

特別研修

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報告題名 Land Conflict in the State Owned Plantation in Indonesia: A Case Study on the Perkebunan Nusantara II in Deli Serdang District, North Sumatra	
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座長 神浦	議事録担当者 八木
出席者 長谷部、木谷、安江、小山田、両角、米倉、冬木、伊藤、石井、菅井、鹿嶋、水澤、韓、スチン、八木、宮本、カルナ、マヌルン、安部、神浦、佐々木、福田、水木、宮里、渡邊、山口、林、王、北村、堀、滝田、威、易、中村、泉井、金、覃、小原、片山、佐々木、佐藤、澤田、柴田、千葉、八鍬	
報告要旨 <p>This paper studies land conflicts between peasants and state owned estate company in the area of the Perkebunan Nusantara II. There are two objectives in this research. First, to investigate the causes of land conflicts in PTPN II. Secondly, to investigate the reasons and background why land conflicts still occur until Reform era, with special focuses on: inconsistency between Basic Agrarian Law and Customary laws on land, ineffective land policies issued by government from Colonial Era until Reform Era, and the lack or vulnerability of institutional capacity mainly on the BPN (Land Management Agency).</p> <p>This paper reports social conditions related to land conflicts in Indonesia. This study used three kind of studies, namely: First, chronological study, to describe land conflict situation started covering the Colonial Era, Soekarno Era (Old Order Era), Soeharto Era (New Order Era) and finally Reform Era; Second, comparative study, by comparing land conflicts which occurred in other part of Indonesia like peasants movement against Perkebunan Nusantara XII in Kalibakar, South Malang and Tapos and Cimacan case in West Java; Third, by analyzing the inconsistency of policies between Central Government and Local Government because of legal pluralism. For data collection, this study used multiple sources of evidence, namely: published books, government documents, scientific journals, national and local newspaper, interviews with government officials in National Land Agency of North Sumatra Province and other administration units, and former member of governmental special team on land conflicts was also interviewed in the field survey.</p> <p>Based on this research, major causes of land conflicts in PTPN II were identified. First, written evidences issued by several special teams of government became the window for peasants to claim and to occupy the PTPN II area, second, group of indigenous peasants authorize their claims by the consession rights given by Deli Sultanate (to Dutch Planters). In conclusion, there are too many ineffective land policies caused by legal pluralism and lack of recognition on customary rights.</p>	

質疑・応答

八木: In the slide of policy implication, you write “national land agency must have a strong institution and sufficient management capacity”, and “the role of government should be just mediator not the decision maker.”. So, because of my poor English, I would like to ask what is the difference between the role of local government and national land agency?

Manurung: “National land agency must have a strong institution and sufficient management capacity”, actually, maybe it’s impossible for the national land agency to become a strong institution. The intervention of other institutions may effect the decision of National Land Agency.

For example, in my area, governor of North Sumatra can invite BPN for meeting and ask BPN to do this or to do that.

In the future, I hope that national land agency could be improved and land problems become gradually improved.”

In Indonesia, there are two government. First is Central Government and the second is Local Government. The role of BPN as one of the central government institution is to manage all land matters in Indonesia. But since there are many land problems in local area, BPN has to cooperate with local government to find the best resolution.

長谷部: In the chapter 6, you mention about the property rights theory, but I can’t understand what useful to analyze about your case by this theory? Please explain about the theory of property rights and how to use this theory to analyze your case.

Manurung: Why do I use the property rights theory? Land is one of our property rights, so it has some values for the people. Property rights related with communal ownership and state ownership. Communal Ownership means the group of people who can cultivate the land and state can not intervene the land. And there are also state ownership, “state may exclude anyone from the use of a right”, So it means state can exclude the use of rights including communal ownership rights. In this research, there are communal ownership such as customary groups and state ownership of PTPN II.

People need the land to fulfill their needs, but in the other side, government needs the land for investment, so sometimes, government neglect communal/customary rights. In my opinion, state security is important but the most important is the human security. It means how state can provide people’s need and reducing poverty.

長谷部: It’s better to explain by chairman by Japanese.

米倉:OK, only half of chair man I am. 要するに、State ownership とか、Communal ownership とか、いろいろなタイプの ownership がある訳だが、それらがオーバーラップしている。これが、リーガルプロラリズムという名前で、今日、世界中で問題になっていて、特に途上国では処理が出来てない。それを認識する為の提示が、Chapter6 の Property rights theory。問題について彼は、PTPNII に焦点を絞って、政府が認定した 5,000ha くらいの土地で、起こっていることについて幾つかのケースを述べている。個人からクレームが来たり、歴史的な背景から Communal な Ownership があるとプレッシャーをかける人がいたり、農園の従業員が定年後の土地を求めたり、地方政府も公共施設の為に使えるようにしようとしていたりする(一部が、北スマトラ大学として使われている)。

Land Agency に、この問題を解ける訳が無いと彼にも言ったのだが、かといって、リーガルプロラリズムのような多元的な問題が直ちに解決される訳でもない。そういった意味で、これらの問題の解決の糸口は見えていないのだが、とにかく、問題の状況とその原因を良く把握すること。特に、歴史的な背景や慣習的ルールのようなものがどう張り付いているか確認すれば、政策的インプリケーションのようなものが、描けるのでないか。今回のプレゼンテーションでは、政策的インプリケーションについては、明白に失敗している。それは仕方ないので、今後も議論していきたい。

Manalo: In the table of 4.1, the total land area is the 4,423.5 ha. But, you write PTPN II wants compensation 5,873ha. So, what happened in here?

Manurung: Actually the total area of 5,873 ha is for the three area namely: Deli Serdang, Binjai and Langkat. The 4,423,5 ha is for Deli Serdang only.

米倉:I have one question, about the role of BPN, particularly in future. So, how do you think BPN should flog the people or flog the state in your view point as the official of BPN?

Manurung: As the student, I learned human security program, so in my point of view, I think government should put the human security above the state security. Although people don't have any written evidences to prove their land ownership but people need the land to fulfill their needs. I do hope in the future, National Land Agency will put the human security as their priority in implementing land policy.

伊藤: I think this is the very difficult problem, land conflict. So, do you know the good case to settle the land conflict?

Manurung: Unfortunately, until today, there is no success case in Indonesia. This is the problem.