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Land rights and the forces of adat in democratizing Indonesia : continuous conflict between plantations, farmers, and forests in South Sulawesi

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3 AGRARIAN CONFLICT IN BULUKUMBA DURING THE NEW ORDER AND BEYOND (1981-2006)

'To grasp the role of an institution or official in an ongoing conflict, as well as the meaning and outcome of the conflict for the people involved, requires insight into the origins, context, life, history, and the consequences of the conflict – insight that can only be obtained from the participants.' (Felstiner, Abel, and Sarat, 1980: 639)

3.1 INTRODUCTION

Land conflicts in Indonesia involve a wide range of actors and are fought in various political and legal arenas. As Lucas and Warren put it, they are multi-level conflicts between 'elites and popular forces, between regional interests and central government, and between national and transitional capital' (Lucas and Warren, 2013: 2). They became frequent during Suharto's New Order (1966-1998), when land policies prioritized large-scale natural resource exploitation and local land users had 'to make way for private or state development projects' (Aspinall, 2004: 77). Under Suharto's rule, state driven natural resource exploitation intensified, especially in the outer islands where large land conversions and development projects infringed upon the customary systems of traditional land users. In the heydays of the New Order, the logging boom was one of the main drivers of growing land scarcity, especially outside of Java. From the 1990s onwards, the timber industry has gradually been replaced by oil palm, cash crops such as cocoa and trees for the paper and pulp industry. According to Lucas and Warren, contestation over land became 'the single most prominent cause of conflict between the government and the heavily repressed civil society under the New Order' (Lucas and Warren, 2013: 9).

Following the fall of Suharto however, new means became available for land claimants to address their grievances. *Reformasi* was marked by a number of dramatic political and institutional reforms. These transformed the formerly authoritarian and centralist state into one that was democratic and decentralized. Civil liberties expanded and a drastic reshuffle of political power took place. A noteworthy example of reform in the field of land law was the return of the 'adat law community' concept in legislation, as discussed in the previous chapter. The new political climate allowed citizens more freedom to organize themselves. Collective actions such as demonstrations and occupations became common all over Indonesia. Simultaneously, new coalitions were made between grassroots movements and larger NGO networks, as well as with local power holders. Also, the judiciary became more independent from government. Nevertheless, many agrarian land conflicts that began during the New Order continued, sometimes resulting in violent conflict. Restorative justice for those who had experienced rural grievances under Suharto proved hard to realize.

This chapter aims to explain why, in spite of Indonesia's democratization and decentralization process, agrarian land conflicts that became rampant during the New

Order have persisted. It is divided into three parts. Before going deeper into the dynamics of land conflicts in Indonesia, the first part considers what land conflicts are and how I approached them. This is followed by a general overview of land conflicts during and after the New Order. In the third part, an in-depth case study of a plantation conflict in the district of Bulukumba (South Sulawesi province) between local land users and a plantation company will provide further insights. This conflict has been lingering on for decades and has gone through various phases including court procedures, mass mobilization, government-led mediation and violent episodes. Mapping its long trajectory offers the opportunity to examine how political changes at the national level impacted a local conflict, and also allows for an evaluation of the various attempts of state and non-state institutions to resolve the conflict.

The case study in this chapter provides two main insights. The first is that the involvement of government and judicial institutions may actually complicate, rather than facilitate, the settlement of a land conflict, especially when the decisions and interferences by these institutions are not well aligned. Second, I will show that when government agencies only consider the legal aspects of a layered, longstanding land conflict, grievances that were not 'recorded' by a legal process will remain unaddressed. Conflicts are then likely to continue, especially when the conflict first emerged under an oppressive political system.

3.2 STUDYING LAND CONFLICTS

3.2.1 What is a conflict?

Conflicts or disputes are 'not things: they are social constructs' (Felstiner, Abel, and Sarat, 1980: 631).⁴⁵ In order to understand such constructs, we need to investigate their underlying social processes. They do not instantly come into being simply because of disagreements between two or more parties. Usually a number of social transformations take place before a conflict arises. Felstiner, Abel and Sarat (1980) identify these as the processes of naming, blaming and claiming. The first step is naming, which means that an actor identifies an experience as injurious. The second process - blaming - occurs when the injurious experience turns into a grievance. This is the case when the actor considers the injurious experience to be caused by someone else's wrongdoing. Finally, when the grievance is explicitly articulated to seek for redress, claiming takes place. When a claim is rejected by the party blamed for the grievance, either explicit or implicitly, a dispute or conflict exists (Felstiner, Abel and Sarat, 1980).

The transformation processes that precede the emergence of a conflict will certainly not occur under all circumstances. For example, whether a grievance turns into a claim depends on many social and political factors. Another important factor is the personality and social position of the actor(s) involved. In this context, Felstiner, Abel and Sarat note that 'only a small fraction of injurious experiences ever mature into disputes'

⁴⁵ For an explanation of how I use the terms 'conflict' and 'legal dispute' in this study, see Chapter 1, Subsection 3.2.

(1980: 636). When citizens face an oppressive government for instance, it is less likely that grievances caused by the government will be articulated openly than when the political circumstances allow actors more liberties.

3.2.2 Approaching land conflicts

The study of Felstiner, Abel and Sarat compels us to turn our attention not only to the more advanced stages of a conflict, for instance the moment that a conflict has turned into a legal dispute, but also to its anterior stages. For a proper understanding of the trajectory of the Bulukumba plantation conflict, the latter are often at least as important as the former. In the case study, I have not only looked at the legal trajectory of the conflict, but also at its anterior stages, including the events that took place outside of the courtroom. A wide range of actors has been involved in the conflict, including the judiciary, the district and provincial government, various NGO's, the NLA and of course the two main parties in the conflict: the local land users and the plantation company.

During my fieldwork in Bulukumba between 2013 and 2016, I tried to interview as many of the participants involved in the conflict as I could. I also collected documentation such as court hearing transcripts and written correspondence between government agencies. The combination of personal recollections from a wide array of actors and written documentation allowed me to draw up a decent reconstruction of the events that took place since the establishment of the plantation estates in Bulukumba. To reconstruct the events, I focused on the perspectives of what I perceive as the most important agents in the conflict: the dispossessed local land users who tried to get their land back. Nevertheless, I also held interviews with various government officials and managers of the plantation company.

The present study is not the first academic work on the Bulukumba plantation conflict. Most notably, Adam Tyson has devoted a chapter of his 2010 book on adat revivalism to the same conflict. His well-written take on the conflict provides rich details and many interesting observations. At certain points however, his findings and conclusions with regards to why the conflict is so difficult to settle differ significantly from my own. These divergences stem from a difference in approach: Tyson's case-study largely adopts the perspective of the plantation company involved in the conflict, while my account of the case also sheds light on the perspective of the local land users. I will return to these differences later in this chapter.

3.3 LAND CONFLICTS IN INDONESIA DURING THE NEW ORDER AND BEYOND

3.3.1 The rise of land conflicts during the New Order

After Suharto's rise to power in 1966, Indonesia drastically changed its economic policies. In order to revive its severely weakened economy, the country needed 'massive external support' (Anderson, 1983: 488). Attracting foreign investment became a government priority that paid off quickly. In the 1970s, Indonesia's economy began to grow at an

unprecedented rate (Lucas, 1992: 86). A driving force behind the economic growth was the large-scale exploitation of the country's abundant natural resources, particularly oil and timber from the outer islands (Gordon, 1998: 1-24). Huge tracts of land were to be made available for infrastructural development projects, for the conversion to plantations, and for other new types of land use. It led to 'a dramatic increase in the demand for land' (Rosser, Roesad, and Edwin, 2005: 59). The government halted the land reform agenda and the new trend was the 'increasing commercialization of land' (Lucas, 1992: 84).

Even though private companies were the main driver of economic expansion under the New Order, the state played a major role in the economy through its control over land and natural resources. The BAL and sectoral laws such as the BFL granted the central government the authority to allocate permits for the exploitation of land and natural resources. Various government factions were in charge of handing out licenses to foreign and domestic companies, including lucrative oil, plantation and mining concessions. In order to obtain these, private entrepreneurs and companies needed to establish close ties with influential officials. The allocation of concessions was often channeled through the informal alliances of businessmen and military or civilian officials, blurring the lines between public service and private sector (Robison, 1978: 24).

