

## THE IMPLEMENTATION OF THE AGREEMENT FOR THE RESULTS OF THE AGRICULTURAL LAND IN THE INDIGENOUS PERSPECTIVE OF GORONTALO

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### **Abstract**

The agreement for the results of the agricultural land in Indonesia, it is a custom, not affected by globalization that prioritizes a written document. This custom interesting to be listened to with a focus on description form, contents and implementation.

The study of this nature is a socio legal research using an approach of philosophical sociology and law, who viewed the practice of overriding high society, while the primary data source is the custom figures as informants and the secondary data source is legislation, literature and research results. The data collected is analyzed using qualitative techniques.

The results showed that: the agreements for agricultural land results in Gorontalo, between landowners and tenants are conducted orally, in which the rights and obligations of each party, the risks, the length of time, and forms the Division results depend on both sides negotiating with upholding the values of trust, honesty, sense of community and tradition. As for how the Division according to the custom are: (a) the seasonal crops such as maize, the landowner has a third section while the tenants enjoy the accounting section; (b) the perennials such as bananas, the respective parties (owners and tenants) got equal parts namely  $\frac{1}{2}$  part; (c) the annual plants such as coconut, accounting ( $\frac{2}{3}$ ) is part of the rights of landowners, while tenants obtain one third ( $\frac{1}{3}$ ), parts.

**Keywords:** agreements, for the results on the ground, Customs

### **I. Introduction**

The land is considered a treasure of evidence of a permanent nature, since it provides benefit to reserved for the life of the future, in addition to the land where the last place for someone who died. Evidence of a land value of economical, social, political kulturil, psychologis and hamkamnas. Thus solving the problem of land should heed the legal aspects, principles of welfare, security and public order and the basic principle of humanity. The relationship between the citizens of Indonesia by land is the right i.e. the rights over the land. In the law of the land are known there is a connection between the ground of the eternal with the citizens of Indonesia, that relationship very sacred, and so was born the magical hubungn between land owners in the community.

Associated economic value of land, their owners often submit to tillers/farmers to be processed through the agreement for the results. But often the agreement for these results tend

to benefit the land owners. Therefore to protect farmers/peasants economical weak against practices that contain elements of "exploitation" of the powerful, economical Government Indonesia has set the agreement in law No. 2 in 1960 about the agreement for the results.

As well as in Asian countries, are instrumental for the results system for the life of the agrarian society of Indonesia. The important role that is visible from an imbalance between population density with the availability of productive agricultural land as a result many residents who do not have land as a source of income, karenananya to meet the needs of families, farmers became tenants. These conditions tend to be evenly distributed throughout the country including in Indonesia of Gorontalo. Limitations of employment causes a Serf farmers earn an inadequate family needs, this condition can be aggravated by the relationship between the share owners not tahah that tend to result in more parts of the wills of sharecroppers. But for the people of Indonesia that still maintain customs relations are both interesting to review.

The customary law of the land is the root of the formation of the unification of national law of the land so that the concept of the law of the land and keagrariaan according to the philosophy of law of indigenous customary law that saw the land as a soulless objects that should not be released his alliance with humans. The land and the man is a single entity that influence each other. Human relations and land in customary law embodied through a natural mind called by Ter Haar "het participerent". This way of thinking is characterised as being the natural mind "non-distansiil" of human Action on the ground will result in not only against the ground (the object) but also against man (subject)

The agreement for the applicable results in Gorontalo as one among 19 indigenous environment generally done verbally between landowners and tenants. Therefore, the agreement for the results which takes place in a society entirely based on negotiation between the owner with tenants, but still follow the local customs and traditions. Dotted decline from the above description of the Covenant for appealing to farmland results examined more deeply especially the form, content and mechanisms of control in Indonesia by using empirical approaches with the primary data source of the custom character.

