Law conflict handling of oil palm plantation by government that social justice

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Abstract. Plantation land conflicts become a serious problem in Indonesia, especially in Deli Serdang, North Sumatra, the Plantation Law has been established since 2004 and changes were made in 2014, but plantation land conflicts still occur today. The lack of economic levelling is the main factor so that the communities around the plantation work on government land as their land and residence. The aims of this research were to find how handling the law conflict of oil palm plantation in Deli Serdang North Sumatra and find the solution that given by government so the social justice was realized. This research used normative-juridical to people. The conclusion of this study were the number of plantation business conflicts in Deli Serdang illustrates that legal conflicts regarding the cultivation of plantation land have not shown clear consistency, especially the role and function of the government in handling plantation business conflicts to provide social justice for all people; the stipulation of the Plantation Law basically brought about fundamental changes in plantation management in Indonesia. In the substance of the Act, it has not comprehensively regulated the handling of plantation business conflicts. The Government's efforts to handle plantation business conflicts Litigation and Non Litigation.

1. Introduction

Deli Serdang Regency consists of 22 subdistricts, 14 villages, and 380 villages with an area of 2,241.68 km² and a population of around 1,791,677 inhabitants (2017). [1] One of the problems with the rapid development of the region in Deli Serdang Regency with its rapid population growth, is that the conflict over oil palm plantations has become an urgent problem in the discussion of the environment for future generations.

The plantation sector in almost every government regime occupies an important position for state income, as well as at present. This greatly influences and drives people's economy in the countryside, especially in absorbing labor.

In the formulation of Pancasila, the fifth item which reads "social justice for all Indonesian people", has become a source of various regulations governing the protection of legal rights to land in Indonesia. This social justice philosophy has also been operationally formulated in Article 33 paragraph (3) of the 1945 Constitution which reads "the earth and water and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people." a source of reference for regulating the legal protection of ownership of land rights for the purpose of welfare and prosperity of all people within the framework of the unitary state of the Republic of Indonesia. [2]

Land or agrarian land often raises a dynamic phenomenon when associated with the rise of oil palm plantations in Indonesia. Agrarian structures governed by positive state law often clash with customary law whose existence is also recognized by the state.
The majority of plantation conflicts in Indonesia are caused by the socio-economic gap between the plantation company and the community/planters who live in the vicinity. [3] Based on data from the Directorate General of Plantations, the Ministry of Agriculture, up to mid-2016 there have been 690 cases of plantation conflicts reported, with details of 494 land cases, 37 forestry cases, 159 non-land cases collected from 31 provinces. The data is an accumulation of reports from the Plantation Office in the province which routinely reports recapitulation of plantation conflict cases in the region. [4]

Conflict as a result of large-scale land acquisition projects by corporations, or what is popularly referred to by today's social movements as 'land-grabbing' [5], is actually hundreds of years old in East Sumatra - or North Sumatra today. The sporadic war of Sunggal or the Batak Oorlog in 1872 exploded because the acquisition of large-scale land was intensified by Nieunhuis and his friends, who expanded from Deli to Sunggal and Langkat. Excessively, in the 80s, Ann Laura Stoler, an anthropologist, described the heat of the flames of conflict in East Sumatra as: .. "[The age of justice] will come soon. And when it does, things will turn upside down. You watch out because it will touch Jakarta, Europe, and even the United States. No, it will not be confined to North Sumatra alone .. "[4]

Problems that often occur in the field are the release of ex-HGU land of PTPN II and PTPN III and prioritization of the subsequent granting of rights, is a form of problem that causes land conflicts both between cultivating communities, indigenous peoples (customary rights) with PTPN II, PTPN III or parties private sector, or involve other land mafia parties.

The PTPN II plantation land conflict was marked by the eruption of an agrarian conflict around the beginning of 2002, which until now has not been resolved. The government is considered slow in resolving the conflict. There are three classifications of the conflict, namely: First, the area of Cultivation Rights (HGU), the issuance of permits can be seen, instead, plantations operate within community areas. Second, Non-HGU land. Where the company manages the land outside the area of HGU issued. Finally, continued Amin, agrarian conflicts in North Sumatra were colored by unilateral evictions in the name of development. [5]

The exploded of various agrarian conflicts in North Sumatra is inseparable from the poor performance of the security forces, who are always without dialogue efforts, carrying out evictions and ultimately criminalizing farmers, such as events experienced by the farmer group in Padang Halaban-Labuhan Batu Utara, Sei Send-Deli Serdang, Padang Lawas, Daagang Karawang-Deli Serdang, Tanjung Jati-Langkat, Pulo Raja-Asahan, and Percut-Deli Serdang, and so on. The Agrarian Reform Consortium noted that there were 60 conflicts that erupted in Indonesia in the period from January to July 2012. If the KPA data were accurate, then North Sumatra "contributed" approximately 27 cases. [5]

The legal problems of the oil palm plantation land mentioned above can be said that there are a role and function of the state in managing plantations to realize the prosperity and welfare of the people in an equitable manner which currently cannot be realized. very strategic and can be used to make Indonesia a country that is just, prosperous and prosperous. This paper will analyze the handling of legal conflicts over oil palm plantations in Deli Serdang as a form of State efforts to provide legal certainty and guarantees to the community.

