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The Resurgence of Land Reform Policy and Agrarian Movements in Indonesia

By

Noer Fauzi Rachman

A dissertation submitted in partial satisfaction of the

requirements for the degree of

Doctor of Philosophy

in

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in the

Graduate Division

of the

University of California, Berkeley

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Abstract

The Resurgence of Land Reform Policy and Agrarian Movements in Indonesia

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Doctor of Philosophy in Environmental Science, Policy and Management

Professor Nancy Lee Peluso, Chair

On January 31, 2007, Indonesian President Susilo Bambang Yudhoyono announced a new land redistribution program that was part of the implementation of a land reform policy called *Reforma Agraria*. The program was to be launched in conjunction with a land registration program as part of a government strategy to eradicate poverty. The launch of the program was a watershed event that had been engineered by the head of the National Land Agency (NLA) in collaboration with agrarian movement activists who had struggled for years for agrarian social justice.

The resurgence of land reform policy was fostered through a unique partnership of activists, scholars, and reformist government officials. This new political space for maneuver was made possible in 1998 by the end of Suharto's "New Order" which had previously harnessed the bureaucracy, police, and military to control the rural masses through various mechanisms of coercion and consent, while constructing the apparatus for centralizing management and reaping profits from the nation's land and forest resources.

The new land redistribution program called the National Agrarian Reform Program (NARP) focused on the redistribution of state lands for the rural poor claiming 8.15 million hectares of state forest land under the jurisdiction of the Ministry of Forestry and another 1.1 million hectares from other state lands under National Land Agency (NLA) authority, and 7.3 million hectares of other "idle lands" under their jurisdiction to be redistributed. When the ambitious program met with considerable political challenge, the NLA quickly reframed the reform as a government sponsored land title legalization, a program that not only better fit with the interests of the existing neoliberal economic growth model, but also allowed the NLA to tout its land title legalization programs as a major contribution to the success of President Yudhoyono's government. This reframing ruptured the NLA's working relationship with agrarian activists, unveiling the processes by which land reform policy in Indonesia is made and unmade.

This dissertation examines how land policy processes and agrarian movements in Java, Indonesia, have been mutually constituted through continuous (and ongoing) processes of

movement success and movement setback. My research traces how the actors and forces are produced, and how the trajectories and conjunctures at which they meet, enable or constrain them to becoming influential. I explore state-society interactions pertaining to land reform, articulating the multiple and interconnected sites of struggle, and showing how they contribute to the empowering or disempowering of the existing politics governing land access. The purpose is to understand, as Stuart Hall formulates it, “how they work, what their limits and possibilities are, what they can and cannot accomplish.” (Hall 2007:280).

Focusing on the conflict over land occupation events in West Java, this dissertation shows how the movements’ objectives over time have both conflicted, competed, and come together with the politics and practices of the National Land Agency (NLA) of the Indonesian government, and the State Forestry Corporation (SFC), at multiple sites of land policy making processes. This dissertation concludes that the tension, interaction, and convergence of these objectives have rendered unfinished the projects of both reform and anti-reform.

This dissertation is dedicated to my father,
Abdurachman Shaleh (1935-2011),
and my mother, Siti Mundjiatul Munawwarah (1940-...),
who taught me how to bravely and patiently
keep struggling for my goals, family, and humanity

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Abbreviations and Acronyms

ADB	Asian Development Bank
AGRA	<i>Aliansi Gerakan Reforma Agraria</i> (Alliance of Agrarian Reform Movement)
AMAN	<i>Aliansi Masyarakat Adat Nusantara</i> (<i>The Alliance of Archipelagic Indigenous People</i>)
AMPHIBI	<i>Aliansi Mahasiswa Petani Blitar</i> (Blitar Student and Peasant Alliance)
AR	Access Reform
AR Core Team	Agrarian Reform Core Team (<i>Tim Inti Reforma Agraria</i>)
AUSAID	Australian Agency for International Development
BAKOSURTANAL	<i>Badan Koordinasi Survei dan Pemetaan Nasional</i> (National Coordination Survey and Mapping Agency)
BAL	Basic Agrarian Law (<i>Undang-undang Pokok Agraria</i>)
BAPPENAS	Badan Perencanaan Pembangunan Nasional (<i>National Development Planning Agency</i>)
BFL	Basic Forestry Law (<i>Undang-Undang Kehutanan</i>)
BPN	<i>Badan Pertanahan Nasional</i> (National Land Agency)
Brighten Institute	Bogor House of Enlightenment Institute
BTI	Barisan Tani Indonesia (<i>Indonesia Peasant Front</i>)
CSO	Civil Society Organization
DPKLTS	<i>Dewan Pemerhati Kehutanan dan Lingkungan Tatar Sunda</i> (Council to monitor Forest and Environment of Sundanese Land)
DPA	<i>Dewan Pertimbangan Agung</i> (The Supreme Advisory Council)
DPO	<i>Daftar Pencarian Orang</i> (wanted fugitive list)
DPR	<i>Dewan Perwakilan Rakyat</i> (People's Representative Assembly)
DTI	<i>Dewan Tani Indonesia</i> (Indonesian Peasant Council)
FAO	Food and Agriculture Organization
FIG	International Federation of Surveyor
FPLH	<i>Forum Pemerhati Lingkungan Hidup</i> (Environment Monitoring Forum)
FSPI	<i>Federasi Serikat Petani Indonesia</i> (Federation of Indonesian Peasant Union)
G30S	<i>Gerakan 30 September</i> (the 30 th of September Movement)
GoI	Government of Indonesia (<i>Pemerintah Indonesia</i>)
HGU	Hak Guna Usaha (<i>Right to Exploitation</i>)
HTI	Hutan Tanaman Industri (<i>Industrial Forest Plantation</i>)
HuMA	Perkumpulan untuk Pembaharuan Hukum Berbasis Masyarakat dan Ekologis (<i>Association for Society and Ecologically Based Law Reform</i>)
ICARRD	International Conference on Agrarian Reform and Rural Development
ICEL	Indonesian Center for Environmental Law
ICESCR	International Covenant on Economic, Social and Cultural Rights

ILAP	Indonesian Land Administration Project (ILAP)
ILC	International Land Coalition
IMF	International Monetary Fund
IPB	Institut Pertanian Bogor (<i>Bogor Agricultural University</i>)
Jaring PELA	<i>Jaringan Kerja untuk Pesisir dan Laut</i> (Indonesian NGO Network for Marine and Coastal Resources)
Komnas HAM	<i>Komisi Nasional Hak Asasi Manusia</i> (Indonesian Human Right Commission)
KPA	<i>Konsorsium Pembaruan Agraria</i> (Consortium for Agrarian Reform)
KSPA	<i>Kelompok Studi Pembaruan Agraria</i> (Study Group on Agrarian Reform)
KTA	<i>Kartu Tanda Anggota</i> (membership card)
LBH	<i>Lembaga Bantuan Hukum</i> (Legal Aid Foundation)
Lemhanas	<i>Lembaga Pertahanan Nasional</i> (National Security Institute)
LMDH	<i>Lembaga Masyarakat Desa Hutan</i> (Forest Village Community Institution)
LMPDP	Land Management and Policy Development Project
MoA	Ministry of Agriculture (<i>Departemen Pertanian</i>)
MoF	Ministry of Forestry (<i>Departemen Kehutanan</i>)
MoFin	Ministry of Finance (<i>Departemen Keuangan</i>)
MoHA	Ministry of Home Affairs
MPR	<i>Majelis Permusyawaratan Rakyat</i> (People's Consultative Assembly)
MPRS	<i>Majelis Permusyawaratan Rakyat Sementara</i> (Temporary People's Consultative Assembly)
NARMA	National Agrarian Reform Management Agency (<i>Badan Pengelola Refoma Agraria Nasional</i>)
NARP	National Agrarian Reform Program (<i>Program Pembaruan Agraria Nasional</i>)
NDPA	National Development Plan Agency (<i>Badan Perencanaan Pembangunan Nasional or Bappenas</i>)
NGO	Non-Governmental Organization
NLA	National Land Agency (<i>Badan Pertanahan Nasional</i>)
P4T	<i>Penguasaan, Pemilikan, Penggunaan, dan Pemanfaatan Tanah</i> (Control, Ownership, Use, and Utilization of Land)
PDI-P	<i>Partai Demokrasi Indonesia – Perjuangan</i> (Indonesian Democratic Party – Struggle)
PHBM	<i>Pengelolaan Hutan Bersama Masyarakat</i> (Managing Forest with Community)
PKB	<i>Partai Kebangkitan Bangsa</i> (National Awakening Party)
PKI	<i>Partai Komunis Indonesia</i> (Indonesian Communist Party)
Pokja PSDA	<i>Kelompok Kerja untuk Pengelolaan Sumber Daya Alam</i> (Working Group for Natural Resource Management).
PPAB	<i>Paguyuban Petani Aryo Blitar</i> (Blitar Peasant Union)
PPN-Baru	<i>Pusat Perkebunan Negara-Baru</i> (New Government Plantation)

	Central)
Prona	Proyek Operasil Nasional Agraria (National Agrarian Operational Project)
RA	<i>Refoma Agraria</i>
RACA Institute	Rapid Agrarian Conflict Appraisal Institute
RALAS	Reconstruction of Aceh Land Administration System
RI	<i>Republik Indonesia</i> (Republic of Indonesia)
RIS	<i>Republik Indonesia Serikat</i> (Republic of the United States of Indonesia)
RTN	<i>Rukun Tani Indonesia</i> (Indonesian Peasant Association)
Sarbupri	<i>Serikat Buruh Perkebunan Indonesia</i> (Indonesian Plantation Worker Union)
SARBUKSI	<i>Serikat Buruh Kehutanan Indonesia</i> (Indonesian Forestry Worker Union)
SBY	Susilo Bambang Yudhoyono
SFC	State Forestry Corporation (<i>Perusahaan Kehutanan Indonesia or Perhutani</i>)
SPAB	<i>Serikat Petani Aryo Blitar</i> (Blitar Peasant Union)
SPP	<i>Serikat Petani Pasundan</i> (Sundanese Peasant Union)
UKM	<i>Usaha Kecil dan Menengah</i> (Small and Medium Enterprises)
USA	United States of America
UUD '45	<i>Undang-undang Dasar 1945</i> (Indonesian Constitution)
UUPA	<i>Undang-undang Pokok Agraria</i> (Basic Agrarian Law)
UNDP	United Nation Development Program
WALHI	<i>Wahana Lingkungan Hidup Indonesia</i> (The Indonesian Forum for Environment)
WB	World Bank
WWF	World Wild Fund for Nature

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Chapter 1 Introduction

“The social forces at work in any particular conjuncture are not random. They are formed out of history. They're quite particular and specific, and you have to understand what they are, how they work, what their limits and possibilities are, what they can and cannot accomplish. ... But what is the outcome of the struggle between those different contending relations or forces is not 'given', known, predictable. It has everything to do with social practice, with how a particular contest or struggle is conducted.”
(Stuart Hall 2007:280)

1.1. Introduction

November 7, 2007.

The villagers, men and women, young and adult, gathered in a building that is usually reserved for wedding ceremonies in the small town of Garut, in the hills of West Java, Indonesia. They wore their finest clothing as if they were attending a wedding. As many as one thousand people had arrived by early morning. Only half of them could be accommodated inside the building. They had come from upland villages of Ciamis, Tasikmalaya and Garut districts to attend an event that had been organized by the Sundanese Peasant Union/*Serikat Petani Pasundan* (SPP). The event was held to celebrate National Agrarian Day and commemorate the enactment of the Basic Agrarian Law by President Sukarno in 1960. The event coincided with *Eid al-Fitr* (*halal bi halal*), the Islamic holy day marking the end of *Ramadhan*. Gathering on such an important religious day after a month of fasting was significant for strengthening social bonds. The special guest at the event was the head of the National Land Agency (NLA), Joyo Winoto, who unexpectedly brought a group of NLA officials composed of two of his deputies, the head and other top officials of West Java provincial land office, all heads of district land offices in West Java.¹ This event marked a pivotal moment for the SPP. Since the organization's founding in 2000, Joyo Winoto was the highest ranking government officer ever to appear at an SPP event.

The ceremony was the largest official event ever held by the SPP. A master of ceremonies opened with a recitation from the Al Qur'an in Arabic and Indonesian, and then, a student choir from the SPP-managed middle school sang the Indonesian national anthem. The secretary general of SPP welcomed everybody. Speakers from the local government, political parties, and community leaders made remarks, some of which acknowledged the significance of the event for SPP. Joyo Winoto started with a heartfelt statement.

¹ The event was also attended by local government officials, local political party leaders, leaders from other peasant organizations, and agrarian activists from various areas in Java.

When I was asked by my friends at SPP whether I was willing to join my SPP family, in Garut for *Idul Fitri*, I immediately said I would come, God willing.... Today I am here.²

The audience applauded him for recognizing the SPP as his family.³ He introduced his deputies for land reform management, and for community empowerment and control of abandoned-land, and then he introduced officials from West Java provincial and district land offices. The reason to bring the NLA officials to join this event, he said, was “to enable them to be part of the community’s life, to feel how this community lives”.⁴ But Winoto’s maneuver had far more meaning.

In another part of his twenty-minute speech, he reported components of the new land reform policy (*Reforma Agraria*) NLA had developed under his leadership. He contextualized the land reform policy as an answer to eradicating rural poverty.

What the SPP family faces is also experienced by most families in this country. As has been said, thirty nine million Indonesian people are living in poverty. Yes. That’s Right. Sixty-six percent of our poor people are in rural areas. Fifty-six percent of them work in agriculture. It is important to know that ninety percent of all poor people are working people, hard-working. They are not unemployed. So, why are these hard-workers unable to earn money to have a decent living and send their children to school? The question is why the ninety percent of all poor people who have been hard-workers live in poverty?⁵ I found that the problem is that this family of ours does not have direct control of the economic tools or other factors [of production]—land, technology, markets, and capital.⁶

² *Ketika saya ditanya oleh teman-teman SPP, Pak Joyo bersedia atau tidak untuk datang ke Garut berkumpul dengan keluarganya pak Joyo, Serikat Petani Pasundan, untuk halal bi halal. Saya nyatakan saya bersedia, insya Allah Hari ini saya datang disini.*

³ In Indonesian, the concept of family *Keluarga Besar* is also a frequently used political reference, or tactic, to promote cohesion and agreement as much as a sense of belonging. Winoto’s reference to family here is significant because he, a central government official is aligning himself, through his speech and his action, with the SPP, an organization that other government officials at the time were alleging was subversive and anti-state. See: Siraishi (1997) that studies of the family, not as a unit of social organization in Indonesian society, but as a key concept in authoritarian political ideology of Suharto’s regime.

⁴ *saya mengajak keluarga BPN untuk bisa menjadi bagian dari kehidupan masyarakat, ikut merasakan kehidupan masyarakat.*

⁵ Winoto used the official statistic of poverty (March 2007) as published by BPS-Statistics Indonesia (see also Winoto 2007). The percentage of poor people in the statistic is influenced by the definition of “poverty line.” In March 2006 to March 2007, the Indonesian Poverty Line increased 9.67 % from 151,997.00 rupiahs/month (equivalent to US \$ 16.575) on March 2006 toward 166,697.00 rupiahs/month (equivalent to US \$ 16.575US \$ 18.258) on March 2007 (BPS 2007).

⁶ *Karena memang, kita tahu apa yang dihadapi oleh keluarga besar SPP itu juga dialami oleh sebagian besar keluarga kita di tanah air ini. Tadi dikatakan ada tiga puluh sembilan juta rakyat kita yang masih miskin. Ya, betul. Dan enam puluh enam persen dari rakyat kita yang miskin itu ada di pedesaan. Lima puluh enam persen-nya itu bergerak di pertanian. Tapi yang menarik dari keluarga kita yang miskin di tanah air ini, kalau kita dalam, kita lihat, ternyata sembilan puluh persen-nya itu bekerja, bekerja keras. Bukan nganggur. Jadi, sudah bekerja keras itu, masih belum mencukupi untuk kehidupan, menjalani kehidupan yang baik, yang layak, bisa menyekolahkan anaknya secara baik. Loh? Pertanyaannya kemudian, kenapa dari sembilan puluh persen rakyat kita yang miskin, yang sudah bekerja keras itu kok masih miskin juga? Setelah itu kita lihat, memang persoalannya, keluarga kita ini belum memiliki secara*

He acknowledged the role that the SPP played in enabling poor people in rural areas to gain access to productive land resources. He also reminded SPP leaders and members to be patient in doing what SPP collectively did.

I remember a story about a stone crusher. His job was to break up stones. Usually it takes one or two strokes for him to break the stone. One day, he hit the stone 497 times, and it still wouldn't break.

"This stone won't break. I shall leave it, I won't be able to break it," the man said. Suddenly, an old man affiliated with SPP came down and said "Young man, why are you doing that? Finish your job."

"I can't," claimed the man.

"Yes you can."

"No I can't. I have already hit the stone 497 times."

Then the old man asked for the hammer, "Give me your hammer young man." He hit the stone five times, and the stone finally broke apart.

"Apparently you are very strong and powerful," exclaimed the young man.

"No, you are just being impatient. It takes 502 hits to break this stone. You hit it 497 times."

SPP has hit 497 times. It needs five more hits. Be patient and keep going. Don't rush. There are only five more hits. We have already done 497 hits. We have already done many things in our struggle.⁷

Winoto's speech frequently got applause from the audience. The farmers were energized by the acknowledgement by Winoto of the importance of their struggle through SPP.

The SPP recognized Winoto's support by presenting him an award for his commitment and dedication to bringing land reform policy back onto the official agenda

langsung faktor-faktor atau alat-alat ekonomi yang dibutuhkan untuk hdiup secara baik, termasuk tanah, termasuk teknologi, termasuk pasar, termasuk modal, dan sebagainya.

⁷ Saya ingat, ada satu bentuk cerita mengenai ahli, tukang memecah batu. Kerjanya sehari-hari itu memecahkan batu. Batu yang bisa dipecahkan itu dipukul sekali, dua kali pasti pecah. Suatu hari, dia ketemu batu, batu itu dipukul sampai empat ratus sembilan puluh tujuh kali, tidak pecah. Tukang batu yang masih muda ini jadilah, "Batu ini tidak bisa saya pecahkan. Saya berhenti. ...saya tinggalkan, toh tidak bisa saya pecahkan." Tiba-tiba ada seorang yagn sudah tua, dari SPP, "Anak muda, kenapa kamu begitu? ... Teruskan."

Kata anak muda ini, "Batu ini tidak bisa saya pecahkan."

"Bisa, anak muda".

"Tidak bisa. Saya sudah pukul empat ratus sembilan puluh tujuh kali."

Setelah itu, orang tua itu minta pada anak muda itu, "Kasihkan palumu padaku".

Setelah itu, oleh orang tua ini, batu tersebut dipukul. Dipukul pertama tidak pecah. Kedua, tidak pecah. Ketiga, tidak pecah. Keempat, tidak pecah. Kelima, pecah.

Kata anak muda itu, "Orang tua itu ternyata sakti sekali dan kuat sekali".

Kata orang tua ini, "Tidak, anak muda. Karena kamu yang kurang bersabar. Sesungguhnya batu ini pecah jika dipukul lima ratus dua kali. Dan kamu telah memukul empat ratus sembilan puluh tujuh kali."

SPP telah memukul empat ratus sembilan puluh tujuh kali. Tinggal lima. Yang sabar dan jalankan. Jangan tergesa-gesa. Karena tinggal lima pukulan. Empat ratus sembilan puluh tujuh itu sudah kita lakukan.banyak, banyak yang kita, kita, lakukan dalam perjuangan yang selama ini sampai ada bentuknya demikian.

of the national government from the moment he had been appointed by President Susilo Bambang Yudhoyono as the head of National Land Agency (NLA) in 2005.

After almost three hours the crowd walked to the Garut district government office to demand land reform. Meanwhile Winoto and other NLA officials visited the training center and a middle school that SPP managed for the upland village.

This unique SPP event marked an emblematic moment through which a representative⁸ of the Indonesian central government explicitly legitimized not only the existence of the SPP of West Java, but also the land reform aspiration⁹ of national agrarian movements and its articulation within multiple sites of struggle. The event was made possible by a unique combination of SPP agrarian activism and Winoto's maneuvers, which took place within an episode of the resurgent land reform policy in Indonesia and as part of a broader national agrarian movement.

To provide a context for the significance of this event, I look at the factors surrounding the political space of land reform. Since 2001 land reform had returned to Indonesia's formal government policy arena after a thirty-five-year hiatus fraught with violence and tragedy. This return resonated with the rising global interest in land reform from international development agencies, transnational agrarian movements, policy makers in Global South countries, and scholars engaged in policy processes at the international level (Ghimire 2001, Rosset et al. 2006, Akram-Lodhi et al. 2007). For more than three decades after eradicating a nascent land reform agenda in 1966, Indonesia's second president, Suharto, used the "New Order" bureaucracy, police, and military to control the rural masses through various mechanisms of coercion and consent. Meanwhile, his regime constructed the apparatus for centralizing management and reaping profits from the nation's rich resources (Robison 1986, Husken and White 1989, Fauzi 1999).

The extent of the change that has taken place since Suharto's fall in 1998 was made visible recently on January 31, 2007, when President Susilo Bambang Yudhoyono launched a new land redistribution program, later named National Agrarian Reform Program (NARP) in conjunction with a land titling program as a part of the government strategy to eradicate poverty. Joyo Winoto, the head of the National Land Agency (NLA), was the author of this *Reforma Agraria*. He declared that 8.15 million hectares of state forest lands under the jurisdiction of the Ministry of Forestry (MoF) would be provided to the new land redistribution program, in addition to 1.1 million hectares from other state lands under NLA authority. The NLA also identified 7.3 million hectares of "abandoned-lands" under their jurisdiction to be redistributed, including state lands that had been

⁸ Joyo Winoto was head of the NLA, a central government agency directly responsible to the President. His position is on par with a minister-level position. The NLA is considered an agency delivering particular government services, such as the *Badan Pusat Statistik* (Central Statistic Agency) or *Badan Pusat Pengembangan Teknologi* (Agency for Development of Technology). However, the NLA has its own unique historical trajectory due to the politics around land affairs under Suharto. Since 1967 Suharto's authoritarian regime blocked land reform policy and a down-sized Ministry of Agrarian Affairs became a unit (General Directorate of Agrarian Affairs) under the Ministry of Home Affairs. Then, in 1988 Suharto decided to up-grade the unit, and set up NLA in order to increase government service in land acquisition for corporations and government projects. The trajectory of the NLA is further discussed in Chapter 2.

⁹ An anthropologist Arjun Appadurai develops the concept of "capacity to aspire", which refers to cultural capacity to imagine an alternative future and find ways to articulate aspirations through the "levers of metaphor, rhetoric, organization, and public performance" in multiple sites of struggle (Appadurai 2004:67).

unused, misused, or used by private companies in ways contrary to government regulations (Winoto 2008).

It is impossible to understand the return of the land reform in the official government agendas since 2011 without taking into account the role of agrarian movements in struggling for land reform. Agrarian movements in Java have challenged the State Forestry Corporation (SFC) and state/private owned plantations, which combined controlled approximately a quarter of the total land area of Java. Through collective land occupations and demonstrations, agrarian movements demanded government institutions to formally change the allocation/distribution of land resources. The SFC and state/private owned plantations officially got authorization to control and manage large land areas. Their control over land depended on certain authorizations given by government institutions. In the case of the SFC, it is the Ministry of Forestry that provides authorization while the National Land Agency authorizes private/state owned plantations.¹⁰

Seizing the political opportunity that opened with the fall of Suharto in May 1998, agrarian movement activists and scholars launched a national campaign to change agrarian and natural resource management policies. Their demands resonated with reformist leaders in the highest state institution in Indonesian government structure, the People's Consultative Assembly (*Majelis Permusyawaratan Rakyat*, MPR). Consequently, the campaign got a policy outcome: a People's Consultative Assembly Decree on Agrarian Reform and Natural Resource Management (TAP MPRRI No. IX/2001), which set principles and directions, and mandated the national parliament and the Indonesian president to implement agrarian reform and natural resource management policies, including the provision to redistribute land for rural poor. The work of new head of the NLA to develop the *Reforma Agraria* was an official follow up of the Decree.

My dissertation addresses an overarching research question: How do government land management institutions conflict, compete, and come together with the practice of agrarian movements to affect the formation of land policy?

I assume that land policy processes are not straightforward, but rather are complex sites of “power struggle, contestation, and negotiation” (Watts and Peet 1996:266), which are also contingent products of their times and places. In answering the puzzling question on the relation between government land management institutions, agrarian movements, and land policy, I argue that differences regarding the ways land management institutions deal with agrarian movements in land policy processes can be explained by the government officials’ varying conception of land reform through which struggle over land is framed.

The head of NLA promoted a new land reform policy named *Reforma Agraria* as a basic strategy of development policy to address poverty, unemployment, and land inequality, and pursue social justice through redistributing state lands for poor people, and providing agricultural credit and services to make the use of redistributed lands

¹⁰ The SFC and state/private plantations in Java have different geographical histories, which was analyzed separately by scholars on Indonesian agrarian studies. Sartono Kartodirjo and Joko Suryo (1981), Mubyarto et al (1982) and Alex Gordon (1982, 2001) provide classic pieces on plantations in various places and historical contexts. Nancy Peluso (1991, 1992) and Herry Santoso (2003) provide detailed accounts on historical aspects of the State Forest Corporation in relation to the state and peasant communities. See chapter 2 section 2.5 and 2.6. on different trajectory of plantation and forestry.

productive and sustainable. He sought to synergize the institutional practice of the NLA with the ability of agrarian movements to articulate societal demands for land reform at multiple sites of struggle. The synergy was expected to strengthen the need and effort to bring land reform back into the official government agenda. Under the frame of *Reforma Agraria*, the NLA invited and welcomed agrarian activist leaders to participate in land reform policy processes.

Because the above conception of *Reforma Agraria*, it was politically necessary for the head of the NLA to quickly create a maneuver to get support from the President and the ministries. However, the Ministry of Forestry (MoF) balked at providing 8.15 million hectares of forest-lands, and the Ministry of Agriculture (MoA) refused to provide the agricultural credit and services that would have made the program run. When Indonesian President, Susilo Bambang Yudhoyono, did not use his authority to make the MoF and the MoA cooperate, the NLA reframed the so-called National Agrarian Reform Program (NARP) as a government sponsored land title legalization, a program that not only better fit with the interests of the neoliberal economic growth model, but also allowed the NLA to tout its successful land redistribution program as a major contribution to the success of President Yudhoyono's government. This policy shift in turn not only created an uncomfortable political space for agrarian activist leaders working collaboratively with NLA officials in the land redistribution programming, but moreover also intensified tensions between those who decided to collaborate with the NLA, and those who refused to participate.

My research took Sundanese Peasant Union (SPP) of West Java as a site within which effects of the synergy between the practice of NLA and agrarian movements were visible. Through land occupations and demonstrations, the SPP intensified campaign to redistribute state forest-land controlled by the State Forestry Corporation of Java (SFC). The SFC was a parastatal corporation that controlled approximately nineteen percent of total land in Java. The intensified campaign provoked the SFC to launch a counter-campaign. The Ministry of Forestry funded this operation through the program of fighting against illegal logging. Working together with West Java Police and two environmental NGOs, the counter-campaign successfully took back the occupied land, criminalized land occupiers, and paved the way for a particular social forestry program called Managing the Forest with the Community (PHBM). More than that, this counter-campaign was designed to deliver a message to land reform promoters that forest-land under the control the SFC in Java must be excluded from any land redistribution programming.

1.2. Background

Indonesia under Sukarno had a land reform policy and program (1960-1965) that ended when Suharto's military authoritarian regime came to power in 1966 through a bloody military coup. Hundreds of thousands of suspected communists were killed by the military and anti-communist civilian militias (Cribb 1990, 2001, 2002), and other hundreds of thousands were jailed without trial. All left-wing parties and organizations were banned by the government. Building on an anti-communist platform, President Suharto constructed a new military-authoritarian regime, dubbed "the New Order," with support from rural landlords, right-wing Islamic groups, Western-oriented technocrats,

the US and other Western states, and international financial institutions. The regime consolidated its political allies including land-based corporations and landed elites in rural areas.

With the support of the regime, plantation and forestry corporations regained their control over land and people, and landed elites took back lands that had previously been redistributed under the Sukarno land redistribution program (1962-1965). The eradication of land reform from the official government agendas made it possible for Suharto's regime to forge political alliances with the landed elite. The primary aim of Suharto's authoritarian regime in its first decade of rule (1966-1974) was to maintain political stability (Mas'oeed 1983:59-61). Suharto saw that to continue land reform and other policies derived from Sukarno's ideological conception of "Indonesian Socialism" would endanger political stability in rural areas and threaten the landed elite. Consequently, the regime guarded itself heavily against any ideological pursuits of social justice and radical change to the class structure such as a land redistribution program might promote. Throughout the New Order, the 1960 Basic Agrarian Law's land reform tenets were never struck from the books, but they were largely ignored. For more than 32 years, most people in Indonesia, including Java, were kept out of politics – particularly natural resource and agrarian politics – by the government's iron grip on political parties and elections and through ruthless bureaucratic and territorial military command structures.

With the international backdrop of the cold war and its fight against communism, New Order technocrats constructed a political economy based on foreign investment, large-scale development, and centralized state control of Indonesia's many resources, often through parastatal corporations, which reintegrated Indonesia to the world capitalist system closing the door on the era in which Sukarno declared he was "Reinventing the Indonesian Revolution" in 1959 (Robison 1986, Bulkin 1983, Masoed 1989, McCormack 1999). Agrarian transformations during the New Order were generally a result of large-scale land appropriation by central state institutions and their corporate cronies (Husken and White 1989, Aditjondro 1998, Fauzi 1999). In conjunction with foreign investments in mining, and forestry sectors in the outer islands (Sumatera, Kalimantan, Sulawesi, Moluccas, and Papua islands), in 1969, the Indonesian government launched a state-led Green Revolution. The Green Revolution program compelled farmers to purchase the agricultural modernization packages of new seeds, pesticides, and fertilizer, irrigation facilities, and farming techniques to increase their production levels. This program was created, funded and implemented through international development agencies with transnational corporations as project holders delivering agricultural inputs and technological services. The landed elites who controlled large tracts of agricultural land were empowered and enriched through this program. In many upland areas of Java, state forestry and privately or state-owned agribusiness/agro-industrial institutions concentrated power over land including through dispossessing rural people (Faryadi 1997, White 1997, Suryanata 1999).

Contemporary agrarian movements emerged from a long silence of rural activism only at the end of the 1980s in response to rural dispossession by the state. In the early 1990s, various coalitions of rural-urban activists involving NGOs, students, and rural leaders started to challenge the regime's stranglehold. Working underground, agrarian activists, NGOs, and student organizations in the early 1990s organized dispossessed peasants outside the major cities of Jakarta, Bandung, Semarang, Yogyakarta, and

Surabaya, and they started to set up peasant organizations, and organize public protests and dialogues with government officials and members of parliament (Lucas and Warren 2000, 2003, Aspinal 2004:77-82, Bachriadi 2009, 2010:115-153). With the collapse of the New Order in the wake of political dynamics at local and national levels, including overwhelming demands for decentralization, the peasant organizations found fertile ground to take root. The fall of Suharto in May 1998 opened a new era of democratization in Indonesia, a moment where peasant groups and their allies in Java had the opportunity to launch land occupations to access lands that were previously controlled by the State Forestry Corporation and private or state-owned plantations, and, importantly, to connect local land struggles with national campaigns for land reform policy. After 1998, the peasant organizations at the heart of this study were able to operate fully in public. NGOs such as the Consortium for Agrarian Reform (KPA) began to link peasants organizing with campaigning for land reform policy. For the first time in 32 years, peasant organizations formed openly, debated land politics, found allies in government and outside, and laid the basis for a new trajectory of land reform in Java.

1.3. Characterizing the Java Agrarian movement and Its Counterforces

Contemporary rural movements differ from those documented and analyzed in classic peasant studies (e.g., Wolf 1969, Migdal 1974, Paige 1975, Scott 1976) not only in terms of their character, their organizational form, the forms of mobilization, the associated discourses, the forms of actions undertaken, but also because of their historical moments (Webster (2004:2). The current scholarship focuses on the characteristics of these new rural movements, and the ways in which these movements need to be understood in relation to the specificity of agrarian questions the movements faced since the late twentieth century and early twenty-first century global restructuring of capitalist production under neoliberal globalization.¹¹

In a recent book *Reclaiming the Land: The Resurgence of Rural Movements in Africa, Asia and Latin America*, Sam Moyo and Paris Yeros (2005) picks up James Petras's characterization of Latin America rural social movement in what he calls 'new peasantry' (Petras 1997) as the model not only for Latin America, but also for rural social movements in Africa and Asia.¹² The following is their summary of Petras's characterization:

- (a) their *social base* is a rural-urban mix of small cultivators and proletarians, including urban retrenched and unemployed;
- (b) their *leadership* is composed of 'peasant intellectuals', as opposed to university intellectuals, eschews personality cults and operates on the principle of 'every member an organizer', rather than on the hierarchical formulas of the past;

¹¹ See Ghimire and Moore (1999), Ghimire (2001), McKeon, Wolford and Watts (2004), McMichael (2005, 2006a, 2006b, 2008), Moyo and Yeros (2005), Rosset, Patel, and Courville (2006), Borras (2007, 2010), Borras, Edelman and Kay (2008), Borras and Kay (2009), Akram-Lodhi and Kay (2009), and Akram-Lodhi (2010a, 2010b).

¹² Moyo and Yeros elaborate in details Petras' characterization and bring in illustrations from various rural movements from Latin America, as well as from Asia and Africa (2005:44-52).

- (c) their *political tactics* are characterized by direct action, mainly on the land but also in other private and public spaces;
- (d) their *political strategy* is ‘anti-political’, characterized by autonomy from political parties and state, but also by the pursuit of strategic alliances with political parties, trade unions, and other social movements;
- (e) their *ideologies* tend to fuse Marxian and ethnic/racial political languages, and are increasingly gender and ecologically sensitive;
- (f) they are *cosmopolitan*, cultivating an internationalist vision and engaging in international debates and alliances on their own behalf (as reformulated by Moyo and Yeros 2005:44-45).

It is important to examine whether the characterization is suitable for contemporary agrarian movements in Java, Indonesia, or not. The social bases of Java agrarian movements is rural landless and small cultivators, and urban-based agrarian activists that mostly engages in land struggles against the SFC and private- and state-owned plantations. Their main tactics are to conduct direct land occupation and launch popular demands for land reform through demonstrations, media campaigns, lobbying, and policy advocacy.

In addition, the emergence and dynamics of Java agrarian movements came about through alliances between university educated agrarian activists and local peasant leaders. Agrarian activists emerged as a particular category of social movement in Indonesia in the early 1990s first through student and non-governmental organizations. The latter groups assisted victims of land expropriations, critiqued existing land policies, and launched campaigns for land reform. Peasant leaders in movements often emerged through their public role such as village government officials, teachers, religious leaders, cooperative leaders, etc. They have generally not been the poorest of poor in the village, and not also part the rich strata of rural society, often part of the middle peasant class.¹³ The agrarian leaders were free to travel to cities to interact with urban-based activists and organizations to get access to the source of ideas and political support they needed for their local struggles. On the other side, the activists frequently visited rural leaders in order to assist local peasant leaders fit a function of what Gramsci calls organic intellectuals, “the thinking and organizing element of a particular fundamental-social class” who are able to exert a kind of moral, intellectual and political leadership (1971: 3-5).

The work of local peasant leaders and agrarian activists in land struggles and campaigns for land reform policy led to what Sidney Tarrow has called a cycle of contention, which is a “phase of heightened conflict across the social system” with the following characteristics:

- a rapid diffusion of collective action from more mobilized to less mobilized sectors;
- a rapid pace of innovation in the forms of contention;
- the creation of new or transformed collective action frames;
- a combination of organized and unorganized participation; and

¹³ Cf. Wolf (1969:290-294) which explain social origin of leaders of peasant uprisings in early and mid-twentieth century (1969:290-294).

- sequences of intensified information flow and interaction between challengers and authorities (Tarrow 1998:142).

Various studies on local land occupations in Java shows that their land claims were historically justified, meaning that they had claims on land that had previously been taken from them by force during Suharto's regime; this historical justification enabled villagers to join local movements, including land occupations (e.g. Hafid 2000, Bachriadi and Lucas 2001, Wahyudi 2005, Chrysantini 2007, Mustain 2007, Mary et al. 2007). The movements that flourished after the fall of Suharto were local and diverse but they had a common political strategy in relation to the state, which was to demand varying state institutions to legitimize their land occupations. Through their interaction with university educated activists, who mostly originated from rural areas, the local leaders became familiar with the need for land reform, and the necessity of creating alliances among them, and between local leaders and agrarian activists, to struggle for their own land and ultimately for land reform. Agrarian activists introduced the notion of land reform and worked closely with peasant leaders in setting up peasant unions. In turn the peasant unions took popular mobilization tactics such as demonstrations to government and parliament offices to demand land reform. In peasant unions such as the Sundanese Peasant Union (SPP), the activists played a role not only of educators and organizers, but also leaders of the unions.

Articulating popular demands for land reform became a shared-strategy among Java's agrarian movements. SPP exemplified a case of connecting local land struggles with the struggle for land reform policy (Lucas and Warren 2003, Afiff et al. 2005). For SPP, articulating the demand for land reform played well as a way of orienting land occupations and other actions, and sustaining their collective challenge to their opponents and to what they identify as sources of agrarian injustice. The original common objective of the SPP movements were to get access to state lands previously controlled by private or state-owned corporations. They struggled to access different state institutions – government bodies, parliament, political parties, and so on in national, provincial and district levels, and demanded validation of their land claims.

Java's case is also instructive because of the characteristics of the state lands being targeted by land redistribution program. Peasant groups occupied state lands that were previously controlled by the State Forest Corporation (SFC) and private and state-owned plantations. Past and present literature and practice of land reform has focused mainly on private land holdings, yet in Indonesia the main targeted land reform areas are the state lands, Borras (2006, 2007) calls "public" lands. My research responds precisely to Borras' challenge to expand our view beyond private land by investigating the ways public/state lands are being targeted for, or affected by, reform efforts (see also Franco 2009). In addition, it shows intense competing claims in public/state lands. When state institutions are landholders and the land under their jurisdictions is slated to be the object of a land redistributio program, their systematic responses to prevent or block land redistribution programming, I argue, need to be seen as "counter-reform" (Feder 1970). Feder defines counter-reform as "bundles of policies, practices, traditions, or trends which individually or in the aggregate are designed or happen to undo whatever land reforms have taken place, or make it impossible, by design or otherwise, for a land reform to be carried out" (1970:173).

In some sites of my study, counter-reforms took the form of state-sponsored violence where armed police and forest guards evicted and demobilized land occupants, and arrested or attacked local agrarian movement leaders. These counter-reform included what social movement scholars term “counter-movement,” which can be defined as one “that makes contrary claims simultaneously to those of the original movement” (Meyer and Staggenborg 1996:1631). My ethnographic investigation shows how a state sponsored repression was launched in concert with counter-movements by two environmental NGOs that campaign against land occupations and for environmental protection in response to SPP land occupations.

1.4. Toward a Gramscian Approach to Understanding the Struggle for Land Reform

The current scholarship within political ecology that has motivated serious and explicit elaboration about Gramsci’s concept of hegemony provides critical insights for my research.¹⁴ Gramsci developed the concept of hegemony to describe a condition in which the supremacy of a ruling class and its power block is achieved not only by physical force but also through consensual submission of the very people who were dominated through “bringing about not only a union of economic and political aims, but also intellectual moral unity, posing all the questions around which struggles rage not on a corporate but a ‘universal plane’ (Gramsci 1971:182). Hegemony pursues “(t)he ‘spontaneous’ consent given by the great masses of the population to the general direction imposed on social life by the dominant fundamental group; this consent is ‘historically’ caused by the prestige (and consequent confidence) which the dominant group enjoys because of its position and function in the world of production.” Hegemony’s victories are never final, and a process to get consent from subordinated groups can never be complete. If hegemony fails, the ruling power block could deploy “(t)he apparatus of state coercive power which ‘legally’ enforces discipline on those groups who do not ‘consent’ either actively or passively.” This mechanism, what Gramsci calls “domination” or “command”, however, is prepared in anticipation of moments of crisis of command and direction when spontaneous consent has failed” (Gramsci 1971:12).

I use the notion of hegemony as suggested by Roseberry (1994:358) “not as a finished and monolithic ideological formation but as problematic, contested, political processes of domination and struggle”. After tracing the notion of hegemony through E.P. Thompson (1971, 1978a, 1978b), James Scott (1976, 1985, 1990), Corrigan and Sayer (1985), Roseberry proposes that

we use the concept not to understand consent but to understand struggle, the ways in which the words, images, and symbols, forms, organizations, institutions, and movements [were] used by subordinate population to talk about, understand, confront, accommodate themselves to, or resist their domination itself. What hegemony constructs, then, is not a shared ideology but a common material and

¹⁴ See: Moore 1993, 1996, 1998 2005, Mann 2008, Ekers, Loftus and Mann 2009, Wainwright 2005, Loftus 2005, 2009a, 2009b, 2009c, Ekers and Loftus 2008, Loftus and Lumsden 2008; Karriem 2009; Wainwright and Mercer 2009, Asher and Ojeda 2009.

meaningful framework for living through, talking about, and acting upon social orders characterized by domination (Roseberry 1994:361).

Hegemony has multi-dimensional and multi-arena character as noted by Stuart Hall (1996:424). In doing so, I will elucidate that the struggle over resources is also a struggle over power, authority and meaning¹⁵ in multiple sites within which various social forces collide, oppose, or come together to shape the conditions of possibility for change within land policy.¹⁶ I take the conception of “multiple site of struggle” as suggested by Hart (2002, 2004, 2006).¹⁷ These sites should not be conceived as an empty container within which any social force could enter into and enforcing their agenda. The notion of “site” in “site of struggle” needs critical consideration in regard to Smith and Katz critique of “space as a field, container, a co-ordinate system of discrete and mutually exclusive locations” (1993:73). Seeing, rather, space as produced at multiple scales, as theorized by Lefebvre, through human activity, e.g. “a space is not a thing but rather a set of relations between things (objects and products)” (Lefebvre 1974/1991:83). Incorporating Lefebvrian spatiality into my research approach helps me to make visible the ways each site is produced and connected one to another.

1.5. A Note on Methods

This dissertation continues my previous work on agrarian policy politics in Indonesia since colonial times (Fauzi 1999, 2005), the confluence of local demands and global trends toward agrarian reform (Fauzi 2003), the resurgence of rural social movements in West Java (Fauzi 2005; Afiff et al 2005), and the changing relations between agrarian movements and environmental movements in contemporary Indonesia (Peluso, Afiff, and Rachman 2008).

This research about struggle for land and power involves stories of villagers, local peasant groups, student activist groups, agrarian and environmental NGOs, state landlords (the SFC and private/state owned plantations), national land management agencies (the NLA and MoF), national parliament, local governments and parliament, and actors in justice system (police, attorney, court, and lawyers). It had been both enabled and constrained by my previous position and experience, which influenced the way in which I approached my research subjects and also the way in which my research subjects responded to my questions. Since 1995, as a leader in a national network for agrarian reform (*Konsorsium Pembaruan Agraria*), I have been deeply engaged with activities to strengthen agrarian movement organizations, including the SPP, and to promote changes in national land policy (Fauzi and Zakaria 2002, Fauzi 1999, 2001, 2003, 2009). My broad network of personal contacts, which includes NLA and MoF officials, agrarian and forestry scholars, and rural social movement leaders and NGO

¹⁵ See Peluso (1992), Tsing (1993), (2005), Moore (1993), (1998), (2005), Peet and Watts (1996), (2004), Li (1999), (2007), Springate-Baginski and Blaikie (2007), Sikor and Lund (2009)

¹⁶ Cf. George Marcus (1995, 1998). Doing multi-sited ethnography, according to Marcus, essentially means “tracing and describing the connections and relationship among sites previously thought incommensurate” (1998:14).

¹⁷ Hart (1991) originally creates the term “multiple sites of struggle” to grasp the ways women rural labors in paddy-field area in Malaysian successfully articulate their collective class interest in and through their struggles in household relation, political patronage relation, and labor relation settings.

activists, not all of whom agreed on all issues with me. This prior experience, particularly in the agrarian movement, facilitated my access to some research subjects through participant observation, semi-structured and structured interviews, and focus group discussions. It also made it difficult for me to approach most SFC officials in a formal capacity. In addition, I collected various published and unpublished official reports relevant to my research arguments.

In order to uncover processes by which the land reform policies are conceived, contested, negotiated, and expressed, I conducted ethnographic research to reveal the exercise of power on the ground by multiple actors at different levels, including the construction of discourses underlying policy framing (Blaikie and Springate-Baginski 2007; Hajer 1995, 2006).

I follow Hajer's definition of discourse as "an ensemble of ideas, concepts, and categories through which meaning is given to social and physical phenomena, and which is produced and reproduced through an identifiable set of practices" (Hajer 2006:67). Through analysis of narratives, which contain story lines, metaphors and other forms of discursive construction, I illuminate distinct features of discourse, and bring out a certain regularity in the particular ideas, concepts, and categories in which terms of land reform policy and agrarian movement are discussed. I also show the practices by which discourses are produced and reproduced.¹⁸ I analyze what Hajer calls discourse coalition, conceived as "a group of actors that, in the context of an identifiable set of practices, share the usage of a particular set of story lines over a particular period of time" (Hajer 2006:302).

Through this grounded approach I will show how hegemony is not a finished project, but on-going processes which needs to be understood by looking at the ways in which which multiple actors and forces join together at a particular place and point in time in particular ways to shape and reshape site(s) of struggle. As Raymond William notes that the hegemony of particular power structure "does not just passively exist as a form of dominance. It has continually to be renewed, recreated, defended, and modified. It is also continually resisted, limited, altered, challenged by pressures not at all of its own" (William 1977:112).

Informed by literature on critical ethnography, especially those that recognize "the role of theory as pre-cursor, medium and outcome of ethnographic study and writing" (Willis and Trodman 2000:7; see also Burawoy et al 1991, Burawoy et al 2000, Burawoy 2009), I examine the characterization of contemporary rural social movement (Petras 1997, Petras and Veltmeyer 2001, Webster 2004, Moyo and Yeros 2005) through the ways one peasant organization in West Java took shape, and was shaped, by the return of land reform into the national policy arena after the fall of the Indonesian authoritarian regime in 1998. Following Gillian Hart, rather than seeing 'cases' as examples of or deviations from a particular 'ideal type' or an acclaimed 'universal' phenomenon, I ethnographically explore how my research objects are differentially formed in relation to one another and to a larger whole. Hart explains the Gramscian methodological insight that the "particularities or specificities arise through interrelations

¹⁸ Hajer notes that "(i)lluminating discourse(s) allows for a better understanding of controversies, not in terms of rational argumentation, but in terms of the argumentative rationality that people bring to a discussion. Hence, discourse should be distinguished analytically from discussion, so as to allow for the differentiation of plural discourses. Discourses consist of structures embedded in language" (2006:301).

between objects, events, places, and identities; and it is through clarifying how these relations are produced and changed in practice that close study of a particular part can generate broader claims and understandings" (Hart 2006:996).

By keeping in view and mind that two or more ethnographically conceived sites are juxtaposed, I started from NLA leadership, a place where land reform policy processes were designed. The first phase of my field research (November 2007 - August 2008) traced the ways the NLA incorporated agrarian activist leaders in land reform policy processes since the appointment of Joyo Winoto as the head of NLA in 2005. In reconstructing the key institutional policy processes in the NLA, I focused on the shifting constraints, limits, and possibilities of the NLA leaders to: (a) manage the demands for land reform, (b) develop collaboration with movement leaders, NGO activists, and critical scholars, (c) produce/influence institutional policy change in response to demands and collaborations, and (d) negotiate their land reform agenda with other government institutions. I collected official and unofficial documents related to key institutional policy changes. I also conducted interviews on the means by which the policies were or are still contested by government official and agrarian movement actors operating at multiple arenas and scales. I followed the on-going land reform policy processes through participant observation and interviewed officials and bureaucrats in the NLA and the MoF, as well as activists in agrarian and environmental NGOs and leaders and members of the rural movement organizations.

To locate this contemporary trajectory historically, I traced the SPP's relations with a national government which regarded it as a dissident group to its being a recognized agrarian movement organization with regularized forms of participation in local and national politics, including in the NLA's land reform policy process. To do this, I collected accounts of the SPP's local and district-level activities, definitive events, perceived obstacles and turning points, and connections with district, national, and local-level state actors, NGOs, and academics. To get multiple versions of these accounts for comparison, I conducted interviews and focused discussion groups with farmer leaders, NGO activists, and critical scholars.

During my fieldwork a state-sponsored repression in five villages in Ciamis district caused local SPP chapters in three of the five villages demobilized. The police evicted SPP members from the land they occupied, that had been controlled previously by the SFC. The police deployed an "illegal land occupation" and "illegal logging" framework to describe the activities of the SPP, thus criminalized SPP leaders and members. The SFC forced evicted SPP members to denounce the SPP and leave the organization in order to let them access the forest lands. In the wake of these evictions, I traced differential responses from various government institutions (police, local government, local parliament, the NLA, the MoF) and societal groups (villagers, NGO activists, journalists, environmental groups, scholars) to map alliances between strategic actors. I observed and interviewed participating actors including the SPP local leaders, NGO activists, the police commanders, and the director of the SFC. Following this case allowed me to understand the ways in which state-sponsored repression and counter-movement forces came together through discursive and material practices at that particular moment and place, and thus in turn changed SPP working strategies at the local level.

I returned to University of California, Berkeley in August 2008 to analyze the data that I had collected. The second phase of my field research ran from June 2009 until August 2009. During this time I revisited my research sites in Ciamis district and conducted some additional participant observation as well as semi-formal and formal interviews to understand what had happened since 2008. I also updated my work on land reform policy processes at the NLA at the national, provincial, and district levels concerning the dynamics within the SPP and its NGO and academic allies. Since my return from the field in September 2009, I have been working to write my dissertation chapters under the guidance of my advisors.

1.6. The dissertation chapters in brief

The resurgence of land reform policy after the downfall of longtime Indonesian state leader President Suharto in 1998 can be better understood with the diachronic perspective. Using this approach, I develop an understanding of the trajectory of Indonesian land policy since independence, including the different positions and roles that the 1960 Basic Agrarian Law (BAL) has played in different political conjunctures, and the social forces that were responsible for bringing land reform policy back onto the official government agenda after Suharto's fall in 1998. My research combines the diachronic perspective with the synchronic perspective. With the synchronic perspective, I reveal how the new land reform policy was formulated, the ways the land reform was negotiated among government land management agencies and the President, how the policy was brought into practice, and how agrarian movements actually work in furthering land reform policy processes.

Chapter 2 covers the ways colonial legacy in land laws and land tenure system were changed, or continued. It covers Sukarno's Guided Democracy era within which the Basic Agrarian Law of 1960 (BAL) was enacted. The BAL was an historical landmark by which principles and direction of land reform policy were established. I shows how the land redistribution program (1962-1965) was launched, and how plantation and forestry lands were excluded from that program.

Chapter 3 traces the change in trajectory of Indonesian land policy since the rise of Suharto's authoritarian regime in 1966, which drastically dismantled previous land reform policy. I elucidate the way state-sponsored land acquisition policy was produced to facilitate state and privately owned projects in agriculture, agro-industry, industrial, and housing sectors. I continue with an analysis of the emergence of a "pro-land market" policy that was first introduced by the World Bank. Lastly, the chapter lays out the dynamics of land policy processes in the *Reformasi* era since Suharto's fall in 1998, including the production of People Consultative Assembly Decree No. IX/2011 on Agrarian Reform and Natural Resource Management. The decree was produced by the highest level of state institutions in Indonesian political system which had authority to produce reform agendas (*agenda-agenda reformasi*) through its annual meetings. The chapter also shows how the 1960 BAL provoked lively debate among agrarian activists, critical scholars, and reformist government officials, especially on whether it had to be revised or already served as a sufficient base for a new land reform policy.

Chapter 4 focuses on the return of land reform to official policy arenas of national government, and uncovers land reform policy processes within the NLA. It zeros in on

the key roles of the head of NLA who tried to (a) overhaul NLA organization and its roles and functions in land governance, and make land reform into a legitimate mainstream objective; (b) promote land reform policies among the President, Ministries and Legislature; and (c) to bring these policies into government regulation and establish procedures of implementation and practice. This chapter demonstrates the ways new land reform policy called *Reforma Agraria* was framed, and national land redistribution program was designed. The chapter shows this shift from *Reforma Agraria* to land title legalization, which reflects the hegemonic orthodoxy of neoliberal land policy promoted by the World Bank.

