

## CHAPTER IV

### FINDING AND ANALYSIS

#### **A. The Overview on OKU Timur Regency, PT Laju Perdana Indah and Sugarcane Plantation Conflict in OKU Timur, South Sumatra.**

##### **1. Ogan Komering Ulu (OKU) Timur Regency**

Ogan Komering Ulu (OKU) Timur Regency was previously part of Ogan Komering Ulu Regency, South Sumatra. Then, through Law No. 32 year 2004 on Government Regulation No. 25 year 2000 on the Authority of the Province as an autonomous region, OKU Timur Regency was expanded into an autonomous district. OKU Timur is one of the regencies in Sumatera Selatan which has the boundaries as follows:<sup>34</sup>

- a. The north side of OKU Timur Regency is contiguous to Ogan Komering Regency
- b. The south side of OKU Timur Regency is contiguous to Ogan Ulu Selatan Regency and Way Kanan Regency (Lampung Province)
- c. The west side of OKU Timur Regency is contiguous to Ogan Komering Ulu Regency and
- d. The east side of OKU Regency is contiguous to Ogan Komering Ilir Regency

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<sup>34</sup>The Official Website of OKU Timur Regency, 2015, "Letak dan Luas Wilayah", <http://www.okutimurkab.go.id/letak-dan-luas-wilayah> accessed on Sunday, March 15<sup>th</sup>, 2018 at 11.10 pm.

Total area of OKU Timur Regency is 3,370 km<sup>2</sup> and its capital is Martapura. OKU Timur Regency covers 20 sub-districts, 9 villages and 325 counties. Of all these areas, the largest area is in Belitang area of 354.50 km<sup>2</sup> or 10.52% of the total area of OKU Timur Regency. Meanwhile, the narrowest area is Belitang Mulya sub-district of 45.97 km<sup>2</sup> or 1.36% of the total area of OKU Timur Regency.<sup>35</sup>

In general, OKU Timur Regency is a lowland with an average height of +45m above sea level, and lies at 103°40'-104°33 'East longitude, and 3°45' and 4°55' South latitude. Therefore, the state of land in the district can be classified into pen plain zone, piedmont zone and hilly zone.<sup>36</sup> Based on the condition of the region, the population of OKU Timur Regency were recorded 656,568 people with the largest population in Buay Madang Timur sub-district which is about 57.532 people. Meanwhile, the lowest population is in Buay Pemuka Bangsa Raja sub-district which has 11,899 people with density 194,82 km<sup>2</sup>.<sup>37</sup>

The amounts of rainfall intensity in OKU Timur Regency in 2015 were 221.5 mm<sup>3</sup>. The intensity of rain occurred in November - May. January is a month that has a high rainfall intensity of 397.4 with rainy days for 29 days. The conditions of high rainfall caused a lot of floods and rice fields that are inundated in OKU Timur

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<sup>35</sup> Badan Pusat Statistik, 2017, *Kabupaten Ogan Komering Ulu Timur dalam Angka*, Badan Pusat Statistik of OKU Timur, hal. 6

<sup>36</sup> The Official Website of OKU Timur Regency, 2015, "Topografi", <http://www.okutimurkab.go.id/topografi> accessed on Sunday, March 25<sup>th</sup>, 2018 at 10 pm.

<sup>37</sup> *Ibid* p. 40

Regency. In contrast, the dry season occurs from June-October and the driest month occurs in September–October with the frequent drought in some areas and small irrigation water discharge for drainage of rice fields.<sup>38</sup>

There are various customs and tribes in OKU Timur Regency such as Javanese, Komerling, Balinese, Sundanese, Batakese, etc.. The original tribe of OKU Timur was the Komerling tribe but a lot of transmigration communities made a variety of customs and tribes in OKU timur Regency. Nevertheless, Komerling's original culture is still sustainable in the midst of other supporting societies. The people migrated to OKU Timur Regency because they see the potential of fertile soil for agricultural land, so that the majority of people work as farmers.

