include, among others: unclear boundaries of customary land, lack of awareness among indigenous communities, lack of Tribal chief’s role in the tribal land communities.

Keywords—Handling, conflict, communal land.

I. INTRODUCTION

Plurality is the concept of understanding differences in a situation where there’s more than one way of thinking. North Sumatra Province is one of the provinces in Indonesia widely known for its plurality. The social background of the people living in this Province is quite diverse, in terms of ethnicity/tribe, religion, culture and dialects. From a demographic perspective, the population of North Sumatra is 15,977,383, which consists of various tribes including the Malay, Nias, 8 Sub-groups of Batak, Javanese, Minang, Aceh and Sundanese. There are also Indian, Arabian and Chinese ethnic groups. The religion adopted by the community also indicates plurality such as Islam, Protestantism, Catholicism, Buddhism, Hinduism, and others.

The inherent plurality in the social context in North Sumatra shows that diversity basically has social relationships that can be interwoven harmoniously. However, there are problems that are difficult to avoid in such relationships. The social diversity present in North Sumatra also has a diverse history in each ethnic group, race, and religion. With such diverse backgrounds, each group has a different orientation and motivation which views land ownership as one of the source of livelihood of the majority of population in North Sumatra. When in view of the indigenous people and immigrant communities. This is only a part of the emergence of many land conflicts in North Sumatra.

The land has a significant meaning and role in human life, because everyone needs land to live on until the end of their days. This is especially important seeing the composition of social and economic lives of the local population, which are mostly agrarian. Land has multidimensional meaning for human life: first, from an economic perspective land is a means of production through which one can obtain welfare, second, from a political perspective land can determine one’s position in a public decision-making, third, as a cultural capital, land can determine the social status of its owner, and fourth, land is sacred since at the end of one’s life everyone will return to the soil.

In North Sumatra, the concept of land with its multidimensional meaning is still widely believed. The peoples has the tendency to defend their land by any means necessary. For the people of North Sumatra, land is life. This rings true throughout Indonesia. Indonesia even regulated it under Article 33 of the 1945 Constitution which stipulates that “Earth, water and all natural wealth contained therein shall be under the control of the state and used to the utmost potentials for the welfare of its people”. The provisions of the Article then become a philosophical basis for regulating land in Indonesia which is legally regulated in Law Number 5 of 1960 concerning Basic Regulations on Agraria which became known as the Basic Agrarian Law (BAL).

North Sumatra is an area that has been long considered rich in natural resources. It also has a vast expanse of lands. Administratively, the Province of North Sumatra consists of 25 districts and 8 cities which are divided into 414 sub-districts, 662 villages and 5,025 villages (North Sumatra in Figures, 2011). Its total land area is 72,981.23 square km North Sumatra is the fourth largest province in Indonesia after West Java, East Java and Central Java. In terms of development, the North Sumatra Provincial Government has built various facilities and infrastructures to facilitate trade between regencies in North Sumatra and between North Sumatra and other provinces.

The private sector is also involved with establishing various properties to be used as centers for commerce, offices, hotels and others. Certainly other sectors such as cooperatives, mining and energy, industry, tourism, post and telecommunications, transmigration, and the social
sector are also being developed. To facilitate development coordination, North Sumatra is divided into four development areas. Such development context becomes a problem unique to North Sumatra in the social relationship between the government and its people. Its plural society presents a certain challenge in formulating identity and achieving development goals. Various interests of the existing groups will come into conflict, not only among themselves but also with the government.

BAL provides a separate definition for the terms "earth" and "land". The definition of "earth" in BAL is regulated under Article 1 paragraph (4) which states as follows: "the definition of “earth”, apart from the surface of the earth, also includes subterrains and submerged lands.” The above article provides an explanation of what is meant by the term "earth", which covers the surface of the earth (which is then called the land) and beneath it (the body of earth) and submerged lands. Furthermore, the definition of "land" is explained under Article 4 paragraph (1) as follows: "On the basis of the right to control from the state, there are various rights to the surface of the earth, which are called land, that can be granted to and owned by the people- individually or jointly with other people or legal entities". In the above provisions, what is called land is the surface of the earth.

The right to land is the right to the surface of the earth, while the earth covers the land, the body of earth, what is beneath it and submerged lands. The relationship between humans and land in a communal law has a cosmic-magical-religious relationship, meaning that this relationship is not established only between individuals and the land but also between members of a tribal community (rechtsgemeenschap) in relation to communal rights.

