

Conflict on Utilization of Communicational Land between Traditional Legal Communities (Tlc) and Pt. Nusantara V Plantation in Kampar District

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Abstract

Customary land, which is within the scope of a TLC, basically has communal rights to be utilized by a TLC, known as customary rights. The use of customary land for plantation business must have a written recommendation in the event of transfer or release of customary rights to third parties. In this study, it was obtained that the settlement of customary land use disputes with companies is linked to legal certainty in order to realize the welfare of TLC in Kampar Regency, which is carried out in a non-litigation manner by conducting deliberation with TLC represented to *Niniok Mamak* or *Pucuok Adat* before investment by outside parties or companies, because in the lives of the indigenous people of Kampar Regency that every problem that occurs must be resolved by deliberation. Conflicts can also be resolved with the help of third parties as mediators, and conflict resolution is also made at the discretion of the Government. Meanwhile, mediators consisting of regional governments, Kampar Customary Institutions (KCI), agrarian/land experts, and non-governmental organizations (NGOs), called *triple rope* or *tigo furnaces*, are rare. KCI must be given more authority in deciding customary land issues in Kampar Regency because it is considered to know clearly about the problems that occur. To minimize this kind of dispute, KCI can be involved as a mediator who will not harm one of the parties to the dispute in the use of customary land.

Keywords: Conflict, Customary Land Use, Traditional Legal Communities

1. Introduction

The high level of agrarian conflict in the plantation sector and the palm oil business is a classic problem that has not been solved by the government. The main obstacle is because the palm oil business is still the golden child of the government in boosting the national economy. This palm oil business is run with procedures and practices that are full of violations (Agraria, 2020; Rawipahu, n.d.). Many of the giant lands of monoculture plantations come from land grabbing practices. Including those whose land acquisition comes from the exchange of forest areas which are community living areas. There are companies that have just obtained location permits, without socialization and consent (Free Prior Informed Consent/FPIC) operate just like that and often act as rulers and landowners which causes conflict situations with residents because Cultivation Rights (CR) claims are suddenly declared to be issued over villages and customary areas, then partnership problems felt by plasma farmers/planters are not fair (Tapia et al., 2013; Warman, 2014).

The conflict in using customary land in Kampar Regency cannot be separated from the tug-of-war between actors, especially those who sit in government institutions, indigenous community leaders, and corporate actors. The Kampar Regency Government has only been able to mediate as a form of conflict resolution. Meanwhile, the root

of the problem in the use of customary land in Kampar Regency is that Regional Regulation Number 12 of 1999 needs a map of customary territories, which is the basis for recognizing and protecting indigenous peoples.

The provisions regarding customary rights are also regulated in the Regional Regulation of Kampar Regency Number 12 of 1999 concerning Customary Land, stating that the existence of customary rights of the Kampar Indigenous people is recognized and is the right of the alliance of Indigenous peoples in the Kampar area. In Chapter I, the general provisions of Article 1 letter (h) states: Customary Land Rights is one of the common properties of an indigenous community, which includes territory in the form of land, plants that live wildly, and animals that live wild on it (Budiono et al., 2023; Rozi, 2022).

In line with the description of the article above, Kampar Regency Regional Regulation Number 12 of 1999 concerning Customary Land Rights, in this case, Article 2 paragraph (2) states: The function of customary land rights is to improve the welfare of alliance members and communities that are social and economic.

Based on the description above, customary land rights, in accordance with the Regional Regulation, are used to improve the welfare of alliance members and indigenous peoples of a social and economic nature. Thus, in the use of customary land, a partnership pattern can be carried out with third parties who previously had to conduct deliberations of local customary stakeholders and members of indigenous peoples' associations per the provisions of local customary law.