Some authors have labelled this system as a form of 'authoritarian bureaucratic capitalism' (Schulte Nordholt, 2003: 554), characterized by 'monopoly and lack of public accountability' (Robison, 1978: 25). In the case of land clearances, the state rarely seriously considered the interests of the existing land users (Sakai, 2002: 18). In the 1970s, the Ministry of Home Affairs established Land Release Committees (*Panitia Pembebasan Tanah*), which had to determine the price of compensation for land. Representatives of local land users were never part of these committees (Lucas, 1992: 85). Small-scale farmers who already occupied or cultivated the land were often evicted without proper compensation. The majority of them were in a very weak legal position. The BAL provides that all land rights need to be registered, but in practice, registration was difficult due to the high costs and bureaucratic hurdles of land titling procedures (Reerink, 2012).

Most local land users thus lacked formal land titles and usually, the only justification for their entitlement to land was the length of their occupation of a land plot and their payment of taxes (Lucas, 1992: 84). However, as discussed in the previous chapter, Indonesian law was (and still is) ambiguous about the status of such claims. Though the BAL proclaims to be based on adat law and provides that adat law would prevail in the absence of implementing regulations, it does not give clarity on the legal status of long term, but unregistered land occupations (Bedner, 2001: 154). Courts rarely recognize such rights and tend to give precedence to concession rights held by companies. Therefore, when local people challenged their eviction or the amount of compensation they received in court, they would often lose (Lucas, 1992: 86). Furthermore, as I will show in the case below, even if judicial rulings would be in favor of existing land users, powerful officials could obstruct the implementation of the judgment. Yet, in many

instances, conflicts would not even make it to courts, because people did not believe that the judiciary was 'fair and free of politics' (Sakai, 2002: 19; see also Rifai, 2002).

Resistance against evictions and land expropriations was severely suppressed by Suharto's regime. With the political chaos of the 1960s fresh in mind, the New Order government tried to establish order and political stability. Its successes in this regard are noteworthy, but came at the expense of civil liberties. The government demobilized and depoliticized civil society, effectively eradicating organized contestation and collective action of rural population groups (Hadiz, 2007: 882). Existing landholders were highly dependent on outside support. The Indonesian Legal Aid Foundation (YLBH) played an important role here (Lucas, 1992). However, the New Order government was cautious of any outside support that could trigger popular mobilization. Various levels of government explicitly tried to prevent student groups to become involved in land conflicts and hence 'tried to drive a wedge between the students and landholders' (Lucas, 1992: 90). While an NGO movement emerged in the early 1980s, organizations remained under government control and were expected to stay away from politically sensitive issues such as farmer land rights (Rosser, Roesad, and Edwin, 2005: 58).

Because of the repression of larger movements, most resistance up until the mid 1980s was of a small scaled, localized nature. At the local level, those brave enough to challenge land evictions or other forms of dispossession faced repression (Schulte-Nordholt, 2003: 53). In many rural areas, government presence was very strong. Local officials such as village heads tended to be loyal to the New Order regime, rather than being supportive to the land claims of local land users. They were 'patronizing, manipulative, sometimes intimidatory' (Lucas, 1992: 87). In the outer islands these officials were usually local elites of aristocratic descent. Their loyalty to the New Order could cause great frictions within rural societies (Aspinall, 2004: 80).

'Politico-bureaucrats' during the New Order generally felt 'unconstrained by either parliament or the rule of law' (Rosser, Roesad, and Edwin, 2005: 56). Their loyalty to the regime would be rewarded with informal favors and in this way regional governments were 'in fact agents of the center' (Schulte Nordholt and van Klinken 2007: 11). In addition, supporting companies was a lucrative means to generate personal revenue. According to Schulte Nordholt, their relative autonomy to operate 'facilitated the reproduction of patrimonial patterns of rule at the local level, while it may be assumed that informal networks connected the interests of both local businessmen and bureaucrats' (Schulte Nordholt, 2003: 563).

The fiercest intimidation, as well as the most frequent use of force to repress local land users came from military officials, who were often directly or indirectly involved in land conflicts during the New Order (Lucas and Warren, 2013: 10). Indonesia's military structure paralleled the civilian bureaucracy, which meant that the army (ABRI) was present at every level of government, from the central government down towards the village level (Gunawan, 2004: 160). In line with the doctrine of *dwifungsi* (dual function), the Indonesian army operated both as a military and socio-political force penetrating all facets of society to protect the interests of the regime (Jenkins, 1983: 15). Regional military units often worked as 'paid enforcers' for plantation companies, helping them to

access land by forcefully evicting existing landholders (Sakai, 2002: 15; Barber and Talbott, 2003: 145). The military was to a large extent responsible for its own funding. In need of rent-seeking opportunities, lucrative informal deals with plantation companies were the norm. At other instances, military units had direct business interests or shares in plantation companies (Anderson, 1983: 492; Barber and Talbott, 2003: 145-146).

Thus, the agrarian conflicts described above were in essence conflicts between local population groups who were bypassed in decision-making processes on land use change, and 'bureaucratic, military and corporate power' (Hadiz, 2000: 14). Lucas labels the situation of farmers under the New Order as one of 'powerlessness' (Lucas, 1992: 86).

By the late 1980s, civil society's space to maneuver increased somewhat. People facing land expropriations began to receive more external support and the numbers of NGO's and student organizations quickly rose. It was during this time that rural communities increasingly began to articulate their grievances explicitly. Activists - mostly young people of an urban middle-class background - initially focused on providing legal aid to dispossessed people. Gradually activists began to shift towards organizing broader movements that were involved in mobilizing local people and public campaigning. Their calls for justice often referred to the emerging global discourse of 'universal human rights', hence safely eluding the politically sensitive issues of social class or land reform (Aspinall, 2004: 78-82). But such campaigns often had limited concrete results and the practices of forceful dispossession largely continued. Nevertheless, because of these efforts, the issue of land conflicts began to receive more attention in public debates and in the media (Aspinall, 2004: 77).

The increased public attention for land disputes had a political impact. Though far from being a serious threat, it questioned the legitimacy of the New Order within society (Aspinall, 2004: 82). As a result, the regime's tight grip on civil society continued to loosen in the early 1990s. The resistance against the New Order land policies became more organized, following 'a long silence of rural activism' (Rachman, 2011: 7). A number of independent regional peasant organizations emerged, beginning with the SPJB (*Serikat Petani Jawa Barat* Eng. West Java Peasant Union). A national agrarian organization, KPA (*Konsorsium Pembaruan Agraria* Eng. Agrarian Reform Consortium) was founded in 1995. However, the risk of suppression remained present and most of the movements stayed confined to small circles of activists that were forced to operate in an underground fashion (Aspinall, 2004: 80). Many farmer organizations still 'lacked extensive networks as a result of the long history of repression of all forms of political activity' (Bachriadi, Lucas, and Warren, 2013: 311). Up until the end of Suharto's rule it therefore remained difficult for activists to 'connect local land struggles' to larger political movements (Rachman, 2011: 8).

3.3.2 The continuation of land conflicts after the fall of Suharto

In May 1998 President Suharto stepped down following 'massive opposition from civil society groups' (Rachman, 2011: 53). To a large extent, the power transition was the result of a wave of protests from within society, in which particularly student groups and

urban poor played a major role (Aspinall, 2004: 84). The regime change was followed by a 'rapid expansion of associational activity' (Aspinall, 2004: 85). NGO's and farmer organizations began to make serious efforts to push for legal reform, with various degrees of success. At the grassroots level however, people were 'not waiting for policymakers' reforms' and took 'matters in their own hand' (Barber and Talbott, 2003: 152).

In the direct aftermath of the New Order's collapse, a wave of 'direct actions' struck many parts of Indonesia's countryside (Lucas and Warren, 2013: 156). These collective reclaiming actions were carried out by local communities with 'decades old' grievances against the state or corporations (Barber and Talbott, 2003: 152). They involved 'occupations, blockades and the destruction of company assets' (Lucas and Warren, 2013: 15). In the province of East Java alone, there were more than 50 of such reclaiming actions counted, while in South Sumatra province, more than 20,000 hectares of disputed land were occupied by local farmers (Bachriadi, 2012). In West Java, farmer movements played a significant role in the organization of these actions. In other areas they were weakly organized and reclaiming land happened in a more or less spontaneous fashion (Lund and Rachman, 2016: 1223).