Chapter 5 focuses on tensions and synergies between the NLA and agrarian movements, and among agrarian movements in relation to NLA land policy processes. I show how sites of “power struggle, contestation, and negotiation“ within land reform policy processes are produced through situated practice of agrarian activists and government officials. I demonstrate how agrarian activist leaders enthusiastically participated in NLA land reform policy processes. Then this synergistic relationship changed when the NLA shifted its focus to land title legalization. Consequently, some activist leaders turned to critique the *National Agrarian Reform Program* (PPAN), as well as the ways other activist leaders participated within NLA policy processes.

Chapter 6 illustrates a state-sponsored, joint police and forestry repressive operation in 2008 against land occupiers and the SPP in five villages in Ciamis district. Rhetoric of “illegal occupation”, “illegal logging”, “anti State” were deployed by police and the SFC in concert with negative campaigns from two key environmental NGOs. This operation was effective in discrediting land occupants and disrupting local SPP organizing. The land occupiers and the local SPP were forced out while the SFC reestablished their control over the state forestland. I show that rhetoric and violence are tactics deployed in struggles over land. The deployment of the tactics – along with a particular form of social forestry program (PHBM) – took effect in reasserting SFC hegemony. Moreover, the operation was not only against the SPP and its land occupation, but also against *Reforma Agraria* to exclude forestland from land redistribution programming.

In the final chapter I provide conclusions of my research.

Chapter 2: Trajectory of Indonesian Land Policy since Independence to Sukarno's Guided Democracy (1945-1965)

2.1. Introduction

Land reform has shifted in and out of the national policy arena since independence from colonial rule (1945) to present. Likewise the meaning of land reform itself has shifted over time, especially during the period after the fall of Suharto's authoritarian regime in 1998 within which the political room for maneuver by agrarian movement activists changed dramatically. In order to understand how the notion of land reform re-emerged after Suharto's fall, it is critical to state in the beginning that the 1960 Basic Agrarian Law (BAL) is an historical landmark in Indonesian agrarian history (Harsono 1997, Wiradi 2000, Fauzi 2001, Tjondronegoro 2009), and has remained the primary official reference for agrarian activists, scholars and reformist government official to call upon. This law was never removed from Indonesian law. To understand the multiple roles the BAL played in post-colonial Indonesia history, in this chapter and the next, I elucidate the trajectory of Indonesian land policy by examining the political conjuncture at which each land policy emerged in post-colonial Indonesia since independence until *Reformasi* era (1945-2005).

In order to analyze the changing trajectory of land policy, I use Stuart Hall's method: a Gramscian understanding of hegemonic power and its crises. A Gramscian understanding begins with the assumption that any hegemonic power is not a static phenomenon but rather, one marked by "constant movement, polemics, and contestations", which represent the attempt by different sides to overcome or resolve the crises and to do so in terms which favor their long term hegemony (Hall 1996:422-423). I will show the trajectory of land policies in post-colonial Indonesia, especially in relation to the ways ruling political forces within different political regimes have struggled to establish, or maintain, their hegemony.

Taking the Gramscian approach, through the more recent writings of Stuart Hall, helps me to examine the ways various social forces work in highly dynamic ways to produce conjunctures, thus enabling me to examine social forces in terms of "how they work" and "what their limits and possibilities are" (Hall 2007:280). In order to understand the return of land reform to the national Indonesian policy arenas, and its relation to the role of agrarian movements, I will examine actors and their contexts by tracing the ways they are produced, the trajectories they have followed, and the circumstances that enabled them to emerge and continue. The production, trajectories and circumstances of these social relations are by no means to be followed in a linear fashion. Explaining Stuart Hall's contribution to conjunctural analysis, Grossberg underlines the importance of analyzing when, how and under what circumstances the conjunctures are/are not moving from one to another, and getting "the balance right between the old and the new" (2006:5).

In order to capture "the length and complexity of crises" that developed over longer

historical periods, as well as “the historical specificity of the crises” (Hall 1996:422-423) I make a periodization, which is a key aspect of my analysis. Last, I trace the movement of historical forces around the struggle for land reform and show how the land reform policy emerges through the analysis of the relations of these forces.

This chapter begins with an overview of colonial land policy, followed by a period of decolonization within which initial efforts to change land laws and land tenure systems were taken place. Then, I elucidate the ways the basic Agrarian Law of 1960 was enacted, and become official reference for land reform policy. I shows the ways plantation and forestry lands were excluded from land redistribution program (1962-1965). The chapter ends with some concluding insights on the unfinished policy issues that have influenced further land reform agendas in Indonesia.

2.2. An Overview from Decolonization through Sukarno’s Guided Democracy

Sukarno and BAL drafters recognized the colonial and feudal agrarian structures Indonesia inherited from its colonial predecessors. They fluently described the structure of colonial land policy and its detrimental effects on Indonesian rural societies. They understood the historic significance of dismantling the Dutch colonial Agrarian Law of 1870 (*Agrarische Wet*) which had been a landmark of the liberal era in which colonial rulers facilitated European corporate capital to invest in Netherlands Indies in order to extract export commodities.

From 1870 to 1942 social formation in colonial Indonesia was characterized mainly by enclave export commodity production – largely sugar, rubber, and coffee for facilitating the interests of colonial state and the Dutch capital class to acquire the large colonial surpluses of Indonesia to the Netherlands.¹⁹ The colonial plantation system was characterized mainly by extra-economic coercion especially in the provision and maintenance of cheap land and labor (Gordon 1982, 2001). The Agrarian Law of 1870 declared that all land that could not be proven to be individual private ownership (based on Western colonial law) was to be considered domain of the state, and then it was called “state land.” Based on this law, various concessionary rights for plantation/estates were given to foreign corporations for operation on lands claimed as state-owned property. Plantation workers were recruited and maintained coercively by the plantation companies. Any protest movement to resist these processes – most of them took millenarian radicalism – in Java in the nineteenth and early twentieth centuries were violently repressed by the Dutch colonial regime (Kartodirdjo 1972, 1973, 1984).²⁰

The 1870 agrarian law had articles about guaranteeing the rights of the native community. Singgih Praptodihardjo (one of the 1960 BAL drafters) argued that the nature of the colonial land law system was to facilitate foreign capital at all costs.

¹⁹ Current studies by Mark (2001), Eng (2002), Kano (2009) and Gordon (2010) explicate quantitative figures of the colonial surplus.

²⁰ In the nineteenth and early twentieth centuries various forms of peasant protest movements against European colonial orders flourished not only in Java but also in other colonial Southeast Asia countries. See. Jacoby (1961) and Adas (1979).

Following Eric Jacoby's argument written in *Agrarian Unrest in Southeast Asia*²¹, Praptodihardjo argued:

(t)o develop foreign capital, once more: to develop foreign capital, is their foremost and primary aim. To protect peoples' interest is not something outside of this aim. (Yet) in practice (the promise of) protection had yielded nothing, even more it was worse because strengthening the peoples' economy, something that is supposed to be a main task of every national government was not (a priority) as it should have been by the colonial government (1953:54)²².

Such perception was shared among revolutionary leaders that had struggled for Indonesian political independence, including Sukarno, who conceived of freedom as "a golden bridge (*jembatan emas*), on the far side of which the Indonesian state would build a free, strong, healthy, everlasting, and eternal Indonesia"²³ (Sukarno speech in his BPUPKI speech, June 1, 1945 in Bahar et al 1995).

The Japanese occupied Indonesia in 1942, imprisoning and killing many Dutch officials in the process when they set up a war-time military and fascist government which took a different stance on agricultural production and set the stage for the Indonesian revolution. The agrarian politics of the Japanese occupation were characterized by their effort to mobilize and control people and agricultural production for a war economy. The Japanese authorities allowed rural people to occupy parts of these private lands (*tanah-tanah partikelir*), foreign owned plantations, and forest-lands, and transform them into agricultural plots. Most rural people in Java welcomed these instructions from the Japanese occupiers as an opening to take public revenge on colonial land dispossession and repression, but later they realized that the Japanese were only using them to support the war as they were forced to hand over the products of their labor, food and other agricultural products, to the Japanese military government (Tauchid 1952, Kurasawa 1988, 1993, Sato 1994, Eng 2008). When the Japanese surrendered to the Allied Forces on August 14, 1945, Indonesia proclaimed its independence. The Indonesian revolution war was launched against the Dutch, and the military struggle continued until political negotiation with the Dutch and Allied Forces succeeded in 1949 in the Hague, the Netherlands, recognizing Indonesia's independence.²⁴

During the first decade after independence from 1949-1959, Indonesia tried multi-party liberal democracy. Competition among political parties, combined with rebellion against the unified state throughout the country, made the government desperately

²¹ Jacoby writes "(t)hough Dutch colonial policy had guaranteed the existence of the native community to a certain extent, it had cornered it into a very limited sector of the Netherlands East Indian economy" (Jacoby 1949:46; also cited by Praptodihardjo 1953:54).

²² (*perkembangan modal-asing, sekali lagi: perkembangan modal asing, yang menjadi pokok tujuannya. Perlindungan kepentingan rakyat tidak lepas dari maksud untuk kepentingan mereka juga. Di dalam prakteknya perlindungan itu tidak membawa manfaat, bahkan merugikan karena usaha memperkuat perekonomian rakyat yang menjadi tugas tiap-tiap pemerintah nasional, tidak dijalankan semestinya oleh pemerintah kolonial.*)

²³ *Di seberang jembatan, jembatan emas, inilah, baru kita leluasa menyusun masyarakat Indonesia merdeka yang gagah, kuat, sehat, kekal dan abadi.*

²⁴ A classic account the political dynamic around the Indonesian nationalism and revolution see Kahin (1951). On the role of youth in the revolution see Anderson (1972).

unstable. During nine years of the parliamentary system Indonesia had nine different prime ministers and cabinets. The army chief, General Nasution, concluded in 1959 that the multi-party liberal democracy system in Indonesia “had only bred chaos.” Sukarno had relied on the army’s support to tame regional rebellion in Java and outer islands, for campaigns against the Dutch to take West Papua, and “confrontation” against Malaysia. Afterward Sukarno declared martial law in 1957 and started what Lev (1966) calls a period of “Transition to Guided Democracy.” The six years of martial law (1957-1963) enabled the army to grow, becoming a political and economic force and gaining control over all Dutch-owned plantations (Lev 1963, Sundhausen 1982).

In 1959, with full support from the army elites, Sukarno dismantled the Constitutional Assembly (*Konstituante*) that was composed of political party representatives that had worked for almost four years (1956-1959) to make a new constitution, and proclaimed the validity of the original 1945 constitution that had granted him overwhelming executive power (Nasution 1992). Sukarno declared “Guided Democracy” which was formally conceived of as “a political structure in which the political parties would subordinate themselves to a central national authority, which would receive its wisdom from a *musyawarah*, mutual consultation with the political parties instead of a confrontation with the political parties” (Sukarno 1959 cited in Caldwell and Utrecht 1979:167).²⁵ Then, Sukarno formed the Temporary People’s Representative Assembly (MPRS) that later in 1963 declared him as the Great Leader of Indonesian Revolution (*Pemimpin Besar Revolusi Indonesia*) and Indonesian President for life (*Presiden Seumur Hidup*).²⁶

Sukarno based his Guided Democracy upon “Indonesian Socialism” which was formulated as Marxism adjusted to the Indonesian condition. Sukarno brought back *Revolusi*, or Revolution, as the principle to reorganization of the state and society in a speech he termed the Political Manifesto, the Rediscovery of Our (the Indonesian) Revolution (*Manifesto Politik, Penemuan Kembali Revolusi Kita*). Through this speech Sukarno set out the principles and goals of the Indonesian “multi-complex revolution” that took shape simultaneously in every part of the Indonesian society (in political structure, in the economic structure, in social relationship, in the culture, and even in the inner lives of the people). Sukarno said that the aims of the Revolution were:

1. to establish a democratic unitary state and unite all Indonesian citizens into Indonesian territory from Sabang (in Wee island, North Sumatra), to Merauke (in Papua Island, near to border of Papua New Guinea);
2. to create a just and prosperous society which provides room for each citizen to satisfy their spiritual needs;
3. to establish friendship between Indonesia and all countries in the world, in particular the Afro-Asian countries, with the aim of building a new world free from imperialism and colonialism, as a prerequisite of complete world peace (Sukarno 1959 as cited by Caldwell and Utrecht 1979:108).

²⁵ Herbert Feith concludes that the Guided Democracy was a product of interaction between the President and the army elites, “with the President providing the ideology and the army the machinery of coercive authority” (1962:602).

²⁶ Ketetapan MPRS Nomor III/MPRS/1963 tentang Pengangkatan Pemimpin Besar Revolusi Indonesia Bung Karno menjadi Presiden Republik Indonesia Seumur Hidup.

Sukarno had mobilized “all revolutionary forces’ under “one effective central leadership,” i.e. himself. Along with Sukarno is the Indonesian Communist Party (PKI), which from the time that Dipa Nusantara Aidit took over PKI leadership in 1951²⁷ had developed a parliamentary strategy to win the 1955 elections²⁸ rooted in rural organizing.²⁹

Since the “Transition into Guided Democracy” (1957-1959) the PKI was more reliant on Sukarno. Sukarno helped the PKI to fight against their political opponents, especially the Army and Islamic parties. The PKI had systematically mobilized peasants through the “land for peasant” campaign.³⁰ As reported by van der Kroef (1960), the sixth National Congress of the PKI in 1959 officially affirmed the peasantry as “the basic force of the Indonesian revolution” along with the workers.³¹ On the other side, Sukarno was a nationalist revolutionary leader who had perceived of the PKI as the vanguard party for his political ideas and ambitions to radicalize the Indonesian masses, *machtvorming* (power forming), toward revolution (Gunawan 1973).

On August 17, 1960, a month before the 1960 BAL was enacted, Sukarno made a speech entitled “Like an Angel Storming from Sky, Our Revolution Way” (*Laksana Malaekat yang Menyerbu dari Langit. Jalan Revolusi Kita*). The speech announced a plan to sign the BAL emphasizing it as “a most important advance in the Indonesian revolution.”³² His announcement seemingly resonated with the PKI doctrine through emphasizing the central role of peasants (*petani*) along with workers (*buruh*) as revolutionary driving forces (*sokoguru revolusi*), and defined the BAL as a legal base for revolutionary change in colonial and feudal land relations. His slogans included: “land does not have to be means of exploitation”³³, “land for peasants”³⁴, “land for those who actually till it”³⁵, “Indonesian Revolution without land reform is the same as ... big talk without content”³⁶, and quoted the 1951 Food and Agriculture Organization report on

²⁷ According to van der Kroef, the success of the PKI under Aidit can be considered in terms of three related factors: (1) the emphasis on the peasant and land reform in developing party theory and in the party program; (2) the organization technique employed to win party followers in the countryside; and (3) research on peasant conditions and land tenure carried on by party cadres (van der Kroef 1963:54).

²⁸ In the 1955 General Election the PKI got 16.4 percent votes with 6,177 thousands votes. The first place was PNI (nationalist party) with 22.3 percent votes (8,435 thousands); the second place was Masyumi (modernist Islamic party) with 20.9 percent (7,904 votes); and the third place was NU (traditional Islamic party) with 18.4 percent (6,955 votes). See: Feith (1957).

²⁹ The PKI was rooted in various mass organizations, including Indonesia’s Indonesian Peasant Front (BTI) that was able to expand its membership rapidly. As noted by Pelzer, “the BTI claimed a membership of 800,000 in March 1954 and about 2,000,000 by April 1955. At the time of the election at the end of 1955 the BTI secretariat reported a membership of some 3,300,000” (1982:45).

³⁰ For fuller account see Mortimer (1972); Edelman (1987:96-93), Huizer (1974, 1980:64-127).

³¹ Although the peasantry was described as “the basic force of the Indonesian revolution”, the PKI stipulated that “the working class must lead the struggle of the entire people,” specially that “the working class must help the struggle of the peasants for land” (quoted in van der Kroef 1960:6). For the longer view on the relation between the PKI, peasantry, and land reform see: van der Kroef (1963) and Mortimer (1972).

³² *Satu kemajuan yang penting – maha – penting dalam Revolusi Indonesia.*

³³ *Tanah tidak boleh menjadi alat penghisapan.*

³⁴ *Tanah untuk petani.*

³⁵ *Tanah untuk mereka yang benar-benar menggarap tanah.*

³⁶ *Revolusi Indonesia tanpa land reform adalah sama saja ... omong besar tanpa isi.*

land reform that “defects in agrarian structure, and in particular system of land tenure, prevent a rise in the standard of living of small farmers and agricultural labourers, and impede economic development” (FAO 1951 as cited by Sukarno 1960: 460-461).

Sukarno’s administration believed that the creation of Basic Agrarian Law of 1960 would solve major land problems created by colonial policy and set up foundations for the national economy. They believed that – using the words of prominent land reform scholar, Eric Jacoby – “... the solution of the land problem is a pre-requisite for the full realization of the national aspirations ... and that, to a large extent, is the key to economic development and a sound re-organization of society” (Jacoby 1961:253).

The following sections explain the dynamics of land policy processes during Sukarno’s Guided Democracy within which land reform agendas were formulated and contested.

2.3. A formal Abolishment of the State Domain Principle

The state domain principle, as contained in the 1870 agrarian law as well as the forestry laws of 1874, 1875 and 1897, declared that all lands to which there was no civil law ownership title were to be considered the domain of the state. As a consequence, any so-called unused lands (*woeste gronden*), and land not held in ownership or under ownership-like rights, were deemed to be state property. Land under communal property or other forms that did not recognize individual owners were claimed under this law as state land thereby making legally available any lands in which the colonial government wished to invest. The 1870 Agrarian Law was, in fact, introduced with the idea that the Dutch government had to open the Netherlands East Indies for foreign investment, and that Dutch and other European capitalist class had rights to invest in and reap colonial surpluses from the Netherlands Indies. The law also established a legal and institutional separation between agriculture and forestry, which I will explain in section 2.6. Then, for more than seventy-years (1870 –1942) the “state domain” was the hegemonic legal-political concept that served the colonial government in facilitating European private corporations with seventy-five year concessionary rights (*erpacht recht*), as a legal basis for their operation in Netherlands Indies.

The 1960 BAL declared replacing the state domain principle with a new legal-political concept called State’s rights to control (*Hak Menguasai dari Negara*). The 1960 BAL was the first national agrarian law that originally intended to operationalize the philosophical basis of the Indonesian state (*Pancasila*)³⁷ and the provision of article 33(3) of the 1945 Indonesian Constitution “(T)he land, the waters and the natural riches contained therein shall be controlled by the State and exploited to the greatest benefit of the people.”³⁸ State’s right of control over all resources (*Hak Menguasai dari Negara*) provides authority to the central government

³⁷ Sukarno, the first President of the Republic of Indonesia, invented *Pancasila* in 1945. It consists of two Sanskrit words, ‘*panca*’ meaning five, and ‘*sila*’ meaning principle. It comprises five inseparable and interrelated principles, which are (i) Belief in the one and only God; (ii) Just and civilised Humanity; (iii) The unity of Indonesia; (iv) Democracy guided by the inner wisdom in the unanimity arising out of deliberations amongst representatives; and (v) Social justice for the whole of the people of Indonesia.

³⁸ *Bumi, air, dan kekayaan alam yang terkandung di dalamnya dikuasai oleh Negara dan dipergunakan sebesar-besarnya untuk kemakmuran rakyat.*

- (a) to regulate and administer the allocation, use, supply, and maintenance of the earth, water, and airspace;
- (b) to determine and regulate legal relationships between people and the earth, water, and airspace; and
- (c) to determine and regulate legal relationships among people as well as legal acts concerning the earth, water, and airspace” (article 2 of the 1960 Basic Agrarian Law).

With this concept the central government has the authority to regulate and manage land and natural resources, determine property relations, and determine which are legal and illegal acts concerning land and natural resource management. It is also declared that the BAL “is based on the position that in order to achieve what is stipulated in Article 33 (3) of the 1945 Constitution, it is not necessary and not appropriate for the Indonesian nation and State to act as a land owner. It is more appropriate for the State, in its capacity as the organized collective power of the people (nation) to act as an Authoritative Body (*Badan Penguasa*).”³⁹

The BAL declared that “(t)he principle of *domein* (i.e. the principle of the state being the owner of land), which was used by the colonial government as a basis for agrarian legislation ... has been discarded, and various *domein* statements ... have been revoked.”⁴⁰

The BAL drafters conceived the state domain principle, and its derivative land rights and land management institutions as the source of agrarian injustices for Indonesian native peoples. Colonial agrarian laws based on the state domain principle,⁴¹ as well as the feudal practice of kingdoms (*swapraja*) that were reinforced by the indirect rule strategy of the colonial state, were considered in the BAL as “contradictory to the Indonesian people’s legal consciousness and to the principle of the modern and independent State” (Law No. 5/1960 on Basic Provisions concerning the Fundamentals of Agrarian Affairs, Explanation, part II: Principles of New Agrarian Law).⁴²

The Fathers of the Indonesian national revolution (such as Soepomo) were familiar with Cornelis van Vollenhoven’s notion of “a century of injustice” (van Vollenhoven 1931, 1975; Soepomo 1951, 1953).⁴³ This notion was frequently re-articulated by the

³⁹ *Undang-Undang Pokok Agraria berpangkal pada pendirian, bahwa untuk mencapai apa yang ditentukan dalam pasal 33 ayat 3 Undang-Undang Dasar tidak perlu dan tidaklah pula pada tempatnya, bahwa bangsa Indonesia ataupun Negara bertindak sebagai pemilik tanah. Adalah lebih tepat jika Negara, sebagai organisasi kekuasaan dari seluruh rakyat (bangsa) bertindak selaku Badan Penguasa.*

⁴⁰ *Azas domein yang dipergunakan sebagai dasar dari pada perundang-undangan agraria yang berasal dari Pemerintah jajahan ... ditinggalkan dan pernyataan-pernyataan domein itu dicabut kembali.*

⁴¹ The BAL mentioned that the *domein* principle is contained in various agrarian acts, e.g. Article 1 of Agrarische Besluit (S. 1870-118), S. 1875-119a, S. 1874-94f, and S. 1877-55, and S. 1888-58.

⁴² *Azas domein adalah bertentangan dengan kesadaran hukum rakyat Indonesia dan azas dari pada Negara yang merdeka dan modern.*

⁴³ Van Vollenhoven's *De Indonesiër en zijn Grond* (The Indonesian and his Land) is directed at the colonial government's agrarian policy. In a chapter titled ‘a century of injustice’ he writes that if the same degree of alienation of land rights that occurred in Java had befallen Dutch peasants, the entire government would have risen in protest. Van Vollenhoven (1932, 1975) argues that customary law (*hukum adat*), especially what he calls “*beskicking recht*” (right to control and allocate customary lands among community members) held by customary community must be taken into account by the government if it

BAL drafters in showing the devastating effects of the state domain principle that was established in the 1870 colonial agrarian law (e.g. Notonagoro 1972:70-107). Notonagoro, law professor from Gajah Mada University – Yogyakarta and one of the BAL drafters, explicates the way the state domain produced detrimental effects on Indonesian people:

1. the *domein* principle covers people's land rights;
2. the *domein* principle allows lands owned by native people to be transferred by foreigners (*Inlandsche Gemeente Ordonanti*), although it was prohibited by the Netherlands Indies government ... to prevent native people from losing their lands;
3. the *domein* principle covers village's rights to lands, including lands that were not owned by individuals, such as forest land ... (So, it) violates customary/indigenous land rights.⁴⁴ (Notonagoro 1972:71)⁴⁵

The BAL drafters also thought that the dualism between Western imposed laws and customary laws “has given rise to various inter-societal group issues which are not only difficult to handle but also contradictory to the idealized national unity; and for native people, the colonial government's agrarian law *does not guarantee legal certainty*” (the 1960 BAL, General Explanation section. *Italic in original*; see also Notonagoro 1972:108-123).⁴⁶ Soepomo, the first Indonesian legal scholar, states that “in the agrarian field, our new state does not need the existence of dualism in land laws. In fact, it is in the state interest to produce a law to establish only one land law system for any citizen from any background” (Soepomo 1953 as quoted in Praptodihardjo 1953:79).⁴⁷

From its beginning, the BAL was intended to position the new Indonesian State as a legitimate expression of power of all Indonesian people. A mainstream interpretation was as written by a law professor who involved in the drafting processes of the 1960 BAL:
... because ethnic groups and communities governed by customary laws had not

truly intends to design practical and just policies. For debate on the role of Van Vollenhoven in inventing customary law, see Burn (1989, 2004) and Benda-Beckmann and Benda-Beckman (2008a, 2008b).

⁴⁴ *asas domein ini sangat merugikan rakyat, oleh karena:*

1. *asas domein berkedudukan di atas hak rakyat atas tanah;*
2. *asas domein memungkinkan tanah yang dihaki oleh rakyat dapat dioper oleh orang asing (Inlandsche Gemeente Ordonanti), yang sebenarnya dilarang oleh pemerintah Hindia Belanda sendiri untuk mencegah ... jangan sampai rakyat itu kehilangan tanahnya (Sehingga mereka harus dilindungi.*
3. *asas domein juga di atas hak desa terhadap tanah, sehingga juga mengenai tanah yang tidak dihaki oleh perseorangan, seperti tanah hutan (Hal ini) memperkosa hak tanah yang asli.*

⁴⁵ Notonagoro (1972:79-107) was influenced by writings of Cornelis van Vollenhoven (1932, 1975) who condemns the *domein* principle as the source of injustice for Indonesian people. See Peter Burns (1989, 2004) summarizes and evaluates contribution of Van Vollenhoven to the formation of concept of customary law (*hukum adat*) in Netherlands Indies. See also von Benda-Beckmann, Keebet and Franz (2008:12-13) for critical review on Peter Burns' contribution.

⁴⁶ *hal mana menimbulkan pelbagai masalah antar golongan yang serba sulit, juga tidak sesuai dengan cita-cita persatuan Bangsa; karenanya bagi rakyat asli hukum agraria penajahan itu tidak menjamin kepastian hukum.*

⁴⁷ *... dalam lapangan agraria, negara baru kita tidak membutuhkan adanya dualisme hukum-tanah secara barat dan hukum secara adat, bahkan kepentingan negara menghendaki pembentukan undang-undang yang hanya mengenai satu sistem hukum tanah untuk segala warga negara, dari bangsa apapun.*

been independent anymore, but already integrated, being a part of Indonesian nation within Indonesian territory, their customary command over land rights, which was absolutely under the control of chief/community governed-by-customary-law/village as the highest authority in their territory, ... transferred automatically into central government as the highest authority, the holder of the right to control Indonesia's territory (*ulayat*). (Soetiknyo 1990:49-50).⁴⁸

Through the BAL, the Indonesian national government committed itself to modernizing the indigenous /customary laws (*hukum adat*), and to make them better fit the needs of the newly united republic as a new member of independent nations of the world; It was clearly stated that “the agrarian law applicable to the earth, water, and airspace is *adat* law but the implementation of *adat* law must not be contrary to the nation's general interest which is based on the principle of a unitary republic, with the principle of Indonesian socialism, and the principle laid down in the BAL and in future regulation, as well as to the requirement of religious law” (article 5 of the 1960 Basic Agrarian Law). In doing so, the BAL

... adapts modern principles and works with modern western ideas about titles in land, such as the distinction between real (public) and personal rights combined with a system of registration to fulfill the requirement of publicity ... This registration makes it possible to mortgage the land, and by doing so gives a sound basis for the credit system needed for the economic welfare of the country (Gouwgioksiong 1961:547-548).

The BAL also crucially advances what Gouwgioksiong (1961:549) calls pronounced nationalism, which allows only Indonesian citizens to have full rights of ownership and use of the lands (art. 21, 30, 36); Within the category of Indonesian citizens the BAL makes a distinction between economically weak and economically strong, and articulates the commitment to protect the economically weak groups that were perceived as victims of feudalism, colonialism, and imperialism. Using authorities defined in the 1960 BAL Indonesian national government planned to redress agrarian injustices through land reform policy in order to pursue what the BAL calls Indonesian socialistic society, a “just and prosperous society” (*masyarakat yang adil dan makmur*). (Praptodiharjo, 1951, Notonagoro 1972, Soetiknyo 1983).

2.4. Initial Policies to Redress Agrarian Injustices

The BAL drafters learned from some revolutionary land reform policies that were implemented by Indonesia's government prior to the BAL enactment as summarized in the following:

⁴⁸ ... oleh karena suku-suku bangsa dan masyarakat-masyarakat hukum adat tidak mandiri lagi, tetapi sudah merupakan bagian dari satu bangsa Indonesia di wilayah Negara Kesatuan Republik Indonesia, maka wewenang berdasarkan hak ulayat yang berhubungan dengan hak-hak atas tanah, yang dahulu mutlak berada di tangan kepala suku/masyarakat hukum adat/desa sebagai penguasa tertinggi dalam wilayahnya ... dengan sendirinya beralih kepada pemerintah pusat sebagai penguasa tertinggi, pemegang hak menguasai/ulayat seluruh wilayah Negara.

A. An abolishment of the privileges of *perdikan* villages in the Banjumas area in Central Java.

As explained by Soemardjan (1962), a *perdikan*, or free village, had the privilege of exemption from land taxation as recognition for meritorious religious services rendered by the village founder to the ruling king or *sultan* before or during early colonial days. In addition, by the *sultan* the village founder was made headman of his village, and his position was declared hereditary for an unlimited number of generations. Based on Law No. 13/1946 the Minister of Home Affairs denied the villages and their ruling families all their traditional privileges. Half of the relatively vast lands, controlled under historical rights by the village headman and his family as a source of personal income, was taken by the government and divided in ownership among the farmers who had previously worked on the land as tenants or sharecroppers. A monthly financial compensation for life was allotted to those families suffering a land loss in this small-scale land reform action.

B. An abolishment of “conversion rights” in the self-governing region of Yogyakarta and Surakarta

The former Principalities of Yogyakarta and Surakarta had different land law from other regions of Java because their position as two kingdoms (*swapraja*) that had special “long-term contract” (*lange contracten*) with colonial state. The so-called “conversion rights” (*hak-hak konversi*), as explained by Gautama and Harsono (1972:3-4) and Gouwgioksiong (1960:35-38), is a set of rights to use land, labor and water given by the sultan of Yogyakarta or Surakarta to Western-run plantations. For these fifty-year concessions, plantations paid annual leases in compensation to the Sultans. After the Land Lease regulations of 1884 and 1906, the plantations could register their concession agreements in government land registry offices, and then use them as collateral for bank loans. After the Declaration of Independence in 1945, the feudal land system, which was based on the idea that the *sultan* controlled both land and people (human labor) living on the land, was unacceptable. Through law No. 5/1950, amending law no 13/1948, all conversion rights, which in 1940 covered some 42,544 hectares,⁴⁹ were abolished. Then, the respective lands became state land and then was distributed to local peasant living on the lands.

C. Liquidation of “private land estate” (*tanah partikelir*).

In the early years after Independence, the Indonesian government acquired all “private land estates,” up to 1,150,000 hectares of land,⁵⁰ all of which were sold by the Dutch colonial administration to British, Dutch, Arab, and Chinese private individuals in periods of great financial stress prior to the nineteenth century (Soemardjan 1962:24). The “private land estates” differed from other privately owned land, not only because of their vast size, but also because of special rights, *landheerlijke rechten* (landlord rights), that gave the landlords the right to govern people together with the territory. They were like small, independent nations within the larger colony. Throughout the nineteenth century, as explained by Gautama and Harsono (1972:5-6) and Gouwgioksiong (1960:19-24), the colonial government had attempted to regulate these estates, including in 1854 when the Governor General decided to stop granting the

⁴⁹ This number is according to *Indisch Verslag 1941*, II, pp. 270-273 as quoted by Shutter (1959:1267).

⁵⁰ As quoted in Soemardjan (1962:24) this total figure covered ‘private land’ in Java and Sulawesi.

private land estates; then in 1911 the colonial government started to repurchase the private estates. Between 1921 and 1931, some 456,709 hectares of estates were repurchased by the government. In 1950, the Indonesian government released the estimate that total area of private estate lands in Java was some 598,829 hectares (quoted in Tauhid 1953: 35-37).

After the Declaration of Independence in 1945, the “private land estates” were conceived as contrary to the principle of social justice, one of the five pillars of the Indonesian State principles, *Pancasila*. In 1958 the government enacted a new law liquidating “private land estates” (Law No 1/1958), which declared that all rights and privileges previously held by landlords were assumed by the government. The landlords were given a choice between selling their land directly to Indonesian farmers, or transferring it to the government to be redistributed among the indigenous farmers on the former estates. In both cases the price of the land was fixed by the government, and could be paid in installments over a maximum period of five years. Upon request, the landlords could obtain a license from the government to operate their agricultural enterprises on the former private estates within the reasonable time limitations provided by agrarian laws and regulations. When the BAL was enacted in 1960, the process of liquidation of the private lands was officially almost complete (Soemardjan 1962:24-25).

2.5. How did Plantation Land Become Excluded from the Land Redistribution Program?

Colonial plantation land, which covered nearly 400 thousand hectares in Java,⁵¹ became excluded from the land reform program, even as this exclusion was condemned by Sukarno as one of the defects in the Indonesian agrarian structure (Sukarno 1960:460-461). The 1960 BAL allowed the continuity of colonial plantation lands by converting *erpacht* rights to the “right of exploitation” (*hak guna usaha*). The issue of whether to allow the colonial plantations to continue to operate was a key part of the political negotiations at the 1949 “Round Table Conference,” between the Dutch and the Republic of Indonesia in the Hague, the Netherlands. During these negotiations, the Dutch set the terms for the return of Dutch property as a condition for recognizing Indonesian Independence.⁵²

Through the Round Table Conference, the Dutch agreed to grant Indonesia political sovereignty in December 1949 by setting up the Republic of the United States of Indonesia (*Republik Indonesia Serikat*), a federation of sixteen independent states not including West Papua.⁵³ The Dutch were adamant about establishing conditions in the agreement that would preserve their economic interests in the archipelago, including the

⁵¹ The meaning of *erpacht* is same as right of exploitation. So, no real change was made in legal form.

⁵² The Dutch did not recognize Indonesia’s independence at the outset of its declaration, August 17, 1945, and remained unwilling to grant Indonesia independence until Dutch economic interests were safely guarded through the negotiations of the Round Table Conference which ended in December 1949 in the Hague. In the four-years interim period, the Dutch used military actions, political negotiations, and pressure in the international arena to attempt to recolonize the Indonesian archipelago. For the classic account on revolutionary struggle for gaining political independence see Kahin (1952).

⁵³ West Papua was considered as Dutch colony outside of Indonesia archipelago until 1969 when it became Indonesia’s 26th province.

return of all Dutch-owned assets, especially plantations.⁵⁴ The commitment to return the Dutch assets made it difficult for the United States of Indonesia to implement revolutionary aspirations and actions to dismantle colonial plantations.⁵⁵ At the same time, the Republic of the United States of Indonesia adopted the colonial conception of the “illegal land occupation,” which was previously declared by the Dutch in *Staatsblad* No. 111/1948, to solve occupations over ex-colonial plantation land.⁵⁶

The Republic of the United States of Indonesia (RIS) was unable to function as an effective government. Most of the political leaders of new states resisted the new format of federalism. By 1950 the Republic was besieged with political maneuvers by the states to dismantle federalism. The greatest opposition to the unitarist tendency of these political leaders came from East Sumatera and the East Indonesia states. As noted by Ricklefs (2001:285), political struggle over the matter ended on the occasion of the fifth anniversary of the declaration of independence, in August 1950: the RIS, the Republic of Indonesia as a constituent element within it, and the states of East Sumatera and East Indonesia were replaced by a new Republic of Indonesia with a unitary (but provisional) constitution. The Republic of Indonesia was restored, and a liberal democracy/multi-party parliamentary system was established. With this the Round Table Conference Agreement was discarded.⁵⁷

The plantation land ownership became the center of hot debate. With respect to the issue of “illegal land occupation,” the Indonesian government took further steps that had begun with Emergency Law No. 8/1954 on the resolution of the use of plantation lands

⁵⁴ The following are the relevant passages from agreement made in the Round Table Conference (as quoted in Glassburner 1962:119):

Section A

Article 1

1. In respect of the recognition and restoration of the rights, concessions, and licenses properly granted under the law of the Netherlands East Indies (Indonesia) and still valid on the date of transfer of sovereignty, the Republic of the United States of Indonesia will adhere to the basic principle of recognizing such rights, concessions, and licenses. The Republic of the United States of Indonesia also recognizes, insofar as this has not been done, that the rightful claimants be restored to the actual exercise of their rights under the proviso referred to in the following paragraphs of this article

Article 2

The rights, concessions, and licenses referred to in Article 1, paragraph 1, may be infringed only in the public interest, including the welfare of the people, and through amicable settlement with the rightful claimants, and if the latter cannot be achieved, by expropriation for the public benefit, such in accordance with the provisions of Article 3.

Article 3

Expropriation, nationalization, liquidation, compulsory cession, or transfer of properties or rights, shall take place exclusively for the public benefit, in accordance with the procedure prescribed by law and, in the absence of an agreement between the parties, against previously enjoyed or guaranteed indemnity to be fixed by judicial decision at the real value of the object involved, such in accordance with provisions to be prescribed by law.

The full agreement is in Tauhid (1952b:255-260).

⁵⁵ For full account on the role of this see Aprianto (2005).

⁵⁶ For policies on so called “illegal occupation” See Gouwgioksiong 1960:25-29; Tauhid 1952:10-39; Gautama and Harsono (1972:12-15). the complete text of the regulation is in Gouwgioksiong (1960:101-106).

⁵⁷ The Round Table Agreement was officially and unilaterally discarded by Law No. 13/1956.

by people.⁵⁸ Officially the law was to achieve a peaceful settlement of tensions based on negotiation between conflicting parties. The government sought: (a) to provide a certain legal status on occupied former plantation lands as long as the occupiers complied with certain prescribed conditions; and (b) to open opportunities to those plantations that were strategically important to the state and public to continue with business. The law identified roughly 80,000 hectares, out of some 200,000 hectares of plantation lands in Java, as being occupied, with the occupiers having converted the plantation lands into agricultural plots following the Japanese occupation (1942-1945).⁵⁹

This plan to legalize occupied land and resume plantation operations where possible failed as Sukarno declared martial law, marking a critical turning point for land reform in post-revolutionary Indonesia. In response to the regional rebellions and entrenched political turmoil in parliamentary politics, Sukarno put all of Indonesia under martial law on March 14, 1957. Under martial law, the army assumed broad powers over political, governmental, and administrative authorities. Before any official-legal measures could be taken to legalize land occupations, and in defiance of the Round Table Agreement, the Indonesian army took control of all Dutch-owned plantations. Over five hundred Dutch plantations, roughly three-fourths of all plantations in Indonesia (as well as a great number of other Dutch corporations) were placed under the supervision of the military in coordination with the Ministry of Agrarian Affairs. The Ministry initiated a review and planned to terminate all colonial *erpacht* rights, under which each plantation got concessionary rights on seventy-five year leases according to the 1870 Agrarian Law (Gautama and Harsono 1972:12-15).

Then in December 1957, after a failed negotiation in the United Nations to get West Papua from the Dutch, Sukarno made a political decision to nationalize all Dutch-owned corporations. As formally formulated in Law No. 86/1958, the policy was “aimed to strengthen [the] foundational potent[ial] of [the] national economy, and liquidate colonial economic power, in this case Dutch colonial economic power.”⁶⁰ A state-owned corporation known as P.P.N Baru⁶¹ had become the largest state-owned corporation, offering a new arena where new managerial elites from the army could establish their stakes and interests (Mackie 1961:340). Two scholars argue that “the nationalization of Dutch property, gave rise to a new social class, the military entrepreneurs” (Caldwell and Utrecht 1979:124). The army blocked the people’s aspirations to dismantle the colonial plantations. Peasants who occupied the plantation lands were pushed into the “illegal occupiers” category, which had to deal directly with repressive control of local armies that frequently took action “in the interest of security” (*untuk kepentingan keamanan*).

Then, the fate of land reform for land occupiers on plantation land was formally sealed with the legal conversion of colonial *erpacht* right to the post-colonial right of exploitation (*hak guna usaha*) as written in the 1960 BAL, article III (Rules on land

⁵⁸ Most agrarian struggles in some plantation districts in East Sumatera also pushed the government to solve land occupation issues. See Pelzer (1978) for shifting relations between colonial plantation and peasants in East Sumatera. For the East Java case see Aprianto (2005).

⁵⁹ For the original text, see Gautama (1962:272-284). Pelzer (1982) made a valuable historical account of agrarian struggles in East Sumatera, including this “illegal occupation” issue.

⁶⁰ For the original text, see Ismet (1970), and Soedargo (1962:582-585). See also other government regulations implementing the nationalization of Dutch owned corporations in Soedargo (1962:586-647)).

⁶¹ *Pusat Perkebunan Negara-Baru (New Government Plantation Central)*. The “old” P.P.N., with which P.P.N Baru was later merged, was an office of the Ministry of Agriculture with 35 plantations in its charge.

conversion).⁶² Both were leasehold rights for corporations. The main difference between these two is the period for which the leasehold rights are applicable, and, importantly, the nationality of corporation that holds the right. The *erpacht* right was a provision for foreign corporations to hold land leases for seventy-five years. The right of exploitation (*hak guna usaha*) allowed national corporations to hold a lease for twenty-five years minimum. Some exceptions were possible for plantations requiring a longer period, such as for palm-oil plantations, in which case the Ministry of Agrarian Affairs could offer a thirty-five year lease. However, the BAL did not allow foreign corporations to have the right of exploitation. This provision satisfied the nationalist sentiment of the times, but its enactment negated the demands of land occupiers of plantation lands.

Moreover, excluding plantation lands from the land redistribution program allowed the plantations to persist. In the following section I will explain how the State Forestry Corporation (SFC), another huge landholder in Java, was allowed to persist.

2.6. How did Forestry Become Separated from the Agrarian, and How did Forestland Become Excluded from the Land Redistribution Program?

Along with plantation land, lands within the forest category were also excluded from the land reform program of 1960-1965. The forestland in Java had been regulated by a distinct legal arrangement since colonial times. The management of Java forest by distinct institutional arrangements was mandated by various forestry codes from the middle of the nineteenth century through the early twentieth century. A landmark was initially made five years before the 1870 Agrarian Law was enacted, i.e. when the colonial government released the forestry law of 1865. The 1865 forestry law deepened what the colonial government had been practicing for more than a half-century since Governor General Daendels organized exploitation of Java's teak forest in 1808⁶³ through the first quasi-modern government forest service, the *Dienst van Boswezen*, with rights to control land, trees, and labor.⁶⁴ It was then revised by the laws of 1874, 1875,

⁶² The following is the relevant passages from the 1960 BAL, article III Rules on land conversion:

An *erpacht* right for a large-scale plantation company which already exists at the time this law comes into effect shall, become an exploitation right of exploitation (*hak guna-usaha*) as meant in Article 28(1) for the remaining term of the *erpacht* right in question, which shall not exceed 20 years.

⁶³ Louis Napoleon who had ruled the Dutch from 1808 to 1811 appointed Marshall Daendels as governor-general for Dutch East Indies. Peluso writes, "(s)everal main elements of Daendels's system remained at least philosophically important throughout the ensuing two centuries:

- all forests declared the domain of the state (*landsdomein*), to be managed for the benefit of the state;
- forest management assigned to a branch of civil service created expressly for that purpose;
- the forest divided into parcels (*perceel*) to be logged and replanted on a rotating basis;
- villagers' access to teak restricted, and only collection of deadwood and non-timber forest products permitted" (Peluso 1992:68).

⁶⁴ Peluso writes "The 1865 forestry laws are credited with being "the first forestry laws for Java. Along with the *Domeinverklaring* of 1870, which declared all unclaimed and forest lands as the domain of the state, these laws laid the basis for "scientific forestry" as it is practiced today. Although the philosophical principles of state forest management had been nurtured for some hundred years or more in the Indies, and elsewhere for millennia ... , there was a difference between the new scientific regulations and the preceding years of declarations and treaties. Land control superseded species and labor control as the key to the state's forest policy. The state did not give up these old forms of control, but as times and the nature of the colonial state changed, so did the modes of forest control (Peluso 1992:50)."

1897, and 1913. They were the first forestry laws that along with the *Domeinverklaring* of 1870, declared all unclaimed⁶⁵ and forest lands as the domain of the state. Not all Javanese peasants let the colonial state and forest management institutions restrict their access to forestland and forest resources. Some launched overt protests, such as the Samin movement in Central Java (1890-1915) (Benda and Castle 1969, Peluso 1992:69-78).

Major changes that were made as consequence of the forestry laws included the establishment of the Forest Service, *Het Boswezen van Netherland Indie* on July 1, 1897, the division of some forest districts into smaller units, and the law also brought the Forest Service under the Department of Agriculture, Industry and Trade, and moved the forest police to the direct jurisdiction of the Forest Service (Soepardi 1974b:60-63; *Departemen Kehutanan* 1986b:73-88; Peluso 1992:44-55).

The 1865 Forestry Laws were later replaced by various ordinances including a series of laws and regulations of 1927 and 1932 on Forestry in Java and Madura, which became the stronger bases for defining the state forest zone (*kawasan hutan negara*) and delineating state forest lands by gazetting processes.⁶⁶ As a consequence of those legal reforms, the composition of areas under state and private exploitation in the teak forests in Java was changed from 1900 to 1930. Furnival reported in 1900 that the total of all forestlands exploited by private parties came to 655 thousand hectares. These forestlands were concessionaries, a different category from those forestlands under the direct control of the Forest Service. In 1930, after a long restructuring process, which was aimed basically at bringing all forest areas under government control, private enterprises were only holding some 97 thousand hectares; Forest areas under state exploitation came to 698 thousand hectares (Furnival 1944:325 cited in Boomgard 1994:130-131).

After the formation of *Dienstvak: Dienst der Bossen op Java and Madura* in 1938, which reunited a fully commercial *Djatibedriff* (Teak Enterprise) and Jungle-wood Forest Service, all forest exploitation by private companies was ended (*Departemen Kehutanan* 1986a:115, Peluso 1992:67).

⁶⁵ “Unclaimed lands” was a residual category aside from lands with private legal title (*eigendom*).

⁶⁶ For full Indonesian translation of Bosordonansi Jawa Madura 1927, Bosverordering Jawa Madura 1932 see: Perum Perhutani (1984). As written by Peluso, the 1927 and 1932 laws define the state forest zone for Java and Madura as follows:

- a. lands which are owned by the state, to which other people or parties have no right or control, and on which grow:
 1. naturally regenerated woody species and bamboo,
 2. woody species planted by the Forest Service,
 3. woody species not planted by the Forest Service but planted by the state and turned over to the Forest Service for management,
 4. woody species planted by order of the state/government,
 5. non-woody species planted by the Forest Service;
- b. all lands surrounding the lands stated in paragraph (a) on which woody plants do not grow; as long as those lands are not used for other purposes outside the jurisdiction of the Forest Service;
- c. all land reserved by the state for maintaining or extending the forest;
- d. all land included in the [state] forest lands when the forest boundaries were established (Peluso 1992:66).

The same ordinances define teak forests as “land or land parcels (a) on all or part of which teak trees grow; and (b) which have been designated by the state for the expansion of the teak forest, whether that land is currently planted in trees or not” (Peluso 1992:66).

Until the late Dutch colonial era in 1940, the Forest Service had reported to be managing 757,648 hectares of teak forest, which was roughly 92 percent of the total teak forest in Java and Madura; and they were managing some 819,749 hectares of jungle wood forest, equal to 30 percent of the total jungle wood (non-teak) forest in Java and Madura (Soepardi 1974:121).

Under the Japanese occupation (1942-1945), both forest management and the institution were in disorder. *Ringyoo Tyuoo Zimusyo* was formed to take over *Boswezen* authorities, but most of Dutch foresters refused to join. They were imprisoned. Most of forest areas failed to be managed. The Japanese took trees for the purpose of war without concern for reforestation, and ordered people to convert forest into agricultural lands for fuel (castor oil mader from *Jatropha*) and food for Japanese army, not for their own consumption (Soepardi 1974:1-40; *Departement Kehutanan RI* 1986b:1-21; Peluso 1992:93-97; Simon 1999:39-41). As stated earlier, the peasants initially welcomed the Japanese order to cultivate the formerly off-limits forest land, but before long were eager to be freed from this new forced agricultural labor.

With the 1945 declaration of independence, political elites pushed Indonesian foresters to find new ways to follow the principles laid out in Indonesian constitution article 33 which put the control of natural resources into the hands of the new state (Poerwokoesoemo 1956:218; Soepardi 1974:41-83). Meanwhile, the political movement for independence provided a signal that the colonial control over the forest was being released, and villagers took action to access and claim wood or territory from the long-forbidden source. Tensions began to mount. The *Jawatan Kehutanan* (Forest Service) which inherited some three million hectares of forestland in Java had failed to establish new institutional arrangements. The foresters insisted to continue what *Boswezen* had done in the colonial era. Peluso notes that Indonesian foresters had difficulties to resolve the predicament between “their concurrent desires to return to the orderly and routinized work system of the *Dienst van het Boschwezen*, and to eliminate those elements of forest management that conflicted with the more egalitarian philosophy sported by the independent republic” (Peluso 1992:97).

Supardi (1974:60-62) notes approximately 220,00 hectares of state forest were destroyed or damaged during 1946, included 110,000 hectares of Java forest were occupied by villagers or stripped of their timber by peasants and revolutionary armies for fuel. Tension between land occupiers and the Forest Services sprung up, partly because the Forest Service started evicting the occupiers from forest lands, and leftist rural movement organizations, namely the Indonesian Peasant Front (BTI) and the All Indonesian Forestry Workers Union (SARBUKSI), fought beside the occupier. By 1949 (as reported in *Departemen Kehutanan* 1986:42), at least 400,000 hectares, or four-teen percent, of Java’s state forest lands were allegedly occupied by peasants or deforested by civilian and military wood thieves. Peluso (1992:103-108) notes, four forces directly and indirectly influenced the ways people interacted with the forest during this time: (a) Darul Islam and the Islamic Army of Indonesia (DI/TII) that launched a guerilla war against the Indonesian government in some West Java and Central Java forests to fight for establishing an Islamic state in Indonesia; (b) the military as a whole and individuals, which took advantage of their status as the government’s armed forces, especially after Sukarno declared martial law as the opening of his Guided Democracy in March 1957; (c) Indonesian Communist Party (PKI) and its affiliated mass organizations, which

successfully mobilized forest villagers and forest workers to fight against established foresters who had aspirations to continue the Dutch forest management system; and (d) the “mainstream” foresters themselves who believed that the Dutch system was much more normal to professional foresters trained in forest science. They were eventually represented by the Indonesian Nationalist Party (PNI).

After the passing of the BAL of 1960, which did not refer to the colonial forestry laws, BTI and SARBUKSI, the two largest leftist rural movement organizations, launched a campaign to include part of the forestland under control of the Forest Service to be released for a land reform program based on the new law. Foresters perceived this campaign differently. One faction of foresters conceived of it as a threat to the forest and forest management. They argued that forestland should be excluded from the land reform program because the Forest Service relied on the 1927 and 1932 forestry laws, and not on the 1960 BAL. Another group of foresters was sympathetic to the rural movements and promoted the need to overhaul the Forest Service to accommodate the demand for agricultural land within the demand for economic forest production given that famine had gripped the nation at this time.

The forestry laws and the BAL were two sets of laws that had completely different trajectories of authority and territorial reference. The anti-reform foresters brokered deals with President Sukarno to promote the status of the Forest Service into state-owned corporations, and promised annual revenue to the state budget from these corporations. In 1961 Sukarno signed a set of government regulations (No. 17 to No. 30) to establish state-owned forestry corporations in thirteen provinces including East Java, Central Java, and West Java. Then, Sukarno signed another government regulation (No. 35/1963) to set up the principles and mechanisms by which forest areas would be determined for the SFCs to manage. Tensions within the Forest Service were elevated in 1964 after the Indonesian Communist Party (PKI) and its affiliates launched the so-called “unilateral land occupation actions” over parts of forestlands, as well as over private- and state-owned plantations and large private lands in order to accelerate the implementation of the 1960 BAL. Communist leaders argued that most of large private landholders were violating agrarian laws and blocking their lands to be targeted by the land reform program.⁶⁷

⁶⁷ Peluso (1992:119) describes the land occupation as follows:

Groups of peasants, sometimes, numbering in the hundreds or thousands and reportedly mobilized by the BTI or the PKI youth group, *Pemuda Rakyat*, entered the forest land. They would then proceed to divide the land among the peasants. Oftentimes, these group encountered forestry employees who generally were reported as trying to stop them; sometimes sympathetic foresters tried to stay out the conflict. Incidents often involved injuries to foresters or peasants; in many cases, foresters’ or others’ houses or offices were attacked and ransacked and money was stolen. In some cases, the communist factions justified their action by saying that local foresters aggravated forest land disputes through some mismanagement prior to whatever incident (*Harian Benteng*, October 21, 1964).