2. Methods
 Juridical-normative research was used in this research which means through a legislative approach that was conducted by examining all relevant laws and regulations related to the handling of legal conflicts over oil palm plantations in Deli Serdang, North Sumatra.

3. Results and discussion

3.1. Handling of plantation land legal conflict
 The plantation was one of the natural resources that support the economy in the country of Indonesia so that its management must be carried out as optimally as possible in an efficient, transparent, sustainable and environmentally friendly manner in order to obtain the maximum benefit for the prosperity of the people with a spirit of social justice.
Opening of the 1945 Constitution, paragraph IV, which mentions the Government of Indonesia, which protected the entire Indonesian nation and all Indonesian blood. Aware of the large contribution of the plantation subsector to Indonesia's economic and agricultural development, and to carry out the mandate of the Pancasila and Article 33 of the 1945 Constitution of the Republic of Indonesia, the government established Law RI No. 18/2004 concerning Plantations on 11 August 2004. The establishment of the Plantation Law brought about fundamental changes in plantation management in Indonesia. This is because before the Plantation Act was enacted and enacted, the plantation policy was regulated in Law No. 12/1992 concerning the Plant Cultivation System (Plant Cultivation System Law), including implementing regulations of the Act in question. Because the Plant Cultivation System Law and its implementing regulations mentioned above have not fully accommodated the plantations and the development of science and technology in the plantation sector, the policy on plantations needs to be regulated with separate policies. [6]

Conflict of plantation land law in Deli Serdang in principle cannot be separated from the absence of clear regulations governing the mechanism as well as establishing customary law communities related to plantation land. The Government of Indonesia in handling plantation business conflicts continues to be based on existing laws and regulations. However, when referring to the new order, efforts to deal with plantation conflicts are more directed at handling military and repressive nature. The Reformation era brought at least a breath of fresh air in terms of regulation of plantations. However, up to RI Law No. 18 of 2004 amended by RI Law No. 39 of 2014 concerning Plantations, arrangements regarding the handling of plantation business conflicts and the resolution of land disputes have also not been regulated. As a neutral party, the government needed an effective strategy to reduce, handle and reconcile plantation business conflicts. In the Plantation Law itself, there is no clear mechanism regarding the government's steps when there was a conflict in the plantation business. However, if we refer to Law No. 7/2012 regarding the Handling of Social Conflicts there were stages in the actions of the government in dealing with social conflicts. Starting from conflict prevention, cessation of conflict, and post-conflict recovery. [7]

In this perspective, good law should offer something better than mere procedural justice. Rosacea Pound said "law as a tool of social engineering" or commonly referred to as law as an engineering tool, was a form of an effort to deal with conflicts over plantation land in the community. This can be done by the government by providing a sense of social justice and legal certainty. The parameters to achieve these objectives could be carried out with legal instruments as a tool through enforcement or law enforcement in accordance with the stages of development faced by the community and the state.

Handling plantation conflicts using non-litigation methods should be emphasized more than litigation / court methods. Deliberation to reach consensus was very much in accordance with the character of Indonesian society that is familial. However, the state should not only act as a mediator. Indeed, at first the normative state must be neutral, but that is not enough, because in the ideals of the law a state's responsibility to prosper its people. So with this view, social justice must be pursued by the state as a manifestation of the mandate set forth in the constitution of the Indonesian state. [8]

The issue of "Land and Agriculture" in a broader context enters a new phase in the case of demands for service acceleration to meet public expectations. Beginning in 2016, President Joko Widodo seriously asked the Minister of Agrarian Affairs and Spatial Planning / National Land Agency (Ministry of ATR / BPN) to immediately speed up the process of land registration in Indonesia. This was reiterated in the XII economic policy package announced on 28 April 2016, one of which was for the Minister of Agrarian to accelerate, shorten and simplify the path and administration system of land registration. [9]

4. Conclusions and recommendations
Handling legal conflicts over oil palm plantations are crucial for the comprehensive resolution of what is the background and zoning of the conflict problem. Furthermore, the role and function of the government in overcoming these problems is expected to be the best solution to support the management of plantations in Indonesia. The resolution of the conflict is not only in the mere enforcement of law through a penal effort but rather prioritizes non-penal conflict resolution.
This research suggests that the Deli Serdang Regency Government conducts policy reforms in the management of plantation businesses, specifically related to the handling of plantation conflicts. These concrete steps can be taken with strategic steps in preventing, stopping conflicts by promoting law enforcement, as well as post-conflict rehabilitation efforts for victims who promote social justice for all Indonesian people.

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