The Basic Agrarian Law as a positive law on National Agrarian Law recognizes the existence of communal land rights, the provisions of which are stated in Article 3 under certain conditions. Two requirements provide the basis for recognizing communal rights in Article 3, namely those regarding its existence and implementation. Article 3 does not provide determining criteria for communal rights.

By adhering to the conception that originates in communal law provides a criteria for determining the existence of communal rights based on the existence of three elements that must be fulfilled simultaneously, namely: 1) communal rights subjects, namely communal law communities with certain characteristics, 2) objects of customary rights, namely land located in an area and a major support for the livelihoods and lives of the people of all time (lebensraum), 3) the existence of certain communal law communities in managing territorial land, including determining the relationship between supplies, allotment and utilization and preservation of lands in the area. Land disputes which often arise in the society are partly due to struggle over land rights, resulting in the destruction of social relations. In communal law communities there are often disputes concerning communal lands, including ulayat lands, as for the causes of Ulayat land disputes, among others are unclear customary land boundaries, lack of awareness among indigenous peoples, lack of tribal chief’s role in communal law communities.

II. MATERIALS AND METHOD

This research was conducted qualitatively with a case study approach. The research location is in Deli Serdang Regency, North Sumatra Province. The case studies were carried out in several cases of forced extraction of communal lands of Malay communities in Deli Serdang. Land dispute cases are carefully and thoroughly studied. Data collection is done through in-depth interviews and analysis of case studies conducted by in-depth analysis.

III. FINDINGS AND DISCUSSION

Before the colonial rule, the North Sumatra region which was formerly known as East Sumatra in the land tenure system still practiced tribal law [1]. According to the farming system of the indigenous community in the field of cultivation (shifting cultivation), the pattern of power is based on common interests which are indeed the use of land merely to fulfill everyday needs. However, when colonialism made its way in the middle of the 19th century, land tenure patterns changed into industrialism or better known as capitalist system. Therefore, since that time the lands in the East Sumatra region, especially the coast of Deli, became riddled with land conflicts.

Land conflicts in East Sumatra are inseparable from the patterns of land control established since the colonial rule. Tribal authorities are promised benefits and luxury, both morally and materially. In moral terms, tribal rulers who are basically equal to the tribe chief of the chipdom were appointed as if they were heads of state, not unlike sultans, within the scope of the sultanate. This happened to areas known as the Deli Sultanate, Serdang Sultanate, Langkat Sultanate, Kota Pinang Sultanate, and so on. With such changes, lands that were initially controlled by the communal societies fell into the hands of the sultanate. Thus, land concessions can be carried out extensively by the colonialists with the sultanate without regard to the rights of the people in the communal law system. Material gain was also obtained widely in the monetary form, both from the colonial and the sultanate.

When the Japanese came into power in 1942, the land tenure system changed its direction. Land tenure was carried out in a different system. Land rights were returned to the people under the condition that the yields would be used for Japanese war effort in the Great East Asia. The power of the sultan was restricted, and the people who occupied the land were not returned to their indigenous community, because the natives who worked on the land were the people who came when the plantation industry expanded during the Dutch colonial era [2].
Mostly throughout North Sumatra, land can only be owned by means of beschikkingsrecht or according to the communal law rights as recorded in the Basic Agrarian Law (L.N. 1906-104). This right does not mean that the land is owned entirely by someone and can be used for anything they want. In some notes on land issues in the East, land ownership will return to the village if the owner moves to another village or the land is abandoned. Meanwhile, outsiders or non-residents are not entitled to own lands. Therefore, basically the land does not belong to anyone (only natives who own it) and only used according to needs as specified in the communal law. However, since 1878, land tenure was standardized by the colonial government as the ruling party and the local authorities were recognized as administrators who are entitled to use their people’s land [2].

In its use, much of the current plantation land is a legacy of colonial-era plantations used by colonial companies such as Deli Maatschappij, Sanembah Maatscappij, Arend & Co., and others. Lands that were originally jungle and plantations and community rice fields became the company's plantation area. This expansion continued even until the nation’s independence.