## **I. For the Results of Agricultural Land**

### **The concept of land and for the results**

Agricultural land is land which is intended or suited to be a farmer to produce the crop. According to FAO, this farmland was divided into several types: (a) arable land planted with crops a year such as: cotton, potatoes and vegetables including beds capable of land under

cultivation but are not under cultivation; (b) permanent crops Land planted with fruit trees or tree nuts; (c) grazing Land used for grazing animals.

Farmland that cultivated variety its status as land belonging to individuals, communal land (in the Minahasa its use set of custom Chair) or customary land is jointly owned and managed together or take turns. Pay attention to its status, the land which became the object of the agreement for the results at large individual landholdings. The term "land" (land) having different meanings depending on the scientific point of view for meaning. In the concept of the law of the land, not just the surface of the Earth, but the evidence of a three-dimensional space, namely the surface of the Earth and under the Earth body. In the context, of law of the land, the land is defined as "the surface of the Earth". In article 1 Agrarisch Besluit known two forms of land i.e. first, free State land "vrij landsdomein" i.e. the land does not exist or has never been or has never been nearby something any rights. Netherlands Indies Government in its development of the opinion that the term non State land is distinguished its coverage for: (1) the land into a land of free country since being freed from the people's property rights by a number of agencies/departments, are considered State land under the Dominion of the Department that freed; (2) the land of the free State that does not exist in the real mastery was turned over to a Department, considered that the land was incorporated into the Dominion of the Ministry of the Interior (Binnen van bestuur). Second, free State land on it there are people's rights over land or land possessed or occupied by people based on their customary law (Culture customary rights law society) 5. After independence, the sense of State land, found in the Government Regulation No. 8 of 1953, is meant as "a land ruled by State". The substance of the sense of State land is indeed lands free of the rights inherent in the land whether Western rights or indigenous rights. After the publication of the BAL in 1960, the sense of State land is defined is not full but it is a controlled land directly controlled by the State (General explanation II (2)), meaning that the State construction is not the landowner, given authority by the people: (i) set up and usage designation, hosts, supplies and maintenance; (ii) Determine and regulate the rights that can be allocated to the top (part of) the Earth, water and space; (iii) Determine and regulate the legal relations between people and the deeds of the law regarding the Earth, water and space. "

Netherlands Indies encyclopedia States that: for the results is the transaction on the ground that the ordinary or common among indigenous people throughout Indonesia, where land owners or land pawn recipients

submit other indigenous lands on condition that must submit a balanced part of the harvest. While Encyclopedias Indonesia suggests that for results almost universally found in small farming communities around the world, in which a farmer land owners invite other farmers

to manage all or part of his property with an agreement that give up some tenants have been determined in advance (e.g. separoh) of his crop to the landowner.

Indeed for this outcome stems from customary law, which is usually referred to with the right execution, namely: the right of a person to initiate farming on the land belonging to other people with an agreement that results would be divided between the two parties on the basis of consent, with consideration so that the Division of the land between the owner and the results of those done on a basis that is fair and in order to secure the legal position that deserve also for tenants by affirming the rights and obligations , either from the tenants or owners.

The agreement for this result done between landowners and peasants which in this case arise because there is an individual in need of land for sports or planted and agreed to cede parts of the set together. Opinions on this analogy, sentence deduced from Hooker:

"Share cropping arises when an individual who requires land for cultivation, agrees to submit part of the crop to the Landowner in terms of some of its agreed share. Further it was said: the shares vary from area to area and they may also depend upon the type of crop grown and the yield of the harvest.

Subekti (Diah Eko Riatun) defines a treaty as an event where someone pledges to carry out something hal10. According to Van Dunne, the Covenant is a legal relationship between two or more parties based on the agreed to give rise to legal consequences. The new theory is not only viewed the Treaty solely, but must also be seen to deeds

the previous deeds or that preceded it. According to Sri Soedewi Masychon Sofyan, the Covenant is a legal deed whereby one or more Associate himself against another or more. According to m. Yahya Harahap means legal relationship agreement that concerns the law of wealth between two or more people, which gives the right on the one hand and obligations on other parties about an accomplishment.