Foresters sometimes responded confrontationally as well, replacing BTI-backed forest farmers against their will with forest laborers from outside the village. In other instances, farmer claimed land rights under the squatters’ provisions that had permitted continued occupation of land farmed since the Japanese period. Some local foresters were reputed to be exacting bribes from reforestation laborers for access to forest plots (Departemen Kehutanan 1986, 2:109). BTI defended the farmers’ claims by citing government policy to increase national food production. Famine, they pointed out, was ravaging the countryside (Mortimer, 1974).

Then in 1965, the attempted coup organized by PKI leaders to kidnap and kill some army generals provoked a massive counter-revolutionary movement by the army and other anti-communist forces, effectively terminating communist power. The fall of Sukarno and the rise of Suharto in 1966 also put an end to the campaign for land reform, or any other efforts to redistribute parts of forestland in Java to the landless (see next section: the rise and fall of land reform policy). Peluso describes

After the attempted coup, since then known as the 30th of September movement (G30S) in reference to the counter strikes, many of the people who had posed problems for the Forest Service – squatters, forest laborers in communist affiliated organizations, and black market teak traders – were killed or interned in camps for political prisoners. Islamic groups, the army, and youth groups were mobilized by the counterrevolution to find and kill anyone known or believed to be communist, including anyone affiliated with a communist organization. SARBUKSI members who were not killed or exiled were fired permanently from the Forest Service (Peluso 1992:120-121).

Indeed, the violence of 1965-66 that culminated with the total destruction of the PKI, and the fall of Sukarno in 1966, left behind a deep fear of any agrarian organizing for many decades.

The separation of forestry from agrarian spheres was widened after President Suharto signed the Basic Forestry Law (BFL) of 1967 (Law No. 5/1967), which did not refer to the 1960 BAL, as part of a package to facilitate foreign and domestic capital investment.⁶⁸ The 1967 Forestry Law revived the state domain principle declaring that the state is the owner of forest, and the Minister of Forestry has an authority to determine which areas are included within the so-called “state forest zone” (article 1 of the 1967 BFL). Based on this declaration, the Minister had the authority to give logging concessions to private, foreign, and domestic companies (article 14 of the 1967 BFL, and Government Regulation No. 21/1970).⁶⁹ In 1983, President Suharto decided to take the General Directorate of Forestry out of the Department of Agriculture, and upgrade it to become the Ministry of Forestry with jurisdiction over 140 million hectares of forestlands across Indonesia, which is more than 70 percent of Indonesia’s land. In so doing, forestry became one of the strategic extractive sectors through which Suharto’s regime, and foreign and domestic logging companies, accumulated wealth from exploitation of primary forest for timber in Sumatera, Kalimantan, Sulawesi, and Papua islands (Barr 1998, Dauvergne 1977, Gellert 2010).

For Java, Suharto’s government formally (re)established the State Forestry Corporation (SFC) in 1972 as a state-owned enterprise to manage forestlands in Central Java, and East Java (Government Regulation No. 2/1972). In 1972 West Java forestland was not included under SFC control. Based on Government Regulation No. 64/1957, the

⁶⁸ Aside from the 1967 Forestry Law the package composed of three other laws, namely Law No. 1/1967 on Foreign Capital Investment, Law No.8/1967 on Domestic Capital Investment, and Law no. 11/1967 on Mining Law.

⁶⁹ Between 1967 to 1975 fourteen logging concessions were given to foreign companies for total 2.948 million hectares of primary forest, and seventy-two concessions were given to joint-venture companies for total 7.6215 million hectares (Ruzika 1978:10).

West Java Provincial Government had kept its control over West Java forestland. West Java forestland was conceived of differently compared to its counterparts in Central Java and East Java because the different value and profit produced through different forest characteristics. Only 7 percent (some 67,861.70 out of 968,100 hectares) of West Java forest was teak forest plantation, and because of the soil and climatic differences of teak in West Java, it had never been grown as well as in Central and East Java. In order to make management of West Java forest profitable and not dependent on the state budget, Suharto's government in 1978 decided to include West Java forestland under the control of the SFC (Government Regulation No. 2/1978) (Hidayat et al 1980, Peluso 1992:285 fn 5).

After including West Java forestland, Peluso notes that “the territory controlled by the SFC mirrored that controlled by the Dutch Forest Service in Java except for enclaves of forest land disputed by peasants placed there by the Japanese or occupying the land since the revolution” (Peluso 1992:125). In addition, the SFC also maintained colonial forms of forest control, territorialization, and management that were legitimated by three main ideological principles:

- (1) the state forestry serves the greatest good of the greatest number of people;
- (2) that scientific forestry is an efficient and rational form of resource use; and
- (3) that promoting economic growth through forest production for the state is the key component of the forester's role (Peluso 1992:125).

Peluso writes “(t)hese ideologies neither match local people's view of the forest, nor contribute to forest villagers' development” (*Ibid*).⁷⁰

There has been a long struggle for control of access to forestland in Java as some critical literature reveals (Peluso 1992, Lindayanti 2003, Suprpto 2003, Santoso 2004, Mary et al 2007). The hegemony of “political forest” has been maintained through various form of consent and coercion. But this hegemony is far from stable. The SFC created various forms of social forestry programs to accommodate conflicts and tensions by providing a bit of access to forestland and forest resources. Social forestry in Java has had its own trajectory since the 1970s rooted in prolonged tensions between the SFC and rural people over tenurial control of and access to forest lands and resources.⁷¹ The creation of various forms of social forestry have been ways to reinforce the hegemony of the SFC toward forest-adjacent villagers through providing and modifying access to forestland for agricultural purposes, as well as access to a small portion of benefits they shared among forest users and other groups they call ‘forest stakeholders’.

Today the SFC controls some 19 percent of Java's land, equivalent to more than 2.4 million hectares, 72 percent (1,767,304 hectares) of that is production forest, teak and non teak woods, and 28 percent (658,902 ha) of that is protected forest (see Table 2.1).

⁷⁰ The ways SFC continued this colonial type of forest control, territorialization, and management enable Vandergeest and Peluso (2001, 2006a, 2006b) to theorize what they call “political forest”.

⁷¹ For fuller accounts on the history of social forestry policy in Java see: Barber (1989), Peluso and Poffenberger (1989), Peluso (1992), Sunderlind (1993), Bratamihardja et al (1995), Lindayati (2000, 2003), and Awang (2004).

Table 2.1. Forest Zone controlled by the State Forestry Corporation

Forest Zone	Unit 1 - Central Java (ha)	Unit II – East Java (ha)	Unit III		Total (ha)
			West Java (ha)	Banten (ha)	
I. Production Forest	546,290	809,959	349,649	61,406	1,767,304
II. Protection Forest	84,430	326,520	230,708	17,244	658,902
Total (ha)	630,720	1,236,479	658,902	78,650	2,426,206

Source: “*Profil Perum Perhutani*”

http://www.perumperhutani.com/index.php?option=com_content&task=view&id=12&Itemid=29

Last accessed on 10/12/2010

Note: Banten was separated from West Java and became a new province in 2000.

Chapter 6 of this dissertation presents detailed ethnographic evidence on how various rhetoric and violence tactics – along with a particular form of social forestry program – are deployed by the SFC and its allies have been directed against social movement organizations demanding forestland redistribution. By deploying those tactics the SFC succeeded in delivering a message to land reformers that Java’s forestland should be excluded from state land reform programs despite pressures from agrarian movement groups.

2.7. The Rise and Fall of Land Reform policy

President Sukarno enacted the BAL on September 24th, 1960. It took twelve years to develop. The Sukarno administration was committed to using the BAL as a vehicle for revolutionary overhaul of the feudal and colonial agrarian structures through five agrarian reform program goals, i.e. (1) to renew agrarian laws; (2) to supplant foreigner’s rights and colonial land concessions; (3) to gradually end feudal exploitation; (4) to reform unequal land distribution and its legal relations; and (5) to plan land and resources use.⁷² The ultimate goal of these programs was to achieve the “Indonesian socialist society, a just and prosperous society based on the *Pancasila*⁷³” (quoted in Harsono 1970:2-3).

Before the enactment, at the first session of the Supreme Advisory Council (DPA) that met specifically to discuss land reform policy, as reported by Utrecht:

Sukarno enunciated the theory that “land reform is an indispensable part of the Indonesian Revolution” ... In Indonesia, Sukarno claimed, it had been clearly

⁷² Agrarian reform Indonesia itu meliputi 5 program atau Panca-program, yaitu:

1. pembaruan hukum agraria,
2. penghapusan hak-hak asing dan konsesi-konsesi kolonial atas tanah,
3. mengakhiri penghisapan feudal secara berangsur-angsur,
4. perombakan mengenai pemilikan dan penguasaan tanah serta hubungan-hubungan hukum yang bersangkutan dengan pengusaha tanah, dan
5. perencanaan persediaan, peruntukan dan penggunaan bumi, air dan kekayaan alam yang terkandung didalamnya itu secara berencana sesuai dengan daya kesanggupan dan kemampuannya.

(quoted in Harsono 1970:2-3)

⁷³ *Pancasila* is five philosophical bases of the Indonesian state, as described in the beginning of this chapter.

demonstrated that the peasant who owns his own land cultivates it more intensively. Many arable acres of land left unproductive by landlords could be turned into flourishing fields. Landlords who would have to give up their property but would receive proper indemnification could, provided that efficient arrangements were made, grow into prosperous manufacturers. Properly implemented land reform could also result, he said, in a more just distribution of income among citizen and create a social structure that would open the way towards higher national production (1969:72).

So, seen from this framework, Utrecht concludes that “the land reform program pursued to abolish the landlord classes who have their land tilled by hired laborers and a decrease in the number of landless peasants by granting real property only to those who till the soil themselves” (1969:72).

The Law No. 56/1960 enacted to determine the ceilings or maximum limits of the land ownership based on the types of land (paddy field, or dry land) and population density (see Table 2.2.). It also stipulated that anyone holding “surplus lands” (lands in excess of the legally permitted maximum) was to report this to the head of the district agrarian offices within three months after the enactment, and forbade the transfer of “surplus lands” to others without the permission of the head of the district agrarian office. Then the Minister of Agrarian Affairs extended the due date based on the category of region, i.e. April 30, 1961, May 31, 1961, and June 30, 1961 (See Harsono 1997:296)

Table 2.2. The maximum limits of the land ownership according to Law No. 56/1960

Population Density	paddy field (hectares)	dry land (hectares)
1-50 inhabitants per sq. km	15	20
51-250 inhabitants per sq. km	10	12
251-400 inhabitants per sq. km	7.5	9
over 400 inhabitants per sq. km	5	6

Aside from “surplus lands”, the land reform program also targeted “absentee lands” (defined as land owned by those who live outside the sub-district where the land is located), ex-kingdom lands (*tanah swapraja*), and other forms of state lands that would be determined later by the Minister of Agrarian Affairs. Government Regulation No. 224/1961 was released to set up land reform committees at the district level to identify targeted lands, and land reform beneficiaries.

Financial compensation for the “surplus land” and the “absentee land” was determined by the Agrarian Reform Committee at the district level, based on average total net income in the last five years per-hectare. For the first 5 hectares, it would be ten times the average total net income per year; for the second five hectares, it would be nine times the average total net income; and for the rest, it would be seven times the average total net income.⁷⁴

Sukarno also enacted Law No. 2/1960 on Sharecropping Agreements. The aims of the Law were (a) to equalize the proportion of benefit between land owner and

⁷⁴ See Government regulation No. 5/1963 that later became Law No. 6/1964.

sharecropper; (b) to strengthen legal rights and obligations of both parties, especially to protect the sharecroppers who were in a vulnerable position; and (c) through equalizing the proportion of benefit and protecting the tiller, it is expected to improve productivity of the land. The Law stipulated that every sharecropping agreement had to be a written agreement for minimum three years for paddy field and five years for wet land, and it had to be made in front of the village head and two witnesses, and it had to be ratified by sub-district head (*camat*). The Law provided guidance as follows:

1. the land owner gets 50%, and the sharecropper get 50% if the land is paddy field;
2. the land owner gets 33.33%, and the sharecropper get 66.66% if the land is dry land or wet land with cash crops;
3. if the existing proportion is better for sharecropper than the above guide they have to use the existing arrangement.⁷⁵

In order to put forward the land reform agenda, in 1963 – a year when the People’s Representative Assembly (MPRS) declared him as the Great Leader of Indonesian Revolution (*Pemimpin Besar Revolusi Indonesia*) and president for life – Sukarno declared September 24th as Peasants’ Day that “needs to be celebrated with ceremonial activities, followed by work-plans to improve peasant livelihood in order to pursue a just and prosperous society.” The consideration of the Presidential Decision No. 169/1963 mentioned “(t)hat September 24th, the birthday of the BAL is the winning day for Indonesian peasants, by establishing bases for implementing land reform for supplant[ing] imperialism in agrarian sectors, and liberating peasants from various forms of exploitation of man by man through agrarian relations, in order to pursue a just and prosperous society” (as quoted by Harsono 1970:4).

In 1964 the Indonesian Communist Party (PKI) and its largest mass peasant organization (BTI) launched “unilateral action” (*aksi sepihak*) to take over and occupy lands that were supposed to be redistributed for the occupants. They claimed that the implementation of land redistribution and sharecropping arrangement was slow, because landlords, most of whom were associated with traditional Islamic and nationalist parties, were blocking the land distribution and the sharecropping arrangements. These actions were officially perceived by the PKI as a political response against landlords who refuse to report their surplus lands to the land reform committee, or escaped it by splitting the land into small plots in the name of their family members.⁷⁶ These actions had created local and national tensions and controversies,⁷⁷ including the harsh debate on the “unilateral action” between editors of *Harian Rakyat* (representing the PKI) and editors of *Merdeka* (representing Indonesian Nationalist Party) in 1964.⁷⁸

Sukarno took the side of the PKI and the BTI, supporting unilateral actions, and condemning those who constrained land reform. In his annual “Proclamation Speech” of

⁷⁵ More details on Law No. 2/1960 on Sharecropping Agreements see Parlindungan (1991).

⁷⁶ In fact there were variety of “unilateral actions” as described by Utrecht (1969), Lyon (1970), and Mortimer (1972).

⁷⁷ On “unilateral actions” in the context of land reform and political struggle 1960-1965 in East Java and Central Java, see Hefner (1990), Pratikto (2000), Sulistyono (2000), Padmo (2000), Sanit (2000), dan Kasdi (2001). Cf. Aprianto (2006).

⁷⁸ The polemics were collected and published in a book *Polemik H.R. dan Merdeka* (Djakarta, Merdeka Press 1965).

17 August 1964 Sukarno affirmed his view and position about the peasants as the pillars of the revolution (*sokoguru revolusi*), together with the workers. Then, Sukarno ordered the Minister of Agrarian Affairs to finish immediately and successfully – before the end of 1964 or mid-1965 at the latest – the redistribution of “surplus lands” in Java (and also in Madura and Bali). He also ordered the Minister of Justice to establish as soon as possible the land reform court, which had already been promised, and warned the land reform committees to put an end to their ‘incorrect practices,’ lest peasants take their own measures to assert their rights (Sukarno 1964 [1965]:662-623).

On January 1965 the Minister of Agrarian Affairs reported that the implementation of land reforms had met with difficult issues. As reported by Utrecht those issues were:

- a. Deficiencies in the registration of land hampered investigations of the land surplus, and opened the way to abuses.
- b. Lack of understanding of the necessity and significance of land reform as an instrument of social change among wide sections of the people made it easier for landlords to obstruct the reforms.
- c. There was insufficient cooperation among the members of the committees, partly because other duties kept some of them from devoting their full attention to the tasks of the committees, and partly because many of the committee members themselves were interested in the failure of land reform; in many cases land surpluses were even officially kept outside the land reform regulations.
- d. The peasants' organisations which would have lent the strongest support, were prevented from playing a significant part on the committees.
- e. The peasants were still subject to strong psychological and economic pressure from the landowners which kept them from pushing for an efficient execution of land reform.
- f. It proved difficult to establish an order of priority in redistributing land either because many fields had no regular labourers or because, through changes in registration, the workers concerned had been listed as absentees. Such cases resulted in severe disputes between landowners and labourers or among the labourers themselves, which, in turn, often gave rise to quarrels among the various political organizations (cited in Utrecht 1969:79).

The support given by Sukarno and Sukarno’s administration made the PKI and the BTI take the lead in the class politics already developing, and forced the landlords to act in political defense of their class position (Wertheim 1969:14).⁷⁹ Then the land reform program was suddenly discontinued at the end of 1965 in the wake of the violent backlash against land reform policies in the aftermath of the anti-communist counter-coup, followed by the ban on the Indonesian Communist Party (PKI) and PKI associated mass organizations, and a political massacre of more than a half-million alleged communists and the imprisonment of hundreds thousands of communist activists and leaders without trial. The final blow was to overthrow Sukarno through an official

⁷⁹ for some concrete example of the conflict between the landlords and peasants, see Utrecht (1969) and Lyon (1970).

decision of the Temporary People’s Representative Assembly (MPRS) in 1967⁸⁰, and appoint General Suharto as the new Indonesian President.⁸¹ An Indonesian historian has since uncovered that these processes were part of the “creeping *coup d’etat*” supported by the CIA (Wardaya 2007a, 2007b. See also Scott 1985).

It was officially reported that more than 450 thousand hectares of land were redistributed for more than 500 thousand families in Java (see table 2.3). The land reform beneficiaries generally got less than a hectare. According to Utrecht these figures “are not reliable since they do not take into account the unconcealed and concealed taking back of redistributed land” (1969:87, fn 28). White and Wiradi (1979a:51) who studied Cimanuk watershed, West Java, and Adiwilaga (1975:10-11) who studied Cipamongkolan village, Bandung upland, West Java, confirmed that the redistributed lands were taken back by the previous land owner.

Table 2.3. Land Redistribution in Java (1962- 1968)

Types of land	Distributed Lands (ha)	Beneficiaries (household)
Surplus lands	59335	89090
Absentee lands	148425	30331
Ex-Kingdom lands	73943	104274
Other State-lands	174941	288444
T o t a l	456644	512139

Source: *Penyuluh Land Reform dan Agraria* (Th VIII/No.4/1968), page 14-15.

What happened then was what Wertheim calls a “counterrevolution” in the countryside, which means

“(t)he rich landowners have regained their lands, and the military leaders are practicing a sharp repression against those who tend to resurrect agrarian unrest. Non-commissioned officers appear to have been appointed on a large scale as village heads. Whereas the incipient class struggle of the poor peasantry failed, for the time being, it is the large landowners, supported by the rule of the military authorities, who are, thus, openly waging their own brand of class struggle” (Wertheim 1969:15).

2.8. Encapsulating the Trajectory of the 1960 Basic Agrarian Law

In tracing the trajectory of Indonesian land policy, I want to pick up three intertwined policy issues that help shape the practice of land policy in Indonesia. The first issue is the status of customary lands, customary law (*hukum adat*), and rights of local

⁸⁰ Then Sukarno was prissoned by Suharto’s regime until he died in 1970.

⁸¹ The coup and the killing are two of the most mysterious political histories in Indonesia. During the Suharto dictatorship (1967-1988) public discussion and research on the coup and the killing were forbidden. The regime only allowed an official version. Textbooks, film, monuments, museums, and yearly ceremonies repeatedly spread the official version. Scholarly research and publication by foreign critical scholars were censored. Adam (2005) and McGregor (2007) provide current critical accounts on military efforts to produce and spread the misleading official version.

people over their customary lands.⁸² The 1960 BAL posited a conditional recognition toward the existing plural customary laws (*hukum adat*). It was overtly stipulated that the BAL recognized the status of the existing plural customary laws regarding land and natural resources under the condition that the customary laws were “not contrary to the national interest and the interest of the State” (article 5). The problem arises – as later became evident in the era of Suharto’s regime (1966-1998) and after, when the interest of the State was to grant forestry, mining, or plantation concessions to national and transnational corporations on the land and resources that were previously under the control of local peoples. It seems that van Vollenhoven’s notion of “a century of injustice,” which condemned the Dutch colonial state for the mistreatment of Indonesian natives regarding their right to regulate their land according to their customary laws, gained momentum in the post-colonial era.

The second issue is about the “State’s right of control over all lands and resources” (*Hak Menguasai Negara*) as stipulated in article 2 of the 1960 BAL. With this conceptualization, the state had the authority to regulate and manage land and natural resources, determine property relations, and therefore to determine which are legal and illegal acts concerning land and natural resource management. The BAL was inspired by Sukarno’s vision for overhauling colonial legacies in Indonesian land laws and land tenure systems. It was assumed by the BAL’s authors that the ruling government would be a benevolent actor that necessarily would use its authority as “a means of bringing prosperity, happiness, and justice to the State and the people, especially farmers, in the context of establishing a just and prosperous society” (General Explanation of the BAL, part 1).⁸³ The BAL drafters never imagined that the ruling government could use and abuse their overwhelming authority against the principles and policy directions laid out in the BAL. The Suharto regime (1966-1998) froze the BAL and its land reform agendas, interpreting the state’s right of control in a way that could best enrich state coffers, and line official pockets. In the next chapter I will clarify the ways this problem inspired agrarian movement activists and scholars to revive land reform agendas.

The third issue is about the legal, institutional, and territorial separation between agriculture, plantation, and forestry, which was established in the colonial era. Government land redistribution programs (1962-1965) under BAL targeted lands in the agriculture sector⁸⁴ and excluded plantation and forestry lands from the program. Moreover, the authors of the BAL took a compromised stand over colonial plantations. The BAL allowed colonial plantations to continue exist through converting their land use right (*erpacht*) into “right of exploitation” (*hak guna usaha*). Forest land was also excluded from the program, because the BAL did not even refer to colonial forestry laws; Foresters and forestry institutions, including the State Forestry Corporation (SFC), have

⁸² As I laid out in the beginning of the chapter, the so-called “State’s right of control over all resources” was declared by the 1960 BAL to replace the domain declaration of 1870, which stipulated that land not held in ownership or under ownership-like rights, the waste lands, was deemed to be the domain of the state.

⁸³ ... merupakan alat untuk membawakan kemakmuran, kebahagiaan dan keadilan bagi Negara dan rakyat, terutama rakyat tani, dalam rangka masyarakat yang adil dan makmur.

⁸⁴ As I described in previous section, the land redistribution program (1962-1965) primarily targeted private agricultural lands beyond a maximum size. Aside from “surplus lands”, the land redistribution program also targeted “absentee lands” (legally defined as lands owned by those who live outside of the sub-district where the land is located), “customary kingdom lands (*tanah swapraja*)”, and other forms of so called “state lands”.

never recognized the BAL as pertaining to the officially designated forest lands despite that the BAL defines its scope to comprehend all types of lands and resources within Indonesian territory.⁸⁵ This segregation of the BAL from the forestry sector persisted under subsequent governments, and continued to shape the ways land rights of rural people were defined in relation to agriculture, plantations, and forestry

A year after Suharto come to power in 1966, the Indonesian government produced a forestry law, Law No. 5/1967, which makes no reference to the 1960 BAL. The forestry law revives the “state domain” principle declaring that any land within the so-called “forest territory (*kawasan hutan*)” is state-owned forest, and underscores the legitimate authority of the Ministry of Forestry to determine and define “forest territory.” The authority vested in the Ministry of Forestry through the Forestry Law of 1967 led to both land and forest enclosures that planted the seeds of deep agrarian resistance. In the next chapter, and later in this dissertation (see Chapter 6), I will show the ways agrarian movements emerged in relation to these land and forest enclosures.

⁸⁵ Its scope was Indonesian “national wealth” referring to “(a)ll the earth, water, and airspace, including the natural resources contained therein, which exist within the territory of the Republic of Indonesia” (article 1 of The BAL of 1960).

Chapter 3: Trajectory of Indonesian Land Policy: From Suharto's New Order to *Reformasi* (1966-2005)

3.1. Introduction

This chapter starts with what I call the counter-revolutionary shift of the central state from its use of BAL for land reform to a “land-for-development” policy. After the dramatic fall of Sukarno in 1966, the new President Suharto, with the assistance of Western-educated technocrats, dismantled Sukarno's socialist vision, focusing in particular on his land reform agenda. From the start of Suharto's rule, technocrats diligently committed all state resources toward a capitalist pathway to integrate the Indonesian economy and society into the world capitalist system.

In this chapter, I explore how Indonesia's central government launched an agricultural modernization program, restored state control over all plantations, exploited forest resources, and later developed industrial parks and real-estate in Java. I show how the central state's use of the BAL later shifted with the formation of the “land-for-development” policy. This policy was anchored by the state-sponsored land acquisition policy to facilitate state and privately owned projects in agriculture, agro-industry, industrial, and housing sectors. I continue with an analysis of the emergence of a “pro-land market” policy that was first introduced by the World Bank in 1995. Lastly, the chapter sets out some concluding insights concerning the ways agrarian movement groups, NGO activists, critical scholars, and government officials brought (back) land reform to policy arenas after the Suharto's fall in 1998, including through debate over the role and relevance of the 1960 BAL.

3.2. The Rise of a Counter-Revolutionary Authoritarian Development State

The ways in which land reform agendas were removed from the national policy arena reflect the rise of a counter-revolutionary authoritarian state after the 1965-1966 upheaval that brought General Suharto to power. During this period, the killings of hundreds of thousand of members, sympathizers, and people accused of being members and sympathizers of the Communist Party of Indonesia (PKI) introduced a general reign of terror in rural Java that was carried out not directly by the army but by the army-backed nationalist party members and youth militias with links to landed elite. Subsequent events of 1965-1966, included the banning of the PKI and other leftist mass organizations, and the torture of hundreds of thousands of leftist activists thrown in jail without trial by Suharto's authoritarian military regime. Rural landless villagers got the unambiguous message that there would be no land reform. Subsequently, land reform “appears to have been put into the ice-box” (Wertheim 1969:15). The regime established a military repressive structure parallel to the government-administrative structure from province to village levels to make sure any tendency to organize protest or promote alternative ideological visions such as “Indonesian socialism,” including land reform policy, was eradicated once and for all. For those who resisted such treatment the

repressive state apparatus would punish them, during which process the uses of violence were not infrequent (Southwood and Flanagan 1979).

The shift towards the “land-for-development” policy was engineered as part of the major economic paradigm shift by specific actors which came to embody the New Order government. When the New Order came to power in 1966, Indonesia’s economic policy was shaped by four major paradigms which were competing with one another, namely nationalism, populism, predatory bureaucratism, and liberalism (Robison 1997:29-30). Basic characteristics of each paradigm need to be briefly stated here to underscore their importance to the “land-for-development” policy.

After the domination of foreign investment in the early New Order economy, the rise of economic nationalism as national agenda was made possible by the sudden increase in oil revenues in the early 1970s. This economic nationalism was emblematically characterized by the role of *Pertamina*, the Indonesia state-owned oil company, which became a gigantic source of foreign capital (Robison 1997:33). International oil prices rose dramatically between 1973 and 1974 more than tripling in value. As a result of this rise, Indonesia’s oil and gas export values leapt from \$US1.6 billion, or 50.1 percent of total exports, in 1973. Likewise the government’s oil and gas revenues rose to Rp382 billion, or 39.5 percent of total government revenue in 1973/74 (Rosser 2003:270). The oil money enhanced the authority and power of the state and its officials over access and allocations of state budget, especially in directing a series of huge investments in up-stream industrial projects, such as petrochemicals, steel and steel products, cement, and fertilizer.

All of these state-directed investments had implications for creating a policy of land acquisition for development projects. According to Robison (1997:29) the agenda of economic nationalism was motivated by the drive to transform the economy from one focused on low value commodity production to a technologically advanced industrial economy with a capacity for the production of capital and intermediate goods and with a sophisticated service sector. The oil money also made the economic populism agenda possible, including subsidized pricing of basic commodities, a provision of targeted development funding and credits for small industry and farming activities, and also various forms of basic needs-oriented development programs. The agenda was driven by political reason, that not only pre-empted social unrest by alleviating rising prices but generated considerable popular legitimacy for the regime.

Predatory bureaucratism was driven by civil or military officials that have derived considerable personal and political benefit through their appropriation of government authority, including land acquisition. Robison (1983) calls these group politico-bureaucrats. Their authoritative official position in government offices was the source of their power, including the use (and abuse) of their legal authority to give away various types of concessionary rights to land to corporations, as well as permitting land acquisition for development projects. These rent-seekers essentially sold access to government authorization and facilities to business groups in exchange for an array of tangible benefits such as export and import licenses, mining, oil, forestry, and plantation concessions, subsidized bank credits, and government supply and construction contracts. For this reason, Rosser argues “the politico bureaucrats...vigorously defended the state’s role in the economy, arguing that state intervention...[was] necessary to promote national economic development...overcome foreign economic domination and promote the

development of indigenous business enterprise” (2002:33-34). Strategic trade and industry policies supported their goals and enabled them to subsidize credit and provide other forms of cheap finance to priority sectors and borrowers and above all protected “the direct involvement of the state in production through the establishment and development of state-owned enterprises” (2002:33-34).

Another important actor in economic policy-making processes is the conglomerate. Similar to the politico-bureaucrats, Indonesia’s conglomerates have benefited substantially from the state intervention in the economy. Rosser identifies four types of conglomerates, namely, the big Chinese-owned conglomerates, the conglomerates owned by members of the Suharto family, the large *pribumi* (indigenous) conglomerates, and the military-owned business group (Rosser 2002:35). As the top capitalist class in the country, they have made mutual relationships with the politico-bureaucrats and have benefited from state protection in the form of tariff and non-tariff barriers to trade and restrictions on foreign investment, and from access to government authorities and facilities including to get land concessions for exploiting oil and gas, digging mines, logging trees, developing plantations, building industrial parks, real estate, and tourism facilities, among other things.

By the mid-1980s, with the collapse of oil revenue, and with important structural changes in the world economy Indonesia was confronted with the forces of liberalism which pressured Indonesia’s industry into a global niche of comparative advantage and created intense pressure for deregulation policies as Indonesia repositioned itself in the global market. Since the mid-1980s Indonesian technocrats openly confronted what they regarded as rent-seeking economics which were conceived as by definition irrational, dysfunctional and inefficient. Consequently, Robison concludes,

“elements among the conglomerates and politico-business families now seek to reorganize the economic role of the state and their own place in the economy, selective[ly] retaining *dirigiste* and rent-seeking frameworks that guarantee protection and privileged access while opening opportunities for international business alliances and entry into potentially lucrative economic sectors held as state monopolies” (1997:31).

The other pressure for a liberal agenda comes from the international financial institutions, mainly the World Bank. In 1991 the Bank released a document criticizing Indonesian land policy and promoting market-oriented land administration and management. As I will elucidate later, this liberal agenda provides the basis for twenty-five land administration projects that began in 1995.

3.3. The Rise of Land-for-Development Policy

The land-for development policy regime had its origins in the early years of Suharto’s rule when the Department of Agrarian Affairs was placed under the Department of Home Affairs which was led by an army general.⁸⁶ Agrarian officials tried to maintain the basic functions of a land office including land use arrangements, land

⁸⁶ For thirty-two years Suharto always appointed army generals to the Department of Home Affairs position.

reform, land acquisition, land registration, and land law and regulation development. Mochtar Masoed (1989:60-61) argues that the land reform and other programs pursuing wealth redistribution, if implemented, would have dismantled key political supporters of the New Order. Rural landlords, most whom were anti-communist and controlled not-too-big lands, were the most important political allies of the army in fighting against Sukarno and communist organized masses.

Village-to-village land registration mandated by Government Regulation No. 10/1961 was halted under Suharto. The Law No. 7/1970 officially dismantled the Land Reform Court, and all land dispute cases had to go to ordinary state court (*pengadilan negeri*). The General Directorate of Agrarian Affairs in the Department of Interior Home Affairs kept land redistribution as an administrative category for a particular type of land titling scheme within which the original status of the land was state land. Later, the new regulation on the land reform committee (Presidential regulation No. 55/1980) was released in 1980 to officially bring land redistribution fully under the control of the bureaucracy⁸⁷ (*Departemen Penerangan RI* 1982:42-49; Hutagalung 1985; Fauzi 1999:157-163).

Suharto proclaimed that the New Order would implement the 1945 Constitution in pure and consistent form (*secara murni dan konsekuen*), in contrast to Sukarno's Guided Democracy. The regime refused any agenda to pursue what was called "Indonesian Socialism." The main frame of the State policy was changed drastically from "Revolution" into "Acceleration and Modernization" (*Akselerasi dan Modernisasi*) – a master frame propagated by Ali Moertopo (1973).⁸⁸ Under this frame the agrarian policy of the Department of Home Affairs - the General Directorate of Agrarian Affairs was dedicated "to play a more active role at every stage of development in economic, social-cultural, politic, and security and defense sectors as decided for the Development Era of 1970-2000 ... Related to this, all potential capacities of the General Directorate of Agrarian Affairs need to develop and utilize maximally to pursue the above mentioned role" (*Departemen Penerangan RI* 1982:135).⁸⁹

The new emblematic policy was land acquisition for development projects including "providing new land rights, extending existing land rights, cancellation of the existing rights, and controlling transfer of land rights for building (real estate and industry) and also for cultivation (agriculture, plantation, cattle breeding and ranch, and fish pond)" (*Departemen Penerangan RI* 1982:137).⁹⁰ For twelve years (1969-1982) the

⁸⁷ The Presidential Decision No. 55/1980 on organization and mechanism to implement land reform replaced Presidential Decision No 263/1964.

⁸⁸ General Ali Moertopo, President Suharto's personal assistant for political affairs. He founded CSIS (Centre for Strategic and International Studies), known as a think tank institution that gave advice for Suharto politics and economic policies.

⁸⁹ *Untuk menjalankan peranan yang lebih aktif pada setiap tahap pembangunan baik di bidang ekonomi, sosial budaya, politik maupun hankamnas yang ditentukan dalam Era Pembangunan 1970-2000 ... Berhubungan dengan itu maka segala potensi keagrariaan yang berada dalam lingkungan tugas Direktorat Jenderal Agraria perlu digali dan dikembangkan serta dimanfaatkan secara maksimal untuk mencapai tujuan yang dimaksud.*

⁹⁰ *pemberian hak baru, perpanjangan/pembaharuan hak yang sudah habis waktunya, pencabutan/pembatalan hak serta pengawasan terhadap pemindahan hak, baik atas tanah-tanah untuk bangunan (pemukiman, industri) maupun untuk diusahakan (pertanian, perkebunan, peternakan dan perikanan).*

General Directorate of Agrarian Affairs released 682 units of “rights of exploitation”⁹¹ for more than 938 thousand hectares; 4.736 units of “rights of building”⁹² for more than 24 thousands hectares; 3,119 units of “rights of use”⁹³ for more than 80 thousands hectares; and 161 units of “rights of management”⁹⁴ for more than 522 thousands hectares (see Table 3.1). Each right has its own scope, duration and subject who hold the rights (for detailed descriptions of these use rights, see: Gautama and Harsono 1972:64-77; and Parlindungan 1990:126-160).⁹⁵

⁹¹ According to the 1960 BAL, “rights of exploitation” (*Hak Guna Usaha*) is a specific land use right on state land for agricultural, plantation, fishery, and cattle breeding/ranch purposes. “Right of exploitation” entitles its holder to cultivate a certain piece of state land for a certain period of time and for the purpose stated in the decree granting the title. The holder is entitled also to construct buildings on the land for certain requirement that are related to his field of activities. For the first time right of exploitation may be granted for a maximum period of 25 years. It may for 35 for plantation with specific commodity such as palm oil. It may be extended up to 20 years. “Right of exploitation” may be held by Indonesia nationals and corporations established under Indonesia law and domiciled in Indonesia. Foreign corporations cannot be granted rights. For more detail see: Gautama and Budi Harsono (1972:64-77), and Parlindungan (1990:126-160).

⁹² “Right of building” (*hak guna bangunan*) is a specific use right on land that gives its holder the rights to erect and possess, for a fixed period of time, a construction situated on another party’s land. The “right of building” may exist on State or private land. There are no areal limitations on the size of the holding. Right of building may be granted for maximum 30 years, and the period may be extended up to 20 years. As “right of exploitation,” “right of building” may be hold by Indonesia nationals and corporations established under Indonesia law and domiciled in Indonesia. Foreign corporations cannot be grated rights. For more detail see: Gautama and Budi Harsono (1972:64-77), and Parlindungan (1990:126-160)

⁹³ Right of use (*hak pakai*) is a land use right that gives its holder the right to use and obtain the product of a certain piece of land. The land possessed with right of use can be either State land or land belonging to a private party. The land on which right of use is applied may be used as a building site or for agricultural purposes. No areal limitations are prescribed by law unless the land involved is privately owned land meant for agricultural purposes. In this case the maximum limits according to Law No. 56/1960 is applied. Right of use may be held by Indonesia nationals, foreign domiciles in Indonesia, corporations established under Indonesia law and domiciled in Indonesia, and foreign corporation with representatives in Indonesia. For more detail see: Gautama and Budi Harsono (1972:64-77), and Parlindungan (1990:126-160).

⁹⁴ Right of management (*hak pengelolaan*) is a specific right for developing land, which is granted only to autonomous regions, or public/government agencies. Right of management authorizes the right holder to transfer parcels of the developed land to other parties through specific agreement. In the case of the agency plan to build houses, the individual units of house may be granted with new right of building or right of use. The law does not prescribe a definite time limit for right of use. Right of management can only by passed to a legal body having strategic-fundamental duty and its function goes together with right of land. For more detail see: Gautama and Budi Harsono (1972:64-77), and Parlindungan (1990:126-160).

⁹⁵ There is also a special type of land acquisition policy that the General Directorate of Agrarian Affairs used for government population resettlement program, which are officially called transmigration program, but the policy affected lands in Sumatera, Kalimantan, Sulawesi, and Papua – the so-called outer islands – were opened up for relocating rural peoples from Java, Bali and Lombok Islands. The program enjoyed huge political and financial support from the New Order State and the World Bank. The major part of transmigration program involved the distribution of land, shelter and other facilities. In the design each individual received two hectares of agricultural land plus a quarter hectare for their house and home garden. From 1965 to 1984 almost a half million families, equal to more than two million and two hundred people (World Bank 1988; Tirtosudarmo 2004). For details on transmigration program see also Hardjono (1977), Oey (1982), Swasono and Singarimbun (1985), and Tjondronegoro (2004).

Table 3.1. Major types of land right given for development projects in Indonesia 1969-1982

Duration	Major types of land right given for development projects							
	right of exploitation (hak guna usaha)		right of building (hak guna bangunan)		right of use (hak pakai)		right of management (hak pengelolaan)	
	Unit	Total (ha)	Unit	Total (ha)	Unit	Total (ha)	Unit	Total (ha)
1969-1973	224	248,272.10	1,382	5,343.1829	1,323	1,086.8652	19	11,970.00
1974-1979	296	363,970.65	1,941	14,618.8020	936	36,184.1882	38	11,879.3997
1980-1982	162	325,767.2345	1,413	4,173.1665	860	43,006.9804	104	498,769.2447
Total	682	938,009.9845	4.736	24,135.1514	3,119	80,278.0338	161	522,618.6444

Source:

Departemen Penerangan RI (1982) *Pertanahan Dalam Era Pembangunan*. Jakarta:Departemen Penerangan Republik Indonesia, 1982. Table IV-9, Table IV-10, Table IV-11, and Table IV-15 (page 144-146); Table IV-23, Table IV-24, Table IV-25, and Table IV-28 (page 164-165); and Table IV-34 (page 182).

After Suharto was re-elected by the People's Representative Assembly (MPR) for the fifth term in 1988 he made a decision to review status, tasks and functions of the General Directorate of Agrarian Affairs, the Department of Interior, and to upgrade it into an agency that handled the land sector nationally. The official reason for the decision to have such an agency, called *Badan Pertanahan Nasional* (BPN) or National Land Agency (NLA), was (a) "that in implementing national development the need for, control over, and use of land were felt to increase, including for development interest"⁹⁶ and (b) "that with the increasing need of, control over, and use of land especially for development will also increase land-related issues"⁹⁷ (the Consideration section of Presidential Decision No. 26/1988 on National Land Agency). Moerdiono, the Ministry of Cabinet Secretary, at the moment of the inauguration of the first head of NLA, explained that:

Through this upgraded status, the agency will be more operational, fulfill important tasks in the land sector in comprehensive, planned and integrated ways. These tasks were too big for a general directorate. We need a government agency with higher status that [is] directly under the control of the President in order to implement these tasks with balanced authority⁹⁸ (Moerdiono as quoted by *Badan Pertanahan Nasional* 1998:23).

Then, based on the Presidential Decree No. 26/1988 article 3 the NLA provided services in land use policy related to spatial planning, administering survey, mapping and

⁹⁶ bahwa dalam pelaksanaan pembangunan nasional, adanya kebutuhan, penguasaan, dan penggunaan tanah pada umumnya termasuk untuk kepentingan pembangunan dirasakan makin meningkat.

⁹⁷ bahwa dengan meningkatnya kebutuhan, penguasaan, dan penggunaan tanah terutama untuk kepentingan pembangunan sebagaimana dimaksud pada huruf a, meningkat pula permasalahan yang timbul di bidang pertanahan.

⁹⁸ Agar melalui peningkatan status ini, badan ini lebih operasional dalam geraknya menangani tugas yang amat penting dalam bidang pertanahan secara komprehensif, terencana dan terpadu. Tugas yang demikian luas jangkauannya itu terlalu besar untuk suatu instansi setingkat Direktorat Jenderal. Diperlukan suatu badan yang lebih tinggi, yang berada di bawah kendali Presiden agar dapat melaksanakan tugasnya dengan otoritas yang seimbang.

registration of land to provide land security, granting various land rights, and developing land law and regulation; the head of NLA had deputies for each service.⁹⁹

The most important policy NLA produced in the context of deepening land-for-development policy regime was location permit (*ijin lokasi*). The location permit was produced to simplify procedures for foreign and domestic investment (regulated by Presidential Decision No. 97/1993 on Capital Investment Procedure). It was officially defined to perform three functions: (i) instrument of land acquisition before more permanent land rights are granted by the NLA; (ii) permit to use the land suitable for the existing detailed spatial planning; and (iii) permit to transfer the existing land rights attached to lands covered by the permit (*Badan Pertanahan Nasional* 1998:156). The purpose of the location permit policy was to serve investors in acquiring lands, even the targeted lands owned by local people. Once a location permit is granted by the NLA to a land developer, others are not allowed to purchase and develop land within the permit area, unless they obtain permit-holder's formal consent.¹⁰⁰ During the five-year period, from 1993 to 1998, the total permits released by the NLA numbered 13,036 permits for 9,673,456.15 hectares of land for the purposes of industrial parks, housing, agriculture, services, and other types of project; As shown in Table 3.2. the total number of land permits released for Java (1993-1998) were 7,978 permits for 202,190.14 hectares.

⁹⁹ According to the Presidential Decree No. 26/1988 article 3 the NLA has the following functions:

- a) formulating policies and planning for land control and land use;
- b) formulating policy and planning for the ownership of land with the principle that land has a social function as defined in the 1960 Basic Agrarian Law;
- c) administering survey, mapping and registration of land to provide land security;
- d) granting land rights to maintain order in land administration;
- e) research and development in land matters and training personnel to support land administration;
- f) other duties decided by the President.

(a. merumuskan kebijaksanaan dan perencanaan penguasaan dan penggunaan tanah;

b. merumuskan kebijaksanaan dan perencanaan pengaturan pemilikan tanah dengan prinsip-prinsip bahwa tanah mempunyai fungsi sosial sebagaimana diatur dalam Undang-undang Pokok Agraria;

c. melaksanakan pengukuran dan pemetaan serta pendaftaran tanah dalam upaya memberikan kepastian hak di bidang pertanahan;

d. melaksanakan pengurusan hak-hak atas tanah dalam rangka memelihara tertib administrasi di bidang pertanahan;

e. melaksanakan penelitian dan pengembangan di bidang pertanahan serta pendidikan dan latihan tenaga-tenaga yang diperlukan di bidang administrasi pertanahan;

f. lain-lain yang ditetapkan oleh Presiden.)

¹⁰⁰ An official NLA report claims that the average time the NLA needed to process the location permits was twelve days (*Badan Pertanahan Nasional* 1998:160).

Table 3.2. Number and amount of location permits released by the National Land Agency (until January 1998) for five provinces in Java

Province		Purpose of location permits					Total
		Industry	Service	Housing	Agriculture	Others	
Jakarta	Permits	2	0	0	0	6	8
	Hectares	5.8	0	0	0	1.64	7.64
West Java	Permits	1344	769	1543	107	410	4173
	Hectares	19,905.05	16,875.58	90,224.00	6,932.89	19,686.39	153,623.91
Central Java	Permits	350	291	271	64	152	1128
	Hectares	4,628.80	161.01	3,289.90	288.54	703.96	9,072.20
Yogyakarta	Permits	17	71	124	8	61	281
	Hectares	12.70	184.07	575.16	99.89	28.31	900.14
East Java	Permits	703	692	601	75	316	2388
	Hectares	4,923.74	2,742.71	28,934.86	452.06	1,532.98	38,586.25
Total for Java	Permits						7,968
	Hectares						202,190.14

Source: Calculated from Table IV.1 “Permits Released by Location in all Indonesia (until January 1998).” In the National Land Agency (1998) *Permit Registry*. Jakarta: National Land Agency. p. 157. (“*Penerbitan Ijin Lokasi Seluruh Indonesia (sampai Januari 1998)*.” In *Badan Pertanahan Nasional (1998) Dasawarsa Bhumi bakti Adhiguna*. Jakarta: *Badan Pertanahan Nasional*. Page 157.)

3.4. The Rise of Market-Oriented Land Administration and Management Policy

A new stage of Indonesia land policy, which fostered the land market through reforming land management and administration, was begun when the World Bank commissioned a study “Indonesia: Land Resource Management and Planning” (1991).¹⁰¹ This study recommended a set of plans of action, which was divided into short-term, mid-term, and long-term agendas. The study clearly put the revision of the 1960 Basic Agrarian Law in the long-term agenda. The 1994 World Bank’s report “Indonesia: Environment and Development” amplified main concerns of the 1991 WB study, namely the lack of clarity in the legal framework for land acquisitions in part due to the complicated bureaucratic procedures and the rent-seeking mechanisms that are involved. The report also raises the issue that “land markets are not well developed”, and that this constrains “the allocation of land to its highest and best use” (World Bank 1994:207).¹⁰²

¹⁰¹ The report was never published. Gershon Feder, Chief, Agriculture Operation Division, Country Department III-East Asia Pacific Region, in a letter to Noer Fauzi, Chief of Executive Body-Konsorsium *Pembaruan Agraria*, September 6, 1996, states “... GOI [Government of Indonesia] considered this draft to be incomplete when we completed our work on it 1991. We decided at that time that it should remain a draft. ... (W)e also indicated that the draft report does not place due emphasis on some land management issues, such as *izin lokasi* [location permit], of importance at the present time.” (Cited in Fauzi 1999:228-229, fn9).

¹⁰² In the same year, Sutano Behuria (1994) produced a policy analysis for and published by the Asian Development Bank, which explained that “the implementation of a large number of Bank-financed and World-Bank financed projects across the sectors was seriously affected by ... land acquisition difficulties...” and “the Bank should provide financial assistance to Indonesia to accelerate the process of

So, the report indicates the need to eliminate constraints that prevent growth of the land market.¹⁰³

The initial strategy of the World Bank to lay the groundwork for implementing these agendas was to offer the Government of Indonesia (GoI) a World Bank loan combined with a grant from the Australian government's official agency for international development (Ausaid). The inspiration came from the success of the Thailand Land Titling Project, which started in 1984.¹⁰⁴ As a follow up, the Indonesian Land Administration Project (ILAP), 1995-1999 was set as the first five-year phase in a planned twenty-five year program with the following long-term goals:

- a) To accelerate registration of rights in land and the issuance of land certificates, such that at the end of 25 years all eligible land holders have certificates;
- b) To review land administration laws, regulations and procedures such that they serve the requirements of Indonesian Society, are in a form that is able to be implemented by National Land Agency (NLA), understandable and accepted by the public, in accord with Government policy, and flexible enough to respond in a timely manner to changed circumstances;
- c) To strengthen NLA as an institution so that it is recognized as providing a valuable, cost-effective service to Government and the Public;
- d) To have adopted a scale of fees that is high enough for BPN to be self-financing, and low enough that NLA services are available for all Indonesians;
- e) To have NLA as an active participant in the on-going review of land administration policy.

Then, in 1995 the NLA started to implement the Indonesian Land Administration Project (ILAP) that was funded by the Government of Indonesia (US \$ 44.9 million), Ausaid Grant (US \$ 15.2 million), and World Bank's loan (US \$ 80.0 million). The project brought the "efficient and equitable land market" as a new reference for reforming land administration and management. The ILAP aims (i) "to foster efficient and equitable land markets and to alleviate social conflicts over land, through the acceleration of land registration ... and through the improvement of the institutional

land registration and titling as well as provide technical assistance for codifying and simplifying the laws and procedures with regard to land transfers and use" (Behuria 1994: 10).

¹⁰³ The long term vision of the World Bank on Indonesian land policy, management, and administration as written in "Indonesia Policy Brief – Ideas for Future. Land Policy, Management and Administration" is composed of the following components: (i) clarify the legal basis for land ownership; (ii) make the land system more compatible with the needs of a modern economy; (iii) Improve quality and reliability of land records and registration; (iv) transparent and participatory land use planning; (v) sustainably manage land in forest areas; and (iv) strengthen independent institutions and fiscal incentives for enforcement of land legalization. (World Bank 2005:1-4).

¹⁰⁴ This was the first time the World Bank and the Ausaid had co-funded a land project. The project was awarded the World Bank Award for Excellence in 1997. Two World Bank's staffs claim that the Thailand Land Titling Project "... [has] become standard for the World Bank and for some bilateral donors including, for example, USAID" (Holstein and Munro, "International Impact of the Thailand Land Titling Programme", Department of Lands, Ministry of Interior, 2003, as quoted by William 2003:12). See also various papers that promote the Thailand Land Titling Project as an outstanding success story that acts as a benchmark for land administration and managements and also for inter-agency cooperation (Rattanabirabongse et al 1998, Feder and Nishio 1999, Ausaid 2000, 2001, Bowman 2004, Burn 2004).

framework for land administration needed to sustain the program”; (ii) “to support GOI's efforts to develop long-term land-management policies” (World-Bank 1994:ii).

The NLA succeeded in replacing Government Regulation No. 10/1962 on Land Registration, which was previously made in the context of the land reform policy regime. A new government regulation on land registration (No. 24/1997) was produced to lay ground for what the ILAP project design called “more practical and efficient procedures for land registration.” With the reformed procedure the ILAP was able to produce land certificates for more than 1.85 million households in Java (for detail see Table 3.3).¹⁰⁵

Table 3.3. Numbers of land certificate issued by Indonesian Land Administration Project (ILAP) 1995-2001 in five provinces in Java

Province	Number of Certificates issued	Number of district/cities in which the project was implemented
Jakarta	157,153	5
West Java	811,831	14
Central Java	465,321	15
Yogyakarta	170,580	3
East Java	258,083	10
Total	1,862,968	47

Source: Smeru 2002 “An Impact Evaluation of Systematic Land Titling under the Land Administration Project (LAP)”. Unpublished Research Report. Annex 1.1. Page 47.

In addition, according to two main proponents of the project (an NLA high official and an Ausaid consultant), the ILAP also produced

“(I)mproved governance through a gradual shift in BPN from a closed, autocratic, self-serving central agency toward a more open, inclusive and service delivery oriented organization, [and] the establishment of a cadastral survey industry, supported by tertiary level training and education, reinforcing the aim of maximizing private sector involvement in building and sustaining the system of land administration in Indonesia.” (Heryani and Grant 2004:7-8).

The second ILAP project called Land Management and Policy Development Program (LMPDP) (2004-2009) was initiated. The project design claimed to emphasize a balance of activities, which aims for achievements in policy, institutional development and titling operations (World Bank 2004:3).¹⁰⁶ In responding to various demands for land reform policy articulated by NGOs, the World Bank’s LMPDP preparatory report writes “(w)hile land reform (land distribution and re-distribution) will contribute significantly to

¹⁰⁵ The Indonesian Land Administration Project (ILAP) targeted forty-seven districts/cities in Java, except two pilot project districts in South Sumatera and North Sumatera, which produced respectively 11,028 and 4,934 certificates.

