

The Implementation of Agrarian Reform in the Settlement of Social Forest Management for Forest Village Communities (The Overview of Social Forestry Areas in Kendal Regency)

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Abstract— Indonesia is an agriculture country because most of the population of Indonesia has a livelihood in agriculture. The Indonesian National Goals as set out in the opening of the 1945 Constitution of The Republic of Indonesia are to protect the entire of Indonesia as a Nation and all of Indonesia's bloodshed and to improve the public welfare. From these objectives, the Indonesian Government seeks to advance people's welfare in all sectors, one of them is in the agricultural sector. Communities in Indonesia have the right to own land according to land regulation and can manage the land through agriculture, plantations, and others. Land use, especially social forest areas by the community, often creates land conflicts. The existence of land conflicts arising from the failure of the State in the realization of the Indonesian Agrarian Law which enacted in the New Order era, which raises various agrarian issues in Indonesia. This agrarian problem actually happened since the colonial era, with the provision of cheap land and labor, and the people were forced to surrender their agricultural products and gardens to colonizers both in the Dutch and Japanese colonies. As it developed, The Indonesian Agrarian Law provided space for citizens to obtain ownership rights to land. But in the 1990s to reform, Indigenous Peoples, in this case, were forest village communities who inhabit forest land, abandoned land protected by the Indonesian Agrarian Law was increasingly marginalized and forest village communities experienced discrimination in social forest management. The community considers that the State does not side with the people, because the State is considered to give more space to the Indonesia National Land Official Agency and Indonesia Official Agency for Forest Affair (Perhutani) and The Company which has the land use rights, so that the hope of agrarian reform is far from ideal because conflicts still arise between citizens and companies and the Government. Therefore it is necessary to reform the legal framework relating to land use permits with land and forestry regulations regarding social forest management for forest village communities.

Keywords— *Agrarian Reform, Social Forest, and Village Forest Community*

I. INTRODUCTION

Indonesia is a country with rich in natural resources, stretching from Sabang in the West End of Aceh to Merauke in the East End of Papua and thousands of islands with an enlarged area of 1,922,570 square kilometers.¹ From this land area, most of the land area of Indonesia is covered by forests, this is, of course, Indonesia's potential that can be utilized for the welfare of the Indonesian people as stipulated in the 1945 Constitution of the Republic of Indonesia, it is protecting all the people of Indonesia and spilling the blood of Indonesia, advancing public welfare, educating the nation's life and participating in carrying out world order based on freedom, eternal peace and social justice. Article 33 Paragraph 3 of the Constitution of the Republic of Indonesia "Earth, air and natural resources are contained in land controlled by the State and used for the sake of increasing people's prosperity. In connection with the above, of course, this cannot come out of the agrarian area, the understanding of the earth and vast

natural resources, entering into it there is a forest which is a potential natural resource of Indonesia.

In this research discusses social forest and social forestry in Indonesia in general with a study of social forest areas and social forestry in the Kendal Regency. Forests in the Kendal Regency are classified as protection forests with an area of 1,701.79 from the Central Statistics Agency data. Data from the Perhutani Forest Management Unit Kendal KPH with an area of management area: 20,300.58 hectares following Government Regulation Number 72 the Year 2010. In the Perhutani Kendal portal, the forest area of Kendal Forest Management Area has a total area of 20,300.58 ha, comprising a production area of 16,451.13 ha (81.10%), non-production area 3,841.70 ha (18.90%). In the production area, there is a productive teak forest area of 15,418.98 ha, of which are managed together with the community to be planted with intercropping systems.

Protected areas in the form of Local Protection Areas (KPS: 2,781.10 Ha) consist of river borders, beach borders, and special places. Some KPS objects are directed as limited protected forests (river borders, coastal borders, pedestal rivers, land protection areas, curing sewu and Kendang Cave), while others as special-purpose land (LDTI) consist of springs,

¹ <https://id.wikipedia.org/wiki/Indonesia>

camping grounds, arboretums, tombs, Kiskendo Cave, Petilasan (site) and Research Forest.