#### The Nature of The Agreement for The Results

The agreement on the intent here is agreement as set in Book III Civil Code (BW) about the Alliance which comprises general provisions and specific. The General Teach of the agreement contained in the third Book of the civil code Civil Code title II, while special agreements regarding the set is also in the third book Title V up to XVIII.

The Alliance consists of the General provisions and special provisions that regulate about specific agreements called treaties named referred to, it means the agreement because the set and in name the by lawmakers and the next Treaty is not named, which was not set in law for example buy and rent agreements etc. The Alliance or verbintenis contains the sense of a legal relation/property between two or more persons, which gives power right at a party is to acquire

the accomplishments of at once requires on the other party to perform the feat " .

An agreement can be in katakana legitimate when meets the requirements contained in article 1320 Civil Code that legitimately require a four (4) terms, namely: (a) Agree those who bind themselves; (b) Skills for making an agreement; (c) a particular thing; (d) any reason. The fourth condition above is limited in terms of an agreement, the terms must be fulfilled so that the agreement made by the parties can be said to be valid and have

the power increase. When one or more of these terms are not met, the agreement may result in the cancellation (nieting) or may be cancelled. Subekti said when unqualified – first and second terms, then the agreement can be requested cancellations to the judge, whereas if it does not satisfy the third and fourth terms then the Treaty annulled by law.

In the process of formation and execution of the agreement, in principle should be based on certain principles. These principles are: (1) basic Treaty freedom (partij autonomy), (2) the principle of consensus, (3) the principle of trust, (4) the principle of the force of law, (5) the principle of equality, the principle of balance (6), (7) the principle of legal certainty, moral principle (8) and (9) the principle of propriety. In addition to the above principle, KUH the civil code also knows of the existence of the principle habit that contained in article 1339 jo. Section 1347 Civil code that in perspective as part of the agreement. An agreement not only bind to the things that are set explicitly in the Treaty, but there are also things in a State and common habits that follow.

Article 1 letter C of Act No. 2 of 1960, asserts that: Agreement for the results was the agreement with any name also held among the owners on one side and the person or legal entity on another party, which is in this Act referred to tenants, based on the agreement in which the landlord allowed peasants to organize agricultural businesses on the land owners with the Division of the results between the two sides. For the results (deelbouw) is an institution of customary law which is known in the legal system of Indonesia with numerous local terms such as: (a) both for the term of the policy areas; (b) terms for the Minahasa area Toyo; (c) the terms for the Tesang area of South Sulawesi; (d) Srama, Mesi, Maro (1:1) and Mertelu (1:2) for Central Java; (e) Nengah (1:1); (f) regional Structures for Jejuron, West Java; Nyakap (Aceh) and separoon (Palembang).

According to the Netherlands East Indies that Encyclopedias for the results is the transaction on the ground that the ordinary/common throughout Indonesia among the indigenous people, in which the owner of the land or the recipient of the land ceded a pawn in another native subject must submit a balanced part of the harvest. The sense of the Treaty for the results in the "encyclopedia of Indonesia mentioned that for results almost universally found in small farming communities around the world, in which a farmer land owners invite other farmers

to manage all or part of his property with an agreement that the tenants give up some that have been specified beforehand (e.g. separoh) of his crop to the landowner.

### The Background Incidence of Agreement for Results

Part-time agreements results (for results) is a famous and common agreement in all environments-environmental law. The basic agreement is the produce half of the owners of the land do not have the opportunity or the willingness to labour itself but has picked up the results on the ground, thus making approval so that others working on. Further it can be said that the nature of the transaction for the results can go diving in with attention to three main factors:

Basically: the owner of the land; but there is no chance/the passion for working on that myself until a successful; therefore, owners make transactions with other people, that he might do it, plant and give a portion of his crop to the owner.

Function: productive-owned land without concessions of its own and Labor without belonging to the land itself.