¹⁰⁶ Total cost of the project is US \$ 87.62 million (US \$ 22.2 million from GOI, US \$ 32.80 from the World Bank’s loan, and US \$ 32.80 million from ID’s loan).

poverty reduction, the task team opted against direct support to land reform at this point (World Bank 2004: 12).¹⁰⁷

The World Bank had no interest in land reform and any land reform-related project in Indonesia. Instead, the World Bank, working together with other international development agencies such as Asian Development Bank, Ausaid, USAID, as noted by Thorburn, have expended considerable effort, resource and expertise “to assist Government of Indonesia to reform land law and bureaucracy, in order to develop rational land markets, ease investment procedures, diffuse simmering social and political conflict, and lay foundation for overcoming rural poverty and stagnation” (Thorburn 2004:35).¹⁰⁸

The recent initiative to bring (back) land reform to the policy stage was not the product of the World Bank intervention. I will show further in the chapter 4 how the NLA land redistribution program was compromised to become a land title legalization agenda.

3.5. The return of Land Reform after the Fall of Suharto

Suharto resigned in May 1998 after more than three-decades of rule due to the massive opposition of civil society groups at the height of acute monetary and financial crises. The crises were worsened with intense international pressures driven from the International Monetary Fund (IMF), a fracture among army and political elites, and most importantly a loss of political support from his cabinet and parliament (Sharma 2002, Anwar 2005, Aspinal 2005).¹⁰⁹ Suharto transferred his authority to his Vice President Habibie to lead a transitional government.

Various rural movement groups in Java seized the political opportunity of the eighteen-month political transition period (May 1998 to November 1999) that followed to launch land occupations over land previously under the control of State Forestry Corporation (SFC) and private-and state-owned plantations.¹¹⁰ Some new terms such as *land reform*, *reclaiming tanah* (land reclaiming), *okupasi tanah* (land occupation), *gerakan petani* (peasant movement), *pembaruan agraria* (agrarian reform), became popular shared among agrarian movement activists. They also used this political transition period to set up local peasant organizations, as well as networks or federations of local peasant organizations. An NGO coalition, Consortium for Agrarian Reform

¹⁰⁷ Then, the WB argues, “land reform is often very political, and currently, there is no national consensus on land reform. As a result, the project would support policy studies instead to assess the viability and scope of land reform, and try to bring a national consensus on the issue. If a national consensus is reached, and the government adopts an approach which is acceptable to civil society and CSOs, then the Bank could consider providing funds under a separate lending mechanism to pilot the approved scheme” (World Bank 2004: 12).

¹⁰⁸ Moreover Thorburn who served as a short-term expert for a WB funded land project (LMPD) in 2002, observes “(c)ountless policy studies and recommendations have been produced, which now moulder in filing cabinets and cardboard cartons in closets and stairwells of the BPN office in South Jakarta [one of NLA central offices in Jakarta, *NFR*]” (Thorburn 2004:35)

¹⁰⁹ For detail and chronological events of the collapse of Suharto see van Dijk (2001).

¹¹⁰ Tapos case in Bogor district, West Java, was the landmark land occupation case where 300 families took over part of 751 hectares of plantation lands controlled by PT. Rejosari Bumi owned by Suharto family. The organizing activity to launch the land occupation started right after Suharto announced his resignation from the presidential position (Bachriadi and Lucas 2001).

(KPA), founded in 1995 during Suharto era, developed studies on aspects of New Order agrarian policies and published books and position papers, and conducted training and workshops to raise awareness and a new vision of what Powelson and Stock (1987) call “land reform by leverage.” Gunawan Wiradi, an agrarian scholar from Bogor Agricultural University (*Institut Pertanian Bogor, or IPB*), who was also the founder of KPA, introduced Powelson and Stock’s notion of “land reform by leverage” in contrast to “land reform by grace” to the KPA after learning that most political elites in post-colonial countries implementing state led land reform in turn betrayed peasants because of their vested interests (Wiradi 1997, 2001). KPA also launched a coordinated campaign working with its NGO members and associated scholars to articulate critiques of existing agrarian policies that produced land conflicts and inequalities. Inspired by Cristodolou’s (1990:112) argument that “(a)grarian reform is the offspring of agrarian conflict” the critique became a basis for KPA to promote the need for new land reform policies.¹¹¹

The only official reference available for KPA to promote land reform was the 1960 BAL. KPA conceived of the 1960 BAL as a national law to serve people with social justice, prosperity, and progress through restructuring land control, ownership and use, but the position of people is subordinated to national interests held by the state as the ruling institution (*Konsorsium Pembaruan Agraria* 1998:2). Suharto’s regime created new agrarian and natural resource laws at national level, such as the 1967 Forest Law, the 1967 Law on Foreign Investment, the 1967 Mining Law, and all of these contradicted the 1960 BAL. The dominant position of the central government in the laws was used effectively by Suharto’s regime in the name of national interest and development to pursue economic growth without providing marginal groups of people – subsistence peasants, rural cultivators and workers, urban poor, and other marginalized groups – the opportunity to participate in control, utilize, own and take benefit from the land. In order to attract public attention toward the continuing relevance of the 1960 BAL, KPA proposed to revise the 1960 BAL with four main objectives, namely, (a) to limit the tendency of state power holders to use and abuse their power to allocate land and other natural resources; (b) to advance the people’s rights to control, utilize, own and take benefit from land and other natural resources, and participate in decision making processes; (c) to put forward a revision of New Order’s agrarian policies, including a comprehensive review of various laws contradicting the principles contained in the 1960 BAL; and (d) to prepare a strategy to achieve agrarian justice through a comprehensive national agrarian reform policy (*Konsorsium Pembaruan Agraria* 1998:2-7).

The resonance of the campaign during the so-called Indonesian “democratic transition” period -- May 1998 to November 1999 (Liddle 1999) -- was beyond agrarian activists imagination. Hasan Basri Durin, the State Minister of Agrarian Affairs who was also the head of NLA during Habibie’s era, took a new approach. Contrasting with the confrontational stance of his predecessor, Durin decided to create space for hearing the critiques and suggestions articulated by agrarian movement leaders, NGO activists, and critical scholars. In an NLA high-official meeting he made a speech that put forward the 1960 BAL as a main reference to critique land policies produced by Suharto’s regime as follows:

¹¹¹ See for example: Suhendar and Kasim 1995, Bachriadi et al 1997, Fauzi 1997, Suhendar and Winarni 1998, Hardijanto 1998, Ruwiasuti et al 1998. All KPA’s position papers (1997-1998) are republished in *Konsorsium Pembaruan Agraria* (1998).

The 1960 Basic Agrarian Law that should be the main reference of land policies is essentially filled with the principles and spirit of advancing the people's interests and mandate to create justice in land affairs through protecting economically disadvantaged people. In recent years, we have been captured by policy directions prioritizing economic growth. (We) had violated the social function principle and disregarded its role in pursuing people's welfare. Hence, people in general, and economically-disadvantaged people specifically, felt unfair treatment in land control and allocation (Durin 1998:32).¹¹²

Moreover he advanced the continuing relevance of the 1960 BAL.

In this reformation era, the demands for improving land policies are one of main demands articulated by people. People expected the land policies to continue to refer to the 1960 BAL that contains populist and social justice values (Durin 1998:32).¹¹³

In responding to acute agrarian problems and civil society demands for land reform policy, President Habibie produced Presidential Decision No. 48/1999¹¹⁴ that mandated the Minister of Justice and Minister of Agrarian Affairs to lead a team to study policy and legal aspects of land reform implementation based on the 1960 BAL. The Minister of Justice, Muladi, was law professor in University of Diponegoro, Semarang. He appointed Maria Sumardjono, a land law professor from Gajah Mada University, Yogyakarta, who has been one of few academics close to agrarian NGO activists, as an acting team leader to pursue (a) a study on land-related laws and regulations; (b) study the implementation of land reform policies and regulations; and (c) to draft and formulate policy and regulation needed to implement land reform. The considerations of the Presidential Decision are:

- a. That the Law No. 5/1960 on Basic Agrarian Law mandated that all lands have social functions, and in order to not violate to public interest, excessive land control and ownership are prohibited;
- b. That because the existing land-related policies and regulations do not fully match with the 1960 BAL mandates, and because they do not yet contribute to the creation of land control and utilization inspired by populist values and social justice norms, it is necessary to take actions to fulfill the mandate of the BAL;

¹¹² *Undang-undang Pokok Agraria yang menjadi landasan utama kebijakan pertanahan sesungguhnya sarat dengan watak dan semangat kerakyatan serta amanat untuk menciptakan keadilan di bidang pertanahan dengan melindungi pihak ekonomi lemah. Namun dalam beberapa tahun belakangan ini kita telah terbawa oleh arus kebijakan yang lebih mementingkan pertumbuhan ekonomi, sehingga semakin jauh meninggalkan fungsi sosialnya serta peranannya untuk mencapai sebesar-besar kemakmuran rakyat. Sebagai akibatnya, rakyat pada umumnya, dan masyarakat ekonomi lemah pada khususnya, merasa diperlakukan tidak adil dalam penguasaan dan pemanfaatan tanah.*

¹¹³ *Pada era reformasi sekarang ini, tuntutan terhadap perbaikan kebijakan di bidang pertanahan merupakan salah satu tuntutan pokok yang disuarakan oleh masyarakat. Masyarakat berharap agar kebijaksanaan pertanahan tetap mengacu kepada Undang-undang Pokok Agraria yang mengandung nilai-nilai kerakyatan dan nilai-nilai kehidupan yang berkeadilan sosial.*

¹¹⁴ Keputusan Presiden Nomor 48 tahun 1999 tentang Tim Pengkajian Kebijakan dan Perundangan dalam rangka Pelaksanaan Land Reform.

- c. So, it is necessary to set up a Team to Study Policies and Regulations in order to Implement Land Reform. (Consideration of Presidential Decision No. 48/1999).¹¹⁵

This reaffirmation of the 1960 BAL was the first and only time President Habibie mentioned land reform in an official document. In turn, Sumardjono produced a recommendation, which resonated with KPA's previous proposal, i.e. to review the many natural resource laws produced by Suharto's New Order regime and resolve the various contradictions and overlaps between these laws and the 1960 BAL (Sumardjono 1999 in Soemarjono 2005:226-232). However, by November 1999, before the recommendation could be taken up, President Habibie and his cabinet were out. Later, Sumardjono brought this recommendation in into another policy process within the People's Consultative Assembly (MPR) to produce a decree on agrarian reform and natural resource management.

The People's Consultative Assembly (MPR) (hereafter called the Assembly) is the highest political structure in Indonesian political system. The Assembly has full authority to elect Indonesian President and Vice-President, to change/amend Indonesian constitution, and to produce decrees, which provide mandates for president and national parliament.¹¹⁶ In November 1999 the Assembly rejected Habibie's accountability report, a report of what he had achieved during his presidency. President Habibie failed to get the majority votes he needed from the members of the MPR.¹¹⁷ Abdurahman Wahid (a Muslim cleric, the chairman of *Nadhatul Ulama*, the largest moderate Islamic organization in Indonesia) and Megawati Sukarnoputri (the daughter of Sukarno and the leader of an oppositional political party, PDIP) were elected respectively as the President and Vice President of the Republic of Indonesia. During this period, the campaign for land reform policy flourished. Through various public campaign tactics -- using posters, pamphlets, public hearings, demonstrations, petitions, press conference, seminars, hunger strikes, and lobbying -- agrarian activists and other mass movement organizations articulated the need for comprehensive agrarian reform policy.

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- ¹¹⁵
- a. *Bahwa Undang-undang Nomor 5 Tahun 1960 tentang Peraturan dasar Pokok-pokok Agraria mengamanatkan semua hak atas tanah berfungsi sosial, dan agar tidak merugikan kepentingan umum maka pemilikan/penguasaan tanah yang melampaui batas dilarang;*
 - b. *Bahwa kebijaksanaan dan perundang-undangan di bidang pertanahan yang berlaku saat ini belum sepenuhnya seiring dengan amanat Undang-undang nomor 5 Tahun 1960 dan belum mendukung terciptanya penguasaan dan pemanfaatan tanah yang sesuai dengan nilai-nilai kerakyatan dan norma-norma yang berkeadilan social sehingga dipandang perlu mengambil langkah-langkah bagi terwujudnya amanat Undang-undang tersebut;*
 - c. *Bahwa sehubungan dengan itu dipandang perlu membentuk Tim Pengkajian Kebijakan dan Peraturan Perundang-undangan Dalam rangka Pelaksanaan Landreform.*

¹¹⁶ In Indonesia's political system the People Consultative Assembly (MPR) was composed of the members of the People's Representative Council (national parliament) and representatives from provinces and functional groups (military, farmer, worker, youth, professions, ethnic groups, women, etc.).

¹¹⁷ Although President Habibie succeeded in conducting free elections for parliament members (national, province and district) with forty-eight political parties, a controversial decision he made was to set up a referendum in East Timor province that paved the way toward East Timor's independence. For detailed events during his six-month presidency, see van Dijk (2001). The opposition party (PDIP) got the majority of parliamentary seats (30.8%). The previous ruling party (called "Golkar") got 22.5% of the seats. See more in Sulistyono (2002).

The dynamics within social movements and state institutions under these particular conditions produced another surprising effect that advanced the land reform agenda within government institutions, namely the National Land Agency (NLA). While Vice-President Megawati appointed ministers and other high-level posts within the central government, the status of the State Minister of Agrarian Affairs and the head of the National Land Agency (NLA) remained vacant. Moreover, demands for decentralization focused efforts to dismantle the NLA as a central government institution and fully transfer land-related authorities and NLA employees to sit under district governments as strongly and publicly articulated by the State Ministry of Regional Autonomy, Ryaas Rasyid.

A week after the Cabinet announcements and Ryaas Rasyid's statement, hundreds of civil servants from the NLA gathered to march to the national parliament to protest the plan and public statements of the State Ministry of Regional Autonomy, and to urge the chairman of People's Representative Council (DPR) to reject the plan.¹¹⁸ Surprisingly the NLA presented a position paper adopting some of the arguments campaigned by the Consortium for Agrarian Reform (KPA), to articulate the need for the NLA to remain a central government institution in order to make agrarian reform possible (*Reforma Agraria*).¹¹⁹ They also made a letter to the President and Vice-President of the Republic of Indonesia saying that

(I)n order to ensure the delivery of justice and the welfare of the people, agrarian reform is an absolutely necessary process to undertake. The implementation of agrarian reform must, however, be understood as a process in and of itself, especially in relation to the economy. So, [implementing agrarian reform] needs a distinct government institution to handle the different aspects of service for all sectors (*“Imbauan/Surat Terbuka Keluarga Besar BPN (Badan Pertanahan Nasional” Republika 11/4/1999)*).¹²⁰

A month after this demonstration by the NLA, through an endorsement made by the Minister of Internal Affairs, President Wahid passed a decision¹²¹ to continue the existence of NLA as a central government institution, and to appoint the Minister of Internal Affairs as the head of NLA. Although some consultative fora were held by the new leadership of NLA to discuss the strategy to develop land reform policy, *Reforma Agraria*, the NLA failed to reach any conclusions. The NGO leaders critiquing the process felt the NLA leadership lacked the confidence to develop a new land reform policy, partly because the new leadership of the NLA was devoting all its energy struggling against district governments who were demanding decentralization of the land authorities, institutions, and management based on the new law on decentralization.

¹¹⁸ See “BPN, Lembaga yang Menyisakan ‘Seabrek’ Pekerjaan Rumah” *Republika* 11/5/1999.

¹¹⁹ “Badan Pertanahan Nasional Instansi Penyelenggara Tugas Pemerintahan di Bidang Pertanahan” *Republika* 11/4/1999

¹²⁰ *Kepada Bapak Presiden RI & Wakil Presiden RI, untuk mewujudkan rasa keadilan dan kesejahteraan masyarakat, reformasi agraria merupakan langkah yang harus diambil. Pelaksanaan reformasi agraria pada dasarnya merupakan proses yang berdiri sendiri, khususnya sector ekonomi. Sehingga diperlukan instansi yang menangani bidang pertanahan yang mandiri agar bisa melayani semua sektor.*

¹²¹ Presidential Decree No. 154/1999 on National Land Agency.

Most districts interpreted Law No. 22/1999 article # 11(2) that clearly mandated the district/city government had the legal authority in land management as meaning that they have to establish their own land agencies (*dinas pertanahan*) with all functions previously handled by NLA district office (*kantor pertanahan kabupaten*). In addition to the expectation to have greater authority in land management, the demand was driven also by money motive, which was the possibility to fully control land tax, and income from land administration, including in relation to land acquisition for development projects. The presidential decision to continue the the existence of the NLA did not succeed in stopping local governments' demand to decentralize land management and authorities.

The demands to decentralize sprung up as a result of an extraordinary political situation in Indonesia after the fall of Suharto in 1998. This decentralization wave was part of larger *reformasi* agendas to dismantle Suharto's corrupt, centralized authoritarian regime. On the legal level, the agenda was mandated by People's Consultative Assembly Decree No. IV/MPR/2000 on Policy Recommendations concerning the Implementation of Regional Autonomy, which recommends full implementation of autonomy as of January 1st, 2001. The new decentralization policies was rapidly moving the country from one of the most centralized systems in the world to one of the most decentralized ones. Two World Bank experts, Hofman and Kaiser (2002), call it a "Big Bang Decentralization."¹²² This agenda was also promoted by international development agencies including the World Bank. It is argued that that because of the closer proximity between decision-makers and those affected by their decisions, decentralized authority to local government would lead to improved service and promote sound, equitable development policy and programs, increased opportunities for public input and feedback, and greater accountability. Based on comparative empirical studies they theorize that moving government closer to its citizen and providing opportunities for citizen participation in decision making would enable conditions under which decentralization could meet its promises (Crook and Manor 2000; Manor 1999; World-Bank 2001).

The implementation of the decentralization policy in the beginning did not go well. Ryaas Rasyid who was the Minister of Regional Autonomy under the President Wahid era shows that the decentralization agendas were held hostage by the hesitation of the Minister of Internal Affair, Surjadi Surjadiredja (Rasyid 2002). Surjadiredja recommended President Wahid delay the implementation. In 2000, President Wahid asked Rasyid to draft a presidential decree for the delay of the implementation of the

¹²² Hofman and Kaiser (2002) notes the "big-bang" characteristics as follows:

1. The new decentralization laws give broad autonomy to the regions in all but a few tasks that are explicitly assigned to the center—including monetary- finance, defense, justice, police, and religion authorities.
2. In 2002 the regional share of government spending rose to over 40 percent, a sharp contrast with the average 15 percent of spending in the 1990s.
3. In addition to spending, much of the apparatus of government was put under the control of the regions. Over 2.1 million civil servants or almost 2/3 of the central government workforce, was transferred to the regions. Now, out of a civil service of 3.9 million, some 2.8 million are classified as regional civil servants. And,
4. 239 provincial-level offices of the central government, 3,933 local-level offices, more than 16,000 service facilities such as schools, hospitals, health centers, were transferred lock stock and barrel to the regional governments throughout Indonesia. (Hofman and Kaiser 2002).

decentralization policy that had been planned to be fully effective in January 2001. But Rasyid refused to follow the order

by reminding the president that half of the policy had been implemented since January 2000. What we were going to implement in January 2001 were fiscal decentralization, reallocation of civil servants, and the redistribution of assets. These three aspects were included in the Letter of Intent with IMF, and I believed that once we tried to slow down the implementation it would instantly create suspicion from local and provincial government[s]. (Rasyid 2002:7).

Then President Wahid backed off. Since then, Rasyid realized that Surjadiredja, the Minister of Internal Affairs, was against the decentralization agenda. Because the Minister had a central role in coordinating all central government agencies to create at least 197 presidential decrees to implement decentralization laws, the Minister's hesitation made the decentralization agenda, including the decentralization of land authorities, to "have failed to come into existence" (Rasyid 2002:7).¹²³

The centralised NLA was established by Presidential Decree No. 26/1988 as an independent agency after more than twenty years as a Directorate General under the Ministry of Home Affairs. The NLA is a national government agencies that has provincial offices (*Kanwil Pertanahan* in all 26 provinces) and municipal/district offices (*Kantor Pertanahan* in 64 municipalities and 233 districts). Until the end of 1999, NLA was headed *ex officio* by the State Minister of Land Affairs (*Menteri Negara Urusan Agraria*). The latter in his capacity as a State Minister had a small support structure called the Office of the State Minister of Land Affairs (*Kantor Menteri Negara Urusan Agraria*), but no ministry with structures in the regions. In late 1999 the post of State Minister of Land Affairs was abolished and the position of Head of NLA was assigned, once again *ex officio*, to the Minister of Home Affairs. Since 2001 the NLA has been national government agency, independent from the Minister of Home Affairs, and the position of head of NLA was directly responsible to Indonesian president.

The political opportunity for land reform changed when President Wahid was replaced by Megawati Sukarno-Putri in July 2001. Indonesia's Assembly impeached President Abdurahman Wahid because of his declaration for immediate suspension of the People's Consultative Assembly (MPR) and national parliament (DPR), and his orders to military and police to dissolve the Assembly and national parliament.¹²⁴ This dramatic change in national leadership, which reaffirmed the central role of the People's Consultative Assembly in national politics, energized agrarian activists led by the

¹²³ From that time the tension (and negotiation) over establishing a clear division of authority in land management among district/city government, provincial government, and the NLA as a central government institution continued until 2007 when the tension was settled by the Government Regulation No. 38/2007 which clarified the Division of Government Authority among Central Government, Provincial Government, and district/city Government (see Hutagalung and Gunawan 2008). See the chapter 4 for larger policy setting where the new head of NLA, Joyo Winoto, succeeded to settle this tension.

¹²⁴ In the early July 2001, the political confrontation between Wahid and his political party (PKB) in one camp versus other political parties in the other camp culminated with his order to effect a state of emergency, directing Indonesia's military and police to dissolve the Assembly. Army generals and senior police officers refused and instead deployed troops and tanks to protect legislators in the capital of Jakarta. For more detail see Sulisty (2002).

Consortium for Agrarian Reform (KPA) that had, since 1999, been proposing the Assembly produce a special decree to implement agrarian reform (*Konsorsium Pembaruan Agraria 1999, 2000*).¹²⁵ The initiative to propose the assembly decree was strengthened by Maria Sumardjono, a land law professor from Gajah Mada University, Yogyakarta, who brought together some agrarian activist leaders¹²⁶ and some university-based scholars¹²⁷ to refine KPA's proposal, and then endorsed it to the Assembly's preparatory committee as a new proposal coming from a group comprised of a combination of academics and agrarian activists leaders named KSPA (Study Group on Agrarian Reform). The legal status of an Assembly's Decree within the Indonesian legal system is just below the status of the constitution. Hence the decree would have great legal significance. Members of KSPA debated whether the 1960 BAL should be a basic reference to review all existing agrarian laws or whether the BAL should become part of existing agrarian laws to be reviewed.

Sumardjono decided KSPA should propose "a set of principles of agrarian reform" that should be a basis for reviewing all existing agrarian laws (*Kelompok Studi Pembaruan Agraria 2001; Sumardjono 2008:69-77*). The role of Sumardjono was key in making this idea flow into the official policy processes with the Assembly due to her position later in 2001 as the Assembly's expert staff for the Indonesian Democratic Party–Struggle (PDIP), which had a majority vote in the 2001 Assembly Meeting. In my interview Sumardjono defined her role to do what social movement activists could not do, which was to use what she calls "intellectual force from the academic world" to articulate "the same concerns and matters as activists have been doing, but producing a different result"¹²⁸ (Interview with Sumardjono on 12/06/2007).

The active campaign to propose the Assembly decree on agrarian reform prompted the involvement of a coalition of environmental NGOs called *Pokja PSDA* (Working Group for Natural Resource Management),¹²⁹ which was set up previously to coordinate environmental activists and scholars to promote eco-justice principles for natural resource management. In turn, these two camps of NGO activist leaders and

¹²⁵ By defining agrarian reform as "a process of reforming and rebuilding social structure, especially in rural areas, in order to create healthy modern agriculture, secure land tenure as basic for sustainable livelihood, social welfare and security system for rural people, and optimal resource use for people prosperity,"¹²⁵ KPA proposed eleven policy directions for Assembly decree on agrarian reform, namely: (i) to revise existing agrarian laws and responsive to popular demands; (ii) review the concept of State's right to control all resources that are prone to be abused by government officials; (iii) to revise legal and institutional "sectoralism"; (iv) to revise legal centralism principle; (v) to set up maximum limit to control land for corporation; (vi) to protect tenurial security for landless peasant, rural worker, and smallholders; (vii) to restore freedom and rights of assembly and association for rural people; (viii) to resolve all agrarian conflicts; (ix) to revitalize agricultural production (x) to set up independent agrarian court; (xi) to set up an special government agency to implement agrarian reform agendas (*Konsorsium Pembaruan Agraria 2000:5-11*)

¹²⁶ Among others are Noer Fauzi, Dianto Bacriadi, Dadang Juliantara, Ihdhal Kasim, and Sandra Moniaga.

¹²⁷ The scholars among other are Maria Sumardjono and Nurhasan Ismail from Gajah Mada University, S.M.P. Tjondronegoro and Gunawan Wiradi from Bogor Agricultural University.

¹²⁸ "kekuatan intelektual dari dunia akademik" untuk menyampaikan "kepedulian dan persoalan yang para aktivis sampaikan, tapi menghasilkan efek yang berbeda "

¹²⁹ Environmental NGOs under the coordination of the Pokja PSDA were among others WALHI, AMAN, Yayasan Kehati, WWF Indonesia, ICEL, HuMA, JATAM, Jaring Pela, RACA Institute, Yayasan Lembaga Ekolabel Indonesia, etc. Most of these NGOs have been driven by their involvement with local environmental struggles, national environmental policies, and international environmental movements.

university-based scholars worked together and set up a joint working group called Pokja PAPSDA (Working Group for Agrarian Reform and Natural Resource Management) to promote an Assembly decree on agrarian reform and natural resource management. Along with the Assembly's preparatory committee – which had the authority to prepare drafts of Assembly decrees for Assembly Meeting – they prepared two different decrees: a draft decree on agrarian reform, and a draft decree on natural resource management. Later the Assembly's preparatory committee decided to combine those two drafts after they had made an intense consultation with the joint working group.

This joint working group shaped a new phase in the trajectory of relations between agrarian movements and environmental movements in Indonesia (Peluso et al 2008). One of the key debated issues between the two camps was the BAL. Most of the agrarian activist leaders and experts, including Sediono SMP Tjondronegoro, professor of sociology of rural development from Bogor Agricultural university, insisted that the BAL, at least article # 1 to 14, were very relevant to keep, and should be positioned as basic principle laws (*undang-undang payung*) that embrace “sectoral” natural resource laws such as forestry, mining, and land laws (Tjondronegoro 2008:155-160). On the other camp, most of the environmental activist leaders and experts argued that the Indonesian legal system has no such category; and supported an initiative to draft a comprehensive law on Natural Resource Management (*Undang-undang Pengelolaan Sumber Daya Alam*) that intended to revise all existing land and natural resource-related laws and regulations, including the BAL.

During the drafting processes, the ad hoc committee initiated some seminars and workshops, and welcomed some demonstrations, delegations, and petitions from diverse civil society groups.¹³⁰ On November 2001 the People's Consultative Assembly declared Decree No. IX/2001 on Agrarian Reform and Natural Resource Management by which the Indonesian President and the national parliament were mandated to implement a set of agrarian reform policy directions and a set of natural resource management policy directions (see Table 3.4.).

The Assembly Decree No IX/2001 defines agrarian reform as “a continuous process relating to the reorganization of control, ownership, use and utilization of agrarian resources that is carried out in order to achieve legal certainty and protection as well as justice and prosperity for all Indonesian people”¹³¹ (article 2), and distinguishes it with natural resource management.¹³² The Decree contains two overlapped sets of policy directions, which reflects unresolved tension between “agrarian reform” and “natural resource management”, which not only in terms of contents, but also social forces within the state and among civil society groups that were promoting each set of policy directions.

¹³⁰ They among others were Konsorsium Pembaruan Agraria, Kelompok Studi Pembaruan Agraria, Serikat Petani Pasundan, Federasi Serikat Petani Indonesia, Aliansi Masyarakat Adat Nusantara.

¹³¹ *Pembaruan agraria mencakup suatu proses yang berkesinambungan berkenaan dengan penataan kembali penguasaan, pemilikan, penggunaan dan pemanfaatan sumberdaya agraria, dilaksanakan dalam rangka tercapainya kepastian dan perlindungan hukum serta keadilan dan kemakmuran bagi seluruh rakyat Indonesia.*

¹³² The Decree No. IX does not provide a definition of natural resource management except a general and vague statement that “(m)anagement of natural resource in land, sea, and air should be carried out optimally, sustainably, and environmentally sound” (*Pengelolaan sumberdaya alam yang terkandung di daratan, laut dan angkasa dilakukan secara optimal, adil, berkelanjutan dan ramah lingkungan*) (article 3).

Table 3.4. Comparing policy directions for Agrarian rReform and Natural Resource Management (NRM) as contained in the People’s Consultative Assembly Decree No. IX/2001

Six directions for Agrarian Reform policy		Six directions for NRM policy	
1	To review contradictory agrarian laws and regulations in order to synchronize policies of different government institutions	1	To review laws and regulations related to natural resources management in order to synchronize policies of different government institutions
2	To implement land redistributive reform with priority to provide land for the poor people	2	To optimize natural resource use through the identification and inventory of quality and quantity and its potentials for national development
3	To conduct comprehensive and systematic land survey and registration in order to implement land reform	3	To pay attention to the types and characteristics of various natural resources and implement efforts to add value to these natural resources.
4	To resolve land conflicts and anticipate potential land conflicts in the future	4	To settle conflicts on natural resource use and anticipate potential conflict in the future
5	To strengthen the land institution and its authority to implement agrarian reform program and settle land conflicts.	5	To expand public access to information about natural resource potential in their regions and encourage the establishment of social responsibility to use environmentally friendly technology including traditional technology
6	To ensure the availability of funding for agrarian reform program and resolving land conflicts	6	To develop a strategy to use natural resources based on optimal use by paying attention to regional and national conditions and interests.

For both promoters, this result was perceived as a new landmark. After more than two decades of activism, the Indonesian government authorized demands for agrarian reform policy, along with a “natural resource management” agenda. Moreover, the Decree created a contentious debate among agrarian activists that centers on whether this decree will be beneficial or dangerous for the agrarian movement. KPA leaders assumed that the Decree can be strategically used as a tool to push the government to implement agrarian reform. At the same time, the Federation of Indonesian Peasant Union (FSPI) and its supporting NGO activists viewed the decree as dangerous, a potential entryway for a neo-liberal and imperialist agenda through “new principles of natural resource management,” with potentially negative implications in abrogating the Basic Agrarian Law of 1960—which until now has provided the legal basis for the implementation of land reform. This debate also unfolded in *Kompas*, Indonesia’s largest national newspaper (Fauzi 2001, Bey, 2002; 2003; Bachriadi, 2002; see also Bey 2004, Setiawan 2004, Ya’kub, 2004).

Different from agrarian activists, all environmental justice activists welcomed the Decree. Under the leadership of the Working Group on Natural Resource Management (*Pokja* PSDA) the Decree intensified their work together with the State Ministry of Environment and National Development Planning Agency (*Bappenas*) to draft what they claim as “an umbrella law” that implies a need to revise all natural resource-related laws, including the 1960 BAL. The Ministry of Forestry and the Ministry of Mining and Energy hesitated to participate in the drafting because they realize that the proposed draft was against their power and interest. Civil society groups, one of the promoters of the draft, proposed to put together Ministry of Forestry, Ministry of Mining and Energy, and

National Land Agency under Ministry of Natural Resource Management. By this design, the existing power and interests within those national government institutions would be dismantled and reset. So, they blocked authorization of the draft, and then the drafting processes were discontinued (Suwarno 2003, 2006).

Aside from that, the Decree traveled into different policy processes within two other state institutions, i.e. the NLA, and the National Human Rights Commission (*Komnas HAM*). Interaction between NLA high officials and agrarian activists became easier because Sumardjono was appointed by President Megawati as vice-head of NLA. With the new position within NLA, and as a person who was deeply involved in the making of the Assembly's Decree, Sumardjono had legitimate authority to set up a strategy to implement the Decree. She pushed the NLA to adjust its existing strategic plan and proposed a set of key activities for each of the "policy directions on agrarian reform" (Sumardjono 2006:88-99). But then, the head of the NLA succeeded in convincing President Megawati to release Presidential Decision No. 34/2003 that redirected the implementation of the Decree into only two areas, which were: (1) to draft a revision of the 1960 BAL, a new law on land rights, and other government regulations related to land issues; (2) to set up a land management and information system in relation to land registration.¹³³ These two agendas – which perfectly matched with the World Bank's vision (see section 3.4) – significantly limited the possibilities for agrarian reform justice and also deflated the enthusiasm of agrarian activist who had been actively participating in the NLA policy-making processes.

Meanwhile, the Decree inspired agrarian activists to approach the National Human Rights Commission (*Komnas Ham*) to set up a special procedure and institution to process claims related to land dispossession under Suharto's regime. Since 2000, the Commission had adopted a "transitional justice" approach – comprising four key elements namely claim-based truth-seeking, reparations, prosecutions, and institutional reform – to face adequately what was called "past human right violations," including land dispossession (Komnas Ham 2001a, 2001b). South Africa's Commission on Restitution of Land Rights (CRLR) and Land Claims Court were two inspirational references for some Indonesian activist leaders, human right commissioners, academics, and government officials who compared the situations, and prepared a background paper and policy proposal for President Megawati (Bachriadi 2004; and Tim Kerja KNUPKA 2004). However, in meeting with proponents of the policy in July 2004, Megawati explicitly rejected the policy proposal simply because, she argued, that a new auxiliary state institution would create political and financial complications for the government. She emphasized that she already experienced these strains with existing state commissions such as *Human Right Commission, Ombudsman Commissions, Judicial Commission, National Law Commission, Corruption Eradication Commission, etc.* The proposal was re-submitted to a newly elected President Yudhoyono in the end of 2004, but President

¹³³ President Decree No. 34/2003 also President Megawati decided to decentralize a part of NLA authorities to city/district government as follows: (a) to release location permits; (b) to conduct land acquisition from development projects; (c) to settle agricultural land disputes; (d) to solve compensation related to land acquisition for development projects; (e) to determine land reform beneficiaries, lands targeted to land redistribution programs, and compensation to lands targeted by land redistribution programs; (f) to settle customary land (*tanah ulayat*) disputes; (g) to determine allocation and use of "abandoned-lands" (*tanah-tanah terlantar*); (h) to give permits to create new agricultural land; and (i) to set up land use plans for district/city level.

Yudhyono also rejected the proposal to set up new institutions, and instead of seeking a new approach, he decided to extend the authority of NLA to include the resolution of land conflicts (see more in chapter 4).

The People's Consultative Assembly Decree No. IX/2001, which was one of the landmarks of democratic policy making processes at the national level after the fall of Suharto's regime (Rosser et al 2005), and contains explicit mandates to the Indonesian president and national parliament to implement policy directions in agrarian reform and natural resource management, failed to achieve its goal.

3.6. High Hopes for Change Lead to Ersatz Land Reform

Analyzing shifting forces, policy paradigms, laws and regulations, and institutions related to the 1960 Basic Agrarian Law (BAL) in the previous chapter from decolonization through to the post-Suharto era shows the ways in which political and economic forces have come into play with social movement forces to mutually shape the trajectory of Indonesian land policy. The BAL proscribes the role of the national government as having an absolute right to State control (*Hak Menguasai dari Negara*) that allowed the national government to regulate and manage land and natural resources, determine property relations, and determine which are legal and illegal acts concerning land and natural resource management. The principle of giving national government such overwhelming authority is unquestionably a derivative of article 33 of the Indonesian Constitution stating that "(T)he land, the waters and the natural riches contained therein shall be controlled by the State and exploited to the greatest benefit of the people".

I have shown how different political regimes set different land policies by which the overwhelming authority is laid out in the BAL, and other laws produced in relation to the BAL, were strategically used to pursue their agendas according to their ideological visions. I have shown in previous chapter that the BAL was a political product, which provided a legal basis for Soekarno's Guided Democracy to establish a land redistribution program directed at increasing and empowering peasant/smallholders (*petani*). Along with industrial workers (*buruh*), peasants were framed as political subjects for his socialist vision. The land redistribution program in Java 1962-1965 was exclusively directed toward agricultural lands. The particular institutional history, legal arrangements, and political struggles excluded plantation lands and forestlands from the land redistribution policy, although landless peasant movements demanded the government target plantation lands and forestlands.

Although all political parties in national parliament agreed to the BAL, the distinctive nature of a land reform program that "seeks compulsory, drastic, and rapid tenurial change" (Tai 1974:19), produced resistance from the landlords. The landlords' resistance resonated with political struggles at the national level providing sufficient political motivation to end the program. Once the land reform program was stopped, Sukarno had no further opportunity to fully realize his ideals. It was no coincidence that the military coup dramatically and drastically ended his Guided Democracy (1957-1965) and all leftist politics including the land reform which had threatened state landlords. Suharto's authoritarian military regime called the "New Order" reshaped Indonesia's political economy under a completely different ideological vision.

In this chapter, I have described how the “New Order” government created various forms of authority to provide land concessions, including for mining, forestry, plantation, industrial, infrastructure, and real estate projects in order to facilitate the growth of foreign and domestic corporations. In Java, the two largest landholders, i.e. the State Forest Corporation (SFC) and private- and state-owned plantations, established their control over lands primarily by coercion, forcing landless villagers to acquiesce their aspirations for land reform. Their efforts to win villagers’ consent and establish their hegemony were not always successful, mainly because of the contradictory nature of enclosure that created various forms of local agrarian movements. I will show in Chapter 5 and 6 the ways these local resistances were transformed into more coordinated collective actions, including land occupations and demonstrations to demand land reform, after the local leaders met and allied with agrarian activists.

The World Bank came into the trajectory of Indonesian land policy in 1994 through an intervention to reform land laws, institutions, management and administration that were considered to constrain the emergence of efficient and equitable land markets. I have explained how The World Bank’s land projects mainstreamed land legalization that later became the new orthodoxy within the NLA.

The fall of Suharto’s authoritarian-militaristic regime in 1998 allowed agrarian activists and scholars to articulate critiques of the ways Suharto’s regime had used and misused the State authorities – that was also overwhelmingly strengthened by other new laws produced after the 1960 BAL. The BAL played a significant role as an official reference and an inspiration for agrarian activists and scholars to recall a socialist vision and agrarian reform agenda. I have also shown how political dynamics after the fall of Suharto opened up a new possibility to bring land reform back to national policy arenas, including through the People’s Assembly Decree No. IX/2001.

The attempts to demand land reform policy, which were articulated by agrarian activists and scholars through seminars and conferences, books, journal articles, policy advocacy and campaigns, and demonstrations and other forms of popular mobilization, after the release of the Assembly Decree No. IX/2001 had to face the fact that turning the land reform demands into a government policy involved non-linear processes that did not guarantee the resulting policy would fit with what the promoters demanded or envisioned.

In the next chapter, I will demonstrate how the meaning of land reform shifted during the period after President Yudhoyono appointed Joyo Winoto as the head of the NLA. Winoto succeeded in overhauling the NLA organization and its roles and functions in land governance and making land reform into a legitimate mainstream objective. Moreover, he was able to bring the policies into government regulation through its procedures of implementation and practice. The next chapter ends with a description of the ways Joyo Winoto shifted from promoting *Reforma Agraria* as a basic strategy of development policy to address poverty, unemployment, and land inequality, and pursue social justice, toward advancing instead a land legalization frame. The land legalization frame he promotes is a stark example of the hegemonic influence of the World Bank’s land policy. This shift, as I will demonstrate in Chapter 5, provoked some activists to launch critiques of the land reform process with pointed warning about the inherent danger of being subverted to neoliberal interests under the guise of a socialist-oriented agenda, calling the new policy “ersatz land reform” (*reforma agraria palsu*).

Chapter 4: From *Reforma Agraria* to Land Title Legalization (2005-2009)

4.1. Introduction

In January 2007, two and a half years after into his first four-year term, Indonesian President Susilo Bambang Yudhoyono announced a new land redistribution program called *Reforma Agraria* that he hoped would fundamentally change the picture of rural poverty and national economic growth. The program was promoted in conjunction with accelerated land registration as a key government strategy for the eradication of poverty. He introduced the *Reforma Agraria* program saying:

The program for land redistribution for the people, will start, in stages, *Insyah Allah*, this year, 2007. This program will allocate lands from “convertible forest” for the poorest people, along with other available lands that can legally be redistributed for the sake of the people’s well-being. This is an expression of the principle that I call “Land for Justice and People’s Welfare.” This reform, I believe, is necessary to implement, because for 43 years (since 1961 to 2004), only 1.15 million hectares state lands were [re]allocated to people [and redistributed].

Related to this agrarian reform program, the government will also help people to gain titles for their land in order to provide increased legal certainty. In 2005, the government was able to cover the titling costs for 410,361 land certificates. In 2006 the number increased by 44 %, enabling the issuing of 591,000 certificates. In 2007 we have a target of 1,113,130 certificates, increasing the number by 89% (compared to the previous year).¹³⁴

Joyo Winoto, the head of the NLA had engineered this program, and he attempted to enlist the Ministry of Forestry (MoF) in contributing some 8.15 million hectares of state forest lands (“convertible forest”) to the 1.1 million hectares of state lands under the authority of the NLA for the land reform program. The NLA also identified for redistribution some 7.35 million hectares of so-called abandoned-lands (*tanah-tanah terlantar*), state lands that had been unused, misused, or used by private companies in ways contrary to government regulations. The campaign for land reform and social justice under the direction of the NLA came in response to grassroots movements for

¹³⁴ “Program *Reforma Agraria*, untuk pendistribusian tanah untuk rakyat secara bertahap *Insyah Allah* akan dilaksanakan mulai tahun 2007 ini. Langkah itu dilakukan dengan mengalokasikan tanah bagi rakyat termiskin yang berasal dari hutan konversi, dan tanah lain yang menurut hukum pertanahan kita boleh diperuntukkan bagi kepentingan rakyat. Inilah yang saya sebut sebagai prinsip “Tanah untuk Keadilan dan Kesejahteraan Rakyat”. Reformasi ini saya anggap mutlak untuk dilakukan, mengingat selama kurun waktu 43 tahun (sejak 1961 hingga 2004), tanah negara yang diberikan kepada rakyat baru berjumlah 1,15 juta hektar. Terkait dengan program reformasi agraria, Pemerintah juga membantu rakyat dalam mensertifikatkan tanah-tanah yang mereka miliki, agar memiliki status hukum yang jelas. Pada tahun 2005 Pemerintah telah membebaskan biaya pengurusan sertifikat terhadap 410.361 bidang tanah. Tahun 2006, angka ini meningkat 44 persen, sehingga mencakup 591.000 bidang tanah. Pada tahun 2007 ini, kita targetkan pembebasan biaya itu agar dapat melayani 1.113.130 bidang tanah, yang berarti naik sebesar 89 persen.” For a complete version see:

<http://www.presidensby.info/index.php/pidato/2007/01/31/582.html> last accessed on 7/28/09.

agrarian justice, and in collaboration with agrarian activists, but when met with the political territorialities of the ministries, the NLA head swiftly recast the program to ensure the program's forward momentum. However, the *Reforma Agraria* program was moved forward on fundamentally different terms.

This chapter focuses on the land policy processes within the National Land Agency (NLA) from the time of the appointment of Joyo Winoto as head of the NLA in 2005, to the re-election of Yudhoyono for his second term as Indonesian President in 2009. I show the ways Winoto negotiated the formulation of *Reforma Agraria*, especially in relation with the President, Ministries and Legislature, and how he overhauled the organization of the NLA including its roles and functions, and finally how he maneuvered the rhetoric of *Reforma Agraria* into the land title legalization. I explain the background of the relationship between Winoto and Yudhyono and how that relationship shifted as the policy goals were reworked into implementable technical problems to be solved. The chapter concludes with a discussion of the consequences for the National Agrarian Reform Program, or NARP (*Program Pembaruan Agraria Nasional* or PAPAN in Indonesian) as it shifted its location from the sphere of agrarian justice to land title legalization which fit with other neoliberal policies.

The political position of this particular head of the NLA was historically unique because of the particular relationships he had with government officials as well as with agrarian activists and activist scholars. He was one of the President's advisors and maintained close connections with agrarian reform scholars and NGO activists through his association with the Bogor House of Enlightenment (known by its abbreviation as the Brighten Institute)¹³⁵. I approach Winoto as a policy maker as well as a channel through which the land reform idea was able to rise from a grass-roots demand to a national level policy. Winoto later promoted the notion of agrarian reform, *Reforma Agraria*, as a "basic strategy of development policy" for the pursuit of social justice (Winoto 2007). After identifying poverty, unemployment, and land inequality as a set of particular deficiencies that needed to be rectified, Winoto translated *Reforma Agraria* into an explicit program, which is concrete and workable for NLA officials (Winoto 2008). This is what Tania Li calls "rendering technical". Referring to Nikolas S. Rose (1999) Li defines "rendering technical" as the process by which a whole set of practices concerned with representing "the domain to be governed as an intelligible field with specifiable limits and particular characteristics ... defining boundaries, rendering that within them visible, assembling information about that which is included and devising techniques to mobilize the forces and entities thus revealed" (Rose cited by Li 2007:7). Winoto "rendered technical" the process of agrarian reform that he wanted to see implemented.

In order to translate the notion of *Reforma Agraria* into a specific program, the NLA started with what they called "delivery mechanisms" by which targeted lands meet with targeted groups (Winoto 2008). But, not all mechanisms worked, because (a) the Ministry of Forestry refused to release the 8.15 million hectares of forest-lands under their jurisdiction to be targeted by the land redistribution program; and (b) the Ministry of Agriculture refused to agree to associate their agricultural revitalization programs with *Reforma Agraria*.

In order to make the program more politically accessible, Winoto invoked Hernando De Soto's idea of land title legalization to frame land redistribution, which was

¹³⁵ Another name of the Brighten Institute is Indonesia Institute for Public Policy and Development Studies.

perfectly compatible with other land legalization schemes that NLA officials were already familiar with, including the World Bank's land administration projects (1995-2001, 2002-2003, 2003-2009)¹³⁶. In turn, the so-called National Agrarian Reform Program (NARP) was conceived of as a particular land title legalization scheme, alongside other schemes. The peculiarity of the NARP, in comparison to other land legalization schemes, is that NARP targeted only "state-land" that was under the jurisdiction of the NLA. Subsequently, the NARP became a government project to legalize the existing access of people to lands that belonged to the "state-land" category.

4.2. Background for Joyo Winoto's Appointment as the Head of National Land Agency

Winoto's previous position as the co-founder and first director of the Bogor House of Enlightenment (Brighten) Institute partly led to his appointment as the Head of NLA. After he got his PhD from the Department of Resource Development at Michigan State University, Winoto had eight years experience working as an official at the National Development Planning Agency (BAPPENAS), including in his last post as Director of Food, Agriculture and Irrigation. The Brighten Institute was founded by Yudhoyono and some scholars from Bogor Agriculture University (IPB) in 2002, at a time when Yudhoyono was a doctoral student in IPB and Coordinating Minister of Political and Security Affairs in the President Megawati's cabinet. Scholars at the Brighten Institute told me that it was Winoto's initiative to bring Yudhoyono, who was very well known as a scholarly enlightened military general, to be one of founding members, and then main customer of the Institute (Interview 01/08/2008 and 01/29/2008). I was told that Yudhoyono and Winoto also shared common ground on ideals, which was a common commitment to revitalize the *wawasan kebangsaan* (national vision) as the 1945 Constitution of the Republic of Indonesia envisioned. Winoto impressed Yudhoyono by transforming Yudhoyono's speech, delivered at the Institute of National Defence (*Lemhanas, Lembaga Ketahanan Nasional*) in 2002, into a book. The speech and the book proposed proposed revitalizing Indonesia's *wawasan kebangsaan* along with democratic values as the guiding principles in managing Indonesia as a nation-state. The book was re-published by the Brighten Institute (Yudhoyono 2004a, see also Yudhoyono 2004b) (Interview with Sutarto 01/29/2008).

Two years after its inception, the Brighten Institute had successfully supported Yudhoyono's run for President in the 2004 election. They produced Yudhoyono's *Building a Safe, Just and Prosperous Indonesia*, a white book explaining the vision, mission and program that Yudhoyono-Kalla promised to implement if they won the election (Yudhoyono and Kalla 2004). During their presidential campaign this white book was widely distributed around country.¹³⁷ In this book *Reforma Agraria* is mentioned twice under the proposed agenda and program "to improve and create jobs" and "to revitalize agriculture and rural economy."

¹³⁶ See chapter 3, section 3.4.

¹³⁷ According to the General Election Commission (KPU) Regulation No. 26/2004, every president-and-vice-president candidate is required to submit a document containing visions, mission and agendas as a part of administrative requirements for their registration to participate in general election.

After Yudhoyono-Kalla won the election, this book became a main source of their platform called the “triple-track strategy.” The first time President Yudhoyono used the term “triple-track strategy” was in his speech, “Identifying Problems, Establishing Agendas and Directions,” in the moment he declared the agenda for the Five Year National Development and the first 100 days of immediate actions (November 17, 2004):

I use the term “triple-track strategy” for our future national development. The first strategy is to push growth through investment and export. The second strategy is to re-energize the industrial sector to create more job opportunities. And the third strategy is to implement agricultural revitalization and rural economics to eradicate poverty. Thus, for brevity the Triple Strategy is “Pro-Growth, Pro-Employment, and Pro-Poor strategy”.¹³⁸

The Triple Strategy provided a frame for *Reforma Agraria* to advance. That triple track strategy leveraged Winoto’s efforts to create further steps in land reform policy making proceses, including obtaining the necessary institutional and financial support from the national legislature.

4.3. Negotiation with National Legislature

The critical arena for national land policy reform is the People's Representative Council (Indonesian: *Dewan Perwakilan Rakyat*, DPR). The Council has the legal authority to work with central government institutions in processing national legislation and budgets as well as in monitoring and oversight of government programs. The Council divides the legislature into eleven commissions, each of which is responsible for working with particular ministries and central government agencies. Commission II covers issues such as home affairs, decentralization, bureaucratic reform, civil administration, general election, and land and agrarian affairs. The NLA is under the supervision of Commision II along with the Ministry of Home Affairs, the Ministry of Bureaucratic Reform, the Ministry of State Secretary, the Ministry of Cabinet Secretary, and another seven central government agencies.¹³⁹

¹³⁸ (Saya mulai dari bidang ekonomi. Saya menggunakan istilah Triple Strategy dalam pembangunan nasional ke depan. Strategi pertama adalah mendorong pertumbuhan (growth) melalui investasi dan ekspor. Strategi kedua, menggerakkan kembali sektor riil guna menciptakan lapangan kerja yang lebih luas. Dan strategi ketiga adalah melakukan revitalisasi pertanian dan ekonomi pedesaan untuk mengurangi kemiskinan. Jadi sesungguhnya Triple Strategy tiada lain adalah “Pro-Growth, Pro-Employment, dan Pro-Poor strategy”). For full version of this speech in Indonesian: See: http://kepuustakaan-presiden.pnri.go.id/uploaded_files/pdf/speeches_clipping/normal/susilo19.pdf last accessed on 02/21/2010.

¹³⁹ The other seven agencies are State Administration Agency (LAN, Lembaga Administrasi Negara), National Civil Service Agency (BKN, Badan Kepegawaian Negara), National Archive of Republic of Indonesia (ANRI, Arsip Nasional Republik Indonesia), General Election Commission (KPU, Komisi Pemilihan Umum), the Election Monitoring Body (BAWASLU, Badan Pengawas Pemilu), Ombudsman of Republic of Indonesia (Ombudsman Republik Indonesia), and Presidential Unit for Development Monitoring and Control (UKP4, Unit Kerja Presiden Bidang Pengawasan dan Pengendalian Pembangunan).

In the first official consultation with the Commission II, on September 1st, 2005, Joyo Winoto laid out the emphasis he would place on addressing issues of inequality of access to and control over land in contrast to the previous NLA leader.¹⁴⁰

Inequality in access to and control over land and land ownership is increasing because of three decades of land policy that fully supported pro-growth macroeconomic policies. Land policies were made not on the basis of restructuring productive assets but for increasing productivity. Equalizing productive assets was abandoned, and (productive assets) mostly were allocated for big and strong economic forces which were conceived of as the driving factors to high economic growth and for improving people's welfare through a trickle-down effect. As a consequence of these policies, poor people have been marginalized. Smallholder farmers who previously owned their land have become landless cultivators and rural labourers. This inequality has also contributed to increasing land conflicts. This situation has led to (the need for) agrarian reform, which is a policy to reduce inequality in land control and ownership in the agricultural sector and in turn to eradicate poverty and to improve people's welfare (Winoto 2005a).¹⁴¹

Through this opening speech, he also delivered a message to the legislature that the NLA under his leadership would start to combine two main aims of land policy, namely to improve people's welfare and to pursue social justice.¹⁴²

He requested the support of the Commission II legislature in helping the NLA prepare the conditions necessary for implementation of agrarian reform. He especially envisaged a "productive, continual and respective partnership" with the legislature to realize the deep agrarian reform that he claimed as a national agenda in order "to ensure that land and land management in Indonesia would become a source of prosperity and

¹⁴⁰ The previous Head of NLA, Lutfi Nasution, who was appointed by President Megawati Sukarnoputri, did not take inequality in land control and ownership as a policy issue.