The term social forest in the Big Indonesian Dictionary consists of forests, that is, large land covered with trees (usually not maintained by people); relating to nature, namely forests that occur naturally without human intervention, etc.²

Whereas social understanding itself in the Big Indonesian Dictionary is related to the community.³ From the meaning of the Big Indonesian Dictionary about their respective meanings, the social forest is a forest that is intended for its usefulness and usefulness for the welfare of the community, especially for disadvantaged people who of course reside in the area around the forest.

Discussions on social forests and social forestry have long been the subject of discussion because social forestry is a program of the Ministry of Environment and Forestry (KLHK) of the Republic of Indonesia. The same is true of the social forestry program and the function of social forestry, which is to improve the welfare of communities around the forest or can be said to be marginal communities so that there is equitable distribution of community welfare not only in Big Cities but also in rural areas, including people who live around forests. The purpose of the ministry is not only for the welfare of the community around the forest, but also to preserve existing forests in Indonesia which are increasingly diminishing and damaged due to illegal logging, looting, forest fires, etc.

The Definition of Forest Village Community is a group of people who inhabit a certain place that is bound in a norm, values, and habits that are mutually agreed upon by the group concerned. Based on the typology, the forest village community is a community that inhabits the area around or in the forest and the livelihood/work of the community depends on the interaction with the forest.⁴

From the above explanation, the forest village community depends on their livelihood on the forest resources that are around the neighborhood where it is found in the field that part of the forest land belongs to Perhutani and PTPN. However, some forest village communities in Indonesia are still unable to manage the surrounding forests well due to lack of knowledge about forest management, community conflicts, low levels of community education so that the sustainability of forests and people is still needed, conflicts with various interests that are often encountered in the community and various other disputes. This of course also contributes to the challenge of resolving land conflicts related to social forests.

II. THE DEVELOPMENT OF AGRARIAN REFORM IN INDONESIA

Agrarian Reform can be interpreted as a manifestation of changes in Government policies relating to land. From this, it can be identified the type of Development of Agrarian Reform

² <https://kbbi.web.id/hutan>

³ <https://kbbi.web.id/sosial>

⁴ San Afri Awang. 2008. Panduan Pemberdayaan Lembaga Masyarakat Desa Hutan (LMDH). French Agricultural Research Centre for International Development. France. p 13

according to the Chairman of the Expert Board of DPN HKTI Center Prof. Dr. Ir. Agus Pakpahan in the daily meeting of DPN HKTI in the field of agrarian as follows:

1. *The Era of Dutch Colonialism*

In the era of Dutch colonialism, because at that time Indonesia was under Dutch Colonialism, the government at that time required farmers to do forced cultivation (Cultuurstelsel) by planting their land by certain commodities such as coffee or sugar cane. This period lasted from 1830 to 1870, except for coffee and sugar cane until 1914. The existence of forced cultivation, the Dutch Colonial Government received a very large income.

Not only forced cultivation, in the colonial era there was a direct investment in large private plantations 1870-Nationalization. The existence of Agrarischwet 1870 created an HGU system in which large plantation companies obtained HGU by changing the status of land from the status of state assets to estate assets that could be used as collateral to apply for loans.

2. *Agrarian Reform Period of Independence*

In its development the agrarian reform of the independence period there were various policies including:

- a. Nationalization of Dutch / Foreign Plantation Companies;
- b. BUMN-owned plantation companies originating from the nationalization;
- c. The existence of the Basic Forestry Law of 1967 and the use of natural forests;
- d. There are further changes regarding the Forestry Law;
- e. National private large plantation policy in the 1980s which resulted in the existence of a conglomerate of private estates;
- f. The existence of a community nucleus estate (PIR) program, which means that all smallholders will not return, except for oil palm farmers. But at the time of replanting, oil palm farmers cannot rejuvenate their oil palm plantations.