Although OKU Timur is known as the *Lumbung Padi Nasional*, however the potential of the regions in OKU Timur Regency can be classified into: plantations, food crops, horticulture, livestock and fisheries, forestry, mining, industry, trade and tourism. Plantation is the second largest sector after food crops as the mainstream due to land area and production for various plantation commodities such as rubber, coconut, palm oil, coffee, cocoa, pepper etc. There is also a sugar cane plantation that produces sugar to be circulated throughout Indonesia under the name of PG Komerling produced by PT LPI.

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<sup>38</sup> Badan Pusat Statistik , Op.cit

The cultivation of food crops other than rice fields in this regency are cassava, sweet potato, corn, peanuts, green beans and soybeans, vegetables, fruits, candlenuts, and palm sugar. For other foodstuffs that are sugar produced by PT LPI located in Semendawai Barat Regency. In addition to producing sugar, PT LPI also has its own sugarcane plantation for the sugar production that they managed by themselves.

Due to the fairly high unemployment rate in OKU Timur regency, the existence of PT LPI is a bit helpful because they give priority to employees from OKU Timur area, so it can reduce unemployment rate and also invest high for development in OKU Timur Regency itself. The investment has advanced the economy of the people in the plantation sector and marketing of Sugar.

## **2. PT Laju Perdana Indah (LPI)**

PT Laju Perdana Indah (LPI) is a legal limited liability company covering several areas such as Semendawai Barat Village, Semendawai Timur, Cempaka and Mulya Jaya sub-district of OKU Timur, Sumatera Selatan with land status of *Hak Guna Usaha* Certificate (HGU) year 2002. This company is a big company producing sugar (Indosugar).

PT LPI is an affiliated company which is in 2008 60% share of the company was purchased by PT Indofood *Sukses Makmur* to

diversify agribusiness in sugarcane plantation and crystal sugar production. In line with the increasing demand of sugar in the domestic and international markets, the plantations and sugar mills are invested for the development of the OKU Timur region itself as well as for providing employment, especially to those who live in OKU Timur and other regions.

Sugarcane plantations in OKU Timur had been started in 1998 and PT LPI is the one which produces a sugar at that time. The results of raw materials for the manufacture of sugar at the time was sent to both sugar factories that are *Cinta Manis* and *Gunung Madu*. To produce sugar, PT LPI has a plant that located inside the plantation and the factory was completed and operated in 2011 named PG (*Pabrik Gula*) Komereng.

In carrying out the operational activities, PT LPI has obtained the following licenses and approvals from the government, they are:

- a. Capital Investment Approval Letter/Principle Approval from Ministry of the State Investment Funds/Ketun of Capital Investment Coordinating Board No. 427/I/PMDN/1993, on December 1<sup>st</sup>, 1993
- b. Location Permit No. 460/3036/26, on August 23<sup>rd</sup>, 1994
- c. Location Permit No. 005/SK.ILP/1995, on September 22<sup>nd</sup>, 1995
- d. Location Permit No. 002/SK.ILP/1997, on April 25<sup>th</sup>, 1997

- e. Head of National Land Agency Decree No. 2/HGU/BPN/2002 about Cultivation Right Title (HGU), on January 21<sup>st</sup>, 2001
- f. Cultivation Right Title (HGU) Certificate No. 3 with an area of 21,502 acres, on February 8<sup>th</sup>, 2002

In the early operation, PG Komerling was managed total area of 21,502 acres; 1,250 acres of unproductive crops, 8,000 producing plants and 10,000 acres for new nurseries. In the initial stage, sugar distribution is only focused on Sumatera South region only. However, after the sugar needs in Sumatra Selatan are met, then the sugar is delivered to another province in Indonesia.<sup>39</sup>

There are quite a lot of manpower or human resources who work for PT LPI; they are divided into several divisions, including: factory, plantation, community development, administration, finance & accounting division. In order to increase the production of sugar, PT LPI expands the yield of sugar cane and this becomes the duty and responsibility of the agricultural division.

During its opertinal, there have been so many conflicts happened. The resources of the conflicts are;

- a. Licensing Process for Sugarcane Plantation

PT LPI plans of land plantation and sugar mills have fulfilled the licensing procedure, the stages are:

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<sup>39</sup> Evan Hendra, 2011, "Pabrik Gula Komerling Segera Beroperasi", <http://www.okutimurkab.go.id/pabrik-gula-komerling-segera-beroperasi.html> accessed on Tuesday, February 20<sup>th</sup>, 2018 at 1.50 am.