The interest in raising this title is because, in practice in the field, the problem of land/agrarian conflicts over oil palm plantations mainly occurs in Riau Province, a priority in Riau Province. There are 12 priority cases to be resolved, including customary land conflicts between TLC and PTPN V that occurred in Perhentian Pantai Raja Village in Kampar Regency and Senama Grandma Village in Kampar Regency. The problems related to customary land over the rights of a TLC are still found overlapping land problems, not making pancuong ale payments or compensation money, unsustainable Corporate Social Responsibility (CSR), which harms TLC customary land rulers so that there is no legal certainty for customary land. Another problem is the disharmonization between the UUPA and related laws and regulations. The UUPA also legitimizes that CR, if it runs out, will not return to TLC land. This can be seen from the basis of land acquisition given based on land reserves from the Governor for location permits, namely the Decree of the Governor of Riau Number Kpts.131/V/1983 concerning Land Reserves for Oil Palm and Rubber Plantation Businesses covering an area of more than 30,000 HA from Tandun District, Siak Hulu District and Kampar District and Decree of the Minister of Agriculture Number 019/Kpts/KB.510/II/96 concerning the Assignment of PT. Nusantara Plantation in the Implementation of the Plantation PIR Project. In this case, the community does not agree with the existence of the PIR Project. This led to conflict between TLC and PTPN V in Kampar Regency. Customary rights exist because of the PIR agreement, which can be compensated. Another problem that arises is that the PIR agreement exists but needs to be recognized by customary rights; this is different from the concept of state land, which recognizes the existence of PIR. If there is no customary land, Article 3 of the UUPA and Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flats Units, and Land Registration, Article 1 paragraph (13) should be removed because customary land is TLC land and has TLC rights and not state land, the government cannot own but only control for its authority, in this case, Article 28 paragraph (1) of the UUPA states: Right to Cultivate is the right to cultivate land directly controlled by the State, within the period as mentioned in Article 29, for agricultural, fishery or livestock companies (Kamim et al., 2018; Ridho, 2019).

This results in disharmonization, with Article 3 of the UUPA stating: Bearing in mind the provisions of Articles 1 and 2 the exercise of customary rights and similar rights of customary law communities, to the extent. Still, it must be such that it is in accordance with the national interest and the State, which is based on the unity of the nation and must not contradict other higher laws and regulations.

Government Regulation Number 18 of 2021, Article 1 paragraph (13) states: Customary land is in the control area of customary law communities, which in reality still exists and is not attached to a Land Right.

Problems related to the use of customary land can be overcome. They should be further regulated on par with laws and regulations because the characteristic of the UUPA is customary law. The existence of customary land must

be registered using land registration for legal certainty of customary land. A Young Researcher of the Center for Agrarian and Customary Law Studies (PAgA) said: Some urgency to register customary land, including completing its recognition, providing legal certainty for the subject and object of customary land, protecting and maintaining its existence, encouraging productivity so that it becomes a living asset. Therefore, there is a need for assistance and empowerment from the State for customary law communities so that customary land becomes productive and safe (EVANDER, 2023; Harisa, 2022).

Based on the explanation above, to find a middle ground for companies, the government, and TLC so that investment continues, government coffers continue to grow, and TLC's economy continues to live without any conflicts that continue to occur. The use of customary land must be mutually beneficial. Therefore, there should be a refinement of the concept of granting CR on TLC land so that CR can be certified as TLC Property Rights and can be the basis for TLC's right to grant CR to TLC and ratify a comprehensive Bill on TLC as a follow-up to the constitutional mandate, especially Article 18B paragraph 2 and Article 28I paragraph (3) of the 1945 Constitution. The law must explicitly formulate recognition of the unitary rights of indigenous peoples, including the unitary rights of indigenous peoples in implementing customary law and justice, then make a Law on Ulayat and revise Kampar Regency Regional Regulation Number 12 of 1999 concerning Customary Land because Regional Regulation Number 12 of 1999 does not discuss customary territories which are the basis for the recognition and protection of indigenous peoples. Conducting Participatory Mapping of Customary Areas (PPWA) must be digital-based with satellites to avoid duplication of overlapping land between 1 (one) area that has been mapped as a specific TLC customary territory with others in order to overcome conflicts over customary land use regarding customary territories in providing legal certainty. From the description above, this paper wants to see how settling customary land use disputes with companies is linked to legal certainty to realize the welfare of Traditional Legal Communities (TLC) in Kampar Regency.

2. Method

The methodology used in the research is qualitative, with the method of empirical legal research. The legal materials used are primary, secondary, and tertiary legal materials collected through field research and literature analyzed in a prescriptive way. The above is in accordance with the concept of this study, which wants to analyze the conflict of customary land use between Traditional Legal Communities (TLC) and PT. Nusantara V plantation in Kampar Regency is a social phenomenon that uses a legal perspective and both state and customary law. In this type of research, researchers will get information from various aspects of the issue studied.

