



Agrarian Reform
Land Control, Governance
and
Agrarian Conflict in Indonesia

William L. Collier

Prof. Dr. Sajogyo (1970)

The issues of land control, governance and agrarian reform have been issues since Dr. Collier first arrived in Indonesia in 1968 when he was assisting the Agro Economic Survey under Professor Sajogyo at IPB who stated in 1970 the following on Land rights and family-farming



Prof. Dr. Sajogyo (1970)

In Indonesia common adat law local communities have control over land in each respective sphere of influence: in some, clan-ties are important (esp. in the outer islands) while in others the local village-unit is without a clan structure, as in Java. With or without an extended-family form (Java, in latter case) the nuclear family is normally the farming household in all cases.



Prof. Dr. Sajogyo (1970)

Control over land is exercised by a community for the well-being of its members or new in-migrants: a share of land use is easily obtained (after some formalities) for a plot in shifting cultivation only land which is free – not claimed by other members because already in use – is for distribution and re-distribution by the community-head or elders.



Twenty Five Years of Village Studies in Java (1968 – 1993)

The results of studies of more than 25 villages on Java shows that many changes have occurred in the period of 1968 – 1993.

In these villages there have been major social, economic, and infrastructure change that have contributed to substantial improvements in incomes and welfare in rural Java.

Massive numbers of villagers are migrating on a daily, monthly and yearly basis to the cities for factory and service jobs, to Sumatera for work on tree crop and sugar cane estates, to Saudi Arabia as servants, and to Malaysia as construction laborers and servants



Land Control in Indonesia

When reviewing land affairs in Indonesia, perhaps the most important issue is the dual system of land control in Indonesia: The Ministry of Forestry controls 70% of the land area and the remainder comes under the authority of the Ministry of Agrarian and Spatial Planning/National Land Agency (Badan Pertanahan Nasional) and even this authority is not inclusive because of the large areas of unregistered land held by government agencies and private individuals



Land Control in Indonesia

Complicating this situation is that within the Forest Estate (*Kawasan Hutan*) there are 41 million hectares of land that does not have a forest cover, there are 48 million people who live in or near the Forest Estate, there are 40,859 villages (*desa*) within or surrounding the Forest Estate (not including Kalimantan), yet only 14.2 million ha out of the 130 million ha that has been legally gazetted (*pengukuhan*), and the persons (indigenous people (*masyarakat hukum adat*) communities and others) living within the forest estate have no rights to their land without a district regulation.



Land Control in Indonesia

An area within the Kawasan Hutan of between 22.5 and 24.4 million ha is in conflict due to 19,420 desa in 32 provinces (not including DKI) desa that claim the land. Ex forest areas after logging (tebangan/LOA) that are not cultivated intensively amount to 42.26 million ha which is 32.1% of the total area of (kawasan hutan dan kawasan konservasi Perairan) of the total 136.8 million ha seluruh Indonesia adalah is Kawasan Hutan.



Desa in and Around the Forest Estate/Zone (Kawasan Hutan)

As stated by the Ministry of Forestry and the Central Statistics Bureau, “there were 38,565 desa (official villages) with activities in and surrounding the Forest Estate/Zone (Kawasan Hutan), though only 9,103 (23.6%) desa within the Forest Estate and 29,462 (76.4%) desa near or around the Forest Estate with the villagers carrying out activities within the Forest Estate.



Eighty Seven Percent of the Land in Central Kalimantan Controlled by Corporations

Central Kalimantan is rich in natural resources, which attracted corporations to seek licenses to exploit them. From the total size of Central Kalimantan, 12.7 million hectares (87 per cent) are controlled by corporations, especially those in the plantation, forestry, and mining sectors.



Oil and Gas, Palm Oil, Timber and Logging Concessions, 68 Percent of the Country

Mining concessions of all types already cover about 34 percent of the country. Coal mining concessions alone cover 21.25 million hectares, or about the size of the U.S. state of Kansas, according to government data. If you include oil and gas, palm oil, timber and logging concessions, it is 68 percent of the country.



Who Controls the Land of Indonesia

Who actually, in reality, controls the land of Indonesia? Is it the Forestry Ministry with 70%? Is it the National Land Agency with perhaps 30%. Is it the regional governments? Is it government institutions with unregistered land and buildings? Is it with corporations with large holdings? Is it individuals who have not registered their land nor have certificates nor have registered transfers of the land?



Agrarian Conflict

According to available data at the National Land Agency, in 2013 there were 4,652 land cases. A total of 2,859 of these cases were successfully completed, so that by the end of 2013, there were 1,793 cases remaining.