That rural people throughout the country suddenly no longer hesitated to reclaim land that had long been denied to them, must be viewed 'above all in the context of weakening state and security force power after the fall of Suharto' (Bachriadi, 2012). Habibie, who succeeded Suharto as President in 1998, dissolved the *dwifungsi* structure and formally pulled the military out of political affairs. Internal security became the primary function of the police, while the military's extrajudicial powers were abolished (Klinken, 2007b: 30).⁴⁶ Such changes significantly altered power relations in rural areas. For instance, many plantation companies could no longer blindly trust upon the 'loyalty' of local government officials.

The 1997 Asian financial crisis left many companies in severe debts and as a result, they no longer disposed of the means to pay bribes in return for support. It was under such conditions that 'many occupations took place without interference from the state apparatus' (Lucas and Warren, 2013: 15). According to newspapers, between 1998 and 2000 there were 28 mining companies that stopped operating, while 50 timber companies halted logging activities as a result of competing land claims by local land users (Lucas and Warren, 2013: 16; Barber and Talbott, 2003: 152).

In many instances however, the excitement among people with longstanding rural grievances was only of a temporary nature (Barber and Talbott, 2003: 154). Although local communities enjoyed more freedom and received more support, the lack of government control had a flipside. Ultimately, those seeking to reclaim their lost lands still 'faced powerful and violent adversaries', especially in the form of thugs working for plantation companies (Aspinall, 2004: 88). Instead of the military, companies increasingly began to deploy local thugs, known as *preman*, to use violence against land disputants in the early 2000s (Collins, 2001: 46). At other instances, the support to corporations was once again provided by the state security apparatus, particularly the paramilitary police

⁴⁶ This separation was formalized through a Presidential Instruction (*Instruksi Presiden no. 2/1999*) and later confirmed in constitutional amendments.

force (*Brimob*) (Aspinall, 2004: 88). In the absence of effective conflict resolution, many agrarian land conflicts lingered on for years, sometimes interrupted with intermezzos of relatively quiet periods. In the current era of regional democracy, conflicts have tended to heat up right before and after regional elections, when aspiring political candidates make populist promises about settling the conflict in order to gain support (Buehler, 2016). Having discussed the general trajectory of agrarian land conflicts during the New Order and their continuation following the regime change, the next section will focus on the longstanding plantation conflict in Bulukumba, which began in 1981.

3.4 THE BULUKUMBA PLANTATION CONFLICT UNDER THE NEW ORDER (1981-1998)

3.4.1 Origins of the conflict

The Bulukumba plantation conflict is a case of longstanding, ongoing resistance of local land users against the occupation of land by a plantation company named PT. PP. London Sumatra (hereafter PT. Lonsum).⁴⁷ The company holds the long-term lease rights to exploit some 6000 hectares of land on the basis of a state granted concession (*Hak Guna Usaha* henceforth HGU). Since the collective contestation against the company began in the early 1980s, the conflict has gone through various phases. It escalated in 2003, when several farmers were killed by the police during a mass occupation of the plantation. Taking into account how the conflict began and developed during the New Order helps us to understand how it reached that point.

The establishment of the plantation in Bulukumba began in 1919, when *NV Celebes Landbouwmaatschappij*, a plantation company founded by two British entrepreneurs, obtained *erfpacht* (long term lease) rights over a plot of 1600 hectares spanning over three districts (today Bulukumba's sub-districts Kajang, Bulukumpa and Ujung Loe). Local indigenous leaders had agreed on the land lease after the colonial government paid them indemnities.⁴⁸ The company established two estates on the land, Balangiri and Balombessie, which were planted with rubber and coffee. In 1926 the company became a subsidiary of Harrisons and Crosfield Ltd, the largest British plantation company operating in the Dutch East Indies. Following this take-over, the company acquired the rights to establish an additional, third estate named Palangisang in 1930. This estate was significantly larger - covering 5000 hectares - and was initially acquired to cultivate and

⁴⁷ PT is an acronym for *Perseroan Terbatas*, a term that refers to a limited liability company. PP stands for *Perusahaan Perkebunan*, meaning plantation company.

⁴⁸ The indigenous heads that agreed on the lease were the *Karaeng* Bapa Matasa of Kajang, *Karaeng* Nanrang of Ujung Loe, and *Karaeng* Nojeng of Bulukumba Toa (now sub-district Bulukumpa). This information is provided in a report of PT. Lonsum named '*Klarifikasi Isu HGU PT. London Sumatra Indonesia Tbk Sulawesi-Bulukumba*', which I obtained from the Head of Land Conflicts of the district government of Bulukumba in April 2014. In addition, a letter entitled '*Uittreksel uit het register der handelingen en besluiten van den gouverneur van Celebes en onderhoorigheden No.719/599/AA*' of 29 October 1930 directed to the *Karaeng* of Bulukumba Toa, states that the right holders of the leased land of Palangisang estate, Bulukumba Toa were to be indemnified for the release of their land.

process kapok.⁴⁹ The estates were (and still are) the only large plantation estates in South Sulawesi, a region otherwise characterized by rice fields and farming gardens of smallholders. According to several accounts, the area surrounding the estates was still sparsely populated when the estates were developed.⁵⁰

From the 1940s until the mid 1960s the company could not operate smoothly due to the Japanese occupation, the subsequent battle for Indonesian independence and the Darul Islam rebellion conflict that struck large parts of the South Sulawesi countryside. Although the government granted a new permit to the company (that now went by the name of PT. Perkebunan Sulawesi) in 1954, the security situation remained a significant obstacle for the intensification of production.⁵¹ Subsequently, during the confrontation between Indonesia and British-backed Malaysia, President Sukarno nationalized all British plantation companies in Indonesia in 1964, including PT. Perkebunan Sulawesi (White, 2012: 1310).⁵² During this time, state owned enterprise PP. Dwikora took over the plantation estates. Meanwhile, the *erfpacht* rights were converted into concession rights (HGU), in compliance with the newly adopted BAL. Villagers recollect that during the 1960s, PP. Dwikora hired local paramilitary soldiers to expand Balombessie estate beyond its original borders. These soldiers forced local farmers from their land and accused those who resisted of being PKI members.⁵³

After Suharto became President, Indonesia re-opened its doors to foreign investors and enterprises. In 1968, Harrisons and Crosfield signed an agreement with the Indonesian government that allowed the company to restart operations on its previously held plantation estates throughout the country (White, 2012: 1312). The three plantation estates in South Sulawesi were assigned to Harrison and Crosfield's daughter company PT. Lonsum. In 1976 the company eventually obtained an HGU with a duration of 30 years.⁵⁴ According to the HGU, the three estates now covered a total of 7093 hectares. Because of the political turmoil of the previous decades, much of Palangisang estate, by far the largest estate, had not yet been converted into rubber fields, and was still covered with forest.

⁴⁹ The information regarding the establishment and size of the estates comes from the newspaper *De Indische Courant*, 04 November 1938.

⁵⁰ *De Indische Courant* (04 November 1938) notes that the plantation estates are located in one of the most sparsely populated regions of South Sulawesi. Furthermore, a travel report from a colonial official (Klaveren, 1918) provides a detailed description of the landscape before the plantation estates were established. The terrain alongside the main road between Kajang and Tanete, where Balombessi estate and Balangriri estate were later established, was characterized by dry, savanne-like terrain. The district of Ujung Loe on the other hand, where Palangisang estate is located today, was densely forested and home to many wild buffalo's.

⁵¹ In the mid 1950s, fighting between the Indonesian army and Darul Islam guerillas occurred near and around the plantation estates. Sometimes, this directly impacted the operations of the company. In 1954 for instance, Darul Islam soldiers burned warehouses of Balangriri estate and kidnapped some of the company's employees. From: *De Locomotief, Semarangsch Handel- en Advertentie Blad*, 20 May 1955.

⁵² President Sukarno nationalized the company through *Penetapan President no. 6 tahun 1964*.

⁵³ Interview with an ex-paramilitary soldier who claims to have who worked for PP. Dwikora, conducted in Jawi Jawi Village, sub-district Bulukumpa, 28 April 2014.

⁵⁴ The HGU was issued by Letter of Ministry of Home Affairs no. 39/H.G.U/DA/1976 and declared retroactively valid from May 1968 to May 1998.