3. Results And Discussion

The customary land conflict between the Traditional Legal Communities (TLC) and PTPN V *First* occurred in Perhentian Pantai Raja Village and Senama Grandma Village in Kampar Regency. The beginning of the conflict between indigenous peoples in Pantai Raja Village, Kampar Regency, Riau, and PTPN V Sei Pagar, namely the New Order Government wanted to build a PIR project in the form of oil palm from 21,994 hectares allocated only 8,856,841 hectares, later 6,000 hectares were divided for transmigration and local so-called PIR Trans and Special PIR with the remaining two hectares each, 2,856,841 hectares became CR PTPN V. As for the problems that occur, not all local communities agree with the development of large-scale oil palm plantations, in addition to not knowing the plant, the process and method are uncertain, the community cannot be informed in advance. Long story short, after mediation and various long efforts to seize land on April 6, 1999, PTPN V Sei Pagar wrote that 150 hectares of the 1,013 hectares of former community rubber plantations were indeed in core plantations. Based on the results of an interview with Mr. Abdillah Datuk Abu Garang Desa Perhentian Pantai Raja Kampar Regency, stated:

1. The conflict has been going on for 38 years, not involving Ninik Mamak in making decisions and PTPN V Sei Pagar caused misery for indigenous people because they lost rubber plantations which were the source of livelihood located in *Afdeling I* PTPN V Sei Pagar which became the location of the conflict.
2. PTPN V Sei Pagar did not make any payment of *pancuong ale* or compensation of Rp.100,000,000 (one hundred million rupiah) to the rubber plantation area of the indigenous people of Pantai Raja Village and did not

return the rubber plantation area of the indigenous people of Pantai Raja Village which was affected by the core garden of PIR Trans Sei Pagar covering an area of 150 hectares until now.

3. PTPN V Sei Pagar did not develop oil palm plantations with the Cooperative and Primary Member Credit Pattern (KKPA) due to the reason that there was no adequate land availability, which was around 400 hectares (Rosyana, 2022; Tanjung, 2022).

The customary land conflict between the Traditional Legal Communities (TLC) and the Second PTPN V occurred in Senama Grandma Village, Kampar Riau Regency, with PTPN V Sei Kencana, which entered the Ulayat Koto Senama Grandma in 1983, in this case the community could no longer access the ulayat which belonged to the Pitopang Tribe. Land for the people of Grandma's Namesake State, Tapung Hulu District, Kampar Regency, Riau Province, is one of many customary rights in customary law communities. Cases that often occur are the granting of concessions in the form of Business Use Rights (CR), Mining Business Permits (IUP), or other types of control to investors by the state over land, which, according to them, is "state land."

The struggle of the Grandma's Namesake community began in 1999. When the company took care of CR, the community knew about it and began struggling. The 2,800 ha of land requested by the community at that time was still in the process of issuing CR, where Committee B had conducted a field inspection. Based on the Letter of the Head of the Regional Office of BPN Riau Province Number 500/1114/BPN dated November 11, 2000, and the Letter of the Regent of Kampar Number 525.25/TP/V/2001/521 dated May 29, 2001, it was explained that of the 17,338,089 ha of land requested by CR, only 14,537,088 ha were approved. Phase II of the issuance of CR certificates issued 3 (three) CR certificates, namely CR No. 157, dated August 5, 2001, covering an area of 355,840 ha; CR No. 158, dated August 15, 2001, covering an area of 8,267,188 ha, and CR No. 159 dated August 15, 2001, covering an area of 5,914,060 ha. Thus, the CR owned by PTPN V covers an area of 27,348,888 ha. Meanwhile, the remaining 2,800 ha has yet to be issued a certificate because it is still in conflict with the indigenous community of Senama Grandma. It is directed to be carried out by the enclave to the community through a partnership pattern (Mawaddah et al., 2022; Patahol Wasli, 2020).

Based on the explanation above, basically dispute resolution can be done in two ways, namely litigation dispute resolution is a dispute settlement carried out with the court, while dispute resolution through non-litigation is dispute resolution carried out outside the court, each dispute resolution has the following advantages and disadvantages:

1. Dispute resolution through litigation can be said to be dispute resolution that forces one party to resolve the dispute with the intermediary of the court, while dispute resolution through non-litigation is carried out based on the will and good faith of the parties to resolve the dispute.
2. Dispute resolution through litigation has an executory nature in the sense that the implementation of the decision can be forced by the authorized institution. Meanwhile, dispute resolution through non-litigation cannot be forced because it depends on the will and good faith of the parties.
3. Dispute resolution through litigation is generally done by hiring the services of an advocate or lawyer so that the costs incurred certainly become greater.
4. Dispute resolution through litigation must certainly follow formal requirements and procedures in court and as a result the time period for resolving a dispute becomes long. Meanwhile, dispute resolution through non-litigation does not have formal requirements and procedures because the form and procedure for dispute resolution are left entirely to the parties.
5. Dispute resolution through litigation is open, meaning that anyone can witness the proceedings, except for certain cases, such as immoral cases. While the confidential nature of dispute resolution through non-litigation means that only the disputing party can attend and is closed to the public so that everything revealed at the examination, cannot be known by the public with the intention of maintaining the reputation of the parties to the dispute (Rahman et al., 2018; Yoder, 2003).