- 1) On December 3<sup>rd</sup>, 1992 PT LPI submitted a Recommendation to the Regent of OKU for sugarcane plantations
- 2) On August 11<sup>th</sup> - 13<sup>th</sup>, 1994 a field review was conducted by the Province land team and the Regent land team
- 3) On August 23<sup>rd</sup>, 1994 Location Permit No. 460/3036/26 was published for sugarcane plantations and sugar mills
- 4) On September 22<sup>nd</sup>, 1995 the Renewal of Location Permit No. 005/SK.ILP/1995 was published (the Renewal of Location Permit I)
- 5) On April 25, 1997 the Renewal of Location Permit No. 002/SK.ILP/1997 (the Renewal of Location Permit II)
- 6) On October 26, 1998 is an application of Cultivation Right Title (HGU) certificate was submitted by *PT Laju Perdana Indah* No. 027/PDn/J/EP/98 to Ministry of Agrarian Affairs / The Head of National Land Agency through the Head of Regional Office of National Land Agency in Sumatera Selatan Province
- 7) On January 21<sup>st</sup>, 2001 National Land Agency Decree No.2/HGU/BPN/2002 about Cultivation Right Title (HGU) was published.
- 8) The OKU Regency Land Office published the Cultivation Right Title (HGU) certificate No. 3 on February 8, 2002 with

a land area of 21,502 acres in accordance with Field Map No. 1 and 2 year 2001 on behalf of *PT Laju Perdana Indah*.

b. Supervision and Development

There are some issues in the supervision and coaching for the plantation and processing stages, they are:

- 1) In every process of sugarcane cultivation and processing of the results to become the sugar must follow the rules and the applicable provisions.
- 2) The Company is required to provide periodic reports in accordance with applicable regulations.
- 3) All activities in the field are under the supervision and guidance from the relevant authorities in the plantation sector and other agencies in accordance with their respective authorities.

c. Meanwhile at the construction stage, PT LPI has taken several things:

- 1) In the construction stage it had been carried out after the feasibility study states that it is feasible for processing activities technically, environmentally, economically, socially and in accordance with the prevailing laws and regulations.
- 2) Construction includes factories, roads, power plants, employee settlements, water requirements and other means for supporting industrial activities.



- 3) In construction, PT LPI used the local resources (contractors, materials, labor, etc.).

For the licensing procedure, PT LPI has fulfilled all the permits in accordance with the applicable legislation in Indonesia at that time i.e. Government Regulation No. 40 year 1996 about Cultivation Right Title (HGU), Building Use Title and Right to Use Title. In terms of practices from planting to harvesting, it has not met the points in the HGU because of the PT LPI itself managed a vast land in a gradual manner. However, it needs to be socialized to all stakeholders related to sugar cane plantations and sugar production, especially stakeholders in the regions and communities that will be directly affected by such activities.

For licensing itself it needs an update or renewal every 5 years. For the temporary certificate of Cultivation Right Title (HGU) valid for 25 years. In the case of its own supervision from the Land Agency of OKU Timur Regency and the Government Team (Muspida) formed by the Head of National Land Agency to conduct monitoring and evaluation in accordance with Article 14 paragraph (2) on the Regulation of the Minister of Agrarian Affairs and Spatial/Head of National Government Agency No. 5 year 2015 about Location Permit. Although PT LPI itself is privately owned, but the Local Government and relevant stakeholders are still involved in supervision and coaching.