¹⁴¹ *"Ketimpangan penguasaan dan pemilikan tanah semakin meningkat, akibat kebijakan pertanahan tiga dekade terakhir yang mendukung kebijakan makro ekonomi nasional yang lebih mengejar pertumbuhan ekonomi semata. Kebijakan pertanahan tidak didasarkan atas penataan aset produksi tetapi langsung diarahkan kepada upaya peningkatan produktivitas. Pemerataan aset produksi agak terabaikan dan lebih banyak dialokasikan kepada sektor ekonomi kuat dan besar, karena diyakini akan mampu mendorong tingkat pertumbuhan ekonomi yang tinggi yang pada gilirannya akan meningkatkan kesejahteraan rakyat (trickle down effect). Akibatnya, rakyat kecil semakin terpinggirkan, misalnya petani yang tadinya memiliki tanah berubah menjadi petani penggarap dan akhirnya menjadi buruh tani. Ketimpangan ini, juga berdampak kepada meningkatnya konflik-konflik pertanahan. Keadaan ini menghendaki agrarian reform, yang merupakan salah satu kebijakan yang bertujuan untuk mengurangi ketimpangan penguasaan dan pemilikan tanah (pertanian) yang akhirnya bermuara pada pengentasan kemiskinan atau peningkatan kesejahteraan masyarakat."*

¹⁴² He said "(g)overnment orients national development to create job and eradicate poverty which both are strong bases for improving people welfare and pursuing social justice. Social justice principle is developed through fulfilling people basic rights as written in our Constitution. (Winoto 2005a) *"Pembangunan nasional yang ditetapkan oleh Pemerintah diarahkan pada penciptaan lapangan kerja dan pengentasan kemiskinan yang merupakan landasan yang kokoh untuk meningkatkan kesejahteraan hidup masyarakat untuk mewujudkan keadilan sosial. Prinsip keadilan sosial masyarakat dikembangkan melalui proses pemenuhan hak-hak dasar rakyat sebagaimana dijamin oleh konstitusi"*.

justice for Indonesian people, and to ensure land disputes and conflicts would be adequately resolved”¹⁴³ (Winoto 2005a).

The legislature welcomed his vision. Then, at the end of 2005, the NLA started to discuss their budget with the Budget Committee of the Council, which agreed to the NLA’s plan and its proposed budget to design a land reform program and overhaul the organization and its personnel, governance and function.¹⁴⁴ The legislature also agreed to Winoto’s proposal to discontinue efforts to revise the 1960 Basic Agrarian Law (BAL), and instead, reaffirm the BAL as a legal basis for agrarian reform programming. Winoto criticized previous NLA efforts to replace the BAL with a new law. To replace the 1960 BAL with a new law, he argued, had fundamental risks because its position was so central in interpreting the Indonesian Constitution, especially article 33, and was such a significant reference for other existing land laws and regulations.¹⁴⁵

This decision also got full support from agrarian activists and scholars. Since Winoto was assigned as the Head of the NLA, he had gotten advice from agrarian reform *Gurus*, i.e. SMP Tjondronegoro and Gunawan Wiradi, and pressure from agrarian activists to stop the NLA initiative to revise the BAL. As I elucidated in Chapter 2, section 2.10. for most scholars and agrarian activists, the BAL was widely seen as the only law that could justify and leverage the promotion of land reform policy.

4.4. Overhauling the NLA Organization and Its Personnel, Governance and Function

Winoto realized that his main constraint was the array of organizing principles of the NLA itself that had been set up under Suharto in order to facilitate smooth land acquisition for industrial and urban development. He frequently mentioned that the President had appointed him because of his competence to advance agrarian reform policy and to face the pervasive critical problems in Indonesian society of poverty, unemployment, unequal income distribution, and land conflicts. He started to change a previous NLA orientation which was called *Catur Tertib Pertanahan* (literally, Four Rules of Order on land): (a) to follow orderly land laws and; (b) to follow orderly land administration procedures (c) to follow orderly land use standards; and (d) to follow orderly land conservation and environmentally sound principles. Then he established four new principles that orient NLA land management and policies, namely, (a) to contribute in improving the welfare of Indonesian people; (b) to contribute in realizing distributive justice in relation to land access, use, control, and ownership; (c) to contribute to sustaining the integrity of the Indonesian state, nation and society without compromising the ability of future generations to meet their needs; (d) to contribute to creating social harmony through resolving land conflicts and disputes. He frequently reiterated these four pillars and the necessity of agrarian reform policy in his speeches in front of NLA officials as well as in public fora. For example, he declared,

¹⁴³ “guna memastikan tanah dan pertanahan di tanah air betul-betul menjadi sumber-sumber kemakmuran dan keadilan bagi rakyat Indonesia serta guna memastikan berbagai sengketa dan konflik pertanahan di seluruh tanah air dapat teratasi.”

¹⁴⁴ See: Minute of Meeting 05/29/2006 between the NLA and the Commission II, National Parliament.

¹⁴⁵ see Minute of Meeting 01/29/2007 between the NLA and the Commission II, National Parliament. See: <http://www.dpr.go.id/id/Komisi/Komisi-II/laporan-singkat> Last accessed 29/01/2010. See also *Sinar Harapan* “UUPA Batal Diamaendemen. Penguatan Hak atas tanah akan Diundangkan”, January 30, 2007.

This is a new moment, a moment to do our best to work hard; to ensure good land governance; to ensure that our land management and service is for the greatest prosperity of the people; to build a strong base for pursuing equitable land control and ownership; to ensure that land disputes and conflicts are handled systematically; to provide the best services for the people; to ensure corruption, manipulation, illegal levies, and legal abuse no longer exist anymore in this land management institution that is very strategic for the future of our nation-state. (Winoto 2005b:3-6)¹⁴⁶

He decided to develop a strategy to advance agrarian reform, starting with complete restructuring. The NLA proposed a new legal basis that later became the Presidential Regulation No. 10/2006 on the National Land Agency. He laid-out eleven new NLA priority agendas, as follows:

1. to build public trust;
2. to improve land services and land registration;
3. to improve people's rights on land;
4. to solve land problems in areas affected by natural disasters and ethnic conflicts;
5. to systematically settle land lawsuits, disputes and conflicts;
6. to develop a national land management information system and land archive system;
7. to address corruption, collusion, nepotism through social participation and empowerment;
8. to establish land mapping over large land ownership and control;
9. to consistently implement land laws and regulations;
10. to strengthen NLA organization; and
11. to develop and reform land laws, policies and politics.¹⁴⁷

¹⁴⁶ *Ini era baru. Era untuk berbuat baik. Era untuk bekerja keras. Era untuk memastikan bahwa pertanahan nasional tertata secara baik. Era untuk memastikan pertanahan bagi sebesar-besar kemakmuran rakyat. Era untuk meletakkan landasan bagi terwujudnya struktur penguasaan dan kepemilikan tanah secara adil. Era untuk memastikan sengketa dan konflik pertanahan tertangani secara sistematis. Era untuk memberikan pelayanan terbaik bagi masyarakat luas. Era untuk memastikan korupsi, rekayasa, pungutan liar, dan permainan hukum di bidang pertanahan tidak lagi ada tempat di lembaga pertanahan yang strategis bagi bangsa dan negara ini”.*

¹⁴⁷ *Sebelas agenda prioritas Badan Pertanahan Nasional:*

1. *Membangun kepercayaan masyarakat pada Badan Pertanahan Nasional.*
2. *Meningkatkan pelayanan dan pelaksanaan pendaftaran, serta sertifikasi tanah secara menyeluruh di seluruh Indonesia.*
3. *Memastikan penguatan hak-hak rakyat atas tanah (land tenure ship).*
4. *Menyelesaikan persoalan pertanahan di daerah-daerah korban bencana alam dan daerah-daerah konflik.*
5. *Menangani dan menyelesaikan perkara, masalah, sengketa, dan konflik pertanahan di seluruh Indonesia secara sistematis.*
6. *Membangun Sistem Informasi Pertanahan Nasional (SIMTANAS), dan sistem pengamanan dokumen pertanahan di seluruh Indonesia.*
7. *Menangani masalah KKN serta meningkatkan partisipasi dan pemberdayaan masyarakat.*
8. *Membangun data base kepemilikan dan penguasaan tanah skala besar.*

The new regulation expanded its functions to cover the making of land policy in cooperation with other national governmental agencies as well as technical services. According to President Regulation No. 10/2006, article no. 2, there are twenty-one functions of the NLA: Formulation of national land policy; Formulation of technical land policy; Coordination of land policy, planning and program; Guidance and service of land administration; Conducting and implementing land surveys, and mapping; Implementing land registration in order to guarantee legal certainty; Issuing land tenure title and certification; Conducting land use and spatial planning, agrarian reform and special region arrangement; Administration of state/region-owned corporation in cooperation with the Ministry of Finance; Monitoring and control over land ownership; Interagency cooperation; Conducting and implementing land policy, planning and program; Community empowerment in land matters; Researching and settling land issues, conflicts and disputes; Research and development of land laws; Research and development of land sector; Human resource development in land sector; Managing land data and information; Guidance for land-related government institutions; Termination of land ownership as mandated by law; and Other functions as mandated by law.

Right after the Regulation was released on April 11, 2006, Winoto followed it up with three detailed regulations under his authority, i.e. the Head of the NLA Decision No. 2/2006 on Career Planning with the NLA, the Head of the NLA Decision No. 3/2006 on Organization and Governance of the National Land Agency, and the Head of the NLA Decision No. 4/2006 on Organization and Governance of the Provincial and District Land Offices. These detailed regulations provided new organizational structures of the NLA and land offices at the provincial and district levels, as well as outlining main task and functions (*tugas pokok dan fungsi*) of each prescribed position.

Then these detailed regulations became the legal basis for his follow-up maneuver, i.e. the declaration that all positions in the NLA and Provincial and District Land Offices were open and would be filled through fit and proper tests assisted by an independent institution, which was the Partnership for Governance Reform. The Partnership for Governance Reform was initiated in September 1999 at the Consultative Group meeting by three multilateral organizations, the United Nations Development Programme (UNDP), the World Bank and the Asian Development Bank (ABD), and its public launch was in October 2000. With a mission to promote good governance reform, the Partnership had six priority programs, focusing on: decentralisation, anti-corruption, electoral reform, legal and judicial reform, civil service reform and security/police reform.¹⁴⁸ The Minister of Administration Reform fully supported this plan.

Two months later, on June 21st, 2006, 717 officials moved into new positions at the same time. Eighty-seven percent of them were moved to other district/provinces. Forty-seven percent of them were moved to other positions or promoted to higher positions. The NLA officials dubbed this wave the “tsunami” because of the gigantic,

9. *Melaksanakan secara konsisten semua peraturan perundang-undangan Pertanahan yang telah ditetapkan.*

10. *Menata kelembagaan Badan Pertanahan Nasional.*

11. *Mengembangkan dan memperbarui politik, hukum dan kebijakan pertanahan.*

¹⁴⁸For a critical examination of the role of the Partnership, see Crawford and Hermawan (2002), Crawford (2003). Cf. Mallarangeng, Andi and Peter Van Tuijl (2004).

shocking and drastic effects of moving so many positions at the same time. Nobody knew who would get what position and where until the Head of NLA released the decisions. The “second tsunami” hit NLA officials ten months later. On March 2007, some 5,621 officials got new positions at the same time. In total 6,338 out of 22,684 officials were moved to new positions, or approximately 28 percent of the total number of NLA officials (Winoto 2007).¹⁴⁹

Winoto criticized the NLA officials referring to these moves as a “tsunami” in his speech at an official event that was held to give orientation to all NLA deputies and directors, and all head of provincial land offices in Jakarta 06/21/2007. He said, “don’t use the term ‘tsunami’ ... We are doing this restructuring together to find a better shape [of the NLA] ... So, the actual processes can open up new opportunities. As a central government institution we [have to be] fair. If person A is eligible for a position, so person B should be eligible too. We realized that what would happen would be surprising. On the one hand, someone suddenly moved into a new position far away. On the other, someone got new and greater responsibilities. We need to see all of these [changes] within the framework that allows potential for personal and professional development. So, in this context, I urge you to put the term ‘tsunami’ behind. I get upset because actually this [restructuring] was our move, not some outside force” (Winoto 2007c:293-294).

Winoto strategically initiated the overhaul of the NLA to show the power of his leadership for all NLA officials (Interview with Joyo Winoto 11/07/2007). After Winoto got a green light from President to go on with *Reforma Agraria* (see below this section) the Head of the NLA set up the “NLA Agrarian Reform Core Team” composed of selected higher NLA officials to design the so-called National Agrarian Reform Program (NARP, *Program Pembaruan Agraria Nasional* or PPAN).¹⁵⁰ At the same time he issued an instruction for all provincial land offices to prepare sites for pilot projects.¹⁵¹ The AR Core Team was also responsible for assessing the preparation and selection of sites for pilot projects, and directing the pilot projects. Then, once the AR Core Team reported that the pilot projects were ready to start redistribution of approximately 49,000 hectares of land, the Head of the NLA issued another instruction to fully fund the pilot projects in the national budget for the fiscal year 2007.¹⁵²

The AR Core Team was also responsible for conducting seminars and workshops, which were oriented toward developing a policy framework of the NARP. Winoto gave a special instruction to the Team to work together with agrarian reform activists and scholars in developing the framework (for more detail see Chapter 4, section 4.3), and also for conducting some internal workshops and briefings for NLA officials “to

¹⁴⁹ *Janganlah menggunakan istilah tsunami. ... Kita melakukan penataan bersama untuk mencari bentuk yang terbaik [dari BPN] ... Jadi sebenarnya proses yang ada adalah membuka opportunity, tetapi kita sebagai organisasi vertikal kita (harus) fair semuanya kalau si A bisa di situ, si B juga bisa di situ. Memang dalam prosesnya ada yang tiba-tiba pindah jauh, ada yang semakin dapat tanggung jawab yang lebih besar, tetapi semuanya ada di dalam kerangka untuk melihat kembali apakah orang-orang potensial itu nanti kalau perlu berkembang ... Jadi di dalam kerangka itu saya minta hilangkan pengertian tsunami, saya tersinggung, karena sebenarnya [restrukturasi] ini kan gerak kita bersama*

¹⁵⁰ Through the Decision of the Head of the NLA No. 267-VII-2006, October 17th, 2006.

¹⁵¹ Through a letter No. 56/S/DIII/VIII/2006 August 28th, 2006.

¹⁵² Through a letter No. 110/S/DII/XI/2006 December 8th, 2006.

strengthen motives, bold feeling and thought, and unite steps to implement the NARP” (*Badan Pertanahan Nasional Republik Indonesia 2007:22*)¹⁵³

The most important result of the Team was to develop *Reforma Agraria* into workable “agrarian reform models,” which basically comprised four key ingredients: (a) characteristic of targeted lands; (b) characteristic of targeted beneficiaries; (c) mechanisms through which targeted lands and targeted beneficiaries are matched; and (d) types of assistance post-land redistribution (see figure 3.1. A simplified basic framework of National Agrarian Reform Program).¹⁵⁴

Winoto also gave a special task to the AR Core Team to put agrarian reform agendas within the Long-term National Development Plan, which was prepared by the National Development Plan Agency (NDPA) and the People’s Representative Council (DPR). Joyo Winoto’s previous career in the NDPA gave him an ease of communication with the drafting committee of the Plan, and provided inroads for the AR Core Team to bring in the agrarian reform agenda. On February 5, 2007, the President enacted the Law no. 17/2007 on Long-term National Development Plan 2005-2025, and land reform was included under the heading “Realizing a Just and Equal Development.”¹⁵⁵ The full paragraph is the following:

[The Indonesian government has decided] to implement an efficient and effective land management system, and conduct law enforcement over land rights based on justice, transparent and democratic principles. Moreover, it is urgently needed to improve land control, ownership, use and access through various land reform regulations, and to develop tax incentive/disincentives according to the amount, location and use of land, in order to make weak economic groups easier to access land rights. In addition, it is urgently needed too to improve systems and substance of land law through identifying and revising land laws and regulations with considering customary laws, and improving land dispute resolution through administrative mechanisms, court and alternative dispute resolutions. In addition, land management institutions will be improved on regional autonomy and unitary state principles in the Republic of Indonesia, especially in relation to improving

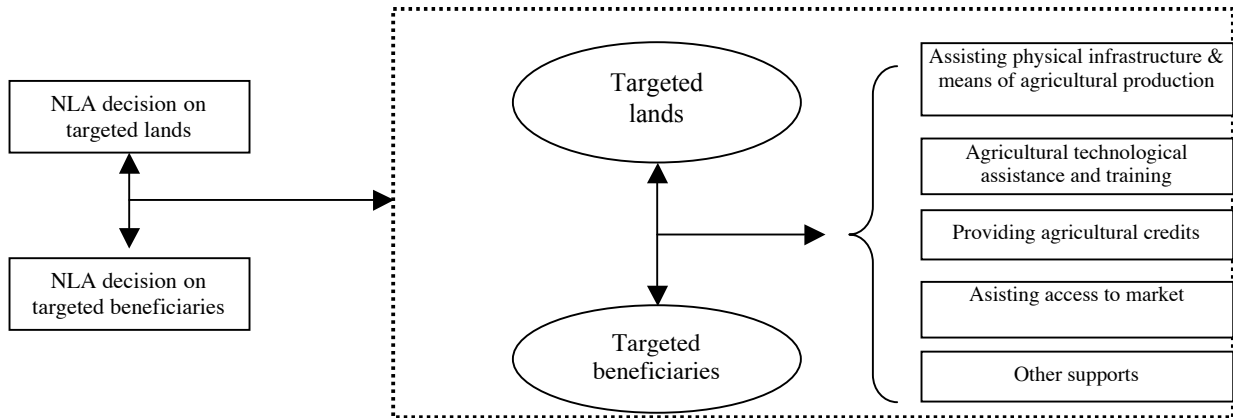
¹⁵³ untuk membulatkan tekad, menyatukan hati dan pikiran, serta menyamakan langkah untuk melaksanakan PPAN.

¹⁵⁴ Based on this basic framework of these four key ingredients the AR Core Team developed sixty-four possible types. For deatail see: Winoto (2008:80-152).

¹⁵⁵ (Pemerintah Indonesia memutuskan untuk) menerapkan sistem pengelolaan pertanahan yang efisien, efektif, serta melaksanakan penegakan hukum terhadap hak atas tanah dengan menerapkan prinsip-prinsip keadilan, transparansi, dan demokrasi. Selain itu, perlu dilakukan penyempurnaan penguasaan, pemilikan, penggunaan, dan pemanfaatan tanah melalui perumusan berbagai aturan pelaksanaan land reform serta penciptaan insentif/disinsentif perpajakan yang sesuai dengan luas, lokasi, dan penggunaan tanah agar masyarakat golongan ekonomi lemah dapat lebih mudah mendapatkan hak atas tanah. Selain itu, menyempurnakan sistem hukum dan produk hukum pertanahan melalui inventarisasi dan penyempurnaan peraturan perundang-undangan pertanahan dengan mempertimbangkan aturan masyarakat adat, serta peningkatan upaya penyelesaian sengketa pertanahan baik melalui kewenangan administrasi, peradilan, maupun alternative dispute resolution. Selain itu, akan dilakukan penyempurnaan kelembagaan pertanahan sesuai dengan semangat otonomi daerah dan dalam kerangka Negara Kesatuan Republik Indonesia, terutama yang berkaitan dengan peningkatan kapasitas sumber daya manusia bidang pertanahan di daerah.”

human resource capacity in land management in the region (Attachment of Law no. 17/2007 on Long-term National Development Plan 2005-2025, page 67-68).

Figure 4.1. A simplified framework of National Agrarian Reform Program (NARP)



Source: Badan Pertanahan Nasional Republik Indonesia. 2007. *Reforma Agraria: Mandat Politik, Konstitusi, dan Hukum Dalam Rangka Mewujudkan “Tanah untuk Keadilan dan Kesejahteraan Rakyat”*. Jakarta: Badan Pertanahan Nasional Republik Indonesia. Page 42.

4.5. Negotiating *Reforma Agraria* to the President and other Ministries

Joyo Winoto had a daunting task, namely, to arrive at a policy solution that could both meet the demands for adequately addressing diverse land-related issues and respond to the critiques raised by rural and urban protesters, agrarian activists and critical scholars, and also provide a politically workable approach to land reform under President Yudhoyono’s strategy given the institutional divisions between central government agencies. The complexity of managing the balance between the demands for reform, on the one hand, and the resistance to implementation of reform, on the other, gives insight into what Tania Li (2007: 11-12) calls “the practice of politics” and “the practice of government” which she describes as follows:

The practice of politics” refers to “the expression, in word or deed, of a critical challenge. The challenge often starts out as refusal of the way things are. It opens up a front of struggle. This front may and may not be closed as newly identified problems are rendered technical and calculations applied.” On the other hand, “the practice of government” ... involves two paired practices, i.e. (a) “problematization,” that is, “identifying deficiencies that need to be rectified;” and (b) “rendering technical,” in which “a concept of improvement becomes technical as it is attached to calculated programs for its realization.” (Li 2007:12).

As explained eloquently by Li, the process of “rendering technical” – which in this case is to translate the notion of *Reforma Agraria* into a specific thinkable and workable program – involves at least three dimensions, which are that (a) “the identification of a

problem is intimately linked to the availability of a solution;” (b) “questions that are rendered technical are simultaneously rendered nonpolitical;” and (c) “the design of programs as a deliberate measure to contain a challenge to the status quo” (Li 2007:7-8).

Winoto started with the critique of the ways the government had treated mass poverty and unemployment. He claimed that government officials rarely think critically about the limits of what he termed “end pipe policy”, which is “policies trapped only to deal with *symptoms* of problems but failed to identify and adequately target the roots of a problem. Moreover, unresolved problems tended to produce new derivative problems” (Winoto 2007a:6-7).¹⁵⁶ Winoto argued that those problems were persistent because of a particular model of development thinking, what he called the “colonial mode of development.”

Our struggles have to start from the conceptual stand point that we have to free ourselves – in our thought and praxis – from *the colonial mode of development*, namely the framework of colonialist, exploitative, arrested, myopic and short-term development thinking. (Winoto 2007a:5 italics in original).¹⁵⁷

He invoked Amartya Sen’s notion of development as freedom and argues that *Reforma Agraria* is part of what he calls an *empowering mode of development*.

People have to have enough access to free themselves through the development processes – free themselves from ignorance, underdevelopment, repression, lack of opportunity, and fear. And, for this purpose, people must have assets to manage and must have access to empower their assets. Peasants have to have land and access to capital, technology, market, management and so on. Peasants have to have their own means of production, capacity and competence to articulate their interests. They have to have access to develop social innovations enabling them to produce social changes in rural areas. (Winoto 2007a:9).¹⁵⁸

In order to take the land reform agenda forward, he advised President Yudhoyono to convene a meeting with the Head of NLA and two related ministers, namely Minister of Forestry and Minister of Agriculture. They met on September 28, 2006 at the Presidential office to initiate synergies between land, agriculture and forestry sectors in

¹⁵⁶ Kebijakan yang terjebak hanya mengatasi symptom dari permasalahan namun gagal mengidentifikasi dan memecahkan akar persoalan, tidak akan mampu mengatasi persoalan. Bahkan, akar masalah yang tidak terpecahkan akan melahirkan berbagai persoalan-persoalan baru ikutannya.

¹⁵⁷ Perjuangan ini harus kita mulai terlebih dahulu secara konsepsional dengan melepaskan diri kita, nilai-nilai pemikiran, dan praksis — dari colonial mode of development, yaitu kerangka pemikiran pembangunan yang kolonialistik, eksploitatif, tidak membebaskan, myopic, dan berperspektif jangka pendek.

¹⁵⁸ Rakyat harus punya akses untuk membebaskan dirinya tentu melalui proses pembangunan — dari kebodohan, ketertinggalan, ketertindasan, sempitnya ruang gerak kehidupan, ketergantungan, rasa takut. Dan, untuk ini rakyat harus punya aset yang dapat dikelola dan punya akses untuk memberdayakan asetnya. Petani harus punya tanah dan punya akses pada modal, teknologi, pasar, manajemen dan seterusnya. Petani harus punya alat-alat produksi, punya kapasitas dan kemampuan untuk menyuarakan kepentingannya. Punya akses untuk melahirkan inovasi-inovasi sosial yang menjadi prasyarat lahirnya perubahan sosial di pedesaan.

the context of President's triple-track strategy: to create growth, reduce unemployment and eradicate poverty.

For Winoto the meeting's result was not promising. Winoto had anticipated the resistance of the other ministries, but he had counted on the President to back the policy and provide the signals to the Ministry of Forestry and the Ministry of Agriculture that would have made *Reforma Agraria* an overarching frame for synergistic programming between the NLA and the two ministries. The President's failure to push the policy took Winoto by surprise.

After the meeting, Winoto and the two ministers held a press conference in which each of them presented short statements on their own program. Winoto announced that the President would lead directly an NLA program that he named the National Agrarian Reform Program (NARP), which targeted some 1.1 million hectares of state lands under the jurisdiction of the NLA, and 8.15 million hectares of state forest lands under the jurisdiction of the Ministry of Forestry; the Minister of Forestry talked about optimizing unused forest lands for private owned industrial forest plantation (HTI, *Hutan Tanaman Industri*) and farmer owned industrial forest plantations (HTR, *Hutan Tanaman Rakyat*); and The Minister of Agriculture talked about agricultural revitalization programs to ensure food security.¹⁵⁹

Winoto had hoped the press conference would show that each program contributed to the President's triple-track strategy. But as the other agencies did not follow suit, the programs they presented did not fit together. It seemed clear that the other agencies did not want to use *Reforma Agraria* as an overarching frame, because, basically, they did not share a commitment to pursue agrarian justice, and, practically, they did not see it as imperative to the President's strategy. Instead, the two ministers perceived the NLA as having no power and no authority to impose *Reforma Agraria* on their ministries. Moreover they saw that if they did not resist, the new program of *Reforma Agraria* would disempower their authority and control over land as well as threatening their financial resources.

Winoto realized that the two ministers resisted to *Reforma Agraria*, and the president had no interest to make *Reforma Agraria* as the overarching frame for Ministry of Forestry and Ministry of Agriculture. Instead he had to find a workable strategy to convince the President of the crucial role of the overhauled NLA. What he did was to call land title legalization, the more acceptable language of international financial institutes that had been engaging with Indonesia on land titling. Then, Winoto started to forge what Hajer calls "discourse coalition" (Hajer 1993:47), partly by creating an ensemble of two different "story lines," *Reforma Agraria* and property formalization, to convince President Yudhoyono that NLA programs perfectly fit within his "triple track strategy:" to increase economic growth, to create employment, and to reduce poverty. Unlike *Reforma Agraria*, the idea of land title legalization was not new as I described in chapter 3, section 3.4. The World Bank started the Indonesia Land Administration Project (ILAP) in 1995 – 2002. Through ILAP and its successor (LMPDP, Land Management and Program Development Project 2004-2010) the NLA had established a new land administration system with new technologies in land mapping and titling, including to

¹⁵⁹ For more detail report in Indonesian see <http://www.presidensby.info/index.php/fokus/2006/09/28/1077.html> last accessed on 04/11/08.

create a new land titling scheme (*ajudikasi*).¹⁶⁰ They also developed NLA human resources capacities, including the sponsoring of NLA officials to go abroad for master's degrees in land administration at the University of New South Wales located in Sydney, Australia.¹⁶¹ These projects enabled the NLA to become a global site within which the transnational development network¹⁶² in pro-market land administration and management deployed their experts, knowledge, expertise, and investment.

A contemporary proponent of pro-market land administration and management reform, Hernando de Soto is a neoliberal theorist of property rights formalization.¹⁶³ Winoto invited de Soto, to convince the President and other ministries of the significant roles the government could take in formalizing land title legalization in order to pursue economic growth, eradicate poverty, and create jobs – the President's triple-track strategy. On November 7, 2007, in the Presidential office, de Soto made a presentation before the President and some Ministers¹⁶⁴ on the fundamental problems facing less-developed countries, developing states, and post-communist states, in their efforts to eradicate poverty. The point he presented as the main constraint to growth was one that he argues has not been solved by non-Western societies, i.e. how to bring people who are outside the formalized property system into a rational and legal system that provides social and economic stability. He warned, convincingly, that if these people are kept outside the system, they will feel increasingly marginalized, and this could be a source of violent conflict, etc. Alternatively, if the rule of law can develop in a way that can, bring those marginalized people into the system, then poverty eradication can start to work. An official website of the President reported de Soto's presentation as the following:

De Soto was dubbed as “Father of the People's Economy (*Bapak Ekonomi Kerakyatan*)” who is acknowledged by global economists. According to de Soto, peoples in developing countries have no integrated formal property rights system, they have only informal documentation over land and other properties. He argues modern development theory failed to develop integrated property rights systems, and makes poor people unable to use what they informally own as capital for their businesses and entrepreneurship. As a consequence, poor people in developing countries are always trapped in poverty in which their farmers only cultivate for their own survival needs.¹⁶⁵

¹⁶⁰ Through the ILAP Government Regulation No. 10/1961 on Land Registration was replaced by Government Regulation No. 24/1997 on Land Registration.

¹⁶¹ The ILAP enabled the University of New South Wales to develop a new graduate program in land administration. See Foster et al. (1996).

¹⁶² Recent human geography studies explicate the roles of transnational development network (Bebbington and Batterbury 2001, Bebbington 2003, Bebbington and Kothari 2006, and and McFarlane 2006).

¹⁶³ De Soto is exemplified by David Harvey as one of “contemporary neoliberal theorists” who “have been particularly assiduous in cultivating the myth of private property as the guarantor of liberty and freedom” (2009:53, 54). For an extensive critical review on Hernando de Soto works in the context of showing the ways that neoliberalism works, see Mitchel (2005, 2009).

¹⁶⁴ Aside from the Head of NLA, the Ministers were the Coordinating Minister for Economic Affairs, the Coordinating Minister for People's Welfare, the Minister of Health, the Minister of Trade, the Minister of Education, the Minister of Cooperatives and Small Enterprise, the Minister of Cabinet Secretary.

¹⁶⁵ See a journalist report on this event is in the President Yudhoyono's official website:

<http://www.presidensby.info/index.php/fokus/2006/11/07/1216.html> last accessed 02/23/2010

(<http://www.presidensby.info/index.php/galeri/berita/2006/11/07/137.html>, last accessed on 04/11/2011)

De Soto argued that since the majority of rules that now form the basis of asset ownership and transactions in non-western nations are beyond the formal legal system, modernization in non-western nations, like Indonesia, must convert and transform all of these extra-legal rules into a singular, integrated system of property rights and contracts accepted by all parties. Only in this way can the people's land, "dead capital" outside the formal legal system, be brought to life through land titling, entering the economic system. Thus, de Soto redefines and promotes the capitalist market system as the instrument to lift the people out of poverty.

De Soto's theory (2004) penetrated Winoto's thinking. In various speeches Winoto strategically quoted de Soto's argument about the vital role of property formalization, but then he added that the property formalization could not stand alone. In an essay published in a national weekly magazine *Tempo*, a month before de Soto made his presentation in the National Palace, he invoked Sen's argument in *Development as Freedom* (2001) that

the market mechanism has achieved great success under those conditions in which the opportunities offered by them could be reasonably shared. In making this possible, the provision of basic education, the presence of elementary medical facilities, the availability of resources (such as land) ... call for appropriate public policies (involving education, health care, land reform and so on) (Winoto 2006:81).

Then, he made a term "asset reform" and "access reform", and combined those two into an argument that "**asset reform** à la de Soto ... is not enough if not accompanied by **access reform** à la Amartya Sen"¹⁶⁶ (Winoto 2006:81, bold is original). For Winoto "asset reform" means to land title legalization, and "access reform" means various government programs to serve agricultural extension, provide credit, improve access market, etc in order to make land economically productive and environmentally sustainable. The President welcomed Winoto's notion that "*Reforma Agraria* = asset reform + access reform," a formula that in turn became popular among NLA officials.

At the end of December 2006, the head of NLA reported all preparations to implement the National Agrarian Reform Program (NARP) to the President including plans to start pilot projects in fiscal year 2007 (see Table 4.1), and proposed the President

De Soto dianggap sebagai 'Bapak Ekonomi Kerakyatan,' yang diakui oleh para ekonom dunia. Menurut de Soto masyarakat di dunia berkembang umumnya tidak memiliki sistem kepemilikan tanah formal yang terpadu, sehingga mereka hanya memiliki kepemilikan secara informal terhadap tanah dan barang-barang. Ia menganggap teori pembangunan modern telah gagal memahami proses pengembangan sistem hak milik yang terpadu, sehingga masyarakat miskin tidak dapat menggunakan apa yang dimilikinya secara informal untuk digunakan sebagai kapital dalam membangun bisnis dan kewirausahaan. Sebagai akibatnya, kelompok masyarakat miskin di dunia berkembang selalu terperangkap dalam kemiskinan, di mana para petaninya hanya mampu menanam untuk kebutuhan hidupnya sendiri.

¹⁶⁶ *reformasi aset ala De Soto ... belum cukup bila tidak dibarengi dengan reformasi akses ala Amartya Sen.*

to mention the NARP in his annual speech to the public. Indeed on January 31, 2007, as mentioned in the beginning of this chapter, the President announced a new land redistribution program, along with accelerated land registration under the rubric of anti-poverty programs.¹⁶⁷

In fact, what was called National Agrarian Reform Program (NARP) as exemplified by pilot projects listed in Table 4.1. were land title legalization projects, which comprised two different categories, namely (i) legalization of lands that were already accessed by villagers; and (ii) legalization of lands that were previously controlled by private plantations, and recently accessed by landless villagers through land occupation after the fall of Suharto's regime. Five out of eight pilot projects were in Java.

Table 4.1. Proposed land redistribution pilot projects in 2007 as reported by the NLA to the President

No	Location (District, Province)	Targeted Land (ha)	Targeted Land title	Beneficiaries (person)	Plan of Action
A. Legalizing lands held by villagers					
1	Blitar district, East Java	1,919.46	12,001	12,000	The beneficiaries formed groups that allow them to receive agricultural credits.
2	Kolaka district, Southeast Sulawesi	3,759.61	?	2,088	A private corporation will assist groups of beneficiaries to develop palm oil plantations. The farmers owned the lands. The NLA legalizes the lands through land consolidation scheme, then the farmer groups will get credits and other facilities from the corporation, including to plant and manage palm oil trees in their individual plots.
3	Karangasem district, Bali	444.1201	?	322	The beneficiaries plan to develop a credit union and cooperative.
4	Lebak district, Banten	100.5	?	113	The NLA will facilitate a partnership between a private corporation and beneficiaries.
5	Pandeglang district, Banten	138.25	?	300	The NLA will facilitate a partnership between a private corporation and beneficiaries.
6	Ogan Komeriing Ilir, South Sumatera	2,522.9	?	914	The local government will put projects to rehabilitate roads and irrigation infrastructure, and to assist the formation of agricultural cooperative.

¹⁶⁷ The other anti-poverty programs included development of clean water, bioenergy, and other rural infrastructures; allocation of grants through community driven development projects, cash transfers, and free food staple distribution; to provision of subsidies for health treatment and for students to go to school; provision of credits for housing, cooperatives, small enterprise and agricultural production, and social security for civil servants, workers and disabled people.

B. Legalizing lands that were previously controlled by private plantations, and recently occupied by landless villagers after the fall of Suharto's regime					
1	Bogor district, West Java	1,000	7,000	6,000	The lands were ex-private owned plantation lands that had been occupied by villagers since 1998. The beneficiaries planned to form farmer groups.
2	Ciamis district, West Java	62.93	556	556	The source of redistributed lands was ex-private-owned plantations that had been occupied by villagers since 1998. NLA will assist the beneficiaries to form farmer groups.
3	South Lampung district, Lampung	6,300	?	1,316	The beneficiaries formed farmer groups and federation of farmer groups. They developed agricultural pilot projects such as peanut farming, animal husbandry, and fish pond. The projects were financially supported by a local bank, and technically assisted experts from local university.
4	Asahan district, North Sumatera	568	3,163	?	The land redistribution is a part of conflict resolution between approximately 21,000 villagers and private plantation. The beneficiaries will form a cooperative.

Note: I regrouped the list into the two categories (A and B) and summarize their plan of action.

Source:

Badan Pertanahan Nasional Republik Indonesia (2007b). *Program Reforma Agraria Nasional. Buku I. Executive Summary*. Jakarta, Badan Pertanahan Nasional, Pp. 32-33.

The Presidential speech and support from the legislature provided enthusiasm among the NLA high officials. Thus the Head of the NLA launched a campaign within other government agencies¹⁶⁸ to raise awareness and support for the new NLA institutional frame, *Reforma Agraria*. The main activity was to meet the top leaders of each state institution, and to explain in detail the content of the new land reform policy and its significance as a constitutional obligation and Yudhoyono's government commitment to pursue economic growth, create jobs, and eradicate poverty. In the same period, which was between February and November 2007, he also delivered some

¹⁶⁸ Those were Indonesian National Armed Forces, Indonesian National Police, National Development Planning Agency, Supreme Court of the Republic of Indonesia, Office of the Attorney General, Republic of Indonesia, Coordinating Ministry for People's Welfare, Ministry of Defense, State Intelligence Agency, Ministry of Finance, Ministry of Forestry, Ministry of Agriculture, Coordinating Minister of Economic Affairs, National Defense and Security Council, Armed Forces Strategic Intelligence Agency, State Ministry for Administrative and Bureaucratic Reforms, and Constitutional Court of the Republic of Indonesia (*Badan Pertanahan Nasional 2007:38-39*).

academic talks (*Orasi Ilmiah*) in state universities to bring the attention of academics to *Reforma Agraria*.¹⁶⁹

On May 22, 2007, President Yudhoyono scheduled a cabinet meeting to discuss the new agrarian reform policy with related ministries. The President requested he prepare a presentation and briefing materials for the meeting.¹⁷⁰ In his presentation Winoto approached *Reforma Agraria* in two ways:

- a. to rearrange land laws and politics based on articles in Constitution (UUD 45) and Basic Agrarian Law (UUPA);
- b. to implement simultaneously land redistribution and “access reform” based on the formula *Reforma Agraria* = Land Redistribution (LR) + Access Reform (AR).
 - b.1. LR is land redistribution process to rearrange control, ownership, use and utilization of land based on land laws and policies.
 - b.2. AR is a process to provide agrarian reform beneficiaries access to any resources that make it possible to optimize lands as source for their life (political/economic participation, capital, market, technology, assistance, capacity and capability building) (Winoto 2007).¹⁷¹

He revealed in detail the legal bases and content of the new land reform policy, the preparation for the full implementation of the National Agrarian Reform Program (NARP), included identifying targeted lands, the mechanism to deliver targeted lands to beneficiaries, and the need to set up a semi-autonomous agency to implement the NARP.

The President welcomed the ways the NLA prepared the NARP, and emphasized its importance for resolving tensions between the NLA and the Ministry of Forestry:

Reform and organize the land institution and governance of this country, build up its capability and capacity. Light up those which are in dark and under the shadows. Straighten those of which are bent, put back on track those that are off course. Also devise and follow guidelines to fix conflicts regarding the use of land between sectors. Synchronize the use of forest land and non-forest lands by the

¹⁶⁹ Those universities are Jember University in Jember - East Java, Bengkulu University in Bengkulu, Gajah Mada University in Yogyakarta, Bogor Agricultural University in Bogor – West Java, and Padjadjaran University in Bandung – West Java.

¹⁷⁰ The Meeting was attended among others by the vice-President, the Coordinating Minister for Economic Affairs, the Coordinating Minister for Welfare, the Minister of Forestry, the Minister of Agriculture, and the Head of National Development Plan Agency.

¹⁷¹ *Reforma Agraria*:

- a. *Penataan ulang system politik dan hukum pertanahan berdasarkan prinsip pasal-pasal UUD 1945 dan UUPA;*
- b. *Proses Penyelenggaraam land reform (LR) dan access reform (AR) secara bersama;*
 $RA = LR + AR$.
 - b.1. *LR adalah proses redistribusi tanah untuk menata Penguasaan, pemilikan, Penggunaan dan Pemanfaatan Tanah berdasarkan politik dan hukum pertanahan.*
 - b.2. *AR adalah suatu proses penyediaan akses bagi masyarakat (Subyek Reforma Agraria) terhadap segala hal yang memungkinkan mereka untuk mengembangkan tanahnya sebagai sumber kehidupan (partisipasi ekonomi-politik, modal, pasar, teknologi, pendampingan, peningkatan kapasitas dan kemampuan).*

principles of spatial governance. Make sure the people of this country, from all facets of society, from those who are powerful and powerless, from those in rural and urban areas, are able to access, control or own land, and also access services they need. Bestow special concerns toward those who are under-privileged and those who live in far off rural areas. Tidy up abandoned-lands throughout this country (Cited in Winoto 2010a, underline words were added by NFR).¹⁷²

In the meeting, the President informed also a plan to invite all Governors to synchronize all development projects, included the NARP.¹⁷³

After the cabinet meeting, Winoto decided to gather all of his deputies and directors, and all heads of provincial land offices in order to make sure that they were well informed about the recent development, and in turn able to inform governors and district heads (*Bupati*) about the significance of new land reform policy, and the NARP. In the meeting, the head of NLA distributed a set of written materials that described the new land reform policy, the NARP implementation guide (*Petunjuk Pelaksanaan*) and a technical manual (*Petunjuk Teknis*).

Aside from reviewing how the NLA had been reformed in order to pursue *Reforma Agraria*, in his briefing speech Winoto revealed in detail seven points he got from the previous cabinet meeting as follows: (a) agrarian reform is a mandate that the NLA will have to implement; (b) All governors will be consulted to make sure that the NARP is integrated with other development programs in provincial and district levels; (c) other ministries have to conceive the NARP not only as the NLA program but they have to join efforts to make the NARP a success; (d) The NLA is urged to clarify targeted lands for the land reform program, mechanisms to redistribute the lands to beneficiaries,

¹⁷² *“benahi dan tata pertanahan di negeri ini, kembangkan kemampuan dan kapasitas. Biar terang yang gelap-gelap dan remang-remang itu. Luruskan yang bengkok-bengkok, kembalikan ke relnya hal-hal yang menyimpang. Dan jalani dan tata aturan untuk mengatasi konflik penggunaan tanah antar sektor. Sinkronkan antar penggunaan tanah kawasan kehutanan dan non-kehutanan dengan tata ruang. Pastikan rakyat negeri ini memiliki akses terhadap penguasaan dan pemilikan tanah serta terhadap pelayanan pertanahan, baik kepada yang mampu maupun yang kurang mampu, baik yang di perkotaan maupun yang di pedesaan. Beri perhatian khusus kepada masyarakat yang kurang mampu dan masyarakat yang jauh di pedesaan. Tertibkan tanah-tanah terlantar yang ada di seluruh negeri ini.”*

¹⁷³ After the meeting, Joyo Winoto and Presidential spokesperson gave press conference about the NARP, and explicates what the NLA presented to the cabinet meeting, including the three types of land to be redistributed through the NARP. “The first category is state lands that according to existing land law could be allocated (for land redistribution), including lands targeted in previous land reform program. All lands under this category are 1.1 million hectares. The second category is state forest-lands under [the category of] “convertible forest” (*hutan produksi konversi*) allocated especially (for this program). All lands under this category are 8.15 million hectares. And, the third category is state lands (that were allocated for business) which is under surveillance of the Ministry of Forestry and the NLA. They are unused and abandon land (*tanah terlantar*) that previously converted from forest zone. We are calculating the total of land under this category.” As cited in “Rapat Terbatas Bahas Reforma Agraria,” Official Website of the Presiden Susilo Bambang Yudhoyono, <http://www.presidensby.info/index.php/fokus/2007/05/22/1858.html> [last accessed 04/11/2011].

(*Kelompok satu adalah tanah - tanah yang menurut Undang - Undang yang ada, sudah bisa diperuntukan, termasuk tanah-tanah land reform dulu kurang lebih seluas 1,1 juta hektar. Kelompok yang kedua yaitu tanah yang dari hutan produksi konversi yang juga dialokasikan untuk ini secara khusus seluas 8,15 juta hektar. Dan kelompok ketiga adalah tanah yang sekarang ini sedang di dalam sertifikasi (sic) Departemen Kehutanan dan BPN, yang pemanfaatannya sedikit terlantar di daerah-daerah yang selama ini memperoleh pelepasan kawasan hutan, luasnya masih dalam proses identifikasi*).

and criteria and mechanism to determine beneficiaries; (e) the NLA is urged to plan mechanisms to regularly report on the NARP program to other government agencies, including local governments; (f) the NLA was urged to continue its effort in drafting the Government Regulation on *Reforma Agraria* (*Peraturan Pemerintah tentang Reforma Agraria*); and (g) the NLA was urged to disseminate the NARP to the public in order to prevent misperception and misapprehension (Winoto 2007c:299-300).

Winoto pushed forward *Reforma Agraria* to be a national agenda led by the President, although the Ministry of Forestry (MoF) and Ministry of Agriculture (MoA) did not express their interest in cooperating. At the end of August 2007 he brought a set of preparatory reports of the NARP to the President.¹⁷⁴ Winoto requested the President give permission to the NLA to endorse a draft of Government Regulations on Agrarian Reform, which basically mandated the NLA to set up a semi-autonomous agency called the National Agrarian Reform Management Agency (NARMA) to manage and to finance the NARP, to go to inter-ministry consultation. The agency, designed to have regions, branches, and subsections and manage all lands and beneficiaries targeted by the NARP, had a single task “to conduct management, empowerment and financing of the national agrarian reform (program) in order to optimally increase people’s welfare.”¹⁷⁵

The State Minister of Bureaucratic Reform agreed to the NLA proposal. The Minister provided some suggestions on governance, organizational structure and managerial aspects of the proposed agency. But, the NLA proposal was put on hold because the Ministry of Forestry (MoF), the Ministry of Agriculture (MoA), and the Ministry of Finance (MoFin) did not support the proposal. NLA considered that “convertible forest” subject to redistribution amounts to 8.15 million hectares in 474 locations across 17 provinces. Yet the NLA calculated that, of the total “convertible forest” area amounting to 22,140,199 hectares, local populations already controlled some 60 percent of that land (13,411,025 hectares) according to data compiled from NLA provincial and district level offices (Winoto 2008:56).¹⁷⁶ The MoF, as the agency with jurisdiction over the “convertible forest,” did not receive this assessment favorably. The Minister of Forestry refused to let 8.15 million hectares of forest-lands be targeted by the

¹⁷⁴ The reports covered nine detailed aspects of agrarian reform programming, which are (i) availability of lands for land redistribution; (ii) criteria for land reform beneficiaries; (iii) mechanisms and delivery system through which lands will be redistributed into beneficiaries; (iv) institutional aspects of land reform program; (v) management and administrative aspects of agrarian reform program; (vi) progress report of the National Agrarian Reform Program (PPAN) in 2007, and a plan of action for 2008; (vii) A draft of the Government Regulation on Agrarian Reform; (viii) A draft of the Head of NLA decision on Implementing National Agrarian Reform Program; and (ix) A selection of agrarian laws that are relevant to the National Agrarian Reform Program.

¹⁷⁵ “*Lembaga Pengelolaan Reforma Agrarian Nasional mempunyai tugas melaksanakan pengelolaan, pemberdayaan dan pembiayaan reforma agraria nasional secara optimal untuk sebesar-besarnya kemakmuran rakyat*”. For more detail, see: Draft of the Head of NLA Regulation on Organizational Structure and Governance of the Managing Body of National Agrarian Reform.

¹⁷⁶ NLA made an assessment of lands potentially targeted by the NARP (see Winoto 2008:51-57). In responding to a request made by a group of NGO activists the head of NLA refused to release the detail locations of the 8.15 million hectares of forest-lands because of the sensitive nature of the data related to the possible consequence of what may occur. He convinced the activists that the NLA has detailed digital maps of each location (Winoto’s statement in a meeting with Indonesian NGO activists, May 2, 2008). An NLA official showed me a very thick book (about 1000 pages), within which each page showed a printed version of digital map of each location potentially targeted by the NARP, during my interview in mid November 2007.

NARP. Instead, they had been advancing various social forestry schemes, such as Managing Forest with Community (PHBM), Community-managed Forest (HKM), and Customary Forest (*Hutan Adat*). These schemes generically provide a set of rights, obligations, and restrictions to use specific state-forest area under particular institutional arrangements by which the ownership and the control over the designated forest areas ultimately remain with the MoF.¹⁷⁷

Unlike the Minister of Forestry who clearly articulated his disagreement, the Minister of Agriculture did not overtly express his disagreement or critique. The MoA had embarked on a set of programs under the banner of so called “second green revolution,” which was intended to increase agricultural production with concern for environmental sustainability, biodiversity, and local knowledge. It included a plan to promote a law to protect land for sustainable agricultural staples (*Undang-undang Perlindungan Lahan Pertanian Pangan Berkelanjutan*), controlling conversion rates of agricultural land to non-agricultural uses. According to the background paper for the proposed law, during the two decades from 1979 to 1999, some 1,627,514 hectares of Indonesia’s irrigated rice land were converted to non-agricultural uses (including for housing, industrial estate, infrastructure, etc), an average of 81,367 hectares per year. In Java alone, a million hectares of irrigated rice land were removed from agricultural use (an annual average of some 50,000 hectares), while outside of Java over 600,000 hectares (annual average over 31,000 hectares) of irrigated rice fields were lost to agriculture (Departement Pertanian RI 2007:24).¹⁷⁸

The MoFin, on the other hand, which has the authority to allocate state budget for central government institutions before the whole budget is authorized by the national parliament (DPR), questioned the NLA’s proposal to allocate three trillion rupiah (approximately USD 325 million) in seed money from the national budget to fund the proposed NARMA. Despite the fact that the Minister of Finance gave the green light for the head of the NLA to propose the budget, a MoFin official who was responsible for processing the proposal leaked information to journalists alleging that that the NLA had failed to submit the most important requirement of such a large budget allocation which is a feasibility study showing a financial analysis of the continuity of incomes that the agency would receive.¹⁷⁹ My interview with two NLA officials who were assigned by the head of NLA to negotiate the proposal to the MoFin confirmed that the MoFin did not pass the NLA proposal because the proposal for NARMA did not show enough evidence

¹⁷⁷ In the MoF itself, the issue of people’s access to “State Forest Zones” has been an on-going policy issue, generated by the contested use of the legal and political concept of “state-forest zone” (*kawasan hutan Negara*). In this problematic concept, “forest” is defined not by ecological function, but by an administrative and political designation by Indonesia’s Minister of Forestry. Many conflicts over forest-lands are originated in the limitation of peoples’ access to forest-lands because of the designation of people’s land as included within “state forest zone”.

¹⁷⁸ In turn, after more than two years of consultation and drafting process the legislatures passed the law on Protection over Land for Sustaining Agricultural Staple Production, and then the President released it as Law number 41/2009 on October 14, 2009.

¹⁷⁹ “Incomes of the agency should be significant in order to make them able to run the institution. If the main part of the operational budget is merely coming from the state budget, it is impossible to realize,” said General Director of State Treasury (*Kontan* “BLU Reformasi Agraria: Depkeu Belum Setuju Usulan BPN” 08/11/2008). *Sumber penerimaan BLU itu harus cukup signifikan sehingga bisa menjalankan operasinya. Kalau sebagian besar operasional BLU masih ditunjang SIPA, maka mustahil untuk bisa direalisasikan.*

that it would be able to get income from outside of the state budget, and the NLA was left struggling to fulfill the budgetary analysis requirements (Interview on March 29, 2008).

Once that initiative was on hold, President Yudhoyono did not back Winoto when the Minister of Forestry and the Minister of Agriculture refused to bring together the MoF and MoA under the frame of *Reforma Agraria*. The President permitted each institution to develop its own main frame without any relationship one to another.

4.6. Targeting Abandoned-Lands to be Objects of Land Redistribution

After being blocked by the MoF, MoA, and MoFin, Winoto, undeterred, moved to identify the magnitude of “abandoned-lands“ (*tanah-tanah terlantar*) and develop mechanisms to make those lands become objects of land redistribution. Then, the NLA drafted a revision to the Government Regulation number 36/1998 concerning Controlling and Utilizing Abandoned-Land. Without revising the Regulation, NLA cannot take over more than 7.3 million hectares of abandoned-lands. The NLA proposed principles to develop adequate procedures to control abandoned-lands. Then, the NLA prepared steps to take over abandoned-lands as follows:

- a. Making an inventory of abandoned-lands in provincial level (5 days);
- b. Preparing verified physical and legal data (10 days);
- c. Identification and investigation report (15-20 days);
- d. Releasing Warrants (90 days);
- e. Reporting to the Head of NLA (7 days);
- f. Releasing the decision on the status of abandoned-land (7 days).