Based on the results of an interview with Mr. Ersin as the Judge of the Bangkinang District Court, stated: In the case of speaking litigation in the Bangkinang District Court regarding the determination of customary law must be based on: *First*, there must be proof of a letter in writing or proof of mastery land by the correct indigenous

people, in this case namely a clear certificate, territorial boundaries, photocopies to become evidence in the District Court and must be supported by other evidence to support the photocopy. Second, witnesses. Third, conjecture. As well as looking at the scope of customary land itself, namely the history of TLC, customary territories, customary law, property and/or customary objects and customary institutions/government systems. In this case, the most common problem of TLC disputes with companies is that TLC cannot show clearly and definitely about customary territory boundaries, causing TLC to suffer defeat in Court (Dong et al., 2021; Eck, 2014).

Based on the explanation above, the Bangkinang District Court Judge should be given insight into how customary law and customary land in Kampar Regency by conducting special training conducted by the Kampar Customary Institution (KCI) which is considered to be aware of customary land conflicts that occur in Kampar Regency, so that the decision issued by the judge reflects human values for TLC.

In the National Seminar on the existence and utilization of customary rights past, present and future, Kurnia Warman said that customary land registration is considered theoretically to be able to complete its recognition and at the same time protect its existence. This is because customary law must be respected and obeyed, if it is not obeyed it will be disputed. In the case of common law disputes, state law does not provide for dispute resolution, this causes the dispute to never be resolved and which incurs TLC losses and wastes time in Court. Dispute resolution is better resolved by mediation, consensus and at least through arbitration (Beyene, 2009; Warman, 2014).

Based on the explanation above, Kurnia Warman said that every Traditional Legal Communities has customary institutions based on their respective rights of origin. In the period before the state was formed, the customary institutions concerned were the ones who ran public government in the legal society. These customary institutions are formed and run under their own customary law. Therefore, they also have a mechanism for making public decisions at the community level. It is through these customary institutions that customary rulers exercise their power, including over land and natural resources within their customary territories. Therefore, recognition of indigenous peoples should also be followed by recognition of customary institutions, and their empowerment so that they can function proportionately (Geyer Jr, 2023; Warman, 2014).

Through this regional regulation, the local government recognizes, protects and empowers customary institutions that have existed for generations in customary law communities according to local customary law. One of the duties that must be carried out by customary institutions is as the ruler of the customary rights of customary law communities. As the ruler of customary rights, customary institutions are tasked with regulating, managing, leading their management in order to provide the maximum benefit to the community. Customary institutions must also be able to resolve disputes over customary law communities in managing their customary rights, even disputes over the individual rights of their community members (Effendi et al., 2017; Goldman et al., 2014).

Basically, customary land serves as a source of life. In practice, customary land is used for four main purposes, the most prominent of which is customary land used or reserved for three things, namely village land, garden land, and cultivation land (Agheyisi, 2019; Effendi et al., 2017). These three things have interrelated significance. As an agrarian society that is a sub-system, the Darat Malay community needs a mobile agricultural land. It is a moral responsibility for parents to prepare fields for their children. Likewise with plantation land. In custom, people who have gardens, especially large ones, are called "lucky people". On the other hand, people who do not garden are called "naked." and are considered less responsible for their children and grandchildren. Based on the description above, Amir Luthfi mentioned that every tribe, especially tribal chiefs, knows *the tombo* and the location of its customary land. Customary provisions are harsh regarding customary land, because it is where all members of the community live and develop for generations. One of the provisions for customary land is "abstinence" which contains:

1. Abstinence from being bought and sold.
2. Abstinence is mortgaged.
3. Abstinence is ruined, destroyed.
4. Abstinence is wasted (Joireman & Meitzner Yoder, 2016).