### **3. The Description of Land Procurement Conflict for Sugarcane Plantation Conflict in OKU Timur Regency**

The conflicts between PT LPI and the community were due to the land procurement for sugarcane plantations and sugar mills based on the Cultivation Right Title (HGU) Certificate. It became a matter of land tenure and the amount of compensation provided by PT LPI. According to the Basic Agrarian Law No. 5 year 1960 on The Basic Provisions concerning the Fundamentals of Agrarian Affairs (BAL) the Cultivation Right Title (HGU) is to cultivate land controlled by the State, within the period referred to in article 29, for agricultural, fishery or livestock enterprises.<sup>40</sup>

Regarding the planning of sugarcane plantations, it is expanded its area of land based on Cultivation Right Title (HGU) certificate that has been published increasingly caused unrest for the community at that time. A number of communities from Semendawai Barat sub-district have planned their crops and thus they rejected the expansion of sugar cane plantations and plant builders in the region because they feel that the land belong to them from one generation to the next generation.

There are many obstacles in the expansion of the sugarcane plantation because it leads the land dispute with the community. The area of HGU which owned by PT LPI are covering 21,502 acres, there

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<sup>40</sup> Article 18 paragraph (1) in the Basic Agrarian Law No. 5 year 1960 on The Basic Provisions concerning the Fundamentals Agrarian Affairs

are still about 600 acres of land in dispute with the community. Although the decision of the Supreme Court has won PT LPI on the land with strong evidence of their HGU certificate, but in terms of execution, PT LPI get resistance from the people who have the right to own the land with the evidence of *Surat Pancung*.

After experiencing the conflict which is caused the complicated dispute, PT LPI itself socialized the sugarcane expansion plan based on the land area specified in HGU Certificate. The process of socialization is hampered by strong opposition and resistance from local residents and Non-Governmental Organization (NGO) who joined in the community.

Even though, the HGU Certificate No. 3 has been published since February 8, 2002 on behalf of PT LPI with a land area of 21,502 acres, the first clash was occurred in 2007, when PT LPI wanted to harvest the result of their cane. The community assumed if their land that have been planted by palm and rubber was also caught on fire.

In the case of socialization about HGU land for sugarcane plantation and sugar mills by PT LPI has several ways that have been conducted, such as: direct socialization to the communities, socialization by some figures of the community and socialization by the local government as well as by DPRD of OKU Timur Regency. However, the direct socialization to the community was hampered because it got opposition and strong resistance from the community.

The peak of the trouble occurred on July 1, 2007 where thousands of people ( $\pm$  1,500 peoples) burned and looted PT LPI causing severe damage in the office and residential areas of employees, the destruction of heavy equipment and sugarcane plantations burned by the community. This case continues even though the Supreme Court has decided that the PT LPI won this dispute with their strong evidence that is HGU certificate that has been published since 2002.

Although, the local government has explained to the society about the land which has become the right of PT LPI to be managed and assisted in finding the compensation in solution commensurate with the consideration of the conditions of land that they have managed. PT LPI, the local government and the stakeholders who related with this case as well as some figures of the communities Semendawai Barat, Semendawai Timur, Cempaka and Mulya Jaya had held mediation and decided the amount of compensation for the Linang community - the original community of Semendawai Barat, at least 10 million for 54 families and work placement in PT LPI under the applicable terms and conditions also they will get 1 hectare of land from the company based on the losses on the land they have been managing so far. The result of the mediation, however, was rejected by the community on the grounds that the people felt that the

compensation did not cover their losses and the pressure from some parties/thugs there.

#### 4.1 Conflict between PT LPI and The Communities which occurred on January 4, 2018



Source: Polsek Cempaka

The conflict continues until now and has not been settled down even though the decision of the Supreme Court has given the right to PT LPI. However, in case of the execution the communities continue to block in various ways to clash or blockade the PT LPI when they will open the land for sugarcane breeding from 2007 till early 2018. For every new land opening will get a tight escort from the security always fielded his members for security, as people who are also ready to attack if they feel that the land they have been managing will be taken over by PT LPI.

Opposition and rejection from the community has been last for 11 years. The efforts of PT LPI to continue to plant sugarcane and produce sugar with PG Komerling in South Sumatra is still having

resistances from the local people. The company faces every risk with strong power from the police because they feel that they have legitimacy and recognition evidence from the state.

**a. The Anatomy of Land Dispute between PT LPI and Community**

According to the explanation above, here are the descriptions that explain the results of analysis as the causing factors of the conflict in the land procurement for sugarcane plantations in OKU Timur Regency.