3. *Nawacita Agrarian Reform*

Policy In President Jokowi's government as outlined in the fifth Nawa Cita then followed up with the Act No. 17 of 2007 concerning RJPM 2005-2025 stated that the agrarian reform policy is that the state prepares 9,000,000 hectares of land to be worked on in various types of activities.

From the description above, various problems still arise, namely the lack of land decreases, the development of forest potential is less than the maximum, and so forth.

III. RESEARCH METHOD

The type of research method in this research is normative juridical. Normative juridical research is a process to find a rule of law, legal principles, and legal doctrines encountered.⁵ In this research, the law is identified as the norm of regulation or Act (Government), Government Regulation (PP). The

⁵ Peter Mahmud Marzuki. 2015. Penelitian Hukum, Surabaya. Kencana. p 35

legislative approach is carried out by examining all laws and regulations relating to the legal issues that are being discussed in this article on agrarian reform and all matters regarding social forestry and forest village communities themselves.⁶ The legal materials used are primary legal materials and secondary legal materials. Primary legal material consists of the Basic Agrarian Law Law of the Republic of Indonesia Number 5 of 1960 Concerning Basic Regulations on Agrarian Principles, Presidential Regulation Number 86 of 2018 concerning Agrarian Reform, Regulation of the Minister of Environment and Forestry Number 83 of 2016 concerning Social Forestry, Regulation of the Minister of Environment and Forestry of the Republic of Indonesia Number P.39 / MENLHK / SETJEN / KUM.1 / 6/2017 Regarding Social Forestry in the Perum Perhutani Work Area, Regulation of the Minister of Forestry of the Republic of Indonesia Number: P.88 / Menhut-II / 2014 Regarding Community Forestry, Minister of Forestry Regulation of the Republic of Indonesia Number: P.89 / Menhut-II / 2014 Regarding Village Forests, TAP MPR RI No. IX of 2001 Concerning Agrarian Reform and Natural Resource Management, Law Number 17 of 2007 concerning Development Plans National Long-Term (RPJPN) Year 2005-2025, Presidential Regulation Number 88 the Year 2017 Regarding the Settlement of Land Tenure in Forest Areas. Secondary legal material was obtained through literature study through books, journals, research results relevant to the author's research. Primary legal materials were collected by interviewing Perhutani, PTPN, Kantah Kab. Kendal, Forest Village community leaders who took part in the Agrarian Reform in 1998, the results of a meeting of the DPN HKTI organization.

IV. RESULT AND DISCUSSION

A. THE CONCEPT OF AGRARIAN REFORM REGARDING SOCIAL FORESTS IN INDONESIA

Agrarian Reform which is known by the term "Land Reform" is essentially a realignment, there is a renewal in terms of ownership, control and how to use land/territory for land tenants both small farmers, farm laborers.

The concept of agrarian reform is rearranging things that can at least benefit the village community around the forest or commonly called the village forest community. Agrarian Reform in the Kendal District Region itself is more about the use of land to be managed by the community. However, several things become obstacles namely the lack of understanding and in the field often found disputes. In the concept of reform so that there must also be things related to SOP (Standard Operating Procedures) which begins with the process of social, economic and cultural mapping, as well as areas and land use design, production to various things that are local.

In forest village communities, the assumption of agrarian reform to provide flexibility for forest village communities to use forest products, but there are still some forest village communities who also use forests for useful activities.

⁶ *Ibid*

A common perception is needed to examine the just Agrarian Reform, of course, fair here without harming the interests of one or the other. Fair humane, fair to improve community welfare, land management or land use that is managed continuously under the agreement, and of course, there are directives, supervision of agricultural activities that use forest land.

In Java, the issuance of Minister of Environment and Forestry Regulation (Permen LHK) No. 39 of 2017 concerning Permits for the Utilization of Social Forestry Forests (IPHPS) is a new breakthrough in social forestry practices.⁷

In the administration of President Jokowi regarding agrarian reform and social forestry (RAPS), it was highly maximized in order to equalize land ownership and management of forest products by forest village communities. Not only that, the idea that arises, namely in the implementation of Agrarian Reform and Social Forestry will involve village governments who are directly close to the forest village community to succeed in the program.