Based on the explanation above, the four "abstinences" are called "abstinence four," which is used as the basis for their ownership and use. Deviations from this "abstinence" may be subject to severe sanctions. In certain circumstances, the "abstinence" may be revoked, but it must be through deliberation and consensus, and does not violate customary provisions, the "abstinence from prohibition" may be changed if necessary for the following:

1. Wipe off the charcoal on the forehead.
2. Animate carcasses.
3. Enforce customary institutions.
4. Redeem the state debt.
5. Dropping the body at home (Rawipahu, n.d.; Yoder, 2003).

So far, the mechanism for resolving customary land conflicts often does not bring satisfactory results after cases are resolved through the courts, nor does it produce peace between the two parties (Budiono et al., 2023). The protracted conflict inflicts losses on both sides. Communities cannot benefit from land that is their customary right because in the control of Oil Palm Plantation Companies (hereinafter abbreviated as PPKS), while PPKS cannot operate comfortably because they always have to face community demands, TLC is always in a weak position in defending their rights amidst the power of capital that exploits land and natural resources. Even though the land, territory and natural resources contained in it are very important and meaningful for their survival, culture and civilization. In this dissertation, the author proposes the settlement of customary land use disputes, especially in Kampar Regency, to be more effective and efficient by non-litigation settlement. Non-litigation settlements are carried out on Customary Stakeholders (Pucuk Adat/Ninik Mamak), Alim ulama and Local Governments called *tali bepin tiga* or *furnace tigo seldom* because in the lives of indigenous people of Kampar Regency that every problem must be resolved by deliberation. Therefore, the author proposes that Kampar Regency must have a Customary Court in terms of resolving customary land use disputes. Meanwhile, settlement at the regional level is carried out by a team consisting of the Regional Government, Kampar Customary Institution (KCI), agrarian/land experts and Non-Governmental Organizations (NGOs).

The following is to provide answers as well as being novelty, the author compiles a scheme of procedures for resolving customary land use disputes between TLC and companies in a non-litigation manner by deliberation. Basically, this model is almost the same as other dispute resolution solution models, it's just that the difference lies in the involvement of the Kampar Customary Institution (KCI) as a form of balancing interests between TLC and companies in Kampar District. Scheme of procedures for resolving customary land use disputes in a non-litigation manner, can be seen below:

1) Procedures for resolving customary land utilization disputes are carried out from one of the parties to request for settlement of customary land utilization disputes to Customary Stakeholders (*Pucuok Adat* or *Niniok Mamak*), Alim ulama and Local Governments called *tali bepin tiga* or *furnace tigo sejarangan*. After that, summoning the parties for deliberation. Customary governance is built on the basis of religious values known as *adat bersendikan syara'*, *syara' jointed kitabullah*. This term is the philosophical basis of the Andiko 44 Customary Government which is then applied in customary law in the territory of Andiko 44. The above term can be understood that adat does not violate religious rules so that religion is still used as a basis for the formation of customary rules, which is reflected in the lives of the indigenous people of Kampar Regency that every problem must be resolved by deliberation. Deliberation is part of the religious command in solving a problem and making a policy. Therefore, the practice of customary government in the Kampar Regency area must be in accordance with religious principles (Dong et al., 2021). And also mentioned in the Regional Regulation of Kampar Regency Number 12 of 1999 concerning Customary Land, in the explanation of Article 4 states: Customary Stakeholders holding or controlling Customary Land cannot transfer or release their rights to other parties unless it has been determined jointly based on the deliberations of customary alliances according to local customs.

2) The local government will facilitate meetings between Kampar Customary Institutions (KCI), agrarian/land experts, non-governmental organizations (NGOs) and involve the National Land Agency (BPN/ATR). The government through BPN provides space to be a mediator in an effort to find a middle way between the parties to the conflict. BPN

investigated complaints submitted to BPN and formed a team involving the Forestry Service and the Plantation Service. In this case, the Regional Government of Riau Province and the Regional Government of Kampar Regency, have issued 2 (two) special regulations regarding customary land including:

- 1) Regional Regulation of Kampar Regency Number 12 of 1999 concerning Customary Land Rights.
- 2) Regional Regulation of Riau Province Number 10 of 2015 concerning Customary Land and Its Utilization.

Based on the description above, the authority of the Regional Government in the land sector is regulated in Law Number 23 of 2014 concerning Regional Government. In the Law, the authority given to Regional Governments, both provincial and regency/city in terms of customary land, is the determination of customary land, this determination is carried out through regional regulations. Regional Government as a state organizer in the region has the authority to make regulations from its region known as regional regulations, this is as the implementation of the principle of autonomy and assistance duties.