*First*, the conflict is rooted in land or agrarian issues. The status of land tenure which is according to the local community is clear that they have planted rubber plantations and palm oil since decades ago and have been their own since their ancestor as proven by *Surat Pancung*. On the other hand, PT LPI claims that the land is a land that written in HGU certificate then it has been approved by the government for the PT LPI to be managed.

The issue of Freehold Title has been owned by PT LPI with a land area of 21,502 acres under the HGU certificate for 25 years. The land is a forest owned by the state property and the communities are not entitled to claim the land for private property. As it is known that PT LPI has fulfilled all licensing procedures and approval from the government to manage the land.

In the process of land acquisition at that time, PT LPI had fulfilled the provisions that have been ruled under the Minister of Home Affairs Regulation No. 5 year 1974 about Provisions on the Provision and Granting of Land for the Company's Needs and the Decree of Ministry of Agrarian Affairs / Head of National Land Agency No. 21 year 1994 on the Procedure of Land Acquisition for the Company in the framework of Investment.

*Second*, the existence of irresponsible parties has made the situation worse because the people are not willing to give their land and reluctant to receive the compensation. Although the government has been willing to be a facilitator to resolve the disputes but the community assume that the government does not think about the social aspects of providing land to be managed by PT LPI. As already known, to issue the Location Permit up to the HGU Certificate, the government have to conduct the research and consider many things to publish HGU certificate.

Regarding the land disputes, PT LPI has complied the elements that have been regulated and complied with the rights and obligations under the Cultivation Rights Titles (HGU) set forth in Articles 28-34 of UUPA No.5 year 1960 about Basic Regulation of Basic Agrarian Principles and Location Permit that is regulated in the Regulation of the Minister of Agrarian Affairs

and Spatial/Head of National Land Agency No. 5 year 2015 about Location Permit.

*Third*, PT LPI is a private company so that the determination of compensation is obtained from the deliberation between communities with PT LPI itself and calculation based on buildings, plants and other objects related to the land. The forms of compensation may be in the form of money, replacement land and resettlement.<sup>41</sup>

For this purpose, PT LPI has mediated with the communities and stakeholders about the amount or value of the compensation by considering the existing land. Since the land is owned by the State which is not owned by an individual, the nominal amount of compensation that has been determined is sufficient for land acquisition and the community also cannot claim the legal ownership of the land since the land belongs to PT LPI based on the published HGU Letter by the government.

The conflict that was originally only between community and PT LPI, eventually emerged as an open conflict and even lead to violent conflict. This complicated issue makes the people who did not have enough understanding upon the issue will assume that they are not getting justice. The society assumed that their land as their source of life will be taken away in an unjust way.

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<sup>41</sup> Urip Santoso, 2010, "Pelepasan Hak atas Tanah untuk Kepentingan Perusahaan Swasta", Vol. XV No. 3, *Perspektif*, Fakultas Hukum Universitas Airlangga, Surabaya, p. 10



Even though they do not actually have legal rights over land, they have been organizing and living there for many years. In this regard, Dom Helder Camara argues that the injustice and economic inequality are the main sources of violence.<sup>42</sup>

#### **b. The Parties that involved in the Conflict**

In land disputes on land procurement for sugarcane plantations and sugar mills, there are several parties directly involved, they are:

##### **1) Local Government of OKU Timur Regency**

From the beginning, the government is very concerned to pass the private sector to invest in this plantation and sugar factory project. Although, initially the district government only continued licensing from the central government, but this conflict was occurred in the region and communities of OKU Timur Regency. It is appropriate for local governments and relevant stakeholders to intervene directly in the settlement of land disputes.

The local government has established the Government Team to handle this case and supervise also facilitates the mediation in settling the land disputes between PT LPI and the communities of Semendawai Timur. The team has also

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<sup>42</sup> Lambang Triyono, 2000, *Kata Pengantar dalam Dom Helder Camara*, Spiral Kekerasan, Yogyakarta, Pustaka Pelajar, p. xi - xiii

conducted direct socialization with the community or influential figures of the community and help in determining the amount of the compensation for people whose land is included in the HGU.