The NLA also proposed that the legal authority for the NLA change the legal status of abandoned-lands to state lands, and in turn to allocate the state lands for public purposes through land redistribution and other government programs.

The Head of the NLA submitted the draft to the President, and the President agreed for the draft to go to interdepartmental consultation. Meanwhile, the NLA continued to identify the magnitude of abandoned-lands in all provinces, and in the beginning of 2009, Winoto got a full report from his deputy that calculations from all provincial land offices indicated that the total land identified as abandoned-lands came to 7,386,289 hectares (see: Table 4.2).

Table 4.2. Identification of abandoned-lands in all provinces as identified by the NLA in 2008

Characteristic of land right	Total (hectares)
a. Right of Exploitation (<i>Hak Guna Usaha</i>)	1,925,326
b. Right of Building (<i>Hak Guna Bangunan</i>)	49,030
c. Right of Use (<i>Hak Pakai</i>)	401,079
d. Right to Manage (<i>Hak Pengelolaan</i>)	535,682
e. Lands with location permit, and other permits	4,475,172
Total	7,386,289

Source: National Land Agency, Deputy of Land Control and Community Empowerment, 2009.

Then, after more than a two-year long process, in the beginning of his second term, January 22 2010, President Yudhoyono signed Government Regulation No. 11/2010 on Controlling and Utilizing Abandoned-Land. A month after its release, the head of the NLA followed it up through a national meeting of NLA officials. In his speech, Winoto emphasized that the procedure of implementation to control and utilize the 7.3 million hectares of abandoned-lands would directly link to new land redistribution program and “access reform” (Winoto 02/21/2009).

4.7. Accelerating Land Title Legalization

President Yudhoyono’s support for new land reform policy was not as strong as Winoto had expected. On the one hand, he was upset the President was not on his side when the Minister of Forestry and the Minister of Agriculture refused to support *Reforma Agraria*. On the other hand, Winoto, who needed to impress the President by NLA achievement, turned the focus of the NLA to fostering land legalization.

He made big pushes to streamline land titling related procedures, and set up the so-called *Larasita (Layanan Rakyat Untuk Sertifikasi Tanah)*, literally service for people in land certification) extending the reach of land title offices to people in remote areas through a mobile service with cars, motorcycles, and boats as well as improved data processing and telecommunications.

The NLA started to try-out the *Larasita* in Karang Anyar district, Central Java, in 2006. Then in 2007 the NLA extended the trial of the *Larasita* to thirteen districts in Java and outside-Java. In December 2008, the NLA had 124 mobile-land offices with 248 motorcycles and operated in 124 districts/cities. The President welcomed this initiative. On December 2008 the President launched *Larasita* in a ceremony in Prambanan, Central Java.¹⁸⁰ In his speech, the President expressed his appreciation of this innovative breakthrough, “*Larasita* is a real example of land service by the NLA for people, NLA officials ‘pick up the ball’ (*menjemput bola*), come to people and go to remote areas to increase accessibility.”¹⁸¹

As a result, number of land certificates produced by three land titling schemes, i.e. *Prona*, *P4T*, and *Redistribusi Tanah*, were dramatically increased. From an administrative point of view, the differences between the three schemes were nothing but legal bases for land ownership, project arrangement, and administrative procedures. Legal titles granted through the *Prona (Proyek Operasional Nasional Agraria)*, literally National Agrarian Operational Project) and the *P4T (Penguasaan, Pemilikan, Penggunaan dan Pemanfaatan Tanah)*, literally Land Control, Ownership, Use and Utilization) certify property based on evidence of customary ownership, inheritance, purchase, donation/bequest, or other land transactions recognised by local practices. By contrast, the *Redistribusi Tanah* (literally, Land Redistribution) deals with ‘state land’ (*tanah negara*).

The *Prona* is a kind of mass land titling project, which is usually requested by district/city government to help poor people in rural/urban areas to access land service

¹⁸⁰ for fuller report see: <http://www.bpn.go.id/Beranda/Berita---Artikel/Berita/Presiden-RI-Meresmikan-Peluncuran-ProgramLarasita.aspx> last accessed on 12/22/2008.

¹⁸¹ *program Larasita adalah contoh wujud nyata dari pelayanan BPN RI kepada rakyat dengan jemput bola, petugas BPN RI mendatangi rakyat dan menembus daerah yang sulit terjangkau.*

from the NLA. The administrative procedure of *Prona* is same as voluntary individual land titling but the cost for titling activities is covered the from national budget through the NLA. The P4T is also a mass land titling project. It differs from the *Prona*, in that the *P4T* is proposed by the NLA provincial land office. Before the *P4T* project was proposed, the provincial land office had mapped all plots at the project area, and identified who controlled or owned each plot and for what use and purpose. The *Redistribusi Tanah*, which deals with state land, should start with a head of NLA decision to change status of 'state land' (*tanah negara*) that has been designated for redistribution by the NLA. In the decision, the Head of the NLA specifies lists of beneficiaries who will receive the land. After such a decision, the land redistribution process could start.

For a national figure, the total number of land titles filed through the *Prona* scheme had dramatically increased by more than 415%, from 84,150 cases in 2006 to 349,800 cases in 2007. Then it went to 418,766 in 2008. For *P4T* scheme had dramatically increased more than 2,500%, from 16,943 cases in 2006 to 424,280 cases in 2007. Then it went to 594,139 in 2008. For *Redistribusi Tanah* scheme dramatically increased 1,590%, from 4,700 in 2006 to 74,900 in 2007. Then it went to 332,935 in 2008. For the full figure see Table 4.3. The cost of each land titling case was 400,000 rupiah (approximately equal to USD 43). For some provinces such as Riau Archipelago, West Nusa Tenggara, East Nusa Tenggara, Maluku, North Maluku, Papua and West Irian Jaya, the cost item was higher, i.e. 500,000 rupiah (approximately equal to USD 54).

In 2008 the total number of government sponsored land titling reached 2,172,507 properties – an increase of over 800 percent compared to 2004, a year before Winoto got his appointment. When added to the number of land title cases for which processing fees were paid by the two World Bank projects (LMPDP, Land Management and Program Development Project and RALAS, Reconstruction of Aceh Land Administration System), and individual landholders who voluntarily requested land titling service, the total reached 4,627,039 properties (for full figure see Table 4.3).

Table 4.3. Total number of land certificates according to land title legalization schemes (2005-2008)

Type of Land Title Legalization Scheme	2005	2006	2007	2008
Government Sponsored Schemes				
<i>Proyek Operasi Nasional Agraria (PRONA)</i>	80,361	84,150	349,800	418,766
<i>Redistribusi Tanah</i>	5,000	4,700	74,900	332,935
<i>Konsolidasi Tanah</i>	2,200	1,600	6,635	10,100
<i>Legalisasi Tanah UKM</i>	-	10,241	13,000	30,000
<i>Legalisasi Penguasaan, Pemilikan, Penggunaan dan Pemanfaatan Tanah (P4T)</i>	43,948	16,943	424,280	594,139
<i>Legalisasi Transmigrasi</i>	50,000	47,750	26,537	24,970
Sub-Total	181,509	165,384	883,452	1,410,910
World Bank Sponsored Schemes				
LMPDP (Land Management and Program Development Project)	330,000	507,000	645,000	651,000
RALAS (Reconstruction of Aceh Land Administration System)	21,000	118,000	-	110,597
Sub-Total	351,000	625,000	645,000	761,597
Voluntary Land Titling Schemes				
<i>Redistribusi Swadaya</i>	6,227	34,000	16,798	39,928
<i>Konsolidasi Swadaya</i>	6,705	27,530	23,863	26,688
<i>Legalisasi Swadaya</i>	1,820,939	1,427,303	2,298,367	2,387,916
Sub-Total	1,833,871	1,488,833	2,339,028	2,454,532
Total per-year	2,366,380	2,279,217	3,879,180	4,627,039
Total 2005-2008	13,141,816			

Source:

NLA 2008 “BPN RI menjawab Tantangan atas Reforma Agraria dan Tututan Layanan Masyarakat,” page 21. N.B. The Indonesian names for the types of schemes have been retained because they are specific categories related to this particular Land Legalization Schemes. These have been described in the text above, but for clarity, the Government-sponsored schemes in English: PRONA is the acronym for the

National Agrarian Operational Project, *Legalisasi Tanah Redistribusi* is Legalization of Land for Redistribution, *Legalisasi Tanah Konsolidasi* is Legalisation of Land for Consolidation, *Legalisasi Tanah UKM or Usaha Kecil Menengah* is Land legalized for Small and Medium Enterprises, Land Legalized for the *Legalisasi P4T (Penguasaan, Pemilikan, Penggunaan dan Pemanfaatan Tanah)* is Land Legalized for Control, Ownership, Use, and Utilization of Land, *Legalisasi Transmigrasi* is Land legalized for the transmigration programs. Voluntary Land Titling Schemes are translated as: Voluntary Redistribution (*Redistribusi Swadaya*), Voluntary Consolidation (*Konsolidasi Swadaya*), and Voluntary Legalization (*Legalisasi Swadaya*).

Every month after February 2008, Winoto had provincial land offices organize ceremonies attended by those receiving land titles from the government-sponsored land titling schemes (for a full list of ceremonies see Table 4.5). In those ceremonies, he made speeches emphasizing the central role of legalized land assets to increasing economic activities and welfare, which amplified the de Soto argument. In his Agrarian Day Speech on September 24, 2009, for example, he emphasized land legalization:

We must be grateful to God concerning our achievement in land asset legalization. Our refining process has improved our capacity, and our current achievement is more than 600% better than we achieved three years ago. This acceleration targets land assets owned by people and also land assets owned by government; for poor people and also for wealthy people. This accelerated land legalization hugely contributes to economic growth. Money is circulating through businesses and people's enterprises are developing. This is important for the local economy as well as for government. But, we have to beware. Accelerated land asset legalization that contributes to economic growth does not necessarily improve people's welfare. People's welfare will increase if people, whose land assets are legalized, have access to political and economic resources. Accelerated land assets demand that government institutions in local and national, financial institutions, education and technical assistance institutions, and various other institutions are open to people whose land assets are legalized. If this access is closed, they have pressure to alienate their legalized land asset. This condition of course is not our intention, which is contrary to justice and people's welfare (Winoto 2009).¹⁸²

¹⁸² *Kita layak bersyukur mengenai pencapaian kita dalam legalisasi aset tanah. Pembinaan yang kita lakukan telah meningkatkan kapasitas dan pencapaian kita lebih dari 600 persen tiga tahun terakhir ini. Percepatan ini berlaku baik untuk aset tanah masyarakat maupun untuk aset tanah pemerintah. Baik untuk masyarakat yang kurang mampu maupun yang mampu. Percepatan legalisasi aset ini sangat besar kontribusinya pada pertumbuhan ekonomi. Perputaran uang melalui usaha atau bisnis masyarakat berkembang pesat. Hal ini penting bagi perekonomian daerah maupun perekonomian negara. Tetapi, kita juga harus berhati-hati menyikapinya. Percepatan legalisasi aset tanah yang berkontribusi pada pertumbuhan ekonomi ini tidak senantiasa meningkatkan kesejahteraan rakyat orang per orang. Kesejahteraan rakyat orang per orang akan meningkat jika rakyat yang aset tanahnya terlegalisasi punya akses terhadap sumber-sumber ekonomi dan sumber-sumber politik. Percepatan legalisasi aset tanah masyarakat menuntut lembaga-lembaga pemerintahan baik di pusat maupun di daerah, lembaga-lembaga keuangan, lembaga pendidikan dan pendampingan, serta berbagai lembaga yang relevan untuk membuka akses bagi masyarakat yang aset tanahnya telah terlegalisasi tersebut. Jika akses ini tertutup, terbuka peluang bagi masyarakat untuk melepas aset tanahnya yang telah terlegalisasi tersebut. Tentu hal ini tidak kita inginkan atas nama keadilan dan atas nama peningkatan kesejahteraan rakyat (Winoto 2009).*

Table 4.4. List of NLA ceremonies to give land title in 2008

Location	Date
Blitar, East Java	February 27, 2008
Jakarta	April 18, 2008
Sumedang, West Java	Mei 12, 2008
Blora, Central Java	July 2, 2008
Gunung Kidul, Yogyakarta	August 29, 2008
Banyuasing, South Sumatera	October 16, 2008
Gunung Rejo, Lampung	November 5, 2008
Kupang, East Nusa Tenggara	November 17, 2008
Badung, Bali	November 19, 2008
Lombok Barat, West Nusa Tenggara	November 20, 2008
Sarolangun, Jambi	November 22, 2008
Lebak, Banten	November 25, 2008

In mid-2009, when President Yudhoyono began his run for re-election, Joyo Winoto showed the NLA achievement in land legalization as part of Yudhoyono's spectacular success in serving the Indonesian people. The success was presented in a one-page ad: "Land for the People. Not Just Empty Words" (*Pertanahan untuk Rakyat. Bukan Omong Kosong*), which was published by Yudoyono's campaign team in the newspaper *Media Indonesia* of June 24, 2009 (see Figure 4.2). Winoto also had revealed this achievement in an hour-long interview in MetroTV's "Save Our Nation" on July 15 and July 20. He proudly claimed that if the NLA is able to maintain this pace of achievement, it will take only 18 years to title all land holdings in Indonesia.

The success in transforming the NLA to become a pro-market land management institution in turn brought Winoto into the World Bank's Thematic Group on Land Policy and Administration (usually called The Land Thematic Group¹⁸³) and the International Federation of Surveyors (FIG)¹⁸⁴ through a conference "Land Governance in Support of the MDGs: Responding to New Challenges" which took place at the World Bank in Washington on March 9-10, 2009.¹⁸⁵ He made a presentation proudly showing a successful transformation of the NLA in "taking land policy and administration in

¹⁸³ The WB's Land Thematic group was composed of about 120 specialists with a wide range of professional background related to land and sustainable development issues. It was co-chaired by Frank Fulgence K. Byamugisha (Principal Operations Officer in The WB's Rural Development & Natural Resource Sector Unit), and Klaus W. Deininger (Economist with the WB's Development Research Group). The goal of this group is "to provide a forum to exchange ideas and experiences, and technical and financial support to studies on priority issues and new approaches in land policy." See <http://Inweb18.worldbank.org/ESSD/ardext.nsf/24ByDocName/AboutUs> (last accessed 12/04/2006), and www.worldbank.org/landpolicy/ (last accessed on 04/11/2011).

¹⁸⁴ The FIG was a federation of national surveyor associations. It is a UN-recognized non-governmental organization that claimed as the only international body that represents all surveying disciplines, aiming "to ensure that the disciplines of surveying and all who practice them meet the needs of the markets and communities that they serve. It realizes its aim by promoting the practice of the profession and encouraging the development of professional standards" (International Federation of Surveyor 2004).

¹⁸⁵ For a summary of the conference see: Enemark et al. (2010). For complete proceeding see Deininger et al. (2010).

Indonesia to the next stage” (the title of Winoto’s presentation) through overhauling the organization, its function and personnel, and strategically bringing the land title legalization agenda to be compatible within a larger setting of national government objectives (Winoto 2009). The presentation brought the newly reorganized NLA into a higher level of global conversation about land governance by which transnational development networks such as the WB Land Thematic Group and FIG would continue their international development works through deploying their experts, knowledge and expertise, investment, etc.

Figure 4.2. An advertisement “Land for the People. Not Just Empty Words” (*Pertanahan untuk Rakyat. Bukan Omong Kosong*) published by Yudhoyono’s campaign team in the newspaper *Media Indonesia* of June 24, 2009

PERTANAHAN UNTUK RAKYAT!

BUKAN OMONG KOSONG

*Indonesia, tanah airku
tanah tumpah-darahku*

TANAH adalah sumber kehidupan. Tempat rakyat berpijak, dan memulakan dirinya dengan kerja. SBY paham, dia mendapat mandat berkusa dari rakyat, dari mereka yang terus berharap Indonesia adil dan sejahtera.

Itu sebabnya, pada 2007, SBY mengalokasikan tanah bertahap buat rakyat miskin. Program ini dikenal Reforma Agraria, dengan prinsip: Tanah untuk keadilan dan Kesejahteraan Rakyat. Sepanjang 1961-2004, alokasi tanah bagi rakyat hanya 54 ribu hektare per tahun. Kini, sejak 2005-2008, alokasi “Tanah untuk Obyek Landreform” adalah 349 ribu hektare, atau rata-rata 87 ribu hektare per tahun.

SBY, satu dari pemimpin di dunia berkomitmen menjadikan tanah untuk keadilan dan kesejahteraan rakyat. Seperti di Venezuela, China, Jepang, Thailand dan Taiwan, Indonesia menjadikan Reforma Agraria sebagai salah satu jurus menata kepemilikan tanah secara berkeadilan.

Ada kompetitor SBY? Boediono menjanjikan 4 juta hektare tanah, jika per hektare menyerap 6 jiwa tenaga kerja, katanya, akan ada 24 juta lapangan kerja baru. Ini mungkin kabar baik. Tapi, dengan rendah hati, semua itu baru sebatas teori.

Bersama Boediono, SBY dengan langkah pasti, akan mendorong fakta sukses reformasi agraria menjadi lebih nyata, merata dan berdaya. Kepada rakyat, SBY sudah memberi bukti. Bukan sekedar janji.

5 (LIMA) AGENDA PENATAAN PERTANAHAN

1. Reforma Agraria
2. Legalisasi Aset Tanah Masyarakat dan Milik Negara
3. Penanganan Tanah Terlantar
4. Penanganan Sengketa Pertanahan
5. Pengembangan Kantor Pertanahan Bergerak ke rakyat dan ke pedesaan (LARASITA)

PENCAPAIAN SAAT INI:

Pembaruan Aturan Hukum Pertanahan: Melakukan penataan dan sinkronisasi atas

- Undang-Undang (12)
- Peraturan Pemerintah (48)
- Peraturan/Keputusan Presiden (22)
- Instruksi Presiden (4)
- Peraturan/Keputusan Menteri-KBPN-RI (234)
- Surat Edaran Menteri/KBPN-RI (209)
- Instruksi Menteri/KBPN-RI (64)

Penerima Manfaat: Naik 135%

Tahun	Penerima Manfaat
2005-2008	91.962 KK atau 72.991 KK per tahun
1961-2004	rata-rata 36.195 KK per tahun

Alokasi Tanah Obyek Landreform: Naik 60% per tahun

Tahun	Alokasi Tanah
2005-2008	349.519 hektare, atau rata-rata 87.349 hektare per tahun
1961-2004	54.500 hektare per tahun

Redistribusi Tanah: Naik 250% per tahun

Tahun	Redistribusi Tanah
2005-2008	367.701 hektare, atau rata-rata per tahun 91.925 hektare
1961-2004	26.220 hektare per tahun

Total Legalisasi Aset (Sertifikasi) Tanah Seluruh Indonesia: 13 Juta Sertifikat (dalam 3 tahun)

Tahun	Sertifikasi Tanah
2005-2008	13.151.816 sertifikat atau rata-rata 3.287.954 per tahun
1961-2004	rata-rata 733.416 sertifikat per tahun

Tanah berstatus HGU (Hak Guna Usaha): Meningkatkan sekitar 1,47 juta hektare

Menyerap tenaga kerja 589 ribu jiwa selama 2005-2009. Dari 2006-2008, kontribusi pertanahan atas sektor keuangan melalui hak tanggungan mencapai lebih dari Rp 498 triliun.

Identifikasi Tanah Terlantar: Kini tinggal 7,3 juta hektar

Angka itu di luar 54 jt ha kawasan hutan rusak (2009), sebelumnya 59 jt ha kerusakan di 2004. Sektor 5 juta ha berhasil ditata dan ditanam ulang, dan mendapat apresiasi internasional karena posisi Indonesia sebagai paru-paru dunia. Sisa 54 juta ha, ini akan ditata kembali secara bertahap. Strategi: Tanah terlantar menjadi bagian dari Program Reforma Agraria.

Total Penyelesaian Sengketa dan Konflik Pertanahan: 1.778 kasus (2008)

Dari 2.810 yang dilaporkan ke 80%. Total sengketa dan konflik pertanahan masa lalu: 7.491 kasus.

Program Kantor Pertanahan Bergerak (LARASITA)

Untuk memudahkan pelayanan bagi masyarakat, Pemerintah SBY telah mengembangkan LARASITA, yaitu Kantor Pertanahan yang Bergerak, dan datang langsung ke masyarakat desa sampai ke pedesaan negeri. Pada 2009 ini lebih dari 60% wilayah Indonesia akan terjajah LARASITA.

Pengakuan Internasional

1. LARASITA adalah pionir dunia dalam melayani soal pertanahan pada masyarakat.
2. Selama tiga tahun terakhir, layanan ini menjadikan Indonesia satu-satunya negara di Asia yang punya arah dan strategi pengembangan pertanahan yang jelas.
3. Kerangka konsepsi Reforma Agraria Indonesia diakui oleh negara-negara di Asia Pasifik.

KALIM MUDA INDONESIA (KMI)
FORUM HARMONI NUSANTARA (FORNAS)
BARINDO
GERAKAN TERUSKAN SBY (GETSBY)
174 GROUP PEMILIH PEMULA PENDUKUNG SBY/BOEDIONO DI FACEBOOK

DPP Jaringan Nusantara

94

4.8. Concluding Remarks

State institutions are not unified entities. On the contrary, they are highly differentiated and influenced by different actors and motives. This chapter has demonstrated how the exercise of power by different government actors at the national level interacted. The interaction of their motives and actions uncovered the processes by which the new land reform policy, *Reforma Agraria*, was conceived, redefined, negotiated, and contested, and then brought into, regulation and procedures of implementation. This chapter has traced the passage of the *Reforma Agraria* from its emergence since Joyo Winoto was appointed as the head of NLA. Through an explanation of events and episodes within the land policy processes, I have elucidated three key roles of Joyo Winoto in bringing land reform back to official government agenda, (a) negotiating the redefined *Reforma Agraria* to President Yudhoyono, his cabinet, and legislature, (b) overhauling the NLA organization, its function, and personnel, and (c) translating *Reforma Agraria* into a workable program.

His success in overhauling the NLA and revitalizing the 1960 Basic Agrarian Law allowed *Reforma Agraria* to become a mainstream policy without significant resistance from NLA officials. As the most authoritative person within the NLA, Winoto advanced the *Reforma Agraria* to the Minister of Forestry and the Minister of Agriculture. He framed the Ministry of Forestry (MoF) as provider of 8.15 million hectares of converted forest lands, and the Ministry of Agriculture (MoA) as agricultural service and credit provider for land reform beneficiaries. I have shown that the MoF and the MoA rejected a joint program of land reform under the frame of *Reforma Agraria*, each in its own way. Then, I have shown also the ways Winoto kept the NLA on a course to continue land reform policy processes, including bringing *Reforma Agraria* into law and regulation, and introducing a land redistribution program called *National Agrarian Reform Program* (NARP) under land title legalization frame, which made *Reforma Agraria* thinkable for NLA officials.

The land title legalization framing had significant consequences in depoliticizing *Reforma Agraria* through what Li (2007:7) calls “rendering technical,” where whole sets of land administration related technical expertise and bureaucratic procedures such as land survey, mapping, digitalization, certificate writing, etc., are deployed by NLA officials to create a new legal status of targeted lands, and establish a new legal relation between people and their lands. In short, through land administration related procedures the NLA intended to exclude the highly contested aspect of land reform, and locate them outside of the NLA bureaucratic processes.

The turn to land title legalization frame was a risky maneuver because – as I will elaborate in Chapter 5 – this had major consequences for Winoto’s alliance with agrarian activists. It drove a wedge between Winoto and the activists who had so heralded his arrival creating an array of new tensions in the struggle for land reform. The activists perceived *Reforma Agraria* and land title legalization with two competing frames: *Reforma Agraria* as the redistributive policy that is not only rooted in local land struggles, but also in the constitutional mandate for realizing social justice; and the land title legalization frame conceived of as part of the global push of neoliberal forces with the view of property rights as a prerequisite for the growth of a land market. The contrast

between these two frames could not have been sharper for agrarian social movements activists.

Chapter 5: Shifting Relations between National Land Agency (NLA) and Consortium for Agrarian Reform (KPA) (2005-2009)

5.1. Introduction

When President Yudhoyono's campaign staff placed a full-page advertisement in a leading newspaper touting a new land redistribution program of "Land for the People. Not Just Empty Words" (*Pertanahan untuk Rakyat. Bukan Omong Kosong*), it was with intent to popularize the NLA's new agenda (see Chapter Four, section 4.7). The ad was coincidentally published just as the 188 member organization of the Consortium for Agrarian Reform (KPA, *Konsorsium Pembaruan Agraria*) held their fifth national meeting in Puncak – Bogor, fulfilling the mandate that KPA leaders had charged themselves with three years earlier, to define a strategic program and targets. KPA's newly elected General Secretary Idham Arsyad tackled the NLA's claims of success skeptically. Only a few days after he was elected, Arsyad released a press statement to criticize the advertisement, saying that the National Agrarian Reform Program (NARP) was not redistributing land for the pursuit of social justice for the rural poor, but rather a land titling program fostering the growth of a land market, which far from ensuring social justice would lead inevitably to further land concentration by the wealthiest. The critique signalled a change in KPA's relationship with the NLA and its program.

When Winoto was appointed in 2005, KPA's previous General Secretary Usep Setiawan welcomed the role of agrarian activists in promoting land reform policy. Under the frame of *Reforma Agraria*, the KPA had actively participated in NLA land reform policy-making processes at the NLA's invitation. The critique released by the new KPA leader indicated that the KPA was preparing to take a more critical stance on the NLA's program and move away from the collaborative approach that it had taken under the previous KPA leadership of Usep Setiawan. The shifting leadership in KPA, and the changing approach of the new KPA leader toward the NLA, marked an important episode within the trajectory of relations between agrarian activists and the NLA.

KPA is arguably the most important site to study the ways the practice of agrarian movements changed over time in relation to policy processes in government institutions. Bachriadi (2010:115-226) provides a detailed account of the emergence of pro-land reform movements and NGOs, including the rise of the KPA, in the last years of the Suharto era, and their trajectory after the fall of Suharto in 1998. During the first three years (1995-1998) KPA articulated critiques of existing land-related policy and laws based on testimonies from the involvement of their members in assisting victims of land acquisition practices, and from comparative studies of land conflicts and changing agrarian structures in various regions of Indonesia. KPA also conducted seminars, workshops, training programs, and published books and working papers to share the critiques and cultivate the notion of land reform.

KPA's central role in promoting land reform and the ways land reform returned to the national policy arena after the fall of Suharto (1998-2004) were described in Chapter 3, section 3.5. Chapter 4 laid out the ways the NLA was overhauled with the appointment of Joyo Winoto as the head of the NLA in 2005, and how the restructured NLA developed the so-called National Agrarian Reform Program (NARP). This chapter covers

the same period of time as chapter 4, which is 2005 – 2009, but explores these events from a different angle. In this chapter I detail the changing opportunities and channels by which the KPA leaders have interacted with NLA officials in these land reform policy processes. These examples trace the trajectory of land reform policy through these actors' engagement in the multiple sites of struggle.

I begin the chapter with a description of the protests against the 2005 government regulation on land acquisition, the turning event that brought agrarian activists to participate in the NLA land reform policy processes at the invitation of the NLA head. Then, I show the ways that KPA leaders promoted land reform through an international event, the 2006 International Conference on Agrarian Reform and Rural Development (ICARRD). In a remarkable feat, the KPA leaders brought together agrarian activists, scholars, and government officials from NLA and the Ministry of Agriculture to produce a country report for the conference, and use the global resurgence of land reform agendas as a way to promote land reform for Indonesian government agencies.

KPA's collaboration with the NLA to produce the country report and participate in ICARRD as members and official delegates enabled KPA leaders to forge an alliance with NLA officials. Following that the KPA leaders took another influential step in helping the NLA to draft a framework for National Agrarian Reform Program (NARP). This drafting process allowed KPA leaders to deepen their participation within the NLA land reform policy processes. However, I end the chapter with a description of the consequences of Winoto's maneuver to put the land title legalization frame forward on the NLA's relationship with the KPA who turned against the NLA and NARP.

5.2. Mobilizing Protests against the 2005 Government Regulation on Land Acquisition

In October 2004, a week after the inauguration of President Yudhoyono, a group of agrarian activists together with two pro-land reform agrarian scholars met and produced a document named *Petisi Cisarua* (Cisarua Petition).¹⁸⁶ This petition noted that President Yudhoyono had failed to list agrarian reform as one of his priorities in his inaugural speech and demanded that President Yudhoyono and Vice-President Yusuf Kalla fulfill their promise to implement *Reforma Agraria*.

The activists joined together again three months later to express their disappointment with President Yudhoyono's Presidential Decision No. 36/2005 on "Land Acquisition for Development Projects in the Public Interest." The agrarian activists saw this decision as a threat not only to the promise of land reform but more fundamentally as an indication that the state was eagerly embracing investment in ways that would be detrimental to future agrarian reform efforts. The decision alarmed other agrarian activists because of the way it echoed the old New Order politics.

The Presidential decision followed the end of the "Indonesian Infrastructure Summit 2005" hosted by the Government of Indonesia on 17-18 January 2005. The summit, attended by both central and provincial government officials, the World Bank

¹⁸⁶ They were Anton Poniman, Sediono MP. Tjondronegoro, Gunawan Wiradi, Dianto Bacriadi, Syaiful Bahari, Usep Setiawan, Noer Fauzi, Dadang Juliantara, Agustiana, and Muhammad Nurudin. Except Anton Poniman, all of them were associated with the Consortium for Agrarian Reform (KPA). The meeting was held in Cisarua, Bogor, approximately 80 km from Jakarta.

and other international development agencies, and foreign and domestic investors, produced a set of recommendations to revise fourteen government regulations, including the Presidential Decision No. 55/1993 on Land Acquisition for the Development of the Public Interest. The GOI announced at the summit that a lengthy list of ninety-one big infrastructure projects – valued at US \$ 22.469 billion (in aggregate)¹⁸⁷ – would be offered for tender in the first week of March 2005.¹⁸⁸

The previous regulation, stipulated in Presidential Decision No. 55/1993, conceived of projects as being in the “public interest” only if they were (i) owned by the government, (ii) implemented by the government; and (iii) not profit-oriented. The new regulation allowed privately-owned corporations, including foreign profit-oriented transnational corporations, to operate infrastructure projects that were to be classified in the “public interest.” Also, this new regulation gave the President authority to withdraw land rights unilaterally if landowners refused the expropriation of their land(s) for a project. Maria Soemarjono, a land law professor from Gajah Mada University, argues that “(i)t is easy to predict [that] this decision was principally intended to provide a legal base for private-public partnership, especially for infrastructure development projects which the [Indonesian] government had difficulties to fund” (Soemardjono 2007:112).¹⁸⁹

The decision No. 36/2005 evoked so much opposition from social movement activists because it was perceived by protesters as a form of conspiracy between corporate and government actors to abuse their dominant positions and powers – a repeat of what happened during Suharto’s era. Journalists published local protests against the regulation 36/2005, showing a general mistrust that the government would abuse or misuse this regulation to facilitate private corporations taking land from people. The following are a description of some of those local protests.

- On 05/10/2005 Indonesian Environmental Forum – Aceh (Walhi – Aceh), Aceh NGO forum, and Network of Indigenous Peoples of Aceh (JKMA Aceh), released a joint statement to criticize the Presidential Regulation No. 36/2005. They argue that the regulation will legalize evictions of poor villagers living in some coastal areas in the name of green belt conservation (*Suara Pembaruan* 05/10/2005 “Ornop di Aceh: Perpres 36/2005 Bisa Jadi Alat Paksa Rekonstruksi Daerah Bencana”).
- On 6/15/2005 thousands of poor farmers from Pati, Semarang, Batang, Pekalongan and Kendal districts of Central Java protested in front of the NLA Provincial Office in Semarang to resist the decision and demanded the NLA solve eighteen pending land disputes in Central Java. They made speeches, integrating performing arts into their demonstrations in front of the NLA office. They also

¹⁸⁷ The ninety-one projects were composed from gas pipelines (6 projects) for US \$, 2,888 million, electricity (12 projects) for US \$, 5,897 million, telecommunication (1 project) for US \$, 1,600 million, railway (1 project) for US \$ 77 million, seaport (4 projects) for US \$ 1,485, Water (24 projects) for US \$ 386 million, and toll road (38 projects) for US \$ 9,428 million.

¹⁸⁸ Embassy of the United State, Jakarta, provides a full report of the summit, including speeches, presentations and discussion, and list of project offered. See: <http://jakarta.usembassy.gov/econ/infra-summit05/infrastructure-summit.html> (last accessed on 10/15/2009).

¹⁸⁹ Mudah ditebak [bahwa] perpres ini utamanya dimaksudkan untuk menjadi landasan hukum kemitraan antara pemerintah dan swasta, khususnya dalam proyek-proyek pembangunan infrastruktur yang pendanaannya sulit dipenuhi pemerintah [Indonesia] sendiri.

- brought posters and banners, and did artistic performances on stage (*Detik News* 06/15/2005 “*Tolak Perpes 36/2005 Ribuan Petani Gelar Rapat Akbar*”).
- Hundreds of villagers from Lae-lae island, South Sulawesi, demonstrated in front of the South Sulawesi Parliament. They demanded that government cancel the regulation. Their protest also got support from various NGOs and student activist groups included LBH Makassar, Wahana Lingkungan Hidup Indonesia, Perak Institute, Kelompok Nelayan Pencari Kerang Katallassang Mariso, BEM Universitas Negeri Makassar, BEM Universitas 45 Makassar (*Kompas* 05/17/2005 “*Penduduk Pulau Lae-Lae Tolak Perpres soal Tanah*”).
 - A delegation of Farmers from Selasih Village accompanied by student and NGO activists came to the Bali Provincial Parliament to protest the regulation. A farmer leader spoke to parliament members about their vulnerable situation because of the government’s agreement to a proposal to build a golf course on their land. They worry government will use the regulation to bulldoze them (*Tempo Interaktif* 06/07/2005 “*Petani di Bali Protes PP 36/2005*”).
 - On 08/18/2005 a group of protesters called Coalition to Refuse *Perpres* 36/2005 marched to provincial parliament in Palu, Central Sulawesi, and met some provincial parliament members to demand the president withdraw the regulation (*Kompas* 08/18/2005 “*Unjuk Rasa Cabut Perpres 36/2005 di Palu*”).

Legal scholars, parliament members, leaders from two of the biggest Islamic mass organizations (*Nadhatul Ulama* and *Muhammadiyah*), Human Right Commissioners, and leaders from opposition political party (PDI-P) strongly criticized the regulation, calling it an abuse of government power to serve corporate landholders at the expense of people’s land rights (*Suara Pembaruan*, 05/21/2005 “*LSM dan Masyarakat Sipil Tolak Perpres No.36/2005*”).

Critiques of land acquisition regulations have a long history of social protest in Indonesia. In the beginning of 1980s, working through cases such as the Kedung Ombo case in Central Java, and Sugapa case in North Sumatra, NGO activists and human rights lawyers had already started to criticize the Ministry of Interior regulation No 15/1975 on Land Acquisition for Public Purposes, and the Ministry of Interior regulation No. 2/1976 on the use of the Ministry of Interior regulation No 15/1975 for Private Purposes (Katjasungkana 1989, Lubis 1992, Aditjondro 1998).

The largest demonstration against the new regulation was held on June 29, 2005 when nearly ten thousand farmers and urban poor organized by a coalition of NGOs and social movement groups moved to the National Palace to demand the President cancel the regulation (*Sinar Harapan* 06/29/2005 “*Ribuan Petani Desak Presiden Cabut Perpres No 36/2005*”). Activists believed that the regulation would open the way for large companies, both transnational and domestic, to win concessions for large infrastructure projects at the expense of poor people’s land rights. According to the General Secretary of KPA, this regulation promoted a particular form of privatization, i.e. privatization of public interest. He wrote in *Kompas*, a national newspaper, “(B)ig capital will reap the profit from this type of infrastructure development. With the better infrastructure, capitalist-driven-development projects will be more exploitative, accumulative and expansive. That infrastructure development surely will strengthen the grips of the global

capitalist octopus”¹⁹⁰ (Setiawan “*Pembangunan Infrastruktur untuk Siapa,*” *Kompas* 05/26/2005).

A public statement by Vice-President Yusuf Kalla (06/10/2005), in which he insisted on the need to implement the regulation and to put aside the critiques, had stimulated even more critical responses. Activists believed that private sector civil works and construction businesses were pushing for this regulation. On 21 June 2005, the National Human Rights Commission sent a letter to the President to withdraw the regulation because it violated the human rights of poor people and contradicted the Basic Agrarian Law (BAL) No. 5/1960. Alternatively, the Commission made a recommendation to government to respect, to protect, and to fulfil the rights of the poor through implementation of agrarian reform (*Wacana HAM “Menggugat Perpres 1001 Masalah” 08/012005, No.14/II*). Finally, a coalition of human right lawyers filed a case against this regulation asking the Supreme Court to conduct a judicial review of the regulation.¹⁹¹

The widespread opposition to the regulation provided an opening for Joyo Winoto, who was appointed by the President Yudhoyono to be the Head of National Land Agency (NLA) at the end of July 2005. His first assignment was to handle this problematic regulation and end the widespread opposition. In his first consultation meeting with the national parliament (DPR, *Dewan Perwakilan Rakyat*), on September 1st 2005, parliament members gave strong support to the protesters: they officially requested the government revise the regulation.

A week before Winoto’s appointment in July 2005, Winoto had invited some agrarian activists and scholars to meet at the Brighten Institute, the think tank that Winoto and President Yudhoyono co-founded in 2002. The meeting was intended to inform the agrarian activists and pro-land reform scholars that President Yudhoyono would appoint Winoto as the new head of the NLA, but the meeting provided activists an opportunity to straightforwardly articulate their disappointment with President Yudhoyono’s decision to issue the Presidential Decision No. 36/2005 and with his failure to establish land reform policy. Upon learning that Winoto would be the new NLA head, the activists also requested Winoto “to carry agrarian reform on his shoulders alongside the agrarian movements” – as stated by one of the activists. Winoto and scholars in the Brighten Institute were familiar with the agrarian reform agenda because of their close relationships with rural sociologists, i.e. Sajogyo, SMP Tjondronegoro, and Gunawan Wiradi –I call them the Agrarian Reform Gurus from Bogor Agricultural University (Fauzi 2008b). Their positions as professors and researchers in rural sociology based in the Bogor Agricultural University (IPB), accorded them a prestige as longstanding public intellectuals who have long promoted pro-poor agrarian reform policy and over the years

¹⁹⁰ ... pemodal besarlah yang akan meraup keuntungan terbesar. Dengan infrastruktur yang lebih baik, maka pembangunan yang dimotori pemodal besar yang eksploitatif, akumulatif, dan ekspansif akan berjalan lebih mulus. Pembangunan infrastruktur sejatinya jembatan menuju penguatan gurita kapitalisme global

¹⁹¹ A judicial review toward The Presidential Regulation No. 36/2005 was filed by a group of ten public interest lawyers with thousands citizens who were potentially affected by the regulation. The review was filed based on an argument that the regulation contradicted the Indonesian Constitution article number 28H point (4) that “Every citizen has a constitutional right to private property and the right to private property can not be taken away by any party without due process of law” (“*Setiap orang berhak mempunyai hak milik pribadi dan hak milik tersebut tidak boleh diambil secara sewenang-wenang oleh siapapun.*”)

they have provided strong influence to the scholars of the Brighten Institute as well as to agrarian activists.¹⁹² At the meeting, Gunawan Wiradi, one of the Agrarian Reform Gurus, requested Winoto maximize his new position as head of the NLA to prepare a set of necessary conditions for land reform policy, and especially to produce adequate data on potential objects of land redistribution and beneficiaries, carve out a government commitment to land reform, and transform the NLA into a pro-poor and credible bureaucracy to produce and implement land reform policy.¹⁹³ Winoto agreed and then explicitly requested the scholars and the activists to use the NLA as a base for developing agrarian reform policy together with scholars at the Brighten Institute, and not make him feel “lonely in a crowd,” a proverb he used to refer to someone trapped in busy bureaucratic tasks and lacking human connections.

The appointment of Joyo Winoto as the head of NLA opened a new phase in the relations between agrarian activists and the NLA. Winoto strategically chose the leader of Consortium for Agrarian Reform (KPA), Usep Setiawan, as his main collaborator from the Non-Governmental Organizations because of KPA’s capacity to support his agenda to leverage *Reforma Agraria*. He recognized KPA’s capacity to mobilize protest actions, to articulate opinions through newspapers, and forge networks among civil society actors within local and national arenas. Setiawan conceived this collaboration as a channel to realize KPA’s organizational aim, i.e. “to ensure pro-poor land reform return to be NLA main agenda”¹⁹⁴ (Interview on 11/09/2009). They became a strategic ally.

In order to show how important the KPA was for the NLA, Winoto came and gave a keynote speech in a seminar that precede KPA’s congress in Medan, on September 12, 2005. He showed that his idea on *Reforma Agraria* as a national agenda did not differ with what KPA has promoted. So, he called for collaborative engagement from civil society groups in land reform programming, as well as for taking part in a process that government alone cannot achieve. He explained publicly that “*Reforma Agraria* essentially is a process to restructure land control, ownership, use and access in order to pursue people’s welfare and social justice. So, we have to work together and join hands to fulfill all necessary conditions”¹⁹⁵ (Winoto, a keynote speech on the National Seminar of *Reforma Agraria* Policy, Medan, September 12, 2005).

5.3. Seizing the International Conference on Agrarian Reform and Rural Development (ICARRD)

KPA used various ways to promote land reform to NLA officials, but they took advantage of an international conference on agrarian reform to mobilize national

¹⁹² Recently Sajogyo Institute, a Bogor based research institution inspired by Sajogyo works, collected hundreds papers of Sajogyo, S.M.P. Tjondronegoro, Pujiwati Sajogyo, and Gunawan Wiradi, and make it available on-line. See: <http://pustaka-agraria.org/pages/repository.php> See newly published books by Tjondronegoro and Wiradi (2008), Tjondronegoro (2008), Wiradi (2009).

¹⁹³ Wiradi mentions three other preconditions which are beyond the capacity of the Head of the NLA to prepare, namely strong rural people organizations, strong support from military, and clear separation between business elites and government.

¹⁹⁴ *untuk memastikan Reforma Agraria kembali menjadi agenda utama BPN.*

¹⁹⁵ *Reforma agraria pada hakekatnya adalah proses penataan kembali struktur penguasaan, kepemilikan, penggunaan dan pemanfaatan tanah untuk mencapai kesejahteraan dan keadilan sosial. Untuk itu, kita secara bersama-sama harus mengusahakan tersedianya semua syarat yang diperlukannya.*

consultations. The International Conference on Agrarian Reform and Rural Development (ICARRD) organized jointly by the Food and Agriculture Organization of the United Nations (FAO) and the Government of Brazil was being planned in Porto Alegre, Brazil for March 7-10, 2006 as part of an international effort of the FAO to develop dialogue and international cooperation to revitalize the spirit and principles of *The Peasant Charter*, the final document of the 1979 World Conference on Agrarian Reform and Rural Development (WCARRD).¹⁹⁶ Through its connection with the International Land Coalition (ILC)¹⁹⁷, one of the ICCARD promoters, KPA got information support and also financial resources to be fully accredited to participate in the ICARRD.

The role of KPA in advancing land reform, and shifting relationships between agrarian activists, land reform scholars, and government officials were visible within the ICARRD in Porto Alegre and series of events before and after the conference. KPA saw the participation of the Indonesian government in ICCARD as necessary for the following reasons:

1. Indonesia is one of the signatories to the Peasant's Charter, which represents an agreement from the World Conference in 1979.
2. Indonesia just recently ratified the International Conference on Economic, Social and Cultural Rights (ICESCR), which commits the country to undertaking an agrarian reform program.
3. Because the agrarian law that currently exists in Indonesia itself – principally the Basic Agrarian Law of 1960 and the 2001 Constitutional Assembly decree on Agrarian Reform and Natural Resource Management – mandates that the country undertake agrarian reform.
4. Finally, and most importantly, because the agrarian structure in Indonesia is extremely imbalanced, creating significant obstacles to change in the national economy (KPA 2006:1).

KPA initiated a series of lobbying efforts and discussions with officials from the Ministry of Agriculture (MoA) and the NLA as well as agrarian scholars, and NGO activists put forward the relevance of the ICARRD for promoting land reform policy in Indonesia. Officials from the Ministry of Agriculture (MoA), which was a leading government agency for the ICAARD, and the NLA agreed to have the KPA to prepare the first draft of the Indonesia country report on agrarian reform and rural development.

¹⁹⁶ ICCARD also have a special meaning for KPA, because two of KPA expert council members, Gunawan Wiradi and Sediono M.P. Tjondronegoro, were active participants of the 1979 WCARRD, and since 1980 both of them had used Government of Indonesia's international commitment made in the WCARRD to campaign for national agrarian reform policy. Gunawan Wiradi and Sediono M.P. Tjondronegoro were also official delegates from the Government of Indonesia for the 2006 WCARRD.

¹⁹⁷ The KPA is active member of the ILC since 1998. The International Land Coalition (ILC) is a global alliance of intergovernmental, governmental and civil society organizations that since 1995 (under the name Popular Coalition to Eradicating Hunger and Poverty) promoted the need to put land back on the international agenda. In 2003 the organization was transformed into the International Land Coalition (ILC) as part of strategic focus on land access issues from the earlier wider mandate. It is argued that the new name reflects its identity (an international organization), its focus (land, which by definition includes natural resources) and its nature (a coalition of organizations). See: http://www.landcoalition.org/?page_id=53.

KPA leaders responded to this agreement with setting up a national conference on agrarian reform in order to allow rural movement organizations to have a formal space to articulate their voices. The Conference was held in Jakarta on February 19-20, 2006. KPA perceived this event was very successful because leaders from various rural movement organizations, including those whose work at the national level such as *Federasi Serikat Petani Indonesia* (FSPI), *Aliansi Gerakan Reforma Agraria* (AGRA), *Aliansi Petani Indonesia* (API), *Serikat Tani Nasional* (STN), *Dewan Tani Indonesia* (DTI), *Petani dan Nelayan Mandiri*, and *Rukun Tani Nasional* (RTN), had participated to discuss strategies for promoting land reform policy at the national level.¹⁹⁸ According to KPA,

(t)his conference is historically important because the KPA successfully bring together all national peasant organization from different political lines in an equal and democratic forum. This conference invited sixty-nine peasant and fisher-folk organizations that [are] struggling for *Reforma Agraria* from various regions in Indonesia. This conference was attended by more than a hundred delegations from those organizations plus [dozens] of observers from youth, student, urban poor and NGOs, who have been advancing agrarian struggle related issues. (KPA 2007 “*Laporan Kerja Bidang Advokasi Kebijakan Konsorsium Pembaruan Agraria (KPA) tahun 2005-2007*”. Unpublished report)

The peasant organization leaders articulated various ideas to advance *Reforma Agraria*, such as that land reform should be based on a “land-to-the-tiller” approach, securing land rights for landless and smallholders, and that social movements should not compromise to accept a market-based approach to land reform; a government-sponsored land redistribution program should be followed up by support to beneficiaries to improve agricultural production and to ensure access to market; and the government should resolve agrarian conflicts to bring justice for peasants, including indigenous peoples.

In terms of the first draft of the country report, the participants made a petition to the Government of Indonesia (GoI) urging, among others, the following main points:

- to prevent the Indonesian government in treating the ICARRD as a way to legitimize “anti-people” agrarian reform.
- to demand the Indonesian government to implement agrarian reform according to the 1960 basic Agrarian Law, the Peasant Charter, and Human Rights Covenant on Economic, Cultural and Social Rights that was recently ratified by the Indonesian Government.
- to demand the Indonesian government withdraw various anti-agrarian reform laws and regulations. (KPA 2006:3)

¹⁹⁸ *Konferensi ini adalah catatan dan peristiwa bersejarah yang penting karena KPA dapat mempertemukan semua garis dan aliran organisasi tani tingkat nasional yang memperjuangkan reforma agraria dalam sebuah forum yang sejajar dan demokratis . Konferensi ini mengundang 69 Organisasi Rakyat petani dan nelayan memperjuangkan Reforma Agraria dari seluruh wilayah Indonesia. Sehingga konferensi ini dihadiri lebih dari 100 delegasi yang menjadi peserta penuh dan puluhan peserta peninjau dari Organisasi pemuda, mahasiswa, urban poor dan NGO yang selama ini turut serta dalam isu perjuangan agraria.*

The participants agreed to give a mandate for the KPA to become part of the official Indonesia delegation to amplify and promote Indonesian agrarian movement perspectives on land reform in national and international fora.

On the other side, the MoA and NLA officials perceived the draft Indonesia country report by KPA as too critical for a government report, especially on judging what the previous governments produced in the way of anti-land reform policies and broken promises for implementing the Peasant Charter. The KPA responded to their concerns with the idea of forming a broad-based national consultation meeting to discuss the draft.

On February 21, 2006, the KPA, the MoA, and the NLA co-hosted this national consultation meeting attended by officials from various central government institutions, and civil society organizations, including agrarian movement leaders.¹⁹⁹ The Ministry of Agriculture and the Head of NLA officially opened the meeting through their written speeches read by their deputies. Both welcomed the intention to develop synergies between state and civil society actors in order to pursue ICARRD objectives. The KPA used this opportunity to strongly articulate that Indonesian governments had never implemented agrarian reform and rural development as urged in the Peasant Charter. The KPA also recommended the complete figure on land grabbing and agrarian conflicts should be revealed in detail within the country report.

The Indonesian government decided to send thirteen official delegates for the ICARRD including officials from the NLA and the Ministry of Agriculture, two pro-land reform agrarian scholars (S.M.P. Tjondronegoro and Gunawan Wiradi), and two KPA leaders (Erpan Faryadi and Usep Setiawan).²⁰⁰

Things changed in Porto Alegre, Brazil. The final draft of the country report was discussed among the official delegates a day before the submission time. The first section demonstrated the position of the Government of Indonesia on the ICARRD; the second section provided a general picture of the inequality in agrarian structure in the agriculture sector, land conversion from agricultural to non-agricultural uses, and agrarian conflicts; the third section shows how agrarian reform policies are implemented in Indonesia; the fourth and last section shows the current government commitment for a new agrarian reform policy.

The submitted country report conceived the ICARRD as a place (a) to share experience and lessons that could be learned on the best practice in agrarian reform; (b) to show the Government of Indonesia commitment to implement agrarian reform and

¹⁹⁹ The majority of the participants were agrarian movement activists and peasant organization leaders. The remainder were officials from various national government institutions including the Ministry of Agriculture, the NLA, the National Development Planning Agency, the Ministry of Forestry, Ministry of Energy and Mining, Ministry of Marine and Coastal Resources, the Ministry of Environment, the Ministry of Cooperation and Micro Economic, the Ministry of the Remote Regions, and the Ministry of Public-Work. There are also some scholars from University of Indonesia - Jakarta, University of Gadjah Mada - Yogyakarta; University of Padjadjaran - Bandung; University of Lampung - Bandar Lampung; University of Brawijaya - Malang; and Bogor Agricultural University - Bogor.

²⁰⁰ The composition of the delegates as the following: Delegation Chair is Deputy-Chief of Mission, Embassy of the Republic of Indonesia in Rome; Delegation members are three officials from the NLA, two officials from the Ministry of Agriculture, four members from the KPA, one member from the Embassy of the Republic of Indonesia in Washington, and two members from the Embassy of the Republic of Indonesia in Brasilia (Two letters sent by the Head of International Affairs Bureau, the MoA to General Director of Multilateral Affairs, the Ministry of Foreign Affairs, February 23, 2006, and February 28, 2006, cited in Wiradi 2006).

rural development as the strategic way-out of poverty and existing social inequality; and (c) to build strategic links among actors within countries implementing agrarian reform and rural development policy. However the submitted country report contained three points that made delegates from KPA and agrarian scholars upset. The three points were (a) the submitted report misled the reader with the impression that the Indonesian government never stopped the implementation of the 1960s land redistribution program when Suharto came to power in 1966; (b) the report did not state that the government of Indonesia has never implemented agrarian reform as signed in the Peasant Charter; and (c) The report contains misleading statistics showing the continuity of land redistribution program from 1961 to 2005 (see Table 5.1).

Delegates from KPA and agrarian scholars informed the Delegation Chair and other delegates that those points were wrong, and criticized the process that allowed those misleading points were included without their consent.