What had happened at the location of the plantation estates during these turbulent years? In the early 1950s the plantation company abandoned Palangisang estate and during this period, local farmers had begun cultivating plots of land in the border areas of the estate, planting it with rice, corn and banana trees. Some of them had migrated from other regions of South Sulawesi province, attracted by the available land in the area. However, most of them were from nearby villages of the sub-districts Kajang and Bulukumpa. Various accounts suggest that these farmers were the first to 'open' the forested lands located on Palangisang estate.⁵⁵

In 1979, PT. Lonsum planned to expand rubber production on the estate, which would cause tension between the company and local cultivators. One area of such tension was Ganta, a hamlet in Tambangan village (now Bonto Biraeng village), sub-district Kajang. A significant part of Palangisang estate is located in this village (see research locations map on page 6). In October 1981, employees of PT. Lonsum showed up in Ganta and ordered the farmers to vacate their fields immediately. While the farmers initially refused to comply to the demands of the company, they eventually left the land behind after company workers and local government officials began cutting down the farmers' fruit trees. In the months that followed, dozens of company workers began to plant the land with rubber. Similar evictions occurred in other villages in the border areas of Kajang, Bulukumpa and Ujung Loe sub-districts.

Most of the local land users who were forced off Palangisang estate did not dare to resist out of fear for possible repercussions, especially because PT. Lonsum was supported by the regional military unit (*Kodim*). At the local level, they faced a powerful coalition, as the district government and military officials worked hand in hand with the plantation company. Nevertheless, a large group of farmers from Ganta decided to take action and bring the company and two local government officials to court.

In April 1982, a farmer named Hamarong filed a civil lawsuit on behalf of himself and 171 other farmers at the Bulukumba District Court against PT. Lonsum, the Tambangan Village Head and the Kajang Sub-District Head.⁵⁶ That this group of villagers turned to litigation is remarkable, as in rural Indonesia, according to scholars like Rifai (2002: 12), litigation is not a culturally accepted way to address conflict. It is also time consuming and expensive, especially for poor villagers.⁵⁷ It is also remarkable that the villagers turned against local officials. In Kajang, there is a long tradition of respect towards local authorities, which I will explain further in Chapter 5.

3.4.2 *The legal dispute*

⁵⁵ Interview with Selasa B in Bonto Biraeng Village, sub-district Kajang, Bulukumpa, 10 April 2014. Similar stories were told by various witnesses overheard during the hearings of the lawsuit at the Bulukumba District Court in 1982, according to official transcripts of the hearings.

⁵⁶ Bulukumba District Court Ruling no. 17/K/1982/BLK.

⁵⁷ Another plausible reason why this particular group turned to litigation is the fact that the leader of the farmers, Hamarong, was originally not from Kajang but from the island of Selayar. It may be assumed that he was therefore less inclined to obey local authorities than other Kajang villagers.

The farmers were represented by Laica Marzuki, a dedicated and prominent law lecturer and lawyer who ran the regional Legal Aid Foundation (*Lembaga Bantuan Hukum*) of Hasanudin University in Makassar. Marzuki agreed to help the local land users after meeting Hamarong, who had gone to Makassar in search of support.⁵⁸ Hamarong and the other land users claimed legal entitlement to a plot of 350 hectares of land located in Ganta, on the basis of long-time cultivation (28 years). They insisted that during all these years there never had been any notification that PT. Lonsum was legally entitled to cultivate the land. Hence the farmers asked the court to declare them the rightful holders of the land and to receive compensation for the damage done by the company and local officials, since the land in question was the only means of livelihood of about 850 people.⁵⁹ The company rejected the claim of the farmers. Their defense statement noted that the local land users are not legally entitled to the land because they do not have land certificates, as is required by the BAL.

Courts during the New Order usually dismissed claims of land users without formal land titles, but in this case the Bulukumba District Court decided differently (Lucas, 1992). In March 1983, the court ruled that the 172 farmers were the rightful owners of the land. The court noted that according to adat law, the farmers held rights to the land (*hak atas tanah*) on the basis of their long-term cultivation of empty land. It held that such rights are valid under Indonesian law, since the BAL recognizes the principles of adat law. The court furthermore stated that under Indonesian law, HGU concessions could not be issued if the land in question is already occupied or inhabited.⁶⁰ Finally, the court noted that the village and sub-district heads had conspired with the company by illegally taking the people's land.⁶¹ On the basis of an inspection of the judges at the location, the court ruled that 200 hectares of the disputed land belonged to the farmers.⁶²

Shortly after the ruling, PT. Lonsum filed an appeal with the Makassar High Court. Several months later, in September 1983, the Makassar High Court ruled in favor of the company.⁶³ According to the judges, the local land users should have filed separate lawsuits because their claims of damages differed. The court therefore declared the group to be inadmissible and annulled the decision of the Bulukumba District Court. This setback did not make the farmers give up. They continued their quest for justice by lodging for cassation at the *Mahkamah Agung*, the Supreme Court of Indonesia, in December 1983.⁶⁴

⁵⁸ Interview with Laica Marzuki in Makassar, 07 April 2014.

⁵⁹ As stated in the lawsuit (*gugatan*) filed by Hamarong and 171 others to the Bulukumba District Court on 2 April 1982.

⁶⁰ The court provided two legal bases for this: Ministerial Regulation no. 3/1979 from the Minister of Agrarian Affairs and Ministerial Regulation no. 5 1977 of the Minister of Home Affairs.

⁶¹ Bulukumba District Court ruling no. 17/K/1982/BLK, page 104-105.

⁶² While the farmers had claimed 350 hectares in their lawsuit (*gugatan*), the court noted that in first letter of authority (*surat kekuasaan*) only 200 hectares were claimed. After an inspection of the judges on the location, the judges found that the 200 hectares indeed matched (*cocok*) with the physical situation on the location. See page 90-91 of the ruling.

⁶³ Makassar High Court ruling no. 228/1983/PT/Pdt.

⁶⁴ Cassation request (*Surat Permohonan kasasi*) No.17/1982/BLK.

3.4.3 Beyond the legal dispute: Local repression and coercion

During the lawsuit, the situation in the village remained highly tense. In an interview, Laica Marzuki recalled that the company along with the military consistently threatened and intimidated the local land users.⁶⁵ Some of them reported to the Bulukumba District Court and the police that the company was 'taking the law in its own hands' (*penghakiman sendiri*).⁶⁶ But such complaints posed little threat to PT. Lonsum as the company enjoyed strong support of the military. Even amidst ongoing legal procedures, PT Lonsum continued operating on the disputed land. Even before there was a ruling of the Makassar High Court, the company continued with planting rubber trees on land claimed by the farmers.

PT. Lonsum worked closely with the regional military unit to expand its plantation at Palangisang estate. In early 1984, soldiers and village officials pressurized the farmers to withdraw their request for cassation. They visited the houses of villagers and aggressively urged people to sign an agreement, according to which a plot of 100 hectares would be granted to the local land users. Each family would receive a maximum of one hectare, under the condition that the request for cassation would be withdrawn. According to Tyson, the company was willing to give the farmers land 'in the spirit of good will and reconciliation' as it 'sought to appease the aggrieved community' (Tyson, 2010: 136, 137). However, Tyson does not mention the repressive conduct of the military and village officials. Thirteen farmers who refused to sign were taken to the office of the Tambangan Village Head, where they were tied up, muffled and severely beaten. Soldiers destroyed houses of farmers who refused to sign. Frightened by these events, some people hid in nearby villages while others fled further away.⁶⁷

The company then tried to convince the Supreme Court that the conflict had been settled outside the courtroom and that the farmers canceled their cassation request.⁶⁸ With the help of the Bulukumba District Head, a 'dispute settlement commission' was established, which essentially served to make the agreement appear legitimate. The commission was made up of PT. Lonsum managers and district government officials. Oddly, the defendants in court were also part of the commission: the Kajang Sub-District Head and the Tambangan Village Head. The local land users were in no way represented in the settlement commission.⁶⁹ Without consulting the farmers, a 'settlement' was reached within weeks.⁷⁰ In August 1985, the land was released and distributed. The plots of land had an average size of 0,5 hectare and were randomly distributed among local

⁶⁵ Interview with Laica Marzuki in Makassar, 07 April 2014.