## 2) **PT Laju Perdana Indah (LPI)**

Based on the HGU certificate owned by PT LPI with the land area of the width 21,502 acres, the company was granted a management license for 25 years. As many as 60% of PT LPI shares are owned by PT Indofood *Sukses Makmur* in diversifying agribusiness in sugarcane plantation and crystal sugar production to fulfill sugar demand in Indonesia.

They also claimed that in addition to investing in the fulfillment of sugar demand in Indonesia, PT LPI also created jobs for the OKU Timur community as well as for other people from other regions as a movement in reducing the high unemployment rate both in OKU Timur and other regions. In this case, PT LPI will continue to develop their production of sugarcane.

Although the land is under a complicated dispute, PT LPI itself will not cease to manage the land since they have legal rights from the government upon the land. PT LPI also does not arbitrarily take over land that has been managed by

the local community and the government of OKU Timur. The compensation given by PT LPI are equivalent and employment for those whose livelihoods have been lost because of the use of land in the HGU.

### **3) The Communities of Semendawai Barat, Semendawai Timur, Cempaka and Mulya Jaya**

Since the beginning of the socialization process, the communities who initially refused to release their land is slowly began to realize that they did not have legal rights to the land because the land belongs to the State. Meanwhile, the community who still refuse to give the land continues to insist that the land is their property and they demand high compensation even though they do not have a strong evidence for the land ownership.

#### **c. The Underlying Issues that Caused in The Conflict**

##### **1. The Land Freehold Status**

With regard to the freehold status land, the communities claimed that 45% of the total dispute land area belongs to the community and they have acquired the land for many years with some of the letters have been issued by the local sub-district head. Haryanto, one of the community leader said,

"The company wants to settle legally, so we will respect. Why does the company settle it now? If we do not act like this, maybe the company just strolled. Let's open documents and history".<sup>43</sup>

## **2. The Lost of Livelihood of the Farmers**

The farming of rubber, palm and vegetables by the residents using the land is their livelihood. The communities have survived only on the produce of these farms for generations since their ancestors in processing rubber and palm oil plantations.

## **3. The Amount of Indemnification Problem**

The communities are questioned the amount of compensation that is considered inappropriate with the land that has been planted with rubber and palm oil and other crops and homes that they have lived since their ancient time. Because of the lack of compensation they will receive, the community will not give the land they have claimed.

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<sup>43</sup> Har, 2016, Pena Sumatera, "Perkebunan Tebu, di Demo Warga" <https://penasumatera.co.id/perkebunan-tebu-di-demo-warga/> accessed on Monday, March 26th, 2018 at 1.55 pm.

## **B. The Roles of the Local Government in the Dispute Settlement of Land Procurement for Sugarcane Plantation in OKU Timur Regency**

Land is the main source of life and has a great role in terms of development as stipulated in the 1945 Constitution which states that "The land, waters and natural wealth contained within them are controlled by the State and shall be utilized to increase the prosperity of the People". Therefore, the State is responsible for land development in Indonesia.

The land dispute is a common issue. Conflict as a result of the transfer of rights over land may occur against the lands which originally were ruled according to customary law and then converted according to Basic Agrarian Law (BAL).<sup>44</sup> There are various ways to resolve the dispute, namely litigation process that is deemed incapable of resolving the dispute, resulting in non-litigation process (outside of the court) such as mediation to minimize disputes that are full of interests, both for the public and the communities. In the context of land cases for living, residence, cultivation and all kinds of business for survival is the authority of the government in protecting the people.<sup>45</sup>

In the terms of acceptance and rejection by the public due to the points of view, advantages and disadvantages for the communities. Those people who contra in the land disputes will suffer losses such as loss of work, arable land and compensation. Meanwhile, those people who pro

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<sup>44</sup> I Made Suwitra, 2010, "Dampak Konversi dalam UUPA Terhadap Status Tanah Adat di Bali", Vol. 17 No. 1, *Jurnal Hukum*, p.116.