Object: Labor and plants (not ground). The agreement for those results may occur, among others: for owners of Land:

Had the land but not able or have the opportunity to work on their own;  
Desire gets results effortlessly by giving chance to other people working on his property.  
For Those not or do not have the land arable and/or do not have permanent employment;  
Excess working time due to the limited extent of the land. Desire get additional results of arable.

### Terms of The Agreement for The Results

Customary law does not recognize a provision contained in Civil Code, where agreement is needed for a legitimate presence of subjective terms (which makes the agreement) and that is what the objective promised by each party, which is the content of the agreement or what it wants the parties to make that agreement. Subjective terms i.e.; (1) the person making the agreement must be qualified or capable of performing an act of law; and (2) there is agreement that formed the basis of agreement, which must be accomplished on the basis of freedom and determine the will of either party, without any coercion, fraud. Concerning the object of the Treaty (3) specified that what is promised by each party should be pretty obvious, it's important to specify the obligations of each party. (4) what was promised by each it should be Kosher in the sense of something that is not contrary to law, public order or morality. For indigenous peoples that are important in the subjective element

was not the Covenant the implementation of objective elements, but how it happened and the implementation of the Covenant, and enshrined the deal is usually known by the term consensus. According to Law Number. 2 in 1960, of the agreement for a hand in the outcome, with customary law, namely: all agreements for the results to be made by the owner and tenants themselves in writing in the presence of the head of the village where it is located on the ground, witnessed by two people, each of the owners and tenants. That is to say: avoid any doubts which may cause the dispute on related agreements such as the period of the agreement and the rights/obligations of the owner. (2) facilitate the implementation of preventive supervision. In the event that the owner has not grown, he can be represented by his guardian on his behalf for that Act, if the owner has been very ancient or pain so he could not come in person at the village chief to sign the Treaty, then the owner is allowed to appoint the power by bringing the power of Attorney from him in order to sign on his behalf. In such case the agreement on a letter noting the reason is so that the owner cannot sign the agreement. The Chief explains to owners and tenant's provisions of tax law. 2 in 1960, as well as the provisions referred to in the letter of the Treaty, in particular regarding the rights and obligations of their respective the obligation of. If the owners and the tenants held the terms which are not contrary to the determination of the heads of the regions regarding the apportionment balance results, it should be notified to those to removed or replaced by other terms. In addition, the village chief should check whether the owner is authorized to establish my Covenant for the results. Likewise, the tenants should be a farmer. If tenants with a Covenant of arable land would have had more than 3 hectares, then needed permission from the Head. Permission is required anyway if a period of less than 3-year agreement for paddy field and dry land 5 years. Permission can be requested simultaneously with the submission of a letter of agreement to Head for ratified;

On the basis of any law agencies forbidden to become tenants, but there are times when, thus for the public interest or in the interest of the village, a legal entity needs to be given permission to become tenants over the lands of the displaced village. In this case, it is only the farmer cooperative that would be allowed and no other legal bodies, such as the PT and CV. beside that there are times when a legal entity in the form of a limited liability company (PT) or the Foundation needs to be considered to be given permission to become tenants;

A letter of agreement to make the results in triplicate, the original pepper the postage labels, on save by owners or tenants as derivative, the second and third pieces are not signed by the owners, tenants and the witnesses, but it is a derivative that is given by the village head, thus does not need to be postage labels. A letter of agreement was noted by the village head in the

books of the register.

Each region sets the magnitude of the cost of the making of the agreement given the State of the region are not always the same;

Letter of agreement signed by the owner, tenants, the witnesses and the village chief as soon as possible submitted to Head to obtain the endorsement. Covenant letters on receipt by the head of it in the note in the register book and check out all the requirements or does not conflict with the provisions of law No. the provisions of the of 2 in 1960, as well as with the determination of the heads of the regions regarding the results of the land division counterpart. In order that interested parties may soon gain certainty regarding the Covenant, then the Head gives a decision on endorsement agreements that he received it in writing within one (1) week. The Covenants have gotten an endorsement was announced by the head of the village chief in the village meetings to come.

## **II. The Implementation of The Agreement for The Results of Agricultural Land**

### **The form