During the colonial expansion of plantations, the main commodity produced since the end of the 19th century was tobacco. During the second decade of the twentieth century, the types of crop commodity turned to hardwoods such as rubber and oil palm. It is interesting to highlight the tobacco plantation industry. Although tobacco plants are the main preference in land use, there are grace periods required after the tobacco harvest. As a plant that quickly depletes soil nutrients, tobacco cultivation requires a gap of between 8-10 years. During this time, the land lease was transferred as a privilege by the plantation.

Privilege rights are rights which arise from concession agreements between the plantation and Serdang sultanates. Privilege rights are known as land tracks that are used by local natives to work on lands which are currently cannot be planted with rice or corn. They are usually called Rakyat Penunggu (the Waiting People) because the cultivators can wait for 8-10 years to harvest tobacco [3]. After which it will be returned to the company to be replanted with tobacco.

Privilege rights or the so-called land of the road is basically the politics of the plantation. On one hand, the emergence of these privileges is considered a generosity on the part of the land tenant. Land with the legality of being an erfopacht right for the plantation is given to the people for some time whose rights still fall into the hands of the plantation. Whereas on the other hand, privileges are part of restoring soil nutrients. Plants which are subject to these privileged rights are also determined, namely rice fields and corn. Other plants should not be planted out of fear that it will not restore, rather depletes the soil nutrients. This situation continued until the Japanese came to Indonesia.

When the Japanese came into power in 1942, many private plantations were not given enough attention. The Japanese, who were more interested in military occupation, put more focus on minerals essential for military operations. These types of materials were required in order to win battles in East Asia. They put more importance in mines and castor oil, which is used to lubricate war machineries. Plantations were returned to the hands of the people provided that they produce yields that support the Japanese war effort in the Pacific war. As a result, many people rushed to take control of the exploitation lands. Unfortunately, these people were no longer indigenous or tribal land owners, instead workers who served the land owners in the past, who were interwoven into the indigenous community. Thus, conflicts were unavoidable and continued to expand well into the independence period.

1. Map of Land Conflicts

It is widely known that the complicated issue of land ownership in North Sumatra is caused by the overlapping laws relating to agrarian affairs which are not based on the 1945 Constitution and the 1960 BAL. This has resulted in lands being occupied by the community, especially small communities in the countryside and far inland, which have become unprotected, vulnerable to land grabbing justified in the name of development and investment.

In the end, community access and rights to land and other available agrarian resources were closed. Land grabbing is presented in a more subtle way, namely commercial pressure on land and large scale land acquisition [3]. These three references in fact indicate a large-scale land acquisition process in the form of concessions, leases and purchase and sales aimed at capital accumulation. The food and energy crisis are two main issues that were used to justify land seizures in order to overcome the impact of the crisis as well as accelerate development.

The Government and the House of Representatives of the Republic of Indonesia (DPR RI) as institutions authorized to resolve land conflicts have instead encouraged various regulations which continue sectoralism in the field of agraria and have strong potential while adding to the complicated overlapping legislations in this country. Manipulation of information and the existence of various policy formulations orchestrate land grabbing in a neat way [4].

Marginalization of local communities (communal land) and partiality to capital (as an agenda of a capitalist economic system) serves as a painful illustration that is commonly found. Land policy in Indonesia is set to become a stage for the process of large capital multiplication from companies that will invest in this very rich archipelago. Land grabbing is presented as a natural
occurrence and as a necessity in the narrative of land acquisition for the sake of development.

The land conflicts are certainly not only conflicts over the ownership of land and natural resources between the people who defend their rights with the certification regime, namely the government in coalition with entrepreneurs, but also directly related to the destruction of cultural and environmental values.

There are extensive land conflicts in North Sumatra. As a legacy of colonial plantations, these plantation lands are highly vulnerable to conflict. Abandoned lands were occupied by various elements of society and at the same time the nationalization of foreign companies in 1958 present the people and the state as if they were fighting over land rights. Take for example the Deli Serdang Regency, Serdang Bedagai Regency, Binjai City, and Langkat Regency. These four regencies and cities are listed as the biggest contributors to land conflicts in North Sumatra. The lands that were formerly Dutch company’s concession (NV. Senembah Maatschappij) were deemed as their own by the people. At the same time, the state has the authority to control the land.

Community demands are indicated by various acts of resistance. The same goes to countries that take actions to expel residents on land. The actions of the two perpetrators of the conflict brought over other elements to win the fight. Meanwhile, not all existing elements can be justified, because there are those with a certain purpose in the conflict. Conflict practices also show its symptoms. Direct and indirect intimidation between the people and the state becomes horizontal and vertical conflicts.