<sup>45</sup> Reni Rosmitasari, Rina Martini, Puji Astuti, 2013, "Peran Pemerintah Daerah dalam Penyelesaian Sengketa Tanah di Lahan Pasific Mall Kota Tegal", Vol. 2 No. 4, *Portal Garuda*, Fakultas Ilmu Pemerintahan Universitas Diponegoro, Semarang, p. 3

will receive compensation Rp 10.000.000 in each family get employment to become employees in exchange for their work as farmers and will get 1 hectare of land.

In resolving the conflict, OKU Timur Government is obliged to solve the problem because basically plantation and sugar production by PT LPI is a local government program. Therefore, the government must solve the problem or make a resolution to the conflict. The strategy of OKU Timur Government, the Government Team and the stakeholders who related in this land conflict in resolving the dispute are to mediate and determine the amount of the compensation for the community and to socialize about the status of the land and provide legal advice on the problems.

### **1. In Mediation**

In the activities of sugarcane plantations and sugar mills conducted by PT LPI with the width 21,502 acres of HGU land are temporary because the land is a state property. PT LPI itself is given 25 years to manage it based on the Certificate of HGU No. 3 of 2002 issued by the Land Office of OKU Timur Regency. Nevertheless, there are still about 322 hectares of land that is currently used by the local communities and the absence of land disposal due to constrained compensation.

Local Government in this case together with the stakeholders who are related in this land dispute assisted by the Integrated Team of OKU Timur Regency which is formed by The Head of National Land Agency in 2013 have taken the efforts to resolve through mediations between PT LPI and the community. The mediation has been done for many times and the last mediation was done at the end of 2017 for determination of the amount of compensation.

On December 6, 2017, coordinations of the Integrated Team had held with PT LPI on the issue of compensation for the community whose land is included in the HGU. In this last mediation it has been decided several agreements as follows:

- a. Giving the compensation for 54 families of Linang's communities who will be received Rp. 15.000.000 per family
- b. The OKU Timur communities of non-Linang will be receive Rp. 2.000.000 for 82 families
- c. Additional data from the special community of the land after verified the data that can be accommodated amount to 84 families and will be given the compensation Rp. 5.000.000.

The head of the legal department of Local Government OKU Timur said that the amount of damages to be awarded are already somewhat large given that land claims in the State-owned citizens does not belong to individuals. The government was giving a number of demands of the communities of the land of his entry in HGU, the local

government district of East OKU has been taking into a good quantity of decent redress for its residents and also see the capacity of PT LPI which shall provide indemnification.

Until the last stages of the mediation the local government has been all out in determining the magnitude about compensation, but there still some illegal community who cons with the result of the deal. The settlement of this land issue, however, has been in line with the instruction of the President based on the letter of Cabinet Secretary Republic of Indonesia No. Se. 03/Seskab/IV/2013 April 22<sup>nd</sup>, 2013 about the handling of the issue of potential conflict of land dispute mediation patterns offered i.e. win win solution.

## **2. In Socialization**

The community who used the land within the scope of HGU will receive reasonable compensation based on the land area and all objects on the land, then will be employed in PT LPI based on the applicable terms and land replacement for Linang indigenous people. They also will be given for a minimum compensation of 10 million per family provided directly by PT LPI with the assistance of third parties from the OKU Timur District Government, the stakeholders and supervised by the Government Team (*Muspida*).

The Local Government of OKU Timur's effort has been taken a persuasive approach to the communities to provide counseling that the



land is owned by the State and they cannot prove the Land Freehold Status legally. The socialization also aimed to provide information on project activities at the pre-construction, construction, operation and post-operation stage to the local community.

#### 4.2 Socialization between PT LPI, Local Government and stakeholders who related to the conflict and the representative of citizens



Source: Kabid Tata Pemerintahan OKU Timur

Socialization has been done for many times, both formal and informal socialization to local communities from 1993 until the date of 27 March 2018. The last socialization was conducted to provide socialization about making the HGU boundary canal. The HGU boundary canal will be done gradually in Semendawai Barat and surrounding areas that still include in HGU land. Through the socialization, PT LPI and the Government of OKU Timur Regency hope that people can help the process.