The implementation of the principle of autonomy and the task of assistance is for the efficiency, effectiveness and smooth administration of government in the regions within the framework of a unitary state. Such local regulations must meet the limits of predetermined authority and attachments in relation to the central government. The limits of authority and attachment in relation to the central government are embodied in the form of supervision. Supervision of government administration in the regions is known to be of two kinds, namely:

- 1) Preventive oversight is a regional rule on certain matters, just going into effect after the confirmation of the authorized office.
- 2) Repressive oversight is the cancellation or delay of the implementation of a legal regulation or its upper-level district regulation.
- 3) The Kampar Customary Institution (KCI) has a very important and strategic role in resolving land disputes, especially in Kampar Regency. Land disputes mostly occur between indigenous peoples who maintain customary rights to land and companies. In this case, the Kampar Customary Institution (KCI) must be given more authority in deciding customary land issues in Kampar Regency because it is considered to know clearly about the problems that occur. To minimize this kind of dispute, the Kampar Customary Institution (KCI) can be involved as a mediator who will not harm one of the parties to the dispute in the use of customary land. The problems of the procedure for implementing customary rights in the use of customary land are in terms of:
 - 1) Application for customary land utilization permit.
 - 2) Permission setting.
 - 3) Customary Decree.
 - 4) Payment *Pancuong ale*.
- 4) This Non-Governmental Organization (NGO) plays an important role so that there is balanced information obtained by the parties by facilitating indigenous peoples to formulate problems that occur conceptually, this is because NGOs know about the problems that occur in the field.
- 5) Balai Adat is a form of cultural identity. Traditional halls are generally in the form of buildings that have two floors decorated with typical Malay patterns and Malay culture. The meaning of the traditional hall symbol is a symbol of traditional greatness used by traditional leaders, scholars, religious scholars to the community to gather to discuss issues related to customs until consensus can be reached.
- 6) Regional Leaders Coordination Forum (FORKOPIMDA) Kabupaten Kampar is a forum to support the smooth implementation of general government affairs consisting of the Regent of Kampar, Secretary of Kampar, Chief of Kampar Police, Kampar District Attorney, Chairman of Bangkinang District Court, Head of the National Land Agency (BPN) Kabuapten Kampar, Head of Kekemenangan Kampar, Dandim 0313, Chairman of MUI Kampar and Kasbangpol Kampar in this case need to be involved in resolving customary land use disputes between TLC and companies in Kampar Regency.

7) Conflict resolution within the Ministry of ATR/BPN throughout Indonesia refers to Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 21 of 2020 concerning the Handling and Settlement of Land Cases.

8) The results of the settlement of the dispute are issued in accordance with the custom

Developments in the community, there are often disputes about this customary land, especially if it is related to customary land that will be used to find the livelihood of nieces and nephews, so in this case the role of *Pucuok Adat* or *Niniok Mamak* in tribes and countries is very decisive. The decision taken in resolving the dispute is issued after going through the Customary Density, in issuing a decision of course using the principle *nan lusuo dek mamakai*, *nan article dek manuik*, meaning that everything that is carried out/decided must be according to the custom/provisions that are always (*lusuo*) used, according to the hereditary Customary Provisions. Based on the Regional Regulation of Kampar Regency Number 12 of 1999 concerning Customary Land, in the explanation of Article 1 letter i states: Customary Density is a forum or organization of trials of *ninik mamak* or residents who are ordained and modeled for generations in an indigenous community.

Decisions issued by *Pucuok Adat* or *Niniok Mamak* as the ruler of customary rights cannot be disturbed anymore both in Criminal Law, Civil Law, Religious Law and Customary Law. In the dispute to resolve it is the obligation of *Pucuok Adat* or *Niniok Mamak*, namely *Penghulu*, while other parties may not interfere in the settlement. If the *Pucuok Adat* or *Niniok Mamak* and *Penghulu* have resolved the dispute and the matter has been revoked like *kok ayu la jonio*, *kok kusuik la salosai*, meaning that if like the water is clear, like tangles have been resolved over the dispute, then the *Pucuok Adat* or *Niniok Mamak* and the Ruler shall have the right to hand over or relocate to another *Anak Kamanakan*.