B. CURRENT IMPLEMENTATION OF AGRARIAN REFORM FOR FOREST VILLAGE COMMUNITIES BY PERPRES NUMBER 86 OF 2018 CONCERNING AGRARIAN REFORM

Since the enactment of Presidential Regulation, Number 86 the Year 2018 Concerning Agrarian Reform on September 27, 2018. It has been almost a year since the Presidential Regulation came into force, it can be said that land and political law enforcement is also needed based on Pancasila and the 1945 Constitution of the Republic of Indonesia Agrarian reform, namely restructuring the structure of control, ownership, use, use of land with the concept of justice through the structuring of assets accompanied by structuring access for empowerment of course for the prosperity of the people of Indonesia.

Various obstacles are still faced before the Presidential Regulation Number 86 the Year 2018, including⁸

1. There is an imbalance in the structure of land tenure. In this case, there are Private Legal Entities who control land up to hundreds of thousands of hectares, while there are still many people who do not own land or land for livelihoods. There are still some problems found that the control of land by private legal entities is not followed by the order in tax payments so that the State is also disadvantaged because there are no tax payments from private legal entities that control land or land.

It is still found in forest village people who live around the forest that people get unfair treatment in managing forest functions. In this study, the writer had the opportunity to visit one of the community leaders in Kendal Regency who was active in the 1998 agrarian reform who lived in the Singorojo forest area of Kendal

⁷ Accelerating Agrarian Reform and Social Forestry is accessed from <https://news.detik.com/kolom/d-4152266/percelatan-reforma-agraria-dan-perh-forest-social>

⁸ Presidential Regulation No. 86 the Year 2018

Regency.⁹ Some villagers are allowed to utilize the land by planting crops, which of course results are less felt for the village community. This certainly requires a solution in the form of correct consolidation between private legal entities, both Perhutani and PTPN with forest village communities by involving Forest Village Community Institutions (LMDH) to provide direction for land use with the concept of forest village community welfare.

2. Conversion of using paddy land to non-paddy land around 100,000 hectares per year, which also affects food security;
3. There are legal entities that have permits and land rights for plantation, industrial and residential activities but have not yet utilized optimally so that the land is displaced.
4. Conflicts arise between:
 - 1) Communities with PTPN;
 - 2) Communities with PBSN;
 - 3) TNI / POLRI with the community;
 - 4) Mining with the community;
 - 5) Another conflict that arose to some extent from several sources explained that there was a partiality of the members of the Forest Village Community Institution which precisely for personal gain did not seek the interests of the forest village community. This also needs to be enhanced by the participation of Forest Village Community Institutions (LMDH) to support the welfare of forest village communities while maintaining forest sustainability.

5. Environmental damage

Environmental damage is caused here because there is a good influence from the forest village people who do not maintain the forest properly, and the effect of global warming so that it affects the forest or land ecosystem.

According to Prof. Gunawan Wiradi (2009: 3), there are several facts about various incompatibilities or incompatibilities in the agrarian field. There are at least four forms of agrarian disharmony or inequality that can be identified, as follows:

- 1) Inequality in terms of control of agrarian resources;
- 2) Incompatibility in terms of "designation" of agrarian resources, especially land;
- 3) The incompatibility between perception and conception of agrarian;
- 4) The discrepancy between various legal products as a result of pragmatism and sectoral policies.

From Prof. Winardi's description of the 4 (four) inequalities identified above, it is very clear that incompatibilities are the dominant agrarian problems in the country. The unequal harmony with the term inequality and injustice occurs, here the Indonesian people then manifest it in the act of plundering the forest, stealing the form of people's protest because of their anger towards injustice.