Table 5.1. Total redistributed lands and beneficiaries (covering all land categories) 1961-2005

No	Provinces	Total Redistributed lands 1961 s/d 2005 (Ha)	Total Beneficiaries 1961 s/d 2005 (household)	Average width received by the beneficiaries (Ha)
1.	Sumatera	255.392,620	270.808	0,943
2.	Jawa Dan Bali	546.848,774	905.398	0,604
3.	Kalimantan	104.030,962	77.911	1,335
4.	Sulawesi	172.561,917	185.688	0,929
5.	Nusa Tenggara Dan Maluku	77.833,000	68.840	1,131
6.	Papua	2.860,000	2.117	1,351
	Total	1.159.527,273	1.510.762	0,768

Source: "Agrarian reform and Rural Development in Indonesia" A Indonesia Country Report for International Conference for Agrarian Reform and Rural Development (ICARRD) organized by the FAO and the Government of Brazil, Porto Alegre, on March 7-10, 2006. Page 17.

Sediono M.P. Tjondronegoro, a prominent agrarian scholar who was also one of the Indonesian delegates, was invited to make a speech in the plenary session.²⁰¹ He delivered a paper titled "Agrarian Reform in Indonesia." In the beginning of the paper he summarized main points of the Peasant Charter preceded by a critique of development policy which has excluded the rural poor and trapped them in poverty (Tjondronegoro 2006:4). Tjondronegoro laid out a brief trajectory of agrarian policies and agrarian reform aspirations in Indonesia from colonial to contemporary eras, showing how the Indonesian "New Order" government (1966-1997) discontinued previous land reform programs. He mentioned that not only was the land reform program discontinued but it was actually reversed. Land distributed to rural poor in 1961-1965 were retaken by the former landlords. He concluded, "the set back of the small farmers was disastrous, and food crisis emerged in 1967;" then he described the impact of the Green Revolution that had significant consequences for the smallholder farmers, specifically because "land

²⁰¹ The ICARRD organizer invited him to make a speech because of his distinguished effort to promote the principle and substance of the Peasant Charter since his participation in the 1979 WCARRD in Rome.

accumulation became widespread creating even more poverty and unemployment” (Tjondronegoro 2006:8-10).

This point criticized the Indonesian country report for hiding the facts about the discontinuity of the 1960s land reform program. He also expressed how Suharto’s government had no genuine commitment to comply with the results of the 1979 ICARRD, and instead for Suharto “agrarian reform [was] not perceived as a prime mover for economic revival and growth” (Tjondronegoro 2006:8-9). He ended the presentation with a statement that the newly elected President aroused new hopes for agrarian reform to return in relation to his campaign toward poverty reduction and agricultural revitalization.

There was another delegate that presented a report on Indonesia. The report “Case Study in Indonesia: Agrarian Conflict and Violence toward Peasant in Indonesia”²⁰² was submitted by Hendry Saragih, director of the FSPI (*Federasi Serikat Petani Indonesia*, literally Federation of Peasant Union in Indonesia). The FSPI report revealed various land grabbing cases and criticism of the use, misuse and abuse of state-sponsored violence against peasants. FSPI was a national federation of twelve local peasant unions, including *Sundanese Peasant Union*, and the only *Vía Campesina* member from Indonesia. In 2003, *Vía Campesina* moved its International Operative Secretariat from Honduras to Jakarta, with Henry Saragih, Director of the FSPI serving as the new International Coordinator. *Vía Campesina* had consolidated a transnational network of peasant organizations from Asia, America and Europe, coordinating global protests and critics against neoliberal agricultural and land policies, and campaigning for a specific vision of ‘agrarian reform and food sovereignty’ (Desmarais 2002; Edelman 2003; Rosset 2006).

The Indonesian government officials felt unhappy with the FSPI report and the ways the FSPI able to submit the report to the ICARRD. The officials perceived the FSPI report as a negative campaign against the Indonesian government through mischaracterizing the Indonesian government and exaggerating the nature of Indonesia’s agrarian problems. Usep Setiawan, one of the Indonesian delegates from the KPA, explained that social movement organizations in Indonesia are diverse. Although the FSPI participated in the national consultation processes to produce the official country report, the FSPI had another channel to participate in the ICARRD and to articulate their own position and views (Interview with Setiawan 11/09/2009).

There was no significant follow up by government officials after the ICARRD. The KPA and the scholars did follow up. The participation of the Indonesian delegates in ICARRD reenergized activists to campaign for the need for land reform policy in different ways. The KPA leaders and agrarian scholars who participated in the ICARRD published a series of articles in two national newspapers, *Sinar Harapan* and *Kompas* about the process, outcome and implications of the ICARRD for land reform policy processes in Indonesia.²⁰³ The articles explicitly reminded President Yudhoyono on his promise to implement *Reforma Agraria* that was launched during his presidential

²⁰² For the full report see http://www.icarrd.org/en/icarrd_docs_case.html [last accessed on 01/02/2010].

²⁰³ See Setiawan, Usep and Sediono M.P. Tjondronegoro, “Catatan dari ICARRD 2006: Menunggu Realisasi Reforma Agraria” *Sinar Harapan*, 03/13/2006. Wiradi, Gunawan, “ICARRD 2006, Tonggak Baru Sejarah Reforma Agraria”, *Sinar Harapan*, 03/13/2006; Tjondronegoro, Sediono MP, “Kemiskinan dan Pembaruan Agraria”, *Kompas*, 03/17/ 2006.

campaign in 2004, and urged the President and his cabinet to adopt and follow up the ICARRD Final Declaration.²⁰⁴

The KPA initiated a follow up meeting with other activist leaders that ended with a plan to conduct a mass protest to demand land reform policy. On May 17, 2006, KPA leaders and other agrarian activists mobilized approximately 15,000 rural villagers, workers and urban poor from various areas in West Java to go to the National Palace to demand that President Yudhoyono act on his promise of *Reforma Agraria*. The protesters from various rural and urban movement groups brought their own flags, banners, and posters to express their demands. This was the first and the biggest demonstration held at the National Palace that forced members of the Cabinet, i.e. the Minister of Cabinet Secretary, the Minister of Agriculture and the Head of the NLA, and the Deputy of the Minister of Forestry to come to the National Palace to meet and discuss *Reforma Agraria* with the activists representing the groups of protesters, including Usep Setiawan. Activists articulated various demands to the government, including the need to redistribute state lands, to prevent land grabbing, to ensure tenurial security for rural people living within the state forest zone, to protect rural and urban poor victimized by state/private-sponsored land expropriation, to ban food staple import, etc. With the background of those diverse demands the activists came together to question President Yudhoyono's commitment to implement *Reforma Agraria*.

The Minister of Cabinet Secretary, Sudi Silalahi, let the head of NLA, Joyo Winoto, to take a lead in response to what the activists demanded. The head of NLA mentioned that the President released a new Presidential Regulation No. 10/2006 on the National Land Agency. Under this regulation, he explained, the NLA have to work together with other government agencies such as the Ministry of Agriculture and the Ministry of Forestry, and to resolve agrarian issues, conflicts and disputes. He convinced the activists that the President mandated the NLA to design new agrarian reform policy, and that in turn the President would announce it because the *Reforma Agraria* is a national agenda (*agenda bangsa*). He also promised that the agrarian reform policy making would include the participation from activist leaders. During the meeting inside the Palace, other activists performed in front of the Palace, delivering speeches, and energizing the mass of protesters with some popular songs and protest yells.

The KPA leaders conceived the protest was the most successful event not only in terms of pressing the government through social mobilization, but also for bringing together diverse social movement and activist groups into a coordinated national action. KPA also brought the leaders of the peasant organizations and agrarian activists, including FSPI leaders, into a two days workshop on June 22-23, 2006 in Jakarta to discuss the result and consequence of the ICARRD. The theme of the workshop is "Building a Common Political Platform after the ICARRD." Aside from sharing the outcome of the ICARRD and the current development in national agrarian policy, this meeting also produced a set of recommendation included to participate in land reform programming through active engagement within NLA as well as through pressures by social mobilization. KPA under Setiawan's leadership had laid groundwork for this combined strategy.

²⁰⁴ See www.icarrd.org/news_down/C2006_Decl_en.doc [last accessed on 01/02/2010].

5.4. Synergies and Tensions between KPA activists and National Land Agency

During the period of land reform policy making in 2006-2007, KPA's general secretary, Usep Setiawan wrote dozens of articles in national newspapers, including *Kompas*, *Republika*, *Suara Pembaruan*, *Sinar Harapan*, *Jurnal Nasional* and *Koran Tempo*, advancing the need for pro-poor land reform policy and urging the government to start land reform programming.²⁰⁵ The press also frequently quoted his opinions. Once the largest national newspaper, *Kompas*, on October 27, 2007, published an exclusive interview with him. In the interview he said

Reforma Agraria is the right answer [for poverty, land inequality and conflicts, NFR]. The core of *Reforma Agraria* is land reform that basically restructures land control and ownership for the pursuit of social justice. Through land reform, the rural poor will acquire security of access to productive land. The phobia of land reform should end. In the previous era, land reform was perceived as a subversive issue because of the stigmatization enforced by the regime against land reform. But, land reform is becoming an historical necessity. Government should mobilize state resources to assist land reform beneficiaries through various technical and financial measures. For brevity, agrarian reform is land reform plus state assistance (*Kompas* 10/27/2007 "*Reforma Agraria, Jalan Paling Tepat Akhiri Konflik*").²⁰⁶

It is important to note that his conception of *Reforma Agraria* was similar with what the head of NLA, Joyo Winoto, developed as I laid out in Chapter 4. Setiawan started his initial participation in land reform policy processes in the NLA through an endorsement made by the head of the NLA to work together with a few NLA high officials named the Core Group of *Reforma Agraria*. The Core Group had two main tasks: (i) to formulate a policy framework for a new land redistribution program; and (ii) to set up pilot projects of the new program.

The framework was developed initially through seminars²⁰⁷ to hear various aspirations, perspectives, and recommendations on aspects of land redistribution programming from other government agencies, universities and NGO activist leaders. Setiawan had actively participated in these seminars, and then served as part of a drafting committee to finalize the framework. The framework defines the scope of a new land redistribution program named National Agrarian Reform Program (NARP) as follows:

²⁰⁵ The collection of more than a hundred of his articles since 2000 was republished in Setiawan (2010).

²⁰⁶ *Reforma agraria adalah jawaban paling tepat [untuk mengatasi kemiskinan, konflik-konflik dan ketimpangan penguasaan tanah, NFR]. Inti dari reforma agraria adalah landreform, yakni penataan ulang struktur penguasaan tanah menjadi lebih berkeadilan sosial. Melalui landreform, rakyat miskin, terutama kaum tani yang hidupnya bergantung pada penggarapan tanah, dipastikan akan mendapatkan akses pemilihan tanah. Fobia atas istilah landreform hendaknya segera diakhiri. Pada masa lalu isu landreform menjadi momok menakutkan akibat stigma negatif dari rezim yang memang anti-landreform, namun saat ini landreform merupakan keharusan sejarah. Negara mesti mengerahkan segenap kemampuan membantu rakyat penerima manfaat reforma agraria itu dengan berbagai kemudahan dan akses. Ringkasnya, reforma agraria adalah program landreform yang disertai program-program penunjang berikutnya.*

²⁰⁷ Three seminars on *Reforma Agraria* were held in Medan (Nov 15, 2006), Makassar (December 4, 2006) and Jakarta (December 11, 2006). The seminars were followed up with a focus group discussion and a drafting workshop that produced a proposed policy and operational strategy framework for the NARP.

the NARP should not be only a land distribution project, but a comprehensive program toward the pursuit of social justice and improvement of people's welfare through agricultural revitalization and the rural economy as a whole. The program is composed of two main components: *First*, land redistribution to ensure people's rights over agrarian resources. *Second*, larger development assistance from various parties to ensure redistributed lands become productive and sustainable. This includes efforts to fulfil the basic rights of the people (such as education, health, etc), as well as providing credit, technological and managerial assistance, physical infrastructure, access to market, etc. The first component is called "asset reform" and the second is called "access reform". The combination of these two is referred to as "Landreform Plus" (*Badan Pertanahan Nasional Republik Indonesia 2007:3*)²⁰⁸

As I detailed in the previous chapter, the scope of the NARP was based on Joyo Winoto's conception of *Reforma Agraria* (Winoto 2006). The framework also mentioned that

(The NARP) must be implemented as an integral movement in national scale. So, this program should be led directly by the President. (The NARP) should be implemented by all related government institutions in national as well as local levels, with the active participation of Indonesian people (*Badan Pertanahan Nasional Republik Indonesia 2007:3*).²⁰⁹

Setiawan was inspired from a perspective to combine reformist effort in government institutions and popular pressures from autonomous peasant movements (Fauzi 2003:65-78, see also Borras 1999).

The second task of the Core Group of *Reforma Agraria* was to set up a pilot project of NARP started in fiscal year of 2007. Winoto requested President SBY to leverage NARP through an official ceremony. The President agreed, and Winoto was requested by President's office to present a detailed plan. Winoto planned the launch ceremony to be held at Blitar, East Java province, on May 20, 2007.

The plan to launch the NARP made the NLA officials very busy, including especially hurrying to finish ten pilot projects,²¹⁰ and to select some villagers from each pilot-project to come to Blitar and participate in the ceremony as land reform

²⁰⁸ *PPAN bukanlah sekedar proyek bagi-bagi tanah, melainkan suatu program terpadu yang diorientasikan pada upaya perwujudan keadilan sosial dan peningkatan kesejahteraan rakyat melalui revitalisasi pertanian dan aktivitas ekonomi pedesaan secara menyeluruh. Hal ini mencakup dua komponen. Pertama adalah redistribusi tanah untuk menjamin hak rakyat atas sumber-sumber agraria. Kedua adalah upaya pembangunan lebih luas yang melibatkan multipihak untuk menjamin agar aset tanah yang telah diberikan dapat berkembang secara produktif dan berkelanjutan. Hal ini mencakup pemenuhan hak-hak dasar dalam arti luas (pendidikan, kesehatan, dll), juga penyediaan dukungan modal, teknologi, manajemen, infrastruktur, pasar, dll. Komponen yang pertama disebut sebagai asset reform, sedangkan yang kedua disebut access reform. Gabungan antara kedua jenis reform inilah yang dimaksud dengan 'Landreform Plus.*

²⁰⁹ *(PPAN) ini harus dijalankan sebagai suatu gerakan yang bersifat nasional. Oleh karena itu, program ini harus dipimpin langsung oleh Presiden RI, dan dijalankan oleh semua unsur pemerintah yang terkait dari pusat sampai daerah, dengan keterlibatan aktif dari seluruh rakyat Indonesia.*

²¹⁰ See Table 3.2 in chapter 3.

beneficiaries. After the launching speech, it was planned, the President would give land certificates to representatives of the selected villagers.

But, two weeks before the date, this plan was cancelled by the President's office due to security concerns. A high officer in the NLA blamed a district level federation of local peasant organizations named PPAB (*Paguyuban Petani Aryo Blitar*), for its plan to mobilize its members to conduct a protest action to the President related to their land disputes cases (Interview with an NLA high official on 11/12/2007). The PPAB planned to mobilize more than 5,000 members through their eleven chapters in which each chapter manages two or more land contestations mostly related to state- or private-owned plantations, and State Forest Corporation (SFC).

One of the issues that they intended to bring into the planned protest action was to demand government legalize the lands that they had occupied by changing the status of these occupied lands from state- and private-owned plantations to private small holders. Since the fall of Suharto in 1998 they had begun to occupy parts of these plantation lands, and demanded the NLA cancel the state plantation's concession rights (*Hak Guna Usaha*) and redistribute the plantation lands for the rural poor, including for ex-plantation workers. Twelve land conflicts had sprung up since 1998 (see table 5.2)

Another issue concerned the ways the NLA framed NARP as a land title legalization project. They intended to show that the pilot projects held in Blitar were not a land redistribution in terms of breaking the existing plantation agrarian system down into smallholder family farming by poor rural villagers (Interview with a PPAB leader on 10/4/2007).

The pilot projects in Blitar district covered 1,919.46 hectares, and provided 10,341 land titles in nine villages. What the pilot projects actually did was to legalize small plots of land that the villagers had been inhabiting/cultivating for more sixty-five years. All lands were colonial plantation lands that were left by their owner when the Dutch left Indonesia because of Japanese occupation in 1942. Japan urged plantation workers and villagers to dismantle the plantation and cultivate the ex-plantation land for agricultural production to support the war. After Indonesia got full Independence from the Dutch in 1949, the national government decided to exclude the ex-plantation lands from an agenda of nationalizing foreign plantation corporations in 1958. Villagers had continued cultivating and inhabiting the lands. Under the land redistribution program 1962-1966, the government started to administratively legalize people access over ex-plantation lands, but the bloody regime transition in 1965 discontinued the administrative processes. Not all villagers were able to continue their access to and control over over the ex-colonial plantation lands. Those who were associated with or accused of having had some connection with the Indonesian Communist Party (PKI) lost their access during the military repression. Some military officers took over part of the ex-plantation land, and working with local elites developed new private plantations.

The fall of Suharto in 1998 unleashed land occupations launched by groups of plantation workers and other rural poor living in plantation surrounding villages. Then agrarian activists that originally coming from the area started to help local leaders to set up an organization. Initially they were divided into two different organizations, which were Blitar Peasant and Student Alliance (AMPHIBI) and Blitar Peasant Union (SPAB). They merged in 2003, and formed a single peasant union working at a district level named Blitar Peasant Association or *Paguyuban Petani Aryo Blitar* (PPAB). The PPAB

became a member of KPA in 2005. In 2006 as general secretary of KPA, Setiawan appointed Kinan, the general secretary of PPAB, to become the head of division on peasant organization empowerment of the KPA.

Table. 5.2. A list of land conflicts related to private- and state owned plantations in Blitar district 2005

Name of plantation and Location	Owner and current status of land concession	Amount of Plantation (hectares)	Amount of occupied land (hectares)
Gambar; Village: Sumpersari Sub-district: Nglegok	PT. Perkebunan dan Perdagangan Gambar, Right of exploitation (HGU) SK.Ka BPN 04/21/1989, No. 57/HGU/BPN/89	825.4360	212
Penataran; Village: Penataran Sub-district: Nglegok	PTP. Nusantara XII, Right of exploitation (HGU) SK ka BPN 07/07/2005, No. 94/HGU/BPN/2005	398.6591	70
Karangnongko; Village: Mondangan Sub-district: Nglegok	PT. Veteran Sri Dewi, Right of exploitation (HGU) SK Ka 11/22/1990, No 30HGU/BPN/90	223.9375	100
Kulonbambang; Village: Sumber Urip Sub-district: Doko	PT. Saribumi, Right of exploitation (HGU) SK Mendagri 10/20/1973, No. 77/HGU/DA/71 (expired)	955.5000	255
Nyunyur; Village: Soso Sub-district: Gandusari	PT. Kismo Handayani, Right of exploitation (HGU), SK Mendagri 08/20/1985, No. 391/HGU/PH/85	368.0000	100
Sengon; Village: Ngadirenggo Sub-district: Wlingi	PT. NV. Perkebunan dan Perdagangan Dewi Sri, Right of exploitation (HGU) SK Ka BPN 02/05/1996, no. 005/HGU/35/1996	198.1030	180
Pijombo; Village: Ngadirenggo Sub-district: Wlingi	PT. Tri Windu, Right of exploitation (HGU) SK Ka BPN 03/08/1993, no 7/HGU/BPN/1993	799.2142	50
Rotorejo-Kruwuk, Village: Gadungan and Sumberagung Sub-district: Gandusari	PT. Perkebunan Rotorejo Kruwuk, Right of exploitation (HGU) SK Ka BPN 05/28/1998	5,572.2700	64
Ngusri; Village: Gadungan Sub-district: Gandusari	PT. Blitar Putra, Right of exploitation (HGU) SK Ka BPN 06/06/1995 No. 36/HGU/BPN/1995	386.4000	80
Branggah Banaran; Village: Sidorejo Sub-district: Doko	PT Perkebunan Cengkeh Gappri, Right of exploitation (HGU) SK Ka BPN 06/04/1997, No. 42/HGU/BPN/1997.	560,0000	350
Gondang Tapen; Village: Riniginrejo, Sub-district: Wates	PT Semen Dwima Agung, SK Ka BPN 03/11/2003 decided to transfer the ex-plantation lands to the State Forestry Corporation (SFC)	854.5700	?
Swarubuluroto Village: Karangrejo Sub-district: Garum	PT. Satya Mukti Raya SK Mendagri 10/05/1973 No. 70/HGU/DA/1973 (Expired)	612.1000	412.1

Source: Pemerintah Kabupaten Blitar (2006) "Daftar Masalah Tanah Kabupaten Blitar 2005". Bagian Pemerintahan Kabupaten Blitar. Page 1-22.

The cancellation of the launching of NARP created a tension between NLA and KPA. Winoto felt that KPA, under Setiawan's leadership, was unable to control its members, including PPAB, in supporting the NARP. Setiawan defended PPAB's position arguing that the NLA should accommodate their demands, which was to stop renewing land concessions for the plantations, and redistribute the plantation lands to land occupiers. The General Secretary of PPAB, who was also a KPA board member, argued, "nothing wrong with what we planned. We found an opportunity to seriously test whether the NARP is able to include the demands we have struggled for. But unfortunately they were afraid and decided not to come to us"²¹¹ (Interview with Kinan on 10/04/2007).

An NLA officer, who was responsible for the land reform program, responded to the PPAB demands that NLA needed a signed and written consent from the previous owners of the plantation that they agreed to release their land concession (right to exploitation or *Hak Guna Usaha*), or waive their right to renew their land concession. The officer argued that any land targeted by the NARP should not be under conflicted claims. NLA required the targeted lands should be "free and clear"²¹² from any claim from previous land holder. Then NLA could start the land redistribution processes through the release of an official decision on the determination of the ex-plantation land as land targeted for redistribution (interview with Gunawan Sasmita on 11/29/2007).

The PPAB had difficulties to sit together with plantation owners. The plantation owner refused to release their land concession, or part of their land concessions, even the plantation could not work on occupied lands. Kinan, the general secretary of the PPAB, realized that this problem was not unique for them. His position as the head of division for the peasant organization empowerment of the KPA enabled him to problematize the notion of "free and clear," non-disputed lands as a criteria by which targeted lands for NARP are defined. Based on this experience and observation, Kinan become the most active KPA leader to have shown the limits of NARP in legalizing occupied lands (interview with Kinan on 02/01/2008).

This case enabled agrarian activists to see that the existing NARP framework was problematic because there was no way for organized peasants to get legalization over occupied lands without the unlikely consent of previous landholders. If previous land holders were state-owned plantations, the agreement to release part of a land concession had to come from the Ministry of State-Owned Enterprise. If previous land holders were the State Forest Corporation (SFC), the decision to release the land from "state forest zone" had to come from the Minister of Forestry.

Differing with Kinan and other KPA activist who were pessimistic about the NARP, Setiawan had kept up his effort to intensify interaction between NLA officials and agrarian activists. Setiawan occasionally accompanied the head of the NLA to attend a ceremony of giving land certificates in the context of NARP pilot projects.²¹³ During these visits Setiawan had usually arranged between Winoto, NLA high-officials, and

²¹¹ *Tidak ada yang salah dari kami rencanakan itu. Kami peroleh kesempatan untuk benar-benar menguji apakah PPAN bisa merangkul tuntutan-tuntunan yang kami perjuangkan. Sayangnya mereka takut dan putuskan tidak jadi datang menghadapi kita.*

²¹² NLA officials used the term "clean and clear".

²¹³ See Table 4.4 in chapter 4.

agrarian activists working in and surrounding areas within which the ceremonies were held. At the meetings, Setiawan played a role as moderator in discussing various issues related to land reform programming, local land struggles, and other concerns and demands of local agrarian activists.

Winoto and Setiawan expected meetings with agrarian activists would help the synergy between the NLA and agrarian movements. But, something unexpected happened that the meetings opened a space within which critiques toward NARP were articulated. Once I observed a meeting organized by Setiawan and Winoto held on May 11, 2008 in Sumedang, West Java, a day before the NLA conducted a ceremony to give land titles. Setiawan arranged a meeting between Winoto and twenty NLA high officials with approximately fifteen key agrarian activists working under KPA coordination in various provinces in Java. After they were introduced one to another, Winoto gave an introductory speech by laying out the current developments in land reform programming. He explained the ways that the NLA had crafted the program of *Reforma Agraria* to be accepted for the national budgeting processes, making official the re-emergence of land reform policy. The success in getting *Reforma Agraria* into the official policy arena of national government, he argued, was due not only to achievements the NLA had been able to make under his leadership, but also to the achievement of various social forces, including, most importantly, the work of the social movement activists.

He realized that the promise to redistribute land for poor people could be very attractive for political parties to win the votes of the nation's rural poor majority. He warned the activists "to beware of the tendencies to politicize *Reforma Agraria* for sake of political party interests, which will compete for the 2009 general election."²¹⁴ He convinced the activists that the only way to realize the promise of land redistribution was through an official government program, which started with the NARP.

He called for continued synergistic partnership between non-governmental activism and the NLA land reform program. He specifically posed a question about the role of non-governmental organizations in preparing potential beneficiaries of NARP through consciousness raising and community organizing activities.

Agrarian activists initially perceived Winoto's bringing *Reforma Agraria* back to the official stage as an arena within which they could leverage their agendas, including their goal of seeing occupied lands legalized. However, they continued to have concerns about the process by which local peasant groups and agrarian movement organizations participate within land reform programming. An activist from Alliance for Agrarian Movement (AGRA) who had observed the implementation of NARP pilot projects in West Java criticized the top-down approach of NARP without any intention or plan to develop synergies between the NLA and local agrarian movement groups working in the pilot project areas. The activist asked the NLA to adopt a more bottom-up and participatory approach in land reform programming.

A KPA activist criticized the delivery mechanisms the NLA created under NARP to resolve highly contested land conflicts, especially those between land occupiers and state- or private-owned plantations, and to support land reform beneficiaries. The main problem with the mechanisms proposed was that the design relied on the full buy-in of the Ministry of Forestry to release forestlands in question and eliminate the conflicts over

²¹⁴ Untuk waspada pada kecenderungan mempolitisir *Reforma Agraria* untuk kepentingan-kepentingan partai politik, yang akan bertarung untuk pemilihan umum tahun 2009.

land. Because the Ministry of Forestry refused to release the land and the Ministry of Agriculture refused to associate its agricultural revitalization programs with *Reforma Agraria*, activists were not convinced that Winoto's approach was workable.

At the May 2008 meeting, an activists also raised their concerns with Winoto pressing the NLA to change regulations to facilitate the law in favor of the landless poor. For example, the activists pointed out the legal hurdle in the process of legalizing occupied lands by which the NLA required a written agreement from the plantation owner who holds rights for exploitation (*hak guna usaha*). The agreement must release part of their concession for redistribution to land occupants, or waive their right to renew their expired right for exploitation.

Tensions between agrarian movements and NLA become higher, not only because the activists did not get an adequate response from Winoto and other NLA officials to the critical concerns they raised. But also because of Winoto's shifting frame from *Reforma Agraria* toward land title legalization. While his previous mantra had been about land reform for social justice, i.e. for improving people's welfare, eradicating poverty, bringing integrity to the Indonesian state, and creating social harmony, he began to enthusiastically embracing the neoliberal economic view promoted by Hernando de Soto, that land titling was a necessary step which would lead to economic development (see chapter 4, section 4.7)

Due to the divide between the fundamental philosophical underpinnings of these two approaches, a rift between the activists and Winoto began to grow. In contrast to Joyo Winoto's adoption of de Soto's approach of legalizing the people's land assets as a basis for poverty reduction (and social justice), Dianto Bachriadi, a member of the KPA expert council from the beginning, saw the land titling program as a trojan horse for instituting the primacy of private property rights, a positivist legal system, and capitalist market mechanisms under the guise of land reform. His critique rejects the notion that massively integrating land assets in a market system through land registration will effectively overcome the poverty of the majority of rural or urban populations in post-colonial countries like Indonesia. De Soto's thinking merely softens, even hides, the greedy and predatory character of the capitalist economy based on a universal private property system and commodification of everything through market mechanisms, in Bachriadi's view (Bachriadi 2007). From the beginning, Bachriadi urged activist collaborators including Setiawan to be critical of the illusive nature of *Reforma Agraria* as promoted by Winoto. Referring to President Susilo Bambang Yudhoyono as SBY, Bachriadi pronounced that

... instead of having high expectations about this "agrarian reform *à la* SBY", which was "jargonized" as being all about "land for justice and people's welfare." It is wiser to be aware from the start (and state so clearly) that going down this road will lead only to an ersatz agrarian reform!"²¹⁵ (Bachriadi 2007:22).

²¹⁵ ... *ketimbang berharap terlalu banyak kepada program "reformasi agraria ala SBY" ini yang dalam pidatonya diberi jargon sebagai penegakan prinsip "Tanah untuk Keadilan dan Kesejahteraan Rakyat", baiknya sejak awal kita mewaspadaai (: bisa juga dinyatakan) bahwa ini adalah jalan bagi pelaksanaan Reforma Agraria Palsu!*

This critique was alive and rearticulated in the KPA fifth national meeting in the end of June 2009 as mentioned in the beginning of this chapter. The meeting was the highest forum of the 188 member organization of the KPA to evaluate the trajectory of KPA, and made strategic organizational decisions, including to elect new KPA leaders. Setiawan ended his position as KPA General Secretary, and moved to chairperson of KPA's national council. Idham Arsyad was elected as KPA new general secretary for 2009-2013.

A week after the KPA national meeting ended, the newly elected KPA's general secretary, Idham Arsyad, launched a critical response to a full-page advertisement claiming the success of NLA land redistribution program under the President Yudhoyono. In a press release of July 3, 2009, Arsyad laid out a pointed analysis. Referring to President Susilo Bambang Yudhoyono as SBY, he asserted,

(i) it is a mistake if SBY's government conceives that they are running a land program for the people, much less an agrarian reform program ... Actually, this [land title legalization] program will cause farmers with small land holdings to lose their land more quickly, because it makes their land easier to sell or to mortgage. With tight land and macro-economic conditions that do not favor small farmers, land titling... without agrarian reform, is a systematic tool that forces farmers to sell their land more quickly, and fall to big capital, so that the existing unequal land distribution becomes even worse. That's why farmland is now increasingly owned by urban non-farming groups, while poor farmers become farm laborers. (Arsyad "Keliru Jika SBY Dianggap Telah Melakukan Pembaruan Agraria" Press Release by KPA on 07/03/2009. http://www.kpa.or.id/index.php?option=com_content&task=view&id=300&Itemid=1 [last accessed 07/28/2009].²¹⁶

This critique of the NLA's program was published after four years of engagement within the NLA's land reform policy process (2005-2009). Its timing was also related to the anticipated end of the Cabinet under President SBY and Vice President Yusuf Kalla. The gist of Arsyad's assessment expresses the new position of KPA that gives voice to the experience of victims of land expropriation, and activists in agrarian movements who bear witness to the great distance between *Reforma Agraria* rhetoric as formulated and implemented by the NLA, and the reality of day-to-day agrarian problems. In Arsyad's assessment, the concept and practice of the NLA's National Agrarian Reform Program falls far short of the "true agrarian reform" (*Reforma Agraria Sejati*) that KPA had envisioned.

²¹⁶ *adalah keliru jika Pemerintahan SBY menganggap diri telah menjalankan program pertanahan untuk rakyat, apalagi menjalankan Reforma Agraria (Pembaruan Agraria) ... Kenyataannya, program (legalisasi kepemilikan tanah) ini telah menyeret petani yang bertanah kecil semakin cepat kehilangan tanahnya, karena tanah tersebut semakin mudah dijual atau diagunkan kepada perbankan. Dalam keadaan bertanah sempit dan situasi makro ekonomi yang tidak berpihak kepada petani, maka sertifikasi pertanahan ... tanpa didahului oleh Pembaruan Agraria adalah alat sistematis yang justru menjerumuskan tanah petani semakin cepat terjual dan jatuh kepada pemodal besar, sehingga ketimpangan tanah pun semakin lebar. Itulah sebabnya tanah pertanian sekarang ini semakin banyak dimiliki oleh kelompok non petani yang tinggal di kota, sementara petani gurem telah menjadi buruh tani.*

5.5. Concluding Remarks

This chapter has demonstrated the ways that KPA activists have seized opportunities and channels to leverage their land reform agenda, including their goals of seeing occupied lands legalized. It created synergies and tensions among agrarian activists, and between agrarian activists and NLA officials in relation to the NLA land policy processes. I show how sites of “power struggle, contestation, and negotiation” within land reform policy processes are produced through the situated practice of agrarian activists.

KPA’s agrarian reform agenda has been based on the facts of land expropriation in rural Indonesia and its observations of the concentration of wealth by those who control extensive lands. The underlying legal mechanism allowing this pervasive *land expropriation and land-grabbing* is what I call “state-ization of the peoples’ land” (*negaraisasi tanah-tanah rakyat*) (Fauzi 2009). This structural injustice, in which the state legalizes its expropriation of land which is then turned over to private resource exploitation or “investment,” must be overcome by prioritizing the principle of the social function of land, as intended by the Basic Agrarian Law of 1960. KPA problematizes and emphatically contests such a legitimizing concept of “state land” in terms of the history of how, under what conditions, and for what purposes those lands are state-ized. The KPA’s central intention was the redistribution of extensive land areas controlled by the state, as well as private companies, to landless and impoverished farmers in an organized way, to help them manage land use with regard to ecological functions, and to raise productivity through credit, education and appropriate technology. KPA supporters believe that only through this agenda can the underlying causes of rural peoples’ chronic poverty be surmounted. KPA’s leadership had been engaged actively, supportively, and constructively, over the previous five years, in the NLA’s land policy processes, from conception through implementation. KPA’s collaboration acknowledged that the NLA is the principal government agency that the President has charged to carry out land reform (Presidential Decree No. 10/2006, among others). Beyond a desire for a new land reform program, this collaboration is based on civil society organizations’ commitment to human rights by promoting and participating in ways that insist that government carry out its obligations to respect, protect, and fulfill its citizens’ fundamental rights

This chapter has demonstrated how agrarian activist leaders enthusiastically participated in the NLA land policy-making processes. This synergistic relation changed once the activists realized the limit of the National Agrarian Reform Program (NARP), including its impossibility to legalize occupied lands. The tension was higher when Winoto began to strategically deploy Hernando de Soto’s thinking and the NLA began shifting its focus to land title legalization. In consequence, certain activist leaders turned to critique the NARP, as well as the ways other activist leaders participated within NLA policy processes.

In order to see a concrete illustration of struggle over land on the ground I zero in on a state-sponsored, joint police and forestry repressive operation in 2008 against land occupiers and the Sundanese Peasant Union (SPP) in five villages in the Ciamis district of West Java. The rhetoric of “illegal occupation,” “illegal logging,” “anti-State,” were deployed by police and the SFC in concert with the negative campaign of two key environmental NGOs. The effect of this operation was bad for land occupants and the

local SPP organizing. The land occupiers and the local SPP were demobilized while the SFC reestablished their control over the state forestland. I show that rhetoric and violence are tactics deployed in struggles over land. Moreover, the operation had greater meaning. The repressive operation was launched not only against the SPP and its land occupation to reassert the legitimate control over forestlands, but also to deliver a message for land reformers that forest land under the control of the SFC must be excluded from land redistribution programming.

Chapter 6

En-countering Land Reform: Trouble over Land Occupations in West Java

6.1. Introduction

On 14 August 2008, the Ciamis Sub-Regional Police held a ceremony in an open field in Cigugur village, a forested upland area in West Java, Indonesia. Approximately one hundred people, including the State Forestry Corporation (SFC) field staff, and sub-district and village officers, gathered to witness the Vice-Commander of the Ciamis Sub-Regional Police distribute the Indonesian flag to six village elders. Another 350 flags were subsequently distributed to the crowd of villagers. This event was designed to restore a “spirit of nationalism” in Cigugur following state efforts to end an organized occupation by these villagers and others in the Sundanese Peasant Union (SPP) of a block of national forest lands. The Vice-Commander delivered a speech framing the land occupation and tree cutting by the SPP as both “illegal occupation” and “illegal logging.” He also used a phrase that recalled the tactics of the previous regime in Indonesia, Suharto’s New Order, accusing the occupiers of being dangerous “separatists” who threatened the state. The Vice Commander said:

(v)arious forms of separatist action (*tindakan separatisme*) that were conducted by people surrounding Cigugur forest land have been officially investigated. One prominent mode [of their separatist tendencies] is that people living surrounded by forest land raise the SPP flag more often than the national flag.²¹⁷ (*Tropis*, 09/25/2008 “*Kembalinya Cigugur Ke Pangkuan Ibu Pertiwi*”)

He claimed that the ceremony in which the so-called ex-SPP members received the national flags symbolized a return of state sovereignty to Cigugur forest land. In doing so he reaffirmed that there is no law but the law of the Republic of Indonesia. In the Suharto era, these farmers-cum-“separatists” would have been rounded up and imprisoned, tortured, or perhaps “disappeared.” They were considered enemies of the state. Here the tactics were only slightly less violent. The ceremony marked the launch of an oppressive response to the peasant’ efforts to claim land. The land in question had been designated by the Indonesian state as “forest land.” The designation was a colonial legacy rejected by the landless peasants. What followed involved the old Suharto-era efforts to criminalize SPP local leaders, intimidate SPP members to surrender, and dismantle the local SPP chapter.

The ceremony and following events were the culmination of a larger campaign named the 2008 *Lodaya*²¹⁸ Sustainable Forest Security Operation (*Operasi Hutan Lestari Lodaya* 2008) to re-establish SFC control over the occupied forest land. The SFC is a para-statal forest company, a state-owned enterprise, and the largest land management

²¹⁷ (b)entuk-bentuk tindakan separatisme yang dilakukan sejumlah masyarakat di kawasan hutan Cigugur sudah kami lacak. Salah satu bentuk yang tampak adalah masyarakat sekitar kawasan hutan lebih banyak mengibarkan bendera SPP, dari pada bendera merah putih.

²¹⁸ *Lodaya* (Sundanese), which means Javanese tiger, is the mascot of the West Java police.

institution controlling some 19 percent of Java's land, equivalent to more than 2.4 million hectares, consisting of 72 percent (1,767,304 hectares) production forest, and 28 percent (658,902 ha) protected forest (*Perum Perhutani* 2010). The SFC's long recognized legitimacy in controlling forestland was being seriously challenged by organized land occupations here and elsewhere in Java.

In the immediate aftermath of the overthrow of the Suharto regime, the SFC lost both political and economic clout. By 2008 the SFC had regained its footing and would no longer allow the SPP to continue to define the terms of confrontation. The SFC launched a campaign to regain control of occupied forestland beginning with the tactical deployment of the rhetoric of "illegal logging", "illegal occupation", and "forest security" to forge alliances with police, government institutions, and non-governmental organizations concerned about the ecological impact of forest loss. A joint surveillance team brought together officials from the West Java government, military, and police institutions to assist the SFC. The SFC's close cooperation with the military enabled the SFC to convincingly categorize the SPP organized land occupations as "forest security disturbances" (*gangguan keamanan hutan*). This categorization gave the SFC access to the security apparatus of the state to launch the Forest Security Operation to evict land occupiers and dismantle the SPP. The deployment of "illegal logging," "illegal occupation," and "forest security" rhetoric was also able to garner environmentalist support for the SFC campaign.

The following sections of the chapter present detailed evidence on how the restructured SFC regained power and reestablished legitimate (state-authorized) control over occupied forestland through the deployment of rhetoric and violence. The 2008 Forest Security Operation was not only directed against the SPP and its land occupations, but against land reformers in general. Working through the mechanics and details of this operation, this chapter also shows that the SFC had its own reasons for resisting the larger agenda of allowing forestlands under their control to be targeted by government land reform programs like the one promoted by the SPP, but that the rhetoric of violence and upheaval ultimately were strategized not only to affect SPP but also the entire national land reform movements.

6.2. Mutual Relation between SPP and NLA in advancing *Reforma Agraria*

The SPP was formally established in January 2000, almost two years after the end of the Suharto regime. Its existence as the largest agrarian movement organization in West Java²¹⁹ was anchored by land occupiers, local peasant leaders, and urban based activists. The SPP movements had been particularly successful in mobilizing and organizing peasants to cut forest and plantation trees, occupy land, plant new agroforestry crops, and to demand land reform vocally in mass protests. The SPP members had gained territory through its land occupations as well as achieving political recognition from Garut, Tasikmalaya and Ciamis district governments, and the National Land Agency.

In 2006, the SPP had fifty-eight chapters and organized sixty-four land cases across the three major West Java districts of Garut, Ciamis, and Tasikmalaya covering approximately 16,385.6 hectares with 20,021 households (*Serikat Petani Pasundan* 2006, Bachriadi 2010:294). Each chapter of the SPP had its own history of local land struggles

²¹⁹ For the broader trajectory of West Java agrarian activism since 1980s see Bachriadi (2010:115-153).

and each started with a land occupation demanding that the government carry out redistribution of the land controlled by private and state-owned plantations and, particularly, the State Forestry Corporation (SFC). SPP and other agrarian movement organizations formed linkages among local land struggles, and coordinated demands for land reform at district, provincial, and national levels that allowed the SPP of West Java to gain political attention (SKEPO 2002, Lucas and Warren 2003, Afiff et al. 2005, Fauzi 2005a, 2005b, 2008, Aji 2005, Supriadi 2005, Bachriadi 2009, 2010:292-230).

From the start, the head of the National Land Agency, Joyo Winoto, unhesitatingly showed his closeness and support for Agustiana and the SPP, including his attending SPP's fifth anniversary celebration in 2006. The anniversary was held in an open soccer field in Maloya, a village where SPP has a strong base in Ciamis District. In front of a thousand SPP members and some local government officials, Winoto, who was accompanied by his deputy and other NLA officials, gave a speech on the need for *Reforma Agraria* as a national agenda to pursue social welfare, social justice, harmony, and stability. In the midst of his speech, he rhetorically asked the audience whether he would be allowed to join SPP as a member, and of course the audience enthusiastically responded positively with loud affirmative answer. A local SPP leader told me that SPP felt empowered by Winoto's attendance and his speech in their support.

“He is the highest government official that ever came to the SPP. Our belief and struggle for land got an official recognition. Local government officials were surprised that the NLA top leader responded to our land occupation and our demands for land reform. This opened a possibility to make a new synergy [with government].”²²⁰ (Interview on 10/10/2008).

For Winoto the SPP was the most organized and active grassroots agrarian organization whose demands and actions resonated with his agenda to launch *Reforma Agraria*. Winoto needed the SPP to continue its presence, including to justify that NLA efforts to program *Reforma Agraria* have been resonated with what agrarian movement demanded (interview with Winoto on 11/07/2007).

This maneuver and Winoto's subsequent supports were attempt conducted by the highest official of a national government institution to legitimize the existence of the SPP and its role in campaigning for land reform policy. In a meeting to evaluate relationship between NLA and agrarian movements organizations, Agustiana, the top leader of the SPP, mentioned that “(W)e need him to [advance] our movement. [Because of that reason, some activist leaders] ... have been taking a risk and responsibility to participate within the NLA [land reform programming], and then to make our movements more influential [toward the NLA]. The SPP frequently sent thousands of SPP members to various NLA organized events because ... we wanted to show them that people movements desperately need land reform”²²¹ (Minutes of the Meeting on 08/08/2009).

²²⁰ Beliau adalah pejabat pemerintah tertinggi yang pernah datang ke SPP. Keyakinan dan perjuangan tanah kita terasa mendapat pengakuan resmi. Pemerintah daerah kaget pejabat tertinggi pertanahan menghargai perjuangan tanah dan tuntutan land reform. Ini pintu pembuka kemungkinan kerjasama saling menguatkan.

²²¹ Kita membutuhkan dia untuk (memajukan) gerakan kita. (Karena itu, beberapa pimpinan aktivis) mengambil resiko dan tanggungjawab untuk masuk ke dalam BPN, dan ternyata mampu membuat gerakan kita lebih berpengaruh (terhadap BPN). SPP sering sekali mengirim ribuan anggota ke acara-acara BPN,

Early on, the SPP had campaigned to delegitimize the SFC's control over lands that were occupied by SPP members. The success of Sagara case in Southern Garut district, West Java, accelerated SPP efforts to fight against the SFC, including through land occupations. The case was the first and only successful local land struggle in West Java upland against the State Forest Corporation (SFC). They succeeded in contesting the SFC claims over 1,100 hectares of land. The success of their struggle was not only because of the efficacy of the land occupation, but also because of a role played by Soedjarwo Soemihardjo, the Deputy Head of the NLA who coordinated a team to settle the Sagara land dispute case composed of the NLA and the MoF officers. After doing ground checking and paperwork, the team was able to convince the Minister of Forestry to exclude the land from forest zone. The Minister agreed, and released an official decision. Through the decision number 35-VI-1997, the head of NLA treated the land as "state-land" and released a decision to redistribute the "state-land" to 776 households (Lukmanurdin 2002).²²²

According to the SPP data base in 2006, more than sixty percent of SPP-organized land occupations, 10,215.7 hectares out of 16,385.6 hectares, were lands previously under control of the SFC (*Serikat Petani Pasundan* 2006 cited in Bachriadi 2010:294). SPP claimed that the SFC abused its power to grab peoples' lands, and include it in the category of "state forest zone" under their control since West Java forest territory was transferred from West Java province to the SFC in 1978. Using testimonies from villagers and mass protests, the SPP has demanded the Ministry of Forestry exclude the occupied lands from what they called the "SFC's illegitimate claim".

But, the 2008 Forest Security Operation changed the direction and momentum of the SPP.

6.3. Reformasi's impact on the State Forestry Corporation

From the fall of Suharto in 1998 until 2005, the SFC was not able to respond effectively to the land occupations or peasant demands for permanent redistribution of forestland for a number of reasons.

First, the changes brought by the end of Suharto's New Order changed the SFC's legal status from a parastatal (and state-subsidized) company to a private corporation. Without state subsidies, the corporation was essentially bankrupt. The legal status of the SFC was

bukan apa-apa kecuali untk menunjukkan diri gerakan-gerakan rakyat sungguh membutuhkan pembaruan agraria.

²²² The high official of NLA who helped this case proudly told me that the Sagara case was one of unforgettable events within his service as civil servant (Interview with Soedjarwo Soeromihardjo on 11/13/2007). In his autobiography that was published after my interview with him, he wrote:

"On 2006, some years after the case was resolved, I met and made conversation with Agustiana, General Secretary of SPP who share a story on 1,100 hectares of land that located in four villages (Sagara, Karya Mukti, Maroko dan Simpang in Cibalong, Garut.district) and became paddy fields (*sawah*) and rubber garden. The rubber that they produced able to be one of finalists in a competition in provincial level. Then it was dubbed as "the exemplary people rubber". They were able to build a 12 km village road. Their income exponentially increased 300% (1992 to 1995). They started with 12 brick-houses, and now they have 1,694 brick-houses (Soeromihardjo, 2007:125).

subsequently returned to its original status as *perum* (public corporation) through Government Regulation (PP) no. 30/2003. Under this status, the SFC operations were coordinated under the Ministry of State-Owned Enterprises (BUMN) with technical assistance from the Ministry of Forestry.

Second, there was a rising demand for decentralization of all government services and oversight which included not only devolution to a local level but transferring the control over forestland from the SFC to the district governments. Decentralization directly threatened the SFCs existence.²²³

Third, the legitimacy of the SFC was also challenged by environmental and human rights NGOs charging the SFC with human right violations and forest degradation. According to the data collected by Volunteers Alliance for Saving the Nature (AruPA), an environmental NGO based in Yogyakarta, there were 24 people shot or tortured to death by *Perum Perhutani* between the years of 1998 and 2005. There were at least two torture cases in 2006, and all together 47 torture cases between the years of 1998 and –2006 (cited in Lounela n.d.: 8-9). The documentation of these cases is striking evidence of the increasing desperation of the SFC to hold onto power. Meanwhile, the land continued to be severely degraded under SFC management. In 2003 more than 23% of SFC forestland, or roughly 568,500 hectares, was deforested-land, according to official statistics of the SFC (cited in Handhadari 2006a:7).

Fourth, the SFC was rife with high-level corruption leading to leadership crises and drastic shifting of political alliances as the power of decentralized local governments grew. In March 2005, the Indonesian Corruption Eradication Commission accused the president director of the SFC in a corruption case in which some 34 billion rupiahs (approximately 3.6 million USD) were misappropriated. At the end of June 2005, more than 500 SFC employees went on strike to demand the Minister of State-Owned Enterprises fire the SFC's president director and take action to clean up the widespread corruption in the SFC.²²⁴

Last but not least, the SFC was besieged by massive rates of illegal logging from state forests and financial bankruptcy within its administration. Some 2,440,442 trees in 1998, and 3,179,973 trees in 1999 – mostly teak trees – were cut illegally and stolen from within the 2.4 million hectares of forest land controlled by the SFC (*Perum Perhutani* 2000). An official statistic cited by the new president director of the SFC shows number of stolen trees in 2001, 2002, 2003, 2004, and 2005 respectively 2,675,161; 1,539,334; 499,691; 332,845; and 510,720 (Handhadari 2006b:19). According to new research by a group of forest scholars from Bogor Agricultural University (Forci 2010, Sudarmo 2010) the SFC financial crisis has never been resolved. The SFC got most of its revenue from teak forest operations. It was calculated that the contribution of teak trees to SFC was approximately 52% of its total income (2003-2007). But the standing stock of teak trees during this ten year period (1998-2007) showed a decline: 36.2 million m³ (1988), 27.5 million m³ (2003), and 18.9 million m³ (2007). The SFC appears to have solved its financial crisis, but what actually happened was that the SFC sold off its teak stocks, which had implications for the future financial stability of the corporation.

²²³ The famous case for the decentralization of forest management, which is well documented by scholars, is the Wonosobo case in Central Java (e.g. Bachriadi and Lucas 2002, Arupa et al. 2004, Nomura 2008).

²²⁴ See *Media Indonesia* 07/05/2005 “Menelusuri Dugaan Korupsi di Perhutani (Bagian 1), and *Media Indonesia* 07/06/2005 “Menelusuri Dugaan Korupsi di Perhutani (Bagian 2).

From 2005, the SFC began a process of restructuring its organization, including most importantly the assignment of new directors from outside of the SFC. The restructuring and increased scrutiny from outside of the SFC resulted in the re-emergence of a new strategy within the SFC for combatting its financial and ecological predicaments by struggling against the peasant land occupations while promoting its own form of social forestry to reassert its legitimacy over the forestland that had been occupied.

Social forestry in Java has its own trajectory since the 1970s, rooted in prolonged tensions between the SFC and rural people over tenurial control of and access to forest lands and resources. Previous social forestry schemes ranged from introducing technical innovations to allow villagers to access forest-land for farming through temporary inter-cropping into more organized forms such as joint-forest management by which forest-user groups get use-rights from the Ministry of Forestry to manage a particular area of forest-lands at a particular period (For fuller accounts on the history of social forestry programs in Java see: Barber 1989, Peluso and Poffenberger 1989, Peluso 1992, Sunderlind 1993, Bratamihardja et al. 1995, Lindayati 2000, 2003, and Awang 2004).

Through the SFC-sponsored community forest program, named “Managing the Forest with the Community” (PHBM), the rural poor are given access to part of the forestland but only under the particular terms and conditions established and controlled fully by the SFC. Under the PHBM, landless villagers are organized into forest-user groups. According to SFC manual, the forest user group should be set up through a series of local workshops that should be attended by the SFC officers and “forest stakeholders” and facilitated by an SFC consultant (the SFC Decision No. 136/2001 and No 001/2002, see also Awang et al 2007). Together with other “forest stakeholders” (village government, village council, and local elders), the forest user groups form Forest Village Community Institutions (LMDH). Each LMDH has statutes and by-laws and a forest management plan, and a collective agreement to implement the PHBM in which benefit sharing is an essential incentive for collaboration. Then LMDH makes a legal contract with the SFC about rights and obligations, restrictions and sharing of benefits, and specifies a particular forestland area that forest user groups will manage cooperatively.

The PHBM was issued in 2001/2002 partly in response to land conflicts, decreasing rural livelihoods and the massive illegal logging occurring during a period of regime transition (1998-1999) as noted above. In addition to this formal aim, the PHBM was implemented to avoid a repeat of the 1998 lootings, and reduce ongoing timber theft, while improving their image as a socially responsible company. After five year implementation, Director of the SFC reported that until August 2006 the PHBMs covered more than 50% of all forest villages in Java, some 2,902 out of 5,552 forest villages²²⁵ (*Perhutani* 2006:11).