⁶⁶ One of the farmers, Mapiasse, sent complaint letters to the Bulukumba District Court and the district police that PT. Lonsum was not abiding by the ruling and continued to cut down people's fruit trees.

⁶⁷ The information on the forced agreement and physical abuse is derived from three complaints filed to the Bulukumba District Court: 1) A letter from Mapiasse, received by the court on 7 July 1984. 2) A letter signed by six local land users, received by the court on 05 June 1984. 3) A letter from Hamarong signed by five other claimants, received by the court on 25 June 1984.

⁶⁸ PT. Lonsum informed the Supreme Court about this by letter no. 011/B/1985, 28 January 1985.

⁶⁹ The commission was established through Bulukumba District Head Decree no.15/II/1985.

⁷⁰ A month after the establishment of the commission, PT. Lonsum issued a statement that a settlement had been reached (*Surat pernyataan PT. London Sumatera no. 026/B/0/1985*).

residents, irrespective of whether they were legal claimants or not. The land release was made official when the Bulukumba District Head came to the village to give a ceremonial speech.⁷¹

PT. Lonsum and its allies now assumed to have effectively dealt with the local land users and expected no more trouble. However, Hamarong and the other claimants refused to accept the agreement for two reasons. First, the agreement had come into being through repressive means. Second, the size of released land did not amount to the size that was originally claimed in court. In light of these objections, the claimants did not withdraw their appeal before the Supreme Court. In the five years that followed, three more court rulings on the case followed.⁷² In June 1990 – in a surprise decision – the Supreme Court ruled in favor of the local land users. It held that the longtime cultivation of land, passed on from generation to generation (*turun-temurun*) granted the farmers the rights to the land.⁷³ The court therefore reinforced the initial district court decision of eight years earlier and ordered PT. Lonsum to release a plot of 200 hectares to the local land users.

A final legal option to challenge the Supreme Court ruling was available to PT. Lonsum: a revision procedure (*peninjauan kembali*). The company requested revision of the ruling based on the argument that the conflict had already been settled through a mutual agreement in 1985.⁷⁴ Hamarong responded that this agreement was ‘obviously false and fabricated’ (*jelas tidak benar dan mengarang-ngarang saja*).⁷⁵ The Supreme Court however accepted the request for a revision procedure, which created the opportunity for the company to prevent the implementation of the ruling. In 1991, PT. Lonsum and the Bulukumba District Head asked the Supreme Court to order the delay of the execution until the revision procedure was finalized.⁷⁶ The Supreme Court honored their request. Hence, after five court rulings and almost a decade of tension, the conflict was yet to be settled.⁷⁷

So far, I have outlined the trajectory of the conflict by looking both at the legal procedures and the main events that occurred at the location of the conflict. We have seen that PT. Lonsum tried to end the legal procedures and settle the conflict on its own terms. The company could count on support from the regional security apparatus, as well as the

⁷¹ On 2 September 1985, the Bulukumba District Head requested the Minister of Home Affairs and the Director-General of Agrarian Affairs to release 103,10 hectares from the HGU, which were to be distributed to 201 people (*Surat Bupati Bulukumba no. 593.7/250/Agr-BK/1985*).

⁷² In 1985, the Supreme Court first ordered the Makassar High Court to revise the case. In 1987, The Makassar High Court subsequently ruled in favor of PT. Lonsum, arguing that there was no written evidence, certificate or confirmation from an authorized institution that proved that the farmers held rights to the land (Makassar High Court ruling no. 228/1983/Pdt, page 18). The local land users then filed for cassation at the Supreme Court again and won in 1990.

⁷³ Supreme Court ruling no. 2553/K/Pdt/1987, page 25-27.

⁷⁴ Letter from PT. Lonsum’s lawyer Chaidir Hamid to Head of Supreme Court, 15 January 1991.

⁷⁵ From the counter-statement of Laica Marzuki (*Kontra Memori Peninjauan Kembali*), 20 July 1991.

⁷⁶ This information was provided in a January 1991 letter from Head of Supreme Court to the Head of Bulukumba District Court.

⁷⁷ Actually, it seems that there was no proper legal basis for the Supreme Court to do so. Revision as a legal remedy should not delay the implementation of the court’s decision, in accordance with article 66 (2) of Law no. 14/1985 on the Supreme Court (replaced by Law no. 5 of 2004).

Bulukumba district government. Outside of the courtroom, the local land users could hardly defend themselves against the company and its allies. Their efforts to settle the conflict in court were undermined by a manipulative coalition of the corporation and regional authorities. In the next section, I will explain how the conflict changed after the fall of the New Order government.

3.5 THE BULUKUMBA PLANTATION CONFLICT DURING *REFORMASI* (1998-2006)

3.5.2 The execution

After the fall of the New Order, the resistance of the local land users moved from litigation to mobilization and collective action. This transformation did not happen overnight. After decades of intimidation and repression, many people were at first not eager to join. Although PT. Lonsum's HGU was extended for another 25 years in 1997, there were - unlike in many other areas of Indonesia - no spontaneous reclaiming actions in Bulukumba in the immediate aftermath of the fall of the New Order.⁷⁸ What set the Bulukumba plantation conflict apart from many other land conflicts was that there was a court ruling providing a legal basis for local land users to claim their lands. Rather than taking the law into their own hands, the group of 172 farmers therefore chose to wait for the Supreme Court's decision on the revision procedure. In March 1998, the Supreme Court finally denied PT. Lonsum's request for revision. This meant that there was no more reason to postpone the execution that had been put on hold since 1991.⁷⁹ The first move of the farmers was urging the Bulukumba District Court to order carrying out the long-delayed execution.⁸⁰

The Bulukumba District Court agreed with the request and scheduled the execution for December 1998. Prior to this, officials of the regional NLA office were called to measure the land in accordance with the natural borders specified in the legal claim of the local land users. The officials also counted how many rubber trees were located on this land. The total size of the land turned out to be 540 hectares. This was significantly larger than the 200 hectares the Supreme Court had adjudicated to the litigants. That the land was in reality much larger was in itself not strange, given that the size of land was not determined on the basis of an exact measurement, but on a mere 'examination on the location' by the Bulukumba District Court in 1982. PT. Lonsum immediately filed a complaint to the court, stating that the size of the confiscated land exceeded the 200 hectares the local land users were legally entitled to.⁸¹ The Bulukumba District Court consulted the Makassar High Court for instructions, which ordered to follow through with the execution anyway.

⁷⁸ On 12 September 1997, the HGU was extended by a decision of the Minister of Agrarian Affairs/Head of the National Land Agency with a total size of 5784,46 hectares. It is unclear whether the 'disputed land' was included in the concession given that the map of the concession is not publicly accessible.

⁷⁹ Supreme Court ruling no. 298PK/PDT/1991.

⁸⁰ This request was addressed to court in a letter signed by ten of the legal claimants on 21 August 1998.

⁸¹ Confiscation report (*berita acara sita eksekusi*) from the Secretary of the Bulukumba District Court, 3 December 1998.

In February 1999, the execution was carried out. Workers of PT. Lonsum attempted to prevent it by offering 'peace and consensus' (*perdamaian/musyawarah*), but to no avail.⁸² During the execution, not the company but the farmers received support from policemen and military personnel, who were tasked with overseeing the execution. For the first time in decades, the company now seemed powerless to challenge the loss of land, at least for a while. PT. Lonsum became an Indonesian company in 1994 and was hit hard by the Asian financial crisis of 1997.⁸³ It carried substantial debts and was forced to lower production. It may be assumed that the company's debts affected its capacity to gain support from the government and the security apparatus.

Several months after the execution, the court changed its mind about the accurate size of the land belonging to the local land users. The Makassar High Court informed the Bulukumba District Court that it had not ordered the release of 540 hectares of land, but merely to implement the Supreme Court decision. The Makassar High Court therefore ordered to repeat the execution (*eksekusi ulang*) and return 340 hectares to the company.⁸⁴ But when officials of the Bulukumba District Court attempted to do so in July 1999, they did not receive a warm welcome. Dozens of farmers blocked the road while others occupied the disputed land. By refusing to vacate the land, the farmers eventually prevented the execution.⁸⁵ The Bulukumba District Court decided to temporarily postpone the execution, which allowed the farmers to retain control of the 540 hectares, even though their legal position was highly uncertain.