According to the Presidential Regulation Number 86 the Year 2018, the Purpose of Agrarian Reform is stated in Article 2, as follows:

1. Reducing inequality in land tenure and ownership in creating justice;
2. Handling agrarian disputes and conflicts;
3. Creating agrarian-based sources of prosperity and welfare of the community through land tenure, ownership, use and utilization arrangements;
4. Creating jobs to reduce poverty;
5. Improve community access to economic resources;
6. Increase food security and sovereignty; and
7. Improve and maintain the quality of the environment.

Agrarian reform will not run as expected without the existence of synergy between various parties. Through the Ministry of Environment and Forestry seeks to accelerate social forestry that is not only about the management of social forests, but rather prepares institutional capacity and community capital in the management of social forests. This can be done in several steps, as follows:

1. Simplification of regulations;
2. Building multi-party communication by involving various competent parties;
3. Encouraging the emergence of a social forestry business model in the form of people's business credit (KUR) can be in the form of a Social Forestry Card

C. GOVERNMENT POLICIES REGARDING SOCIAL FORESTS FOR THE WELFARE OF THE PEOPLE FOR THE FUTURE

In the context of implementing agrarian and social forest reforms for forest village communities. To improve the welfare of farming communities living in forest areas, the Government in 2015-2019 allocated a forest area of 12.7 million ha to be used as social forestry. The program is expected to help absorb labor, reduce poverty and reduce disparities between regions.

Social forestry policy should continue to be socialized to the community so that the community also knows and is of course right on target. Another government policy is to strive for the ease of forest village communities and community groups who are legal subjects in agrarian reform to obtain permits for management and use of state forest areas with community plantation schemes, community forests, customary forests, and forestry partnerships.

Social forestry is one of the empowerment programs for forest village communities in managing forest areas. The empowerment program through social forestry is one of the Government's policies.¹⁰

In order to optimize the use of social forestry for forest village communities, the government immediately implemented a transformation in sustainable forest and land policies. The policy is in the form of regulations regarding forest and land. Management of social forests intended for forest village communities should be balanced with the

⁹ Results of the author's interview with one of the 1998 Agrarian Reform figures in Kendal Regency.

¹⁰ Sumanto, Slamet Edi. 2009. *Kebijakan Pengembangan Perhutanan Sosial Dalam Perspektif Resolusi Konflik. Jurnal Analisis Kebijakan Kehutanan*. Vol.6 No1. p 14.

protection of the forest itself. Forest protection must be aimed at efforts to prevent forest damage.¹¹

Government policies regarding social forest management cannot be separated from government policies to protect the ecosystems that exist in forests. For this reason, forest village communities need to be given understanding in maintaining forest functions and environmental sustainability. In the management of social forests, the same management of forests in general. In principle, the function of the forest must be protected in supporting the lives of humans and other living things around them. Forests function as protection of life support systems to regulate water systems, prevent flooding, control erosion, prevent seawater intrusion and maintain soil fertility and the diversity of plants and animals and their ecosystems.¹²

Therefore, in applying Government policy, it uses the principle of sustainability. It is not enough to give rights to forest village communities in managing forests, but also to supervise and provide an understanding of forest village communities on the importance of social forest management. The government also involves the Village Government in the implementation of Agrarian Reform and Social Forestry (RAPS) for forest village communities injustice.

V. CONCLUSION

From the description above, the writer can conclude that the agrarian reform that exists in Indonesia still needs to be carried out with a clear reconstruction regarding the regulation. So that both at the Central and Regional levels, especially in Kendal Regency, the community becomes well-informed about agrarian reform. So far, the implementation of agrarian reform has not been felt to benefit the forest village community, because there are still obstacles that occur in the field. Socialization and thought regarding agrarian reform is needed and clarity of land and land ownership and tax payments also affect the source of tax revenue from land and building tax or the United Nations.

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¹¹ Salim H.S. 1997. *Dasar-Dasar Hukum Kehutanan*. Sinar Grafika: Jakarta. p 99

¹² Compare Minister of Forestry Regulation No. P.50 / Menhut-II / 2009 Concerning Affirmation of Status and Function of Forest Areas.