In land dispute areas in contemporary Java, the SFC implemented the PHBM creating parallel alternatives to the land redistribution demands of agrarian movements. In this context the implementation the PHBM can be seen as a part of the State Forestry Corporation counter-reforms. When state institutions are landholders and the land under their jurisdictions is slated to be the object of a land reform program, their systematic

²²⁵ SFC also reported that 2,550.4 million rupiahs (equals to US \$ 260,277.74) of facilitation funds were granted in four years (2002-2005); 12,842,381,155.00 rupiahs (equals to approximately US \$ 1,311,116) of revenue was distributed to villagers in three years (2002-2005); and staple foods (rice, corn, beans, etc.) are produced equal to US \$ 130,163.86 in five years (2001-2005) (*Perum Perhutani* 2006:12-16).

responses to prevent or block land reform programming, need to be seen as “counter-reform”, which refers to “bundles of policies, practices, traditions, or trends which individually or in the aggregate are designed or happen to undo whatever land reforms have taken place, or make it impossible, by design or otherwise, for a land reform to be carried out” (1970:173).

6.4. Prefiguring the Forest Security Operation

The campaign to re-establish SFC control over the occupied forest lands and adjacent villagers was preceded by a joint surveillance for forest security control that was conducted on 25-26 March 2008 by a team under the auspices of the West Java Forest Office.²²⁶ Cigugur forest was one of the areas the team visited. The SFC provided the team with a detailed map that indicated “Forest security disturbances.” The team reported that approximately 290 hectares of forestland were occupied by nearly 1,600 villagers from four villages within Cigugur sub-district.²²⁷ A detailed report from Forest Unit # 89 stated that permanent crops such as cocoa, vegetables, herbs and wood species (*Albizia*), a small prayer room (*langgar*), nine houses, several monitoring posts, and an SPP office were located on the occupied lands. The report concluded,

... aside from accessing forestland for agricultural activities, occupiers also aim to control and own the forestland. This aim has been systematically pursued by a peasant organization with a broad network in southern West Java²²⁸ (*Tim Pelaksana Patroli Pengendalian Pengamanan Hutan Gabungan*. 2008:3).

Three months after this reconnaissance report, the West Java Police and the SFC implemented the forest security operation.

The operation formally involved the Ministry of Forestry (MoF) and the National Police Headquarters in a joint effort to combat illegal logging and illegal timber trade, the first of five prioritized policies of the MoF for 2005-2009. The main objectives of the operation, as formally stated, were to reestablish control of the state forestland by the SFC and to violently evict the people occupying the state forestlands. The operation also invoked the military terms, *Operasi Keamanan* (Security Operation), and *Daerah Rawan* (Dangerous Area) echoing repressive state policies from Suharto’s authoritarian era.

The commander of the operation, who was also Vice-Commander of Ciamis Police District, explained how the police were not able to handle the SPP in a conventional way.

²²⁶ The team was composed of officials from the District Military Office, West Java Police Office, West Java Civil Police Office, the National Land Agency – West Java Office, West Java Forest Office, and the SFC. The team was assigned based on the decision of West Java Governor No. 552.02/Kep.560-Binprod/2007 (*Surat Keputusan Gubernur Jawa Barat Nomor 552.02/Kep.560-Binprod/2007 tentang Tim Pengamanan dan Penanganan Gangguan Keamanan Hutan Negara dan Perkebunan Besar*).

²²⁷ All of them were in Forest Unit Numbers: 54a, 54b, 55a, 55b, 55c, 56a, 56b, 92d, 92b, 89b, 90b and 86d.

²²⁸ ... selain memanfaatkan kawasan hutan untuk dijadikan areal pertanian, juga bertujuan untuk menguasai dan memiliki kawasan hutan menjadi hak milik, keinginan masyarakat ini sudah terkordinir dalam suatu wadah organisasi/serikat yang mempunyai jaringan luas di Priangan Selatan.

One day we sent a troop of police with a truck to collect some wood as evidence [of the SPP crime]. They [SPP organized villagers] stopped us, sounding the alarm with *kentongan* [a drum made from bamboo], and then in some minutes hundreds of villagers surrounded the truck and us. [We were in a dilemma]. If the police persisted and used our weapons, we would have had a human rights case. If not, we would have been disabled. Thus, the police decided to abort the mission and return to the office. ...

They [SPP organized villagers] are so aggressive. One day they destroyed the local SFC office. We arrested some of them here [in Cigugur Police Office]. Then they terrorized us with so many motorbikes back-and-forth passing through our office. So, in order to prevent them coming to our office, we sent them [the arrested SPP member] to the Police District Office in Ciamis city²²⁹ (Interview on 07/24/2008).

To justify the forest security operation, the commander framed SPP's actions as criminal:

They [SPP organized villagers] cut trees, put logs in trucks and sold them [on the black market]. They divided the plots, made boundaries, and started to cultivate the plots and build houses. They also built security posts, and conducted surveillance of anyone who passed the posts. One day they stopped forest guards and an undercover police officer who were monitoring the areas, and they interrogated the forest guard and our officer (*Polisi Pembina*): "where are you coming from, and for what purpose are you monitoring the area? etc." They scrutinized their identity cards, and then the forest guards and the police officer were taken hostage. ...

Land occupiers had taken over the area and set up their own law, which is in contradiction with the national laws²³⁰ (Interview on 07/24/2008).

Labeling the SPP as "illegal loggers," "illegal occupiers," "subversive," and "anti-state" – which are diagnostic categories of organized crime – was a crucial step of prefiguring state repression. It does not prove that the labeled subject's actions were committed as

²²⁹ *Satu hari kami kirim satu grup polisi dengan truk untuk mengumpulkan BB [Barang Bukti]. Mereka [orang-orang desa yang diorganisir SPP] menghadang, membunyikan kentongan, dan dalam hitungan menit ratusan penduduk mengelilingi truk dan anggota kami. Kalau anggota kami menggunakan senjata, kami kena HAM (Hak Asasi Manusia). Kalau tidak bergerak, kami tidak berdaya. Jadi, kami memutuskan membatalkannya dan kembali ke kantor ... Mereka [orang-orang desa yang diorganisir SPP] sangat agresif. Satu hari mereka merusak kantor Perhutani disini. Kami menahan beberapa pelaku. Tapi, apa yang kami dapatkan, mereka meneror dengan begitu banyak motor bulak-balik didepan kantor kita dengan suara kenalpot dikeras-keraskan. Makanya, untuk mencegah mereka masuk ke kantor, kami kirim mereka ke Polres Ciamis.*

²³⁰ *Mereka tebang pohon, masukkan kau ke truk dan menjualnya. Mereka membagi tanah, membuat batas, dan mulai menggarapnya dan bangu rumah. Mereka juag membangun posko-posko dan patroli dan memeriksa siapa saja yang lewat posko itu. Satu hari mereka menyetop beberapa polhut dan seorang polisi preman yang sedang memantau wilayah, dan mereka menginterogasi polhut dan Polisi Pembina kita. 'Dari mana kamu, dan apa tujuanmu memeriksa wilayah ini.' Dan macam-macam. Mereka menggeledah kartu pengenalan, lalu polhut dan anggota kami disandera. ... Para perambah hutan itu menguasai wilayah itu dan membuat hukum sendiri yang bertentangan dengan hukum-hukum nasional kita.*

part of organized crime, but establishes an association between these activities and organized crime.

6.5. The Operation in Action

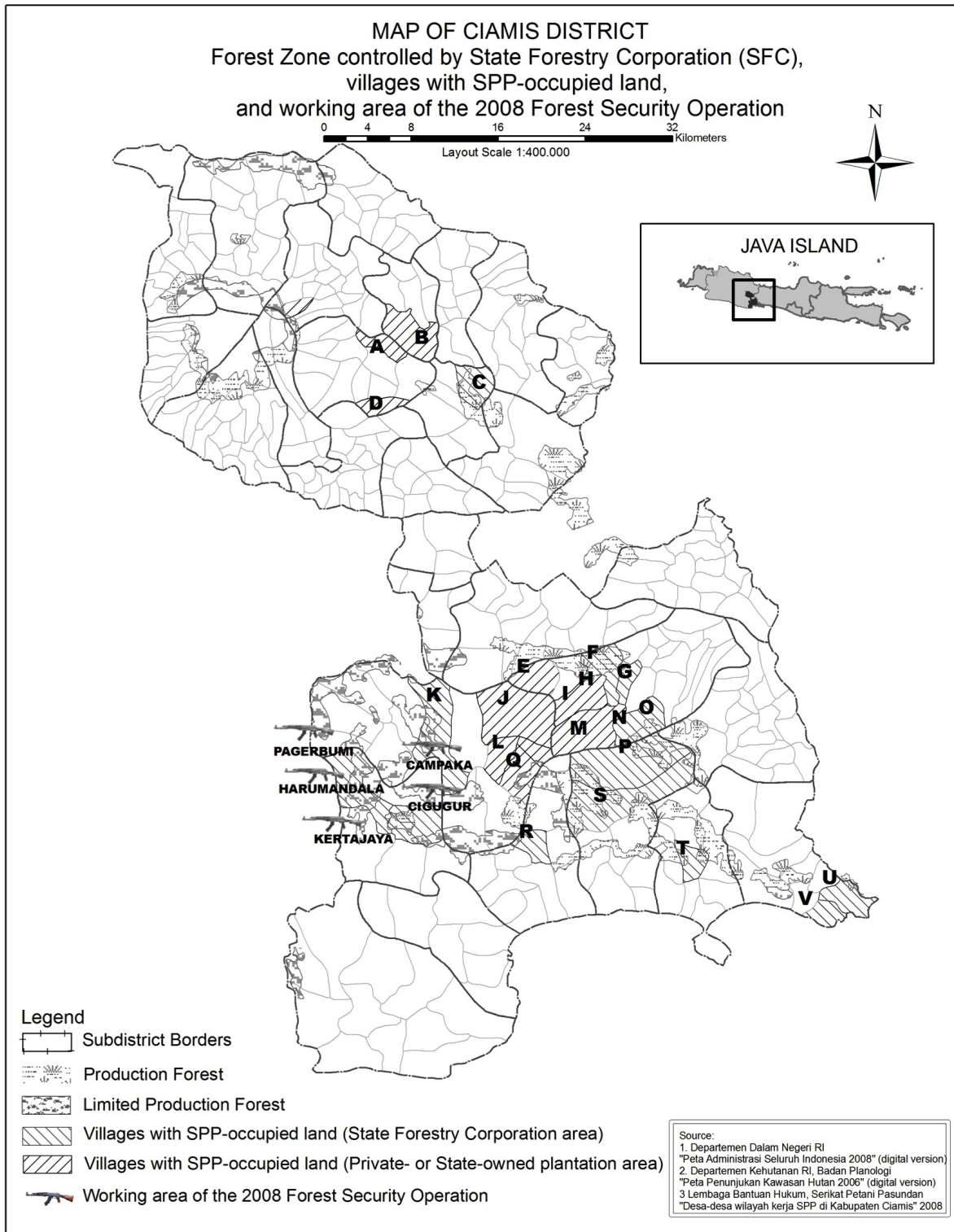
The operation started on 13 June 2008 and covered five villages, all located in the Cigugur sub-district, Ciamis District, West Java (see figure 6.1).²³¹ The West Java Police based in Bandung had sent three companies (300 police officers) including intelligence and criminal units, as well as fully armed mobile brigade units to combat illegal logging and apprehend illegal loggers. The distance from Bandung to Cigugur is around 300 km, but because of the poor condition of the road through this hilly region, the last 30 kilometers take about two-hours by car to reach the Cigugur field, an ex-soccer field where the police set up their base-camp.

The police believed that 300 hectares of the SFC's protection and production forest had been illegally cut and occupied by "an organized group that acts on behalf of a farmer organization"²³² (*Pikiran Rakyat*, 06/02/2008, "300 Polisi Dikirim Perangi Pembalakan"). They identified the main actors involved in the illegal logging, including those who ran the organization. The police were supported by the SFC forest guards and government officials. They were deployed to posts and target points, and regularly scrutinized the target areas to capture people and demobilize the occupants. The police also used a helicopter to monitor activities and to conduct surveillance. They worked closely with village government to acquire accurate information. The SFC accused SPP of conducting illegal logging from 2006 to present and calculated that this amounted to approximately 1,975 cubic meters of teak in one section of Cigugur forest, equivalent to 2.9 billion rupiah (approximately US \$311,000) (*Pikiran Rakyat* 06/02/2008 "300 Polisi Dikirim Perangi Pembalakan"; see also *Galamedia* 06/16/2008 "Polda Jabar Kirim Timsus untuk Pembalakan Liar Hutan Cigugur", *Pikiran Rakyat* 06/17/2008 "Polres Kirim Pasukan ke Cigugur").

²³¹ I do not use pseudonyms for person and places that were mentioned in local newspapers.

²³² *sekelompok orang yang mengatasnamakan kelompok petani*

Figure 6.1.
Map of Ciamis district with Forest Zone controlled by State Forestry Corporation, villages with SPP-occupied land, and working are of the 2008 Forest Security Operation



A top leader of the SPP, Agustiana, received many reports and questions from local leaders in the Cigugur areas. He knew that these accusations were dangerous for the SPP. His main strategy was to delink the illegal logging from the SPP land occupation, and to demonstrate that some SFC and police officers played a major role in the illegal logging. According to him, what occurred in Cigugur forest was part of a mutual relationship between “a network of wood thieves, wood dealers, and wood processing factories’ and the local SPP²³³” (Interview with Agustiana on 08/07/2008).

I need to explain the relationship of local SPP leaders with the wood thieves. The local SPP leaders were implicated in the accusations primarily because they mobilized SPP members to occupy the land for farming after the thieves cleared the forest. A local SPP leader told me he made a truce with the wood thieves in order to prevent a clash between the SPP and them (Interview with local SPP leaders on 07/20/2008, 08/09/2008). The local wood thieves were known as thugs (*preman*) who frequently used violent means. There is a story about how the thugs incorrectly accused and then tortured a villager for allegedly reporting their illegal activity (Interview with an SPP member on 07/07/2008). I met the tortured victim, and he confirmed the story (Interview with an SPP member on 06/03/2009). Some SPP members were paid to bring logs from the forest to trucks. The local expression for this kind of work is *koreh-koreh cok* (Sundanese), meaning to join them in order to make money.

The police declared that the top leader of the SPP, Agustiana, was the mastermind of the illegal land occupation. They wanted to charge him with a crime based on article 55 of Criminal Law and Article 50, point 3a and b Forestry Law No. 41/1999 which involves giving an order to cultivate or occupy forestland without permission. But the police did not have enough evidence to pursue the case (interview with Agustiana’s lawyer on 24 June 2008). The police also announced that they had caught a person who they claimed was the *panglima lapangan*, (field commander), of illegal logging. Police revealed his name, i.e. Dulloh, and his alleged crime.²³⁴

He sold illegal logs that were worth 50 million rupiah (US \$ 5,000) per truck. And the forest has been converted to a farm plot. This is an illegal occupation, because the land is owned by the state²³⁵ (cited in *Tribun Jabar* 06/19/2008 “*Agustiana Jadi Buronan Polda*”).

Dulloh was employed by the SFC Tasikmalaya Forest District Unit as a field supervisor for replanting projects in 2000-2003. In 2003, he resigned from this position because his step-father was sentenced to jail for one year after the SFC accused him of inciting ten villagers to occupy and cultivate plots within SFC’s forest area. Four more villagers were sentenced to serve three to nine months for illegal land occupation. Then Dulloh took revenge by joining the SPP after he was introduced to Agustiana. In 2005, he led a SPP local chapter and by the beginning of 2006 he was organizing villagers to

²³³ *jaringan pencuri-pencuri kayu, calo-calo kayu, dan perusahaan-perusahaan pengolahan kayu.*

²³⁴ The police accusation that he had been the field commander of illegal logging in Cigugur forest was false. It was proved later in court that the police lied.

²³⁵ *Hasil tebangannya dijual dengan harga Rp. 50 juta per truk. Lalu lokasi hutan yang ditebang dijadikan lahan pertanian. Itu penyerobotan karena lahan itu milik negara.*

occupy land. Based on his experience working within the SFC, he was able to show how local SFC officials abused villagers, including by collecting illegal rent, and to strategize how to fight against this misconduct (Interview with Dulloh on 06/11/2009).

In the Cigugur forest, the police evicted the peasant farmer occupiers from their houses and farms. These people returned to their places of origin, which was an hour and a half walk from the occupied lands. The police also raided Harumandala, Pagarbumi, Kertajaya villages. They confiscated any wood they found within the houses as well as surrounding areas; including wood they found in fishponds.²³⁶

A week after the operation started, the West Java Police Commander, Director of the SFC, the West Java Governor, the Head of Provincial Attorney General's Office, and the Vice Commander of Regional Military Command, visited the area. They arrived in a helicopter from the governor's office in Bandung, and spent an hour or so at a former soccer field where police tents were erected and confiscated wood was gathered. On that occasion, the West Java Police Commander announced that the operation had deployed 650 personnel composed of the mobile brigade, intelligence, crime units, and forest guards from the SFC. He also said the police would not compromise with the illegal loggers and the land occupiers. He said:

(D)ay by day the illegal loggers were getting braver. Their occupied land was also getting larger. Because of that they should be specially punished. Why we do equip the police with guns? If they get resistance from illegal loggers, should the police let themselves be slaughtered? We have to treat and punish them in our way ... Shoot them if they resist!²³⁷ (Cited in *Seputar Indonesia* 06/20/2008 "Tembak di tempat Penjarah Hutan").

The same day, the field commander of the operation claimed that their troops cleared 600 hectares of occupied forestland out of a total 2,600 hectares of teak forest, demolished surveillance posts made by illegal loggers, and confiscated one hundred and thirty cubic meters or thirty-six trucks of illegal wood in various forms.

6.6. Escalating the Conflict: Bringing Allies In

SPP invited the Indonesian Human Rights Commission (*Komnas HAM*)²³⁸ to intervene. The SPP leaders made a report to the Commission that the operation had intimidated their members in targeted areas, destroyed houses, and stole property. The following day, the commissioner visited the local SPP in the Cigugur area, spoke with evicted villagers, and reported his observations. His visit put pressure on the police, and

²³⁶ It is common practice for upland villagers to submerge wood under water in a fishpond in order to kill any insects within the wood, and to make the wood tougher.

²³⁷ *Saat ini para pelaku pembalakan liar di Jabar semakin berani. Wilayah garapannya pun tambah luas. Karena itu perlu perlakuan dan tindakan khusus terhadap mereka. "Buat apa petugas diberi perlengkapan senjata. Kalau ada perlawanan dari para pelaku pembalakan liar, masa polisi harus menyerahkan leher pada mereka. Harus ada cara sendiri ... Kalau melawan tembak di tempat!"*

²³⁸ The Indonesian Human Rights Commission (Komnas HAM) was initially established by Decree of the President of the Republic of Indonesia No 50/1993. Then the Indonesian parliament re-established its legal foundation through Law No. 39 of 1999 Concerning Human Rights. The Commission has a formal mandate to protect and promote human rights, including to monitor and investigate human right violation cases.

provided moral courage to the evicted villagers.²³⁹ The commissioner then wrote a letter to the West Java Police commander complaining that villagers were being intimidated and threatened and that some of their property had been destroyed, stolen or confiscated. He also informed the mass media of these and other human rights violations due to the operation. But the police spokesperson responded that the purpose of:

our operation [was] to repress land occupiers and forest destroyers. We are not against villagers. If the villagers do not join them, why should they worry and feel threatened? For those who committed crimes, they have a good reason to be worried, threatened and bothered²⁴⁰ (Cited in *Pikiran Rakyat* 06/03/2008 Polda Jabar Diduga Langgar HAM).

By inviting the Human Right Commission the SPP leaders put pressure on the police officers and the SFC officials, and also demonstrated to evicted villagers that a national state institution supported their position. Then, this maneuver directly provoked SPP's opponents to take counter-action. The SFC conducted a counter-strike against the Human Rights Commission intervention through the role of an environmental NGO, namely the Environmental Salvation Forum (FPLH). After a two-day field visit, the FPLH claimed there were no human rights violations and published their findings. Instead, "(b)eing threatened in the beginning is very tolerable and human. But after only two days, locals started to support the operation. They give thanks to the operations"²⁴¹ (Cited in *Pikiran Rakyat* 06/23/2008 Komnas HAM Temukan Pelanggaran). In their investigation report, they also alleged:

SPP activities are negative to local people because of, among others,

- 1) the declining hydrological function of the forest,
- 2) land erosion that causes landslide/natural disaster,
- 3) land use conversion from forest to agricultural plots,
- 4) local disturbance because of new incoming migrants who cultivate the occupied lands, and
- 5) physical and cultural conflicts among villagers, and between villagers and migrants²⁴² (Forum Penyelamat Lingkungan Hidup 2008:5).

²³⁹ A women shared a story with me about police officers who came to her house, which they had previously destroyed, to clean up the mess in order to prevent the human rights commissioner from finding evidence of police misconduct. Two weeks after the commissioner visited them all houses in the occupied land were burned to the ground by unidentified person (Interview with an villager on 03 June 2009).

²⁴⁰ *Keberadaan kita disana untuk memberantas perambah hutan yang telah merusak hutan-hutan di Jabar. Bukan untuk menakut-nakuti warga. Kalau masyarakat tidak terlibat dalam pembalakan liar, kenapa harus resah dan takut. Kecuali kalau memenag ada bebrapa di antara mereka yang terlibat, ya wajar saja kalau resah, takut dan terganggu.*

²⁴¹ *Soal pada awalnya adanya ketakutan itu masih dalam batas sangat wajar dan manusiawi. Namun hanya berlangsung dua hari, selanjutnya masyarakat justru mendukung operasi. Mereka juga menyatakan terima kasih dengan operasi tersebut.*

²⁴² *Hasil investigas lapangan FPLH di lokasi Perhutani di kab Ciamis ternyata kegiatan SPP merugikan masyarakat setempat antara lain:*

1. Rusaknya Fungsi Hidrologis kawasan hutan
2. Erosi Lahan mengakibatkan longsor/bencana alam
3. Alih Fungsi Lahan dari hutan menjadi kebun

The FPLH was an environmental watchdog NGO – not an environmental justice one – that actively made comments in local newspapers on environmental aspects of provincial government projects. Thio Setowekti, the chairperson of FPLH, had a broad network with local journalists. The FPLH welcomed the SFC, and acted as a consultant to approach and facilitate villagers to join the government social forestry project (PHBM). The Director of the SFC welcomed the involvement of FPLH in preparing a design for a social forestry project in Cigugur forest (Rosalina 2008:1). In the 2008 operation, the FPLH leaders fully supported the police and negatively campaigned against the SPP. Using their position as the SFC consultant, the FPLH mobilized hundreds of villagers from the forest-user groups to gather in front of the West Java Police office to make statements that they supported the West Java Police to continue the 2008 forest security operation against the SPP’s illegal logging and land occupation. They claimed that the SPP enticed rural poor with the promise of fertile agricultural lands and then led them to destroy the forest ecosystem. The FPLH claimed the SPP was evidently against the laws of the Republic of Indonesia, and demanded the SPP should be banned (Cited in *Tribun Jabar* 06/27/2008 Ratusan Massa Tuntut Bubarkan SPP).

The FPLH was not the only NGO involved in confronting the SPP. Another environmental NGO, the Council to Protect West Java Forest and Environment (DPKLTS), attempted to discredit the SPP and claim that victimization of villagers by the police operations was false. The FPLH and the DPKLTS had no connection to one another except for their shared opposition to the SPP. DPKLTS was founded in 2001 by a group of scientists, artists, NGO activists, community and political leaders who defined their group as as an civil society institution that functions to be an environmental watchdog on forest management and governance in West Java. The DPKLTS developed its own story line that was relatively independent from, and sometime also confrontative against, the SFC.

They perceived the SPP and its land occupations as forest destroyers and against their mission to protect West Java forest. Under the motto “No Forest, No Water, No Future” (Sundanese: *Leuweng Ruksak, Cai Beak, Manusa Balangsak*), they provided an account of West Java social and ecological conditions, utilizing the power of digital maps, statistical charts, birds-eye and localized narratives, and so on. They successfully dramatized the possibility of ecological disaster in West Java, suggesting that these “potential” disasters could emerge from the decline of environmental services from upland forests. They also employed *Sundanese* identity to consolidate constituency, strengthen their position, and reach a particular audience. They declared in Sundanese

(W)e will keep on fighting, not to defeat (you), but to reach our destination. But forgive us, if someone is beaten, and gets hurt, or is flooded and sunk, because they intentionally were hindering our ways²⁴³ (Sudrajat 2004:back-cover).

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4. *Keresahan masyarakat dengan masuknya pendatang sebagai buruh penggarap lahan jarahan*
 5. *Konflik Horizontal (antara sesama warga setempat maupun pendatang) baik secara fisik maupun budaya.*

²⁴³ *Kami moal ngelehan, kami moal ngelehkeun, tapi pasti nepi ka tujuan. Ngan hampura, bisi aya nu kalabrak, kaseder kabawa palid, kabanjiran jeung kakeueum, da bongon ngalangan jeung aya dina jajalaneun kami”. Dewan Pemerhati Kehutanan dan Likungan Tatar Sunda.*

The top leader of the DPKLTS, who was also governor of West Java province and a military general, wrote a letter to the police commander stating that he fully respected and praised the West Java Police commander who followed-up a recommendation that was produced from a meeting between the Police commander and DPKLS leaders²⁴⁴ on 10 June 2008. He also reported that DPKLTS had been ready to coordinate with the West Java Plantation and Forestry Office to follow up the evictions with what they called a “recovery plan” to help villagers improve their livelihood without occupying and changing the forestland (Solihin G.P. 2008 in a DPKLTS letter to West Java police commander).

6.7. The Outcome of the Operation: Demobilizing Local SPP

The operation, which lasted ten days, ended in Cigugur on 24 June 2008. To mark the end of the operation, the acting director of the SFC held a press conference in her office. She claimed the following list of SPP transgressions.

- (S)ome events that were conducted by members of the SPP among others are:
- Nov 16, 2007. A SFC field officer from Cigugur Forest Unit and three field supervisors, and Sergeant Sumardi from Cigugur Sub-District Police Office were taken hostage and tortured by a group of land occupier on behalf of the SPP.
 - April 1, 2008. A military officer destroyed and shot an officer of the SFC Cijulang Unit, when the SFC officer captured a truck of illegal logs taken from Cigugur Forest (*Petak 83*).²⁴⁵
 - April 23, 2008. About 45 persons with motorcycles attacked and destroyed an official house of the Head of SFC’s Cigugur Unit.
 - April 2008, 15.20 hectares of Cigugur Forest (*Petak 83*) were occupied, which was targeted to be cut in 2008 for 2,093 cubic meters.

Sporadic and uncontrolled forest cuttings in other forest areas, such as *Petak 99a* and *100c*, were conducted by hundreds of illegal loggers on behalf of the SPP²⁴⁶ (Rosalina 2008:1).

²⁴⁴ He dubbed himself and other DPKLTS advisors as “West Java Elders” (*sesepuh Jawa Barat*), claiming a position as wise elders of Sundanese people.

²⁴⁵ I have no idea how the acting director of the SFC listed this as a part of the SPP transgression list. I see it as an excessive way of scapegoating the SPP for any illegal logging related activities in Cigugur forest area.

²⁴⁶ *Beberapa kejadian yang dilakukan oleh mereka yang tergabung dalam Serikat Petani Pasundan antara lain:*

- *16 November 2007, terjadi penganiayaan dan penyanderaan yang dilakukan oleh kelompok penjarah yang mengatasnamakan Serikat Petani Pasundan (SPP) terhadap Petugas Perhutani KRPH Cigugur dan 3 orang Mandor Polter beserta Briptu Sumardi, anggota Polsek Cigugur ketiak sedang melaksanakan patroli dan pengamanan barang bukti.*
- *1 April 2008, terjadi pengrusakan/penembakan kantor Asper/KBPH Cijulang oleh oknum TNI anggota Kodim Ciamis, sebagai dampak dari penangkapan truk yang mengangkut kayu illegal yang berasal dari lokasi penjarah hutan Petak 83, RPH Cigugur.*
- *23 April 2008, terjadi penyerangan dan perusakan rumah dinas KRPH Cigugur oleh ± 45 orang dengan menggunakan kendaraan roda dua.*

She claimed that before engaging in the repressive actions, the SFC attempted to approach SPP members with what she called “preemptive and persuasive steps”, including sending them official warning letters, but that the SPP members had never responded to those peaceful initiatives. She also dramatized the destructive potentiality of the SPP’s movement:

Illegal logging/land occupations done by the SPP groups, if we do not handle immediately and adequately through repressive operation, will expand to surrounding forest areas which have full-grown trees, and it is not impossible that all forest areas in Ciamis district would be completely destroyed²⁴⁷ (Rosalina 2008:1).

She then laid out the ways forestlands under the SFC jurisdiction should be excluded from land reform programs because it should be permanently kept as ‘forestlands’, which are not to be converted into agricultural lands.²⁴⁸

Her complaints were reiterated by the Minister of Forestry. The Minister spoke strongly against the idea of pursuing forestland as land reform-targeted area. At a meeting on forest fire control in upland West Java, the Minister said,

(F)orestlands could be owned by no one because those are State assets. We will firmly repress anyone who occupies the land illegally. ... What we should do is to improve our coordination with the National Land Agency so they will not be influenced by those who occupied the land. ... We have to prioritize the interest of the greatest number of people instead of particular groups that manipulate populist rhetoric and destroy the forest zones²⁴⁹ (Cited in *Pikiran Rakyat* 07/01/2008 “*BPN Jangan Sertifikasi Lahan Hutan*”).

On July 1, 2009, Agustiana, the SPP top leader, sent an official letter inviting the SFC to initiate cooperation with SPP. The goal was to recover the ecological functions of

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- April 2008, terjadi penjarahan seluas 15,20 ha Petak 83, RPH Cigugur, BKPH Cijulang yang merupakan petak rencana tebangan tahun 2008 dengan target produksi 2.093 M3.
 - Saat ini kegiatan pencurian kayu bahkan sudah tidak terkendali dan tersebar secara sporadic di beberapa petak, misalnya Petak 99a dan 100c yang dilakukan ratusan orang mengatasnamakan Serikat Petani Pasundan.

²⁴⁷ *Aktivitas penjarahan/perambahan yang dilakukan kelompok SPP kalau tidak segera ditangani sampai tuntas melalui operasi represif, maka penjarahan/perambahan dan penguasaan hutan akan semakin meluas ke lokasi di sekitarnya yang kondisi hutan/tegakannya sangat potensial dan tidak menutup kemungkinan seluruh kawasan hutan di KPH Ciamis akan dijarah/dirambah.*

²⁴⁸ In my interview two months before the operation, the acting director of SFC countered SPP’s argument that the SPP engaged in land occupation to pursue land reform. She insisted that the occupied lands were located in the forest zone under the SFC jurisdiction, which should be outside of the land reform-targeted area (Interview on 05/26/2008).

²⁴⁹ *Hutan tidak bisa dimiliki siapapun karena itu asset negara. Kami akan tegas memberantas siapapun yang akan mengokupasi lahan, apalagi dengan cara-cara illegal ... Yang kami lakukan adalah meningkatkan kordinasi dengan BPN agar tidak terpengaruh oleh pihak yang ingin mengokupasi lahan ... Kita harus lebih mementingkan orang banyak dari pada kepentingan kelompok-kelompok tertentu yang selalu memanipulasi bahasa-bahasa rakyat tetapi pada dasarnya ia melakukan pengrusakan kawasan-kawasan hutan.*

the forest and reduce costly conflict. The SPP needed to show to the Police Commander a willingness to cooperate. The letter mentioned that the SPP could develop a kind of joint forest management of 'the forestlands that were under disputed claims or under the SFC claim.' One week later, the SPP received an official answer. As Agustiana expected, the SFC 'did not fulfill SPP requests.' The SFC letter was five pages long, with carbon-copies sent to twenty parties, including the Minister of Forestry and NGOs which were against the SPP. The SFC letter explained that they did not agree with what the SPP called 'the forestlands that were under disputed claims or under the SFC claim,' warned the SPP about forest crime, and named SPP's actions as forest crime. The letter detailed SFC data from 1999 to 2003, within state forestland managed by the SFC-West Java, that some 44,014 hectares of forestlands were affected by illegal logging and occupation. That amount included 1,064.6 hectares in Ciamis Forest District, which did not include some 999.4 hectares of new illegal logging and occupation that had taken place from June 2006 to June 2008. The SFC letter stated that because of the new illegal logging and occupation, the SFC lost 74.750 cubic-meters of teak and mahogany, or 79.633 billion rupiah (around US \$ 7.963 million).

The SFC also used the operation to reinstall a form of social forestry program (PHBM), which, since 2001, they had had tremendous difficulties implementing. With the support of the police and some village governments, the SFC set up formal meetings for village leaders in order to convince them to join the program. They proposed the PHBM as an alternative to the SPP's land occupation. The meetings to convince villagers to join the PHBM were held in thirteen villages, within which the SPP had a strong influence, including the five villages in Cigugur sub-districts that were targeted by the operation. In the meetings The SPP was framed as the 'problem' and was accused, once again, of illegal logging and forest destruction, creating instability and undermining security issues. The minutes (see Table 6.1) indicated that the meetings heavily promoted the PHBM as a more favorable alternative to the land occupation. In order to participate in the PHBM, in fact, the villagers could have no connection with the SPP, and had to make a written statement that he/she was not a member, or he/she revoked her/his membership from the SPP.

SPP members from Pagarbumi and Kertaharja villages were surrendering. The police stated that:

(t)oday thirty six people have surrendered. Previously twenty-six people resigned [from the SPP], and some gave their membership cards to us... We accepted their surrender. Some of their membership cards were confiscated. We will re-train them working with the SFC.' (Cited in *Pikiran Rakyat* 08/11/2008 "36 Anggota SPP Menyerahkan Diri").

Most of them surrendered to the operation because of the intense pressure from the SFC, the police, or fellow villagers. They had no capacity to defend their positions and, as he said, they had to find a way to access the occupied lands for their food source, that is, their farms. It had been over a month since the operation had begun; hence their food supplies were dwindling. They signed a written statement on village letterhead and the village head also signed the statement. Accompanied by their village head people went to the police office and gave their statements and SPP membership cards to the

police. After the Police and SFC officers interrogated them, they were released. SFC officers allowed them to go to the forestland they had cultivated, and to join the PHBM (Group interview with some SPP members 07/24/ 2008). An SPP leader told me that the SPP fully understood and did not complain about what their member did. They employed surrender tactic to minimize the pressure from the police, the SFC, and fellow villagers, and also to let them access the forestland (Interview with an SPP leaders on 07/24/2008).

The day after they “surrendered” all houses, an SPP’s secretariat, and monitoring posts in the occupied lands were burned (*Pikiran Rakyat* 08/12/2008 “7 Rumah Dibakar”). A week later, the police conducted the ceremony during which they gave national flags to the ‘ex-SPP’ members.

6.8. After the Operation

Ten local SPP leaders and members were sentenced to between five to eighteen months in jail because of their involvement in ‘illegal logging’ related crimes as stipulated in the Forestry Law No. 41/1999 article 50 point 3.²⁵⁰ The operation did not reveal those who financially sponsored illegal logging activities and benefited from buying or selling illegal logs. The police did find evidence supporting SPP leaders’ reports that police officers and SFC officers were directly involved in the illegal logging network. The operation arrested a police sergeant and seven SFC field officers for their active involvement. The sergeant was even a member of a special task force to monitor/investigate special crimes, including illegal logging activities. He ran a small sawmill that processed the illegal teak and mahogany logs into door/window frames. The operation also confiscated four trucks of teak wood in various forms from this sawmill (*Tribun Jabar* 07/01/2008 *Seorang Oknum Polisi Diamankan*). After a full investigation by an internal commission, the police officer was dishonorably discharged as were the seven SFC field officers.

The effects of the operation fueled further confrontations. Two months after the operation ended, an SFC office near the Cigugur area was attacked by an ‘unidentified group of people’ (*Galamedia* 20 October 2008 Kantor BKPH Pangandaran Diserang Massa). The attack was a response to threats by an SFC officer and his hired thugs (*preman*) to another SPP chapter in Ciamis district. At the same time the operation was underway, the police caught an SPP district leader who originally came from this

²⁵⁰ ‘No one is allowed to:

1. cultivate and/or use and/or occupy illegally a forest area;
2. encroach on a forest area;
3. ... (does not relevant with illegal logging, *NFR*)
4. ... (does not relevant with illegal logging, *NFR*)
5. cut trees or harvest or collect any forest products within the forest area without holding any rights or license issued by authorized officials;
6. cut trees or harvest or collect any forest products within the forest area without holding any rights or license issued by authorized officials;
7. receive, buy or sell, receive as an exchange, receive as an entrusted goods, keep or possess any forest products which were allegedly harvested from a forest area through an illegal;
8. carry, possess or keep forest products without being accompanied by any legal document;
9. ...’ (does not relevant with illegal logging, *NFR*).

(The Forestry Law No. 41/1999, Article 50, point 3)

chapter, around 30 km from Cigugur area. The court had sentenced him to eighteen months because of his role in provoking and leading people to conduct illegal land occupation of over than 800 hectares of forestland previously under the control of the SFC. While in jail the SFC official sent a letter to the SPP chapter that they had two weeks to leave their forest lands that they had occupied for over ten years, and that they should demolish fifteen houses and a mosque that had been built. Additionally, a group of thugs threatened SPP members, forced them to leave the occupation area, and destroyed an SPP cooperative office.

One SPP leader was angry and responded to the intimidation by organizing SPP members and sympathizers to search for the thugs. The thugs claimed that an SFC officer was behind the intimidation. They warned the thugs not to get involved with the conflicts between the SFC and the SPP. More than a hundred angry people went to the SFC office to find the officer who was responsible for paying the thugs to intimidate the SPP. Soon after, they attacked the Pangandaran forest unit (KRPH) as mentioned above, and they could not find the officer (Interview with an SPP leader on 9 April 2009; *Pikiran Rakyat* 10/17/2008 “*Kantor BKPH Pangandaran Dirusak*”). In this way, the confrontation continued.

6.9. Concluding Remarks

I see the 2008 confrontation as a new form of a long struggle for control over forest land access and exclusion in Java (Peluso 1992, Lindayanti 2003, Suprpto 2003, Santoso 2004, Mary et al. 2007). Moreover it was also as a good example of the ways in which land occupiers are expelled from their occupied land, their leaders criminalized, and their organizations dismantled. In this case, the SFC co-opted, or incorporated, the rural poor, including those who were quitted from SPP membership, into a form of social forestry program (PHBM), the SFC succeeded in re-establishing a legitimate (state-authorized) form of control over forest land and adjacent villagers, what Peluso and Vandergeest (2001) call ‘political forest’ in a new form of what has played out historically in Indonesian state-peasant relations.

Social forestry in Java has its own trajectory since the 1970s rooted in prolonged tensions between the SFC and rural people over tenurial control over and access to forest lands and resources. Previous social forestry schemes ranged from introducing technical innovations to allow villagers to access forest-land for farming through temporary inter-cropping into a more organized forms such as joint-forest management by which forest-user groups get use-rights from Ministry of Forestry to manage particular area of forestlands at particular period.²⁵¹ I have showed how the PHBM was deliberately introduced as a way of reinforcing the hegemony of the SFC toward forest-adjacent villagers by providing and slightly modifying access to forestland for agricultural purposes.

²⁵¹ For fuller accounts on the history of social forestry policy in Java see: Barber (1989), Peluso and Poffenberger (1989), Peluso (1992), Sunderlind (1993), Bratamihardja et al. (1995), Lindayati (2000, 2003), and Awang (2004).

Table 6.1. Quotations from minutes of village meetings held by the SFC in areas targeted by the 2008 Forest Security Operation

Date	Village	Quotes on SPP
10 July 2008	Pagerbumi	<p>“Villagers, who were frequently intimidated and threatened by the SPP, felt the government had to begin to protect them.”</p> <p>“Forest user group was passive and unable to function because it was frequently intimidated and physically threatened by SPP members.”</p> <p>“Police will continue to search and hunt SPP leaders who escaped from Pagerbumi village.”</p> <p>“Houses and mosques that were built by SPP members on forestland should be demolished to prevent the return of SPP and its members.”</p>
05 July 2008 and 10 July 2008	Harumandala	<p>“Some groups wished to join the PHBM, but in order to prevent “horizontal conflict” [conflicts between villagers] the government should immediately clear SPP occupied areas.”</p> <p>“Villagers worried for their safety if the operation ended. They worried that without the police in their village SPP members will come back and recommence crime.”</p> <p>“Because of SPP’s potential threats, repressive action should be directed to catch <i>provocateur</i> [persons who provoke villagers]. Only one out of four hamlets had become an SPP base (name of the <i>provokator</i> was reported to the Ciamis District Police Vice-Commander).”</p> <p>“Villagers welcomed and thanked the operation for providing necessary security. Villagers who attended this meeting joined the PHBM, but they quit because of the intimidation from SPP. The SPP threatened villagers who joined the PHBM to be tortured and killed.”</p>
17 July 2008	Cigugur	<p>“In Cigugur village, forest user groups were formed, and have joined the PHBM. None of the villagers joined the SPP”</p> <p>“Villagers welcomed the operation because of its positive effect to educate villagers on their rights and responsibilities, and requested the Operation to trace and catch illegal loggers, including those who were villagers and officers.”</p>
17 July 2008	Kertajaya	<p>“In the Cigugur forest near Kertajaya village, the SPP occupied many plots. These have to be targeted by the operation, especially plots planted with Albizia. The SFC will investigate the acre and location of the plots, who cultivated the plots, and identify the density of the trees per hectare.”</p> <p>“The Police will continue to investigate land occupation and to catch persons who were targeted by the Wanted list.”</p> <p>“In their speeches, the SFC and the Police required villagers who had joined the SPP to surrender.”</p>
5 July 2008	2 Campaka	<p>“Campaka, a village near Harumandala, has a forest user group, which in 2007 should have received a benefit-sharing 97 million Rupiah (around US \$ 10,000). But, they never received the benefit. The SFC should guide them as to how to access the benefit-sharing.”</p> <p>“Villagers demanded transparency in the PHBM.”</p> <p>“Villagers and village government gave some advice to land occupiers who originated from other villages, but SPP responded to the advice with threatening actions. So they decided to stop advising them.”</p>

Notes:

1. These minutes were made by SFC officers;
2. The SFC set up meetings in thirteen villages, most of them in the SPP working areas. In the above table, I chose five villages that were targeted by the 2008 forest security operation.

Sources:

The official website of SFC’s Ciamis unit

http://www.kphciamis.perumperhutani.com/index.php?option=com_content&view=category&layout=blog&id=36&Itemid=87&lang=en [Accessed on 25 February 2008]

Chapter 7: Conclusion

Through land reform, state-society relations in post-colonial Indonesia have been significantly reconfigured over time. Gramsci's concept of hegemony offered me a particularly useful lens through which to assess the changing political regimes in post-colonial Indonesia, examining the ways in which land reform or anti land reform policies, were formulated and advanced, or interrupted and circumscribed. What Gramsci brought to my conclusions is that the shifting relationships between land management institutions and agrarian movements in contemporary Indonesia have rendered projects of both reform and anti-reform unfinished.

The mutability of land reform and anti land reform efforts is apparent when we use a synchronic perspective on land reform policy processes in contemporary Indonesia. My research has laid bare tensions among land management institutions, between land management institutions and agrarian movements, and among agrarian movement actors. The unfinishedness of land reform and anti land reform, especially in terms of the characteristics, scope, and speed of implementation as components of state formation is refracted through a diachronic perspective.

Sukarno's Guided Democracy (1957-1965) manufactured and advanced land reform as a state project which was driven by the revolutionary vision of achieving an "Indonesian Socialist society." Workers (*buruh*) and peasants (*petani*) were conceived of as revolutionary pillars (*soko guru revolusi*). Sukarno framed colonial and feudal agrarian systems as structural constraints to the establishment of the foundations for the national economy (Sukarno 1960:460-461). The 1960 Basic Agrarian Law (BAL) was promulgated to dismantle the legal pluralisms of colonial agrarian laws, and established a new politico-legal concept, "State's right to control" (*Hak Menguasai dari Negara*), which provided the central government with the authority to regulate and manage land and natural resources, determine property relations, and distinguish between legal and illegal acts relating to land and natural resource management.

I have demonstrated how various forces competed, or came together, to make forest and plantation economies avoid revolutionary dismantling of the colonial state's production legacies. Colonial separations (legal, institutional and territorial) between agriculture, forestry and plantation were continued eventhough the ways "land rights" were allocated and adjudicated were changed. I have described how the late Sukarno-era land redistribution program (1962-1965), which focused on redistributing agricultural lands based on regulations on land ceiling, absentee, and ex-kingdom lands, was discontinued because of the 1965-1966 political turmoil that ended Sukarno's Guided Democracy and brought Suharto to power.

Suharto's regime opposed Sukarno's land reform direction and fostered anti-land reform policies and practices as the legal basis for allowing a wide array of developmental state formation projects to proceed. For more than four decades since Suharto came into power in 1966, the subject of land reform largely disappeared from the state's official purview and discourse. Its disappearance was directly related to the ways Suharto's authoritarian regime had framed the previous regime's land reform

(1962-1965) as solely part of a “communist-infiltrated” government program. The impact of the 1965-1966 political violence, which created major political and psychological trauma for Java’s peasantry, ensured that popular demands for land reform were temporarily suppressed.

Under Suharto’s new administration, the Ministry of Agrarian Affairs was downsized becoming a Directorate General under the Ministry of Interior. At the outset of that era, land reform was perceived as a politically dangerous concept because of its potential to upset political stability, the ultimate goal of the new regime. Suharto’s counter-revolutionary regime brought Indonesia, which previously was one of the anchors of the Non-Aligned Movement, to a new pathway to be integrated squarely within the Western geopolitical block and capitalist world economy, primarily through capitalist “Development” (*Pembangunan*), which became the new frame for all formal efforts governing state-society relations.

In order to improve government capacity to deliver land services, including land acquisition for plantations, industrial parks, and real-estates, in 1988 the Directorate General of Agrarian Affairs was upgraded to a new status as a new land management institution, the National Land Agency (NLA). The dominant mode of land acquisition through state interventions was challenged by the World Bank efforts to reform land administration, management, and institutions. Then, since 1995 the NLA has been an arena in which the transnational development network in pro-market land administration and management deployed their experts, knowledge, expertise, and investment.

The fall of Suharto’s authoritarian regime in 1998 started a transition toward liberal democracy that allowed various societal forces to propose *reformasi* (reform) agendas. Along with some NGO activists and pro-land reform scholars, peasant organizations have become anchors in the social movements advancing the call for new land reform policies. The momentum and vocal nature of this movement in turn began to exert influence in official government arenas. The People’s Consultative Assembly mandated the president and the national parliament to set up agrarian reform policy, along with natural resource management policies, through the Decree No. IX/MPRRI/2001. However, various Indonesia land management institutions, including the NLA tended to perceive land reform as a concept coming from outside of the government, mainly because it had been continuously promoted by agrarian movements, agrarian activists, and critical scholars initiating alternatives to the dominant land-for-development policy.

The full impact of the liberal democratization wave arrived with constitutional amendments that in turn allowed Yudhoyono-Kalla to be directly elected by people through the 2004 general election as the first President and Vice-President to be so chosen. In turn, Juyo Winoto was appointed by the president as the new head of the National Land Agency (NLA) in 2005. My research has zeroed in on the role that Winoto played in overhauling the NLA. During this recent period, the notion of land reform was advanced and internalized within NLA officials and became one of the NLA official frames regarding state policy.

Under the leadership of Winoto, the NLA promoted *Reforma Agraria* and sought to combine the institutional practices of the NLA with the efforts of agrarian movement organizations, including the Consortium for Agrarian Reform (KPA) and Sundanese Peasant Union (SPP) in West Java. However, Yudhoyono did not warm to Winoto’s

redistributive policy frame, despite the President's own rhetoric of "pro-growth, pro-job, and pro-poor." Moreover, Winoto faced unforeseen roadblocks to a smooth implementation of his policy when neither the Ministries nor the President backed his National Agrarian Reform Program (NARP). The Ministry of Forestry (MoF) balked at providing 8.15 million hectares of forest-lands, the Ministry of Agriculture (MoA) refused to provide the agricultural credit and services that would have made the program run, and the Ministry of Finance did not allow the NLA to set up and fund a special government agency to run the program. With the recognition that the Indonesian President, Susilo Bambang Yudhoyono, might not be prepared to assert his authority on the MoF and the MoA to force them to cooperate with the NARP, rather than risk derailing all the gains Winoto had made toward agrarian reform, it became politically necessary for the NLA head to change direction. The NLA reframed the NARP as a government sponsored land title legalization program that not only fit better with the existing neoliberal economic growth model, but also allowed the NLA to claim its land title program as contributing to the success of President Yudhoyono's government.

In order to understand the shifting relations between agrarian movements and land reform policy processes my research has focused on two agrarian movement organizations, namely the Consortium for Agrarian Reform (KPA) and the Sundanese Peasant Union (SPP). Since its inception in 1995, the KPA developed critiques of the government's land-for-development policy, which led to land expropriation all over rural Indonesia. Based on the critiques and activists' involvement with rural organizing, KPA voiced the need for new land reform policy. Under the leadership of Usep Setiawan, the KPA had participated in NLA land policy processes in order to leverage its agendas, including the creation of government programs that resonated with the demands of the agrarian movements.

Recent studies by Saturnino Borrás (2007, 1999) on land reform and state-society relations in the Philippines showed that under certain conditions the alliance between state reformists and societal reform groups can surmount obstacles, overcome limits, and harness opportunities to enable redistributive land reform (Borrás 2007:11-12). In contrast, my research illuminates the limits of these alliances caused by the relation between various government land management institutions (e.g. the NLA, the Ministry of Forestry, the Ministry of Agriculture, the State Forestry Corporation), and of each with the central figure in national government, i.e. the President. My research has shown that the head of the NLA turned away from the land redistributive policies, and advanced land title legalization in order to comply with the President's neoliberal policy frame. Moreover, the NLA bureaucracy kept agrarian movements out of the official negotiations to determine which lands would be targeted by the NARP, who would be its beneficiaries, and how the targeted lands and beneficiaries would be matched. The turn to land title legalization also increased tensions among KPA activists concerning the collaborative approach taken by KPA's leader. These tensions were evident at the 2009 KPA national meeting when the new general secretary of the KPA severely criticized the NARP, stating that the NLA had made false claims about its success.

My research has also examined the Sundanese Peasant Union (SPP), which covers three Southern districts of West Java. Being active in launching land occupations and demanding land reform through mass demonstrations, the SPP was visible, and was seen by the new head of the NLA as his strategic ally. However, the NLA could not help the

SPP when it was victimized by the 2008 Forest Security Operation. The NLA had no legitimate authority over forest lands under the control of the State Forestry Corporation (SFC).

For the SFC, power – in term of authority over land – not profits, were at stake here. In this light, we need to understand the SPP’s truly revolutionary potential that was not realized. By at least temporary controlling land allocation in occupied areas, the SPP challenged one of the ways state power are exercised in rural Java. The challenge to the SFC from the SPP did not only question the primacy of state access to the land, but also the assertion that the SFC as a land management institution would control land access and grant land rights. The proposed alternative would have required shifting the responsibility of the management of forest lands from the SFC to the NLA or some new supra-institution that encompassed the NLA and the MoF. Either alternative threatened the SFC’s very existence. It is in this light we need to see the SFC’s determination to claw back its hegemonic authority over forest land.

Working together with West Java Police and two environmental NGOs, the Operation was intended as a counter-campaign against SPP-organized land occupations. The SFC’s counter-campaign deployed labels challenging the authority of SPP to occupy forest land such as “subversive and dangerous organization,” “illegal logging,” “illegal occupation,” and “forest security disturbance,” and eventually won back the occupied lands, criminalized the actions of land occupiers. Rather than put them in jail, however the government, “forgave” them and conditioned their “forgiveness” on the peasants’ willingness to participate in government-sponsored social forestry schemes and to abandon the SPP. The SPP’s local chapter was dismantled. Both of these moves served to underline and bolster the authority of the SFC, and to maintain Forestry’s power within the government structure. Thus, the counter-campaign had the effect of delivering the definitive message that forest land in Java should be excluded from land reform.

My research has provided insights on the ongoing role of the national state – in this case the SFC – as it forms and reforms itself in post-colonial Indonesia. State formation also reconfigures state-society relations through government policies and programs, including land reform. The state formation is also related to the formation of particular subjectivities including through state-sanctioned categorizations by which state power exercises the capacity to produce particular identities (Corrigan and Sayer 1985:141; Sayer 1994:377). I have shown some of the ways the state has lived within and through its citizens/subjects, and the changing dynamics and dialectics of socio-natural relations over land in just one corner of Java. Though limited in area, this study has also illustrated that land struggles, contestation, and negotiation take place unevenly at multiple sites and geographical scales.

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