Tyson (2010) provides a somewhat different perspective on the events surrounding the execution. He notes that the expansion to 540 hectares was based on a 'clerical error', which was then used by 'opportunists' to reinterpret the borders of the land (Tyson, 2010: 139). Referring to a 2005 report by PT. Lonsum and information from a former Bulukumba District Head, Tyson writes that 'villagers were encouraged to remove NLA demarcation poles and set them around a new perimeter measuring 540 hectares'. He does not mention the initial instruction from the Makassar High Court and as such, his account suggests that the release of 540 hectares had no legal basis, but merely constituted a manipulative action of local opportunists.

⁸² According to a report of the execution (*Berita Acara Menjalankan Putusan Hakim*) from the Secretary of the Bulukumba District Court, 26 February 1999.

⁸³ In 1994, PT. Lonsum was taken public after Harrison and Crosfield sold its shares in the company. Indofood Agri Resources Ltd (IndoAgri), which is the agribusiness arm of PT. Indofood Sukses Makmur Tbk became the largest shareholder of PT. Lonsum in October 2007, through PT. Salim Ivomas Pratama Tbk (SIMP), a subsidiary of IndoAgri. PT. Lonsum was thereafter integrated into the Indofood Group.

⁸⁴ *Surat Perintah no. B15.D1-HT.01.04-184/1999*, sent by Head of Makassar High Court to the Head of Bulukumba District Court, 05 July 1999.

⁸⁵ Interview with Bundu (original claimant) in Bonto Biraeng village, sub-district Kajang, 08 October 2015.



Bundu, one of the 1982 claimants, on his adjudicated land in Bonto Biraeng village, October 2015.

3.5.2 From legal claimants to people's movement

Despite the turmoil that followed the execution, the litigants did manage to finally get back the land the court had adjudicated to them. This signified a shift in the local power relations that had long been marked by the dominance of the company and its allies. This grassroots victory led to the articulation of other, hitherto, unvoiced grievances. People from other villages in the sub-districts of Kajang and Bulukumpa now felt encouraged to start claiming land inside PT. Lonsum's estates as well.⁸⁶ Many of them were farmers who had also been forced off their land during the New Order, but previously not dared to resist. Indeed, there were two specific developments in Bulukumba that made people eventually decide to express their grievances: the execution of the Supreme Court ruling and the involvement of external mediators.

When an influential external mediator became involved at the grassroots level, the scale of mobilization rose to another level. In Bulukumba, this was a young charismatic activist named Armin Selasa. Originally from a village near Palangisang estate, he spent his college years in Palu (Central Sulawesi province), where he became involved in student activism and joined the influential activist organization YTM (*Yayasan Tanah Merdeka*, Eng. Foundation for Liberated Land). In 1999, Armin decided to move back to Bulukumba. Basing himself in the district capital, he established an organization called YPR (*Yayasan Pendidikan Rakyat*, Eng. People's Education Foundation), a social empowerment organization.

⁸⁶ Interview with Latif, 11 May 2014 in Bulukumba city.

Using his experience of grassroots mobilization in Palu, he was able to unite local farmers in large numbers and encouraged them to resort to collective action. Armin recalled: *'Organizing the people was actually very easy. I told them that we have to collectively speak up (suarakan). The main hurdle was that the older people were still scared and traumatized by the military. Not they, but their children were the first to become involved. So, our task was to tell the older generation that we were going to take back the land and that they should no longer be afraid.'*⁸⁷

Within months, hundreds of farmers from various villages in the border area of Bulukumpa and Kajang sub-districts decided on joining the collective contestation against PT. Lonsum. Armin Selasa managed to unite both the original claimants (*penggugat asli*) who had gone to court and wanted to keep the 540 hectares of land, and new claimants (*penggugat baru*) from neighboring villages. Armin's aim was to take back *all* the land expropriated by PT. Lonsum, including that of the new claimants to whom the Supreme Court had not adjudicated any land. The strategy of resistance by legal means made way for one involving grassroots mass mobilization. Armin believed that the most important factor in the struggle was the power of numbers.

At the village level, Selasa established an organization entitled DRB (*Dewan Rakyat Bulukumba*, Eng. The People's Assembly of Bulukumba). This organization was designed to form an alternative version of the district parliament (DPR-D). The rationale was that in the absence of a proper functioning district parliament, the people could form one themselves. The organization consisted of 32 representatives who went around villages to convince people to join the movement. Armin explained: *'We told the people we can do this! The important thing was communication with the outer world. First, we got around 40 people and each of them went out to get more people to join. They usually would go around villages at night. We went from door to door and told people that we wanted to take back the land that the company had taken from them.'*⁸⁸

The DRB began to organize rallies and demonstrations around the plantation estates, as well as in the Bulukumba district capital. For a while, such confrontational strategies were quite successful. In 2001 for instance, the Bulukumba District Court made another attempt to confiscate 340 hectares from the original claimants in order to comply with the instruction of the Makassar High Court. This time, court officials ran into hundreds of protestors that blocked access to the land, despite the presence of many policemen.⁸⁹ Armin recalled: *'Actions like that had never happened before on such a scale in Bulukumba. It was a totally new experience, so we had no idea of the possible risks we were facing.'*⁹⁰ At the village level, the DRB functioned very much like a 'twilight institution' (Lund, 2006). While not a formal institution, it did exercise public authority in the villages surrounding Palangisang estate.

⁸⁷ Quote from interview with Armin Selasa in Bulukumba city, 05 October 2015.

⁸⁸ *Idem*.

⁸⁹ From a 2003 anonymous investigative report called '*Salam dari Cisadane*', obtained from AMAN South Sulawesi.

⁹⁰ Quote from interview with Armin Selasa in Bulukumba city, 05 October 2015.

3.5.3 Escalation

PT. Lonsum perceived the empowerment of the grassroots land claim movement as a serious threat to its business. The military had gradually withdrawn its direct presence from the plantation area during the first years of the *Reformasi* period. The display of state power in the form of the omnipresent security apparatus had abated. Meanwhile, the movement of the YPR and DRB began to take vigilante-like forms. In response to this growing uncertainty, local narratives suggest that PT. Lonsum began to distribute firearms to its local employees in early 2003.⁹¹ Like in other regions in Indonesia in the early 2000s, the tension between the company and local residents began to reach a boiling point (Lund and Rachman, 2016). Aspinall wrote at the time that in the tensest regions, such as the plantation areas of North-Sumatra, 'local conditions have come to resemble civil war' (Aspinall, 2004: 88).

Amongst this growing tension, the government abstained from any interference. Police personnel only made occasional visits to the dispute location. In June 2003, Armin Selasa posed an ultimatum through a letter addressed to the Bulukumba District Head, provocatively stating that if the people would not get back their land soon, they would take it themselves. In response, the Bulukumba District Head issued a statement on 18 July 2003, noting:

*'The people have rights to 200 hectares and the remaining area belongs to the concession of PT. Lonsum. The relevant authorities will bring security assistance (bantuan pengamanan).'*⁹²

By referring to the Supreme Court ruling, the Bulukumba District Head refused to consider the grievances of the new claimants. He thus turned a blind eye to the developments that had taken place since political restrictions were lifted and grievances could be expressed more freely. Not surprisingly, the YPR and DRB refused to accept the statement and began to organize what would become their biggest and final collective action.

In the early morning of 21 July 2003, people began to gather in Ganta hamlet, Bonto Biraeng village, sub-district Kajang, where most of the original claimants lived.⁹³ At around 10 AM the crowd started to move to PT. Lonsum's Palangisang estate. By noon, the number of people that had gathered at the plantation had reached around 1500. Certainly not all of these were local land users. Through extensive informal networks of Kajang families, people had come from as far as Southeast Sulawesi to help. Using chainsaws and other equipment, several people began to take down rubber trees. Around 1 PM, a dozen officers from the district police department entered the occupied area.

⁹¹ From a 2003 report written by Solidaritas Nasional untuk Bulukumba (SNUB) called: *Kronologis: Kasus Penembakan Petani dan Masyarakat Adat Kajang Bulukumba Propinsi Sulawesi Selatan Oleh Aparat Polda Sulawesi Selatan dan Polres Bulukumba 21 juli 2003.*

⁹² Citation from a written statement by the Bulukumb District Head, 18 July 2003.