Land conflicts occur because land is the most valuable asset, because humans come from the land, live on land, and will return to the land. Therefore, it is not surprising if all kinds of ways humans try to procure land. Recapitulation of land conflicts in North Sumatra across various districts and cities proves that conflict always retains its causes and therefore land conflicts became a widely felt symptom, especially in terms of land ownership status in North Sumatra in general. Many colonial plantation lands were contested among the people, between the people and corporations, among corporations, between corporations and the state, and between the people and the state. It is feared that these land conflicts, if not addressed and resolved comprehensively will result in the escalation of conflicts in North Sumatra. The recapitulation of land conflicts in North Sumatra is as follows:

### TABLE I. Recapitulation of Land Conflict in North Sumatra in 2014

<table>
<thead>
<tr>
<th>Regency/City</th>
<th>Number of Cases</th>
<th>Actor</th>
<th>Source of Conflict</th>
</tr>
</thead>
<tbody>
<tr>
<td>Binjai city</td>
<td>4</td>
<td>The people vs PTPN II</td>
<td>Scramble for ex-PTPN II land</td>
</tr>
<tr>
<td>Deli Serdang</td>
<td>31</td>
<td>The people vs PTPN II</td>
<td>Land grabbing, overlapping land ownership letters, and the presence of land mafias</td>
</tr>
<tr>
<td>Serdang Bedagai</td>
<td>3</td>
<td>The people vs PTPN IV</td>
<td>Land grabbing, land grabbing, and indecision on the part of the government</td>
</tr>
<tr>
<td>The people vs PTPN III</td>
<td>The people vs Corporation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Regency of Mandailing Natal</td>
<td>3</td>
<td>The people vs PTPN IV</td>
<td>Claim of gold mining land ownership, land grabbing, and indecision on the part of the government</td>
</tr>
<tr>
<td>Regency of Padang Lawas</td>
<td>3</td>
<td>The people vs Corporation</td>
<td>Overlap of land ownership certificates and seizure of communal lands</td>
</tr>
<tr>
<td>Regency of Central Tapanuli</td>
<td>6</td>
<td>The people vs Corporation</td>
<td>Overlap of land ownership certificates and seizure of communal lands</td>
</tr>
<tr>
<td>Regency of Langkat</td>
<td>16</td>
<td>The people vs PTPN II</td>
<td>Land grabbing by plantation and corporations</td>
</tr>
<tr>
<td>Regency of Batubara</td>
<td>8</td>
<td>The people vs PTPN III</td>
<td>Land grabbing by plantation and corporations</td>
</tr>
<tr>
<td>Regency of North Tapanuli</td>
<td>4</td>
<td>The people vs local government</td>
<td>Local government policy regarding the conversion of communal land to the corporation</td>
</tr>
</tbody>
</table>

Source: Balitbang Sumut, 2014

2. Handling of conflicts

In an effort to control and protect agricultural lands in North Sumatra, the North Sumatra R&D Agency recommended conflict handling using several strategies in 2014, namely: First, to minimize the chance of conversion by: (1) developing progressive land taxes, (2) improving the efficiency of non-agricultural land needs so as to reduce the amount of abandoned land, (3) developing the principle land saving for industrial, residential and commercial purposes (e.g. flats). Second, to control conversion activities by: (1) limiting the conversion of productive agricultural land, absorbing labor and establishing environmental functions, (2) prioritizing conversion of less productive lands, (3) limiting conversion area by referring to independent food area with incentives to landowners and local government, third using the following conversion control instruments: (1) juridical instruments in the form of binding laws with appropriate sanctions, (2) incentives and disincentives for landowners and local government, (3) allocation of deconcentrated funds to encourage local governments to protect agricultural land, especially rice
fields, and (4) RTRW instruments and location permits [5].

Based on the above strategy, there is a policy for priority of conversion control that can be carried out in North Sumatra, namely: (1) drafting laws and regulations on the protection of productive agricultural lands (Government regulations, Presidential regulations and Law), (2) stipulating zoning of sustainable agricultural lands, (3) determining the form of incentives and disincentives for landowners and local government, (4) integrating these three provisions in the National, Provincial and District/City RTRWs, (5) establishing National, Provincial and District/City Land Wetland Control Commissions, with decisions in the hands of the relevant regional leaders. The systematic, tiered and sustainable control of agricultural land conversion must become a concern for all parties. Strategies to control agricultural land conversion include the establishment of laws and regulations concerning control of productive agricultural land, establishment of zoning for protection of external agricultural land and policies for managing and implementing regulations and zoning for protection of agricultural land in National, Provincial and District/City RTRWs as reference for directing development sites, licensing and land administration.