In socialization activities, PT LPI and government and related stakeholders confirm that this activity is legal for the company since they already have HGU Certificate. The legal bases in these activities are:

- a. Government Ordinance No. 24 year 1997 Article 3 has obliged the holders of HGU to maintain its limits;
- b. PT LPI has been established as a National Vital object in the Ministerial Decree from the Ministry of Industry of the Republic of Indonesia No. 466/M-IND/Kep/8/2014;
- c. The notice from the Regional Police Head (*Kapolda*), Governor of South Sumatra and Pangdam II/Swj;
- d. Presidential Instruction No. 11 year 2015 on Improving Forest and Land Fire Control.

In this socialization, the role of local government is to provide an explanation on the issues related to the land dispute which is actually owned by the State. About *Surat Pancung*, it is only a letter for temporary management in the past and in the restriction of land or individuals not for property rights. With regard to unemployment, employee recruitment will be held by PT LPI to the people whose land is included in the HGU and directly managed by PT LPI itself with regulations applicable in the company.

### **3. Providing a Legal Certainty**

Legal certainty is given by the local government of OKU Timur through the related offices to measure and make the HGU boundary canal in each region and completed with the signing of official report. HGU boundary canal will built gradually by considering land that has not been given by the community and due to the status of the land still in dispute. After all the HGU boundary canal have been built, it is expected that no more land disputes claimed by local community.

According to the local government of OKU Timur, legal certainty is given publishing valid HGU certificate and recognized by the state since the land is owned by the State. In addition, the location permit is always upgraded every 5 years. For supervision and guidance they will be conducted by the Regional Government through the related offices.

The Local Government has also affirmed to the communities that the land belongs to the State and if they would like to exploit the land, they shall have the permit of utilization in corporation form. The corporation may be in the cooperative form or others and not an individual because the permit must pass through the Minister of Forestry. For PT LPI, they have been inclined to have Location Permit and HGU Certificate.

The synchronization from the land management is based on the provisions of national law or UUPA as the legal certainty over Cultivation Rights Title (HGU). The Cultivation Rights Title (HGU) is the right to work for land directly controlled by the State within the stipulated time period, for agricultural, fishery or livestock enterprises.<sup>46</sup>In this case, PT LPI has a period of 25 years to manage the land. So in fact, the citizens claimed the land as property rights without legal status.

### **C. The Obstacle Factors of OKU Timur Government in the Dispute Settlement of Land Procurement for Sugarcane Plantation in OKU Timur Regency**

Based on the problems above, it can be drawn some points of view about the rejection of some communities who related to environmental and socio-economic issues in the procurement of land for sugar cane plantations by PT LPI. In this case, actually it comes from the lack of communities' knowledge about the legalization of land that they manage so far. In addition, there was lack of socialization and coordination among stakeholders who are living especially from the agricultural sector. Here are some obstacle factors in the dispute settlement of land procurement for sugarcane plantation in OKU Timur Regency:

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<sup>46</sup> Article 28 of Basic Agrarian Law No. 5 year 1960 on The Basic Provision concerning the Fundamentals of Agrarian Affair

1. Licensing procedure has been fulfilled by PT LPI to obtain HGU Certificate;
2. In spatial sector, the use of land is not maximal, as mentioned above there are still some hectares of land that has not been utilized by PT LPI so it utilized by the local community, so that when PT LPI will take over again, the land became a dispute land because the community has claimed it as their property rights. The HGU certificate has been clearly set if the land is abandoned or not utilized since 3 years of HGU issued, then the local communities can take the advantage of it but with notes that it did not become a community's property rights because the land was State-owned land.
3. In Socio-economic of the communities and local government sector, the activities for plantations and sugar mills by PT LPI will create jobs for local communities as well as economic influence from other related sectors;
4. The lack of knowledge of the community about the law requires more legal socialization about the related problems;
5. The existence of irresponsible people to complicate the problem and make the people restless so the communities are difficult to be invited in mediation to settle the land disputes;
6. The national interest is the capability to fulfill the national demand of sugar

In this case, the settlement must be carried out by socialization activities both formal and informal socialization to all relevant stakeholders, because several people still obey the customs. In addition, the need for the cooperative work between the Regional Government of OKU Timur Regency, relevant stakeholders and security officers thorough investigation for those irresponsible people in influencing the communities.