⁹³ In the 1990s Bonto Biraeng became a new village and split off from Tambangan village.

According to an NGO report, the police immediately opened fire, without 'prior warning shots or negotiation'.⁹⁴ The police later stated that the officers used their gun to defend themselves against the occupants, some of which were throwing Molotov cocktails.⁹⁵ Following the shooting, a fight broke out between policemen and some of the occupants.

By 5 PM, as many as 400 police officers from both Bulukumba and several neighboring districts arrived at the location to disperse the crowd.⁹⁶ In an attempt to evict the crowd from the plantation, the police again used firearms. One farmer was killed on the spot, while another was severely wounded and died after being rushed to the hospital. Following the second shooting, the crowd fled the area. Many hid in nearby cornfields, while others ran to hide in the forest of neighboring villages. The next day the police carried out a large search operation in the area and issued a list with suspects. By then, the death toll had risen to four. 20 victims were admitted to the hospital, while 46 occupants, including several leaders of the DRB, were arrested.

The violent events, which became locally known as *Tragedi Juli 21* (The tragedy of 21 July), had a major impact on the further course of the dispute. Civil society organizations throughout the country expressed their support for the plantation occupants, but the grassroots movement of land claimants ended abruptly. The lethal violence came as a shock to many who had joined the occupation.⁹⁷ The YPR and DRB were dissolved and several of its leaders put behind bars. Armin Selasa's younger brother Iwan was sent to prison for two years. Armin Selasa did not end up in jail but left Bulukumba for several years to work for an NGO in Aceh. Absent his leadership, the land claimants were left in an organizational vacuum.

The end of the land claimant movement was a relief for PT. Lonsum. Between September 2003 and early 2004, the company singlehandedly re-annexed parts of the land released to the original claimants in 1999. The company ordered its employees to remove people's tree crops on the land that was released during the 1999 execution in the villages of Bonto Biraeng and Bonto Manggiring. This time there was hardly any local resistance. The company managed to regain control over approximately 270 hectares of land. As a result, about half of the original claimants that were given land in 1999 lost their land once again.

During numerous personal conversations with managers and legal consultants of PT. Lonsum, I was told that the annexation was a legal act that was necessary to evict the unlawful squatters from the land.⁹⁸ In the company's view, taking back these 270 hectares

⁹⁴ From a 2003 report by Solidaritas Nasional untuk Bulukumba (SNUB) called: *Kronologis: Kasus Penembakan Petani dan Masyarakat Adat Kajang Bulukumba Propinsi Sulawesi Selatan Oleh Aparat Polda Sulawesi Selatan dan Polres Bulukumba 21 juli 2003*.

⁹⁵ From a report by Amnesty International, available at <http://www2.amnesty.se/> and also: <http://www.thejakartapost.com/news/2003/07/24/activists-condemn-police-shooting-protesting-farmers.html>. Last accessed 21 May 2018.

⁹⁶ The Kontras report notes that there were at least 400 police officers present.

⁹⁷ Interview with Bundu (original claimant) in Bonto Biraeng village, sub-district Kajang, 18 October 2015.

⁹⁸ I obtained this information from three separate conversations with PT. Lonsum staff: 1) Endah Madnawidjaja, Corporate Secretary and Head of Legal Affairs of PT. Lonsum in Jakarta, 28 May 2014.

corrected the 'flawed' 1999 execution of the Supreme Court ruling. This shows how the fixed character of the court ruling was used against the land claimants during *Reformasi*. While the company had tried to settle the conflict outside of the court during the New Order, PT. Lonsum now invoked the Supreme Court ruling to delegitimize all claims that fell out of the ruling's scope.

3.5.4 Government mediation

The annexation of land by PT. Lonsum sparked new resistance from the land claimants, particularly from those who had lost their land again after gaining it back four years earlier. Although on a much smaller scale than before, new demonstrations were held in Bulukumba and Makassar in late 2004. The district government proposed to lead a mediation procedure, but the claimants put little trust in such a procedure. They believed that mediation by an independent institution, such as Komnas HAM - the Indonesian Human Rights Commission - would serve them better. However, PT. Lonsum only wanted to participate in mediation if it was done under government supervision. In February 2004, the provincial government of South Sulawesi became involved and formed a mediation team.

The team consisted of several provincial and district government officials, including the South Sulawesi Governor and the Bulukumba District Head. PT. Lonsum was represented by the company's director and the manager of Palangisang estate. The provincial government selected five men to act on behalf of the local land users, who were referred to as 'the groups of ex-claimants and occupants' (*kelompok-kelompok eks. Penggugat dan okupan*). Komnas HAM engaged in monitoring the process in order to ensure that 'local wisdom and customs' would be considered in the process (Komnas HAM, 2006). Between March and August 2004, the mediation team organized several meetings that allowed the two parties to negotiate a settlement.

However, the mediation process was bound to fail. In the eyes of many land users, the five men chosen to represent them were frauds paid by PT. Lonsum. According to an account from several of the original claimants, one of them worked as a security guard for PT. Lonsum, while another one was a *preman* hired by the company.⁹⁹ While some of the original claimants were invited during the preparatory meetings, the provincial government did not select them to become part of the mediation team. This gave the company a chance to influence the outcome of the mediation process.

During the mediation, the grievances of those who were not part of the 1982 original claimants were not taken into account. Once again, the government considered the 1990 Supreme Court ruling as the only valid evidence of land claims. Following several rounds of negotiations, a settlement was reached: the original claimants would be allowed to keep the 271 hectares they currently controlled. Given that this exceeded the 200 hectares adjudicated by the Supreme Court, the provincial government considered this a

Professor Abrar Salem, legal advisor to PT. Lonsum, 10 April in Makassar 3) Erwin, estate manager of Palangisang, 18 May in Bulukumba.

⁹⁹ Interview with Selasa B (original claimant) in Bonto Biraeng village, sub-district Kajang, 18 October 2015.

generous gesture. The 270 hectares annexed by PT. Lonsum in 2003 and 2004 would remain in the hands of the company.

After the news of the 'settlement' reached Bulukumba, the Bonto Biraeng Village Head issued a statement that the claimants that had gone to court in 1982 did not accept the result. Nonetheless, on 10 January 2006 the company and the five 'representatives' signed a peace agreement in the presence of the South Sulawesi Governor. It stated that the representatives of the ex-claimants and occupants recognized that the land controlled by the farmers was legally part of PT. Lonsum's concession area, but that PT. Lonsum was willing to exclude it from its concession.¹⁰⁰ The ex-claimants and occupants would leave and empty all other land.¹⁰¹ A second document was signed stating that PT. Lonsum would hand over 271 hectares to the mediation team. The latter would authorize the Bulukumba district government to arrange the distribution of the land. All of this upset many of the original claimants. One of them expressed his discontent in the following way: *'If this is the face of our government, how can they say that they are the government of the people?'*¹⁰²

3.5.5 The politics of internal distribution

Although the distribution of land among the farmers supervised by the district government was scheduled for March 2006, it never materialized, simply because there was nothing to be distributed. The 271 hectares that were planned for distribution had already been in hands of the original claimants since the execution of 1999. The only possible distribution that could take place was an internal redistribution of land between the original claimants that were dispossessed by PT. Lonsum in 2003 and 2004 and those that managed to hold on to their land. This implied that many would have to give away some of their land, but the majority was not willing to do so. Many of the original claimants that remained without land felt a deep resentment, not only towards the company and the district and provincial government, but also towards some of the YPR and DRB leaders who had initiated the occupation of 2003. An example is Bonggong. As an original claimant, he received a plot of one hectare in 1999, but lost it again to PT. Lonsum in 2003. In his view, if the activist leaders had not stirred up the masses to occupy the rubber plantation, in all probability he would still own his land.¹⁰³

There have also been serious frictions among the original claimants in relation to the uneven distribution of land following the execution of 1999 earlier described in Subsection 5.2. After the execution, the Bulukumba District Court did not put a mechanism in place to distribute the land among the claimants. The land users were left to themselves to arrange the distribution of land plots. This proved to be the beginning of a whole new range of messy politics at the local level. Not the government, but Latif, the son of the claimants' original spokesperson Hamarong, stepped up to lead the distribution process

¹⁰⁰ Article 2 of the Peace Agreement (*Perjanjian kesepakatan perdamaian dan penyerahan sebagian tanah hak guna usaha PT. PP. Landom Sumatera Indonesia tbk*).