9) Sanctions imposed in case of Problems in the Procedure for the Implementation of Customary Rights in the Use of Customary Land that is:

- 1) The permit was revoked by *Pucuok Adat* or *Niniok Mamak* based on the Results of the Agreement.
- 2) Payment of customary fines to *Pucuok Adat* or *Niniok Mamak* for the acquisition of *ulayat* land.

10) The determination of fines to be paid to *Pucuok Adat* or *Niniok Mamak* shall remain based on the results of deliberations determined in customary meetings at the State Hall. In customary terms, although not full to full to bottom and the term long cloth is doubled, it means that the payment of fines is still in accordance with the ability possessed by someone who has abandoned customary land. This is a form of deterrent effect provided by *Pucuok Adat* or *Niniok Mamak* based on applicable customary law so that in the future everyone, whether a security child or an outsider (company) who wants to use customary land rights, is more careful and takes good care of it.

Based on the explanation above, the problem of TLC unitary customary land administration in the determination of TLC customary land based on the Minister of ATR/BPN Number 18 of 2019 can limit TLC's right to determine TLC's customary rights, if it wants to determine customary rights, because customary territories or customary lands required by TLC cannot be in areas acquired or acquired by the government or legal entities while many lands TLC customary which is within the company's business license area that has not been exempted (Mawaddah et al., 2022). Customary land that has not been released by business actors or license owners should be issued in the company's business license so that customary law communities can recognize TLC's customary land and at this time TLC's customary land application is still not possible, so the determination of customary land for customary law communities cannot be fully implemented (Kamim et al., 2018).

Other problems that occur are the problem of Riau Provincial Regional Regulation Number 14 of 2018 related to the recognition of TLC and customary forests in Kampar Regency and Kampar Regency Regional Regulation Number 12 of 1999 related to the recognition of TLC and customary forests in Kampar Regency, can be seen in the table below:

Table 1. Riau Provincial Regional Regulation Number 14 of 2018 Regarding TLC Recognition and Customary Forest in Kampar Regency and Kampar Regency Regional Regulation Number 12 of 1999 Related to TLC Recognition and Customary Forest In Kampar District

No	Riau Provincial Regional Regulation Number 14 of 2018 related to TLC recognition and customary forests in Kampar Regency	Problem of Kampar Regency Regional Regulation Number 12 of 1999 Related to TLC Recognition and Customary Forest in Kampar District
1	This Regional Regulation is only a Guideline for Recognition of the Existence of TLC in Law Number 32 of 2009 concerning Environmental Protection and Management (PPLH) in the form of guidelines for granting recognition, protection and empowerment of TLC rights in PPLH, and TLC's local wisdom related to PPLH	This bylaw only regulates and recognizes customary land rights in Kampar Regency
2	This Regional Regulation does not yet have a Governor Regulation as mandated in the Regional Regulation	This bylaw does not contain the substance of the determination of the confirmation, recognition of the existence, and protection of TLC
3	This bylaw does not contain the substance of the determination of the confirmation, recognition of the existence, and protection of TLC	According to the MoEF, this Regional Regulation has not regulated who are the subjects (TLC) and objects (Customary Territories) in Kampar Regency
4	According to the Ministry of Environment and Forestry, this Regional Regulation covers Provinces, not Districts/Municipalities according to where their indigenous people are domiciled	

Source: Author's Processed Data

Based on the description above, Kampar Regency has prepared Kampar Regency Regional Regulation Number 12 of 1999 concerning Customary Land Rights which provides guarantees to Indigenous Peoples to continue to protect their customary land, but there is a problem of customary land in Kampar Regency occurs because the existence of this Regional Regulation is not followed by the Implementation Guidelines (JUKKCI) and Technical Instructions (JUKNIS) by the Kampar Regent which will regulate the customary land in more detail, As a result, the existence no longer runs effectively. Moreover, the Regional Regulation itself demands mapping for customary land conditions. This is what until now has become very difficult for the Kabupaten Kampar Regional Government because the mapping has not been implemented with various obstacles, including:

1. Lack of funding from the Kabupaten Kampar Regional Government to measure and map customary land.
2. There is no political will from the legislature to realize the settlement of customary land problems in Kampar Regency.

So it seems that the barren local regulation does not mean anything to indigenous people. The weakness of the Regional Regulation is that it does not regulate who is the subject (TLC) and does not include a map of customary territories. The absence of a map of customary territories causes the boundaries of customary land to be unclear, resulting in many customary land conflicts, both between state claims and conflicts with companies. Therefore, Kampar Regency Regional Regulation Number 12 of 1999 concerning Customary Land Rights must be revised which is useful for protecting the Traditional Legal Communities itself and conducting Participatory Mapping of Customary Areas (PPWA).