As was recorded for 2014 by KPA, "at least 472 agrarian conflicts have occurred throughout Indonesia with an area reaching 2,860,977.07 hectares. These conflicts involved at least 105,887 households (families).



Cabinet Secretariat's Review in English of the Perpres Number 86 of 2018 on Agrarian Reform

Considering that currently the government still needs to realize equal distribution of land tenure, ownership, use and utilization, on September 24, 2018, President Joko Widodo has signed a Presidential Regulation (Perpres) Number 86 Year 2018 concerning Agrarian Reform



According to this Perpres, the object of land redistribution includes:

- a. HGU and HGB land expired and not requested for extension and/or not requesting renewal of their rights within 1 (one) year after their rights expire;
- b. land obtained from the obligation of the HGU holder to submit at least 20% (twenty percent) of the HGU field that has changed to HGB due to changes in the allocation of spatial plans;
- c. land obtained from the obligation to provide at least 20% (twenty percent) of the total State Land granted to HGU holders in the process of granting, renewing, or renewing their rights;



According to this Perpres, the object of land redistribution includes: *(cont)*

- d. land derived from the release of state forest areas and / or changes in forest area boundaries established by the Minister of Environment and Forestry as sources of TORA includes: 1. Land in forest areas that have been released in accordance with laws and regulations become TORA; 2. Land in a forest area that has been controlled by the community and its control has been completed in accordance with the provisions of the legislation;



According to this Perpres, the object of land redistribution includes: *(cont)*

- e. State land formerly abandoned land that is utilized for the benefit of the community and the state through Agrarian Reform;
- f. land resulting from resolution of Agrarian Dispute and Conflict;
- g. ex-mining land outside the forest area; etc.



Agrarian Reform Subjects

Agrarian Reform subjects, according to this Presidential Regulation, consist of: a. individual; b. community groups with joint ownership rights; or c. legal entity.

For individuals must meet the following criteria: a. Indonesian citizen; b. lowest age 18 years or married; and c. residing in the area of the object of land redistribution or willing to live in the area of land redistribution.



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Whereas the work of such individuals includes: a. smallholders who have a land area of 0.25 ha or smaller and / or farmers who rent land with an area of not more than 2 ha; b. farmers who cultivate or work on their own land that is not theirs; c. land laborers who work on or cultivate other people's land with wages;



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d. honorary teachers who are not yet civil servants; e casual daily workers; f. private employees with income under Non-Taxable Income; g. The highest civil servants in class III / a who do not own land; and h. member of the TNI / Polri with the highest rank Lieutenant Dua / Inspector Dua or the equivalent.



This Author's Selection of Topics that were translated for this Paper in the Presidential Decree

Article 1

1. Agrarian Reform is a restructuring of the control structure, ownership, use, and utilization of land in order to be more equitable through Asset Management and Access Arrangement for the prosperity of the Indonesian people.
4. Land as the Object of Agrarian Reform (Tanah Objek Reforma Agraria), hereinafter abbreviated as TORA, is land that is controlled by the state and/ or land that has been owned by a community to be redistributed or legalized.
14. Use Rights (Hak Guna Usaha), hereinafter abbreviated as HGU is the rights to land as referred in the Law Number 5 of 1960 concerning the Basic Agrarian Law.
15. Rights to Build (Hak Guna Bangunan), hereinafter abbreviated as HGB is the rights to lands as referred in the Law Number 5 of 1960 concerning Basic Agrarian Law.



This Author's Selection of Topics that were translated for this Paper in the Presidential Decree (*cont*)

Article 2

Objective

The aims of Agrarian Reform are:

- a. Reduce inequality of land control and land ownership in order to create justice;
- b. Deal with agrarian disputes and conflicts;
- c. Creating control, ownership, use, and utilization of land;
- d. Creating jobs to reduce poverty;
- e. Improve public access to economic resources;
- f. Increase food security and sovereignty;
- g. Improve and maintain the quality of the environment.



Concluding Remarks

Hopefully, the presentation of the two papers on land control, governance and agrarian conflict in Indonesia provides a basis for the importance of this recent Presidential Regulation on Agrarian Reform. The issue now is the implementation of this decree and a future analysis if the decree covers all of the requirements for the implementation of agrarian reform. Does the Presidential Decree actually have an impact at the village level, especially in protecting the rights of indigenous peoples throughout Indonesia?



A scenic landscape featuring terraced rice fields in the foreground, a small wooden hut with a thatched roof on a hillside, and misty mountains in the background. The text "TERIMA KASIH" is overlaid in the center.

TERIMA KASIH