¹⁰¹ Article 3 of the Peace Agreement (*Perjanjian kesepakatan perdamaian dan penyerahan sebagian tanah hak guna usaha PT. PP. Landom Sumatera Indonesia tbk*).

¹⁰² Written statement (*Pernyataan sikap*) by Selasa B from 2006.

¹⁰³ Interview with Bonggong (original claimant) in Bonto Biraeng village, sub-district Kajang, 12 April 2014.

after his father passed away in late 1998. Latif bore the initial financial costs of the execution. In 1999, he agreed to pay the Bulukumba District Court 40 million rupiah in exchange for the release of 540 hectares. Most original claimants subsequently received a plot of land with a size varying between one and two hectares, but only after making a payment to Latif. Some of the original claimants contend that Latif had a double agenda (*main dua kaki*), accusing him of acquiring much more land than others, which he allegedly sold to people who had not been claimants in court.¹⁰⁴ Latif himself confirmed that he and several others obtained more land than most, stating that he granted himself and his siblings a total of seven hectares.¹⁰⁵

In 2008, the Bonto Biraeng Village Head attempted to initiate a fair redistribution process among the original claimants (by then, the total size of land under their control was confined to 271 hectares). A document signed by several village officials and the claimants' lawyer Zainuddin (who has succeeded Laica Marzuki in 1998) regulated the procedure of redistribution. It provided that original claimants were each entitled to a maximum of one hectare. Those who held more had to give away their extra land to original claimants that had become landless in 2003 and 2004. Those who had already sold their land to outsiders or other claimants would not get additional land. Finally, the statement noted that the claimant's lawyer would get ten hectares of land, as a reward for all his services throughout the years.¹⁰⁶ However, since most claimants were not willing to give away any of their land, the redistribution was never carried out. Today, disagreements between original claimants continue to exist. Furthermore, both the original claimants who lost their land and newer claimants who never got back any land continue to feel resentment towards PT. Lonsum and the government.

From PT. Lonsum's point of view, the failure to resolve the conflict is to be blamed on local activists. In an interview, a manager of the company referred to them as 'the little stones in my shoe'.¹⁰⁷ Tyson (2010) makes a similar observation. On the basis of interviews with (former) government officials and PT. Lonsum managers, he concludes that since decentralization and democratization, 'the enhancement of popular participation and the empowerment of civil society have not brought the parties any closer to a comprehensive solution to the land dispute' (Tyson, 2010: 149). He attributes the absence of a solution to profit-seeking 'ethnic-entrepreneurs'. As examples of 'ethnic-entrepreneurs', Tyson mentions Armin Selasa and Latif.

Although it may be true that people like Latif have benefited from the conflict, to blame the overall continuation of the conflict on them overlooks the deeper underlying cause for its continuation: the unaddressed grievances of the land claimants. Latif and Armin Selasa were both frontrunners in addressing these grievances after political restrictions of the New Order were finally lifted. That most local land users in Bulukumba

¹⁰⁴ Interview with an original claimant in Bonto Biraeng village, sub-district Kajang, 18 October 2015.

¹⁰⁵ Interview with Latif, Bulukumba city, 11 May 2014 and interview with Selasa B in Bonto Biraeng village, sub-district Kajang, 10 April 2014.

¹⁰⁶ Written statement following a meeting (*Berita acara hasil pertemuan*), signed by the Village Head of Bonto Biraeng, 16 March 2008.

¹⁰⁷ Interview with Endah Madnawidjaja, Corporate Secretary and Head of Legal Affairs of PT. Lonsum in Jakarta, 28 May 2014.

kept aloof during the 1980s (and were thus left out of the court's legal considerations) makes sense, given the oppressive and violent regime they faced. For these farmers, a figure like Armin Selasa was inspiring and empowering. However, Tyson writes that Selasa stirred up the local population and tried to 'reinterpret the Supreme Court Ruling' as a means of profiting from the conflict (Tyson, 2010: 149). This view appears to follow the rationale of PT. Lonsum, as it implicitly suggests that all the additional claims made after the court procedures were illegitimate. Tyson forgets to address that various government attempts at conflict resolution during *Reformasi* failed to consider the grievances of the new claimants.

3.6 CONCLUSION

This chapter focused on agrarian land conflicts in Indonesia during the New Order and the early years of *Reformasi*. I have shown that the extensive political and legal reforms provided local land users a momentum to mobilize and collectively claim land taken from them during the New Order. We have seen that after the government lifted strict political control in 1998 regional authorities struggled to accommodate the growing rural mobilization and the increased presence of grassroots organizations. In the Bulukumba plantation conflict, the peak of local mobilization in July 2003 became a turning point. The repressive use of violence by the security apparatus eventually put an end to the grassroots movement and enabled the company to secure its business interests.

The case study discussed in this chapter has provided two important insights with regard to why agrarian land conflicts continued after the end of the New Order. A first point concerns the plurality of state institutions that were involved in resolving the conflict. In the case of the Bulukumba plantation conflict these included the judiciary (civil courts at all three instances), the NLA and the government at provincial, district, and village level. Decisions and procedures were sometimes incoherent in relation to one another. For example, due to a number of mutually divergent judicial rulings and court orders, the size of land adjudicated to the original claimants was and still is a source of contention. This illustrates how the legal complexities and the ambivalence of bureaucratic and judicial institutions have piled up into a complex web of claims and competing authorities, exacerbating the conflict. Furthermore, the absence of a mechanism to arrange an even distribution of the executed land resulted in tension and competition between the original claimants. Some of the claimants' leaders managed to obtain considerably more land than others.

The second point concerns the shifting role of the court rulings during the plantation conflict discussed in this chapter. During the New Order, the plantation company tried to settle the conflict on its own terms, without the interference of the judiciary. With support from the district government and the military, the company imposed a settlement agreement. The local land users were forced to sign and therefore viewed the agreement as illegitimate. Under these circumstances, only the court offered them some hope for redress. However, following Suharto's demise, the company's strategy changed; it now tried to use the court rulings to its own advantage. The Supreme

Court ruling provided a basis to delegitimize all the extra claims that exceeded the 200 hectares adjudicated by the Supreme Court. In the new climate of political freedom, new claimants emerged that had previously been reluctant to articulate claims. To reject these new claims, the government and the company began to refer to the Supreme Court ruling as the only valid decision regarding the size of land belonging to the farmers. But in order to settle the conflict, a broader approach was necessary, given that the conflict had already transcended far beyond the initial legal procedures. In the words of Felstiner, Abat and Sarat, the transformed conflict had become '*the*' conflict (1980: 650). As such, a more flexible approach was required but was never adopted.

Although it is true that many agrarian land conflicts in Indonesia have never made it into the courts, the point above relates to a more general issue regarding the quality of democratic governance in today's Indonesia. The fact that the grievances of most claimants were never addressed, stemmed from either the unwillingness or inability of government agencies to actually give the various groups of claimants a voice. During the mediation process, the provincial government selected several men to negotiate on behalf of the claimants, but most villagers did not consider them legitimate representatives at all. The claimants were moreover diverse and consisted of different groups with different interests. The provincial government dismissed complaints about the illegitimacy of the representatives. This kind of elitism on behalf of government agencies shows striking resemblance to the New Order, when such representatives would certainly have been chosen on the basis of their loyalty to the regime. Against this backdrop, grievances remain without redress and land conflicts persist.

Finally, it is worth commenting on the difference in perspectives between the present chapter and Tyson's account of the conflict in his 2010 book. Tyson's study of the conflict offers valuable insights, especially with regard to the perspective of the plantation company and the district government. In this chapter, I have countered some of his arguments and findings by providing a narrative that also gives attention to the perspective of the local land users involved in the conflict, as well as their activist leaders. Tyson notes spot on that in the context of complex land conflicts, finding a solution requires 'combining legal scrutiny with sociological understanding' (Tyson, 2010: 148). From my point of view, in order to gain such understanding, it is necessary to thoroughly examine the perspectives of the various parties involved in a conflict – including the grievances of the local land users - as well as to carefully reconstruct the events that determined the conflict's course.

In Chapter 6, I will discuss the trajectory of the conflict in recent years, when the 'adat community' claim became an influential new claiming strategy.