Based on the results of an interview with Feri Antoni Surbakti, as a Lawyer, stated: In an area that is declared as customary land, it is necessary to conduct an inventory of customary land. The inventory of customary land in question also needs to be carried out in the next steps, in the form of the appointment of a Boundary Map (PTB) of a customary land area accompanied by the Minutes of Tapal Batas (BATB) signed by relevant institutions in

this case including TLC, BPN Kampar Regency and Farkopimda Kampar Regency (Interview with Himyul Wahyudi, 2023).

Based on the description above, the results of an interview with Mr. Himyul Wahyudi as Chairman of BPH Aman Kampar stated: Participatory Mapping of Customary Areas is the process of making maps carried out by members of indigenous peoples regarding the customary places/territories where they live (living space). This method places indigenous peoples as the main actors in every stage of the map-making process, because indigenous people who live in that place have in-depth knowledge of their customary territories. So, only they can make a complete and accurate map of history, land use, spatial planning, outlook on life and future hopes (Interview with Himyul Wahyudi, 2023).

Participatory Mapping of Indigenous Territories (hereinafter abbreviated as PPWA) is basically documenting local knowledge and the relationship of indigenous peoples with their territories both politically, socially, economically and culturally. The challenge is that the inheritance system adopted by most indigenous peoples in the archipelago is carried out orally (speech culture) (Kamim et al., 2018). The knowledge of indigenous peoples is passed down by their ancestors through stories, verses, songs, rhymes, traditional rituals and other speech cultures. Even their culture is actually "inscribed" on the landscape, which shows the relationship between indigenous peoples and their customary territories. However, outsiders cannot or find it difficult to understand just by looking at the landscapes that exist in indigenous territories, thus undervaluing indigenous peoples' knowledge of their territories. Tools are needed to communicate the knowledge of indigenous peoples to outsiders, one of which is a "map".

Land grabs and unilateral claims are often made by governments and/or companies over customary territories. Indigenous peoples often lose court because they cannot produce evidence of their customary territory rights that have been seized by outsiders (governments and companies). Therefore, indigenous peoples must be able to demonstrate their rights to customary territories with a map (Kamim et al., 2018). Maps are an important tool for indigenous peoples to show their existence factually (tangibly) and affirm their identity with all their rights of origin. Thus, indigenous peoples have the "weapons" to fight and seize their customary territories that have been seized by the government and companies through legal channels in court.

History shows that mapping and other spatial information gathering is not a value-free activity. The usefulness and control of maps are used by the creator, which can be detrimental to others. The history of maps, even today, shows that whoever masters the methodology and utilization and control of maps (space) is the one who benefits the most in utilizing space in this world. With these conditions, Participatory Mapping of Customary Areas (PPWA) is important to do. Indigenous peoples should be the main actors in any mapping processes so that they can control and use the resulting maps of indigenous territories. And there must be a digital-based satellite to avoid overlapping land duplication between 1 (one) area that has been mapped as a certain TLC customary territory with others in order to overcome customary land use conflicts regarding customary territories in providing legal certainty.

4. Conclusion

The settlement of customary land use disputes with companies is linked to legal certainty in order to realize the welfare of TLC in Kampar Regency, which is carried out in a non-litigation manner by conducting deliberation with TLC represented to *Niniok Mamak* or *Pucuok Adat* before investment by outside parties or companies, because in the lives of the indigenous people of Kampar Regency that every problem that occurs must be resolved by deliberation. Conflicts can also be resolved with the help of third parties as mediators, and conflict resolution is also done at the discretion of the Government. Meanwhile, mediators consisting of regional governments, Kampar Customary Institutions (KCI), agrarian/land experts, and non-governmental organizations (NGOs), called *triple rope* or *tigo furnaces*, are rare. Meanwhile, Kampar Regency Regional Regulation Number 12 of 1999 concerning Customary Land Rights must be revised because the weakening of the Regional Regulation is that it does not regulate who is the subject (TLC) and does not include maps of customary territories and conducts Participatory Mapping of Customary Areas (PPWA) and must be digital-based with satellites to avoid

overlapping land duplication between 1 (one) area that has been mapped as a specific TLC customary territory with others to resolve customary land use conflicts regarding customary territories in providing legal certainty.

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