Other efforts can also be taken, as expressed by Pearce and Turner recommended three simultaneous approaches for the purpose of controlling the conversion of agricultural land, namely: (i) regulation. Using this approach, the policy makers must determine a number of rules in using the existing lands. Based on various technical, economic and social considerations, the policy makers can create a zoning system on the existing lands and possibly allocate the conversion process. In addition, a clear and transparent licensing mechanism is needed by involving all stakeholders in the process of land conversion, (ii) acquisition and management. Through this approach, the relevant parties must improve the system and rules of land sale as well as the existing land tenure systems to support efforts towards maintaining the existence of agricultural land, and (iii) incentive and charges.

The grant of subsidies to farmers who can improve the quality of their land, and the application of attractive tax rates to maintain the existence of agricultural land, is another form of approach that is suggested in order to prevent the conversion of agricultural land. In addition, the development of existing infrastructures is directed towards supporting the development of agricultural cultivation activities along with other relevant efforts. The other appropriate control measures implemented in North Sumatra namely controlling the conversion of agricultural land through the realization of an alternative policy. The alternative policy is expected to be able to break the deadlock for control of the previous land conversion. Its components include legal and economic instruments, zoning, and community initiatives.

The legal instruments include the application of legislation and regulations governing the mechanism of land conversion. Meanwhile, economic instruments include incentives, disincentives and compensation. The policy on incentives for parties who can protect land from conversion. This pattern of incentive grants includes, among others, land and building tax relief (UN) and the agricultural production facilities. On the contrary, disincentives are given to parties who carry out land conversion functions, the implementation of which is contrary to the laws and regulations.

Meanwhile, compensation is aimed at those who sustained losses from land conversion for development activities, or those who have prevented conversion of land to be preserved as a source of agricultural production. Zoning policies relate to the management of regional spatial planning through clustering of land into three categories of control zones, namely protected land (not allowed to be converted), limited function transfer, and those which may be converted. Zoning is regulated based on the criteria for classification of irrigation, cropping intensity, and productivity of paddy fields. Irrigation is classified into irrigated and non-irrigated rice fields. The community initiative strategies are strategies that involve the community. The community involvement also includes all stakeholders. The strategy used to control the conversion of agricultural land that should be considered is that which is based on the community (community-based management plan). This means that the community serves as support in the form of participation in controlling the conversion of agricultural land.

IV. CONCLUSION

In reality, conflicts are non-negotiable among the society [2]. The struggle for natural resources related to land in North Sumatra will give rise to disputes on the issue of the distribution of these resources. Different interest groups in the social system will try to keep up and compete with each other. Likewise, regarding the issue of land as a limited resource, the matter of its distribution will likely cause conflicts. North Sumatra has pockets of territory that can potentially become places of conflict. Society as a system that gathers people will always be in a state of conflict. Therefore, in principle, conflicts can occur because of struggles or differences in ownership of power resources between one group and another.

The ruling group will always fight for its interests, namely to maintain its power. Interests may be latent or manifest (realized) or (potential interests). Latent interests are psychological realities. When these interests come to the surface, latent interests can become conscious goals, called manifest consciousness. The two most important phenomena in the framework of conflict are patterns of resistance and dominance groups that have a lot of resources will try to dominate other groups with less source. The main variable causing the conflict is the difference in the source of materials owned. Those with the material resources try to control others with less material sources. Conflicts are actually caused by the
struggle for wealth, power, plus one more aspect, namely the struggle for prestige. This situation often occurs during land conflicts in North Sumatra. Moreover, the land ownership model which is based on communal rights has shifted to various land ownership models, immigrant communities, corporations, land mafia, to the point where the state itself contributes to the emergence of land conflicts.

Land conflicts that occur in Indonesia cannot be separated either from conflicts that arise as a result of the struggle for wealth, power and prestige. As is widely known, land ownership will be able to increase the dignity, standing, power, prestige and other social status. The desire to obtain scarce resources such as land can cause conflict between individuals and groups.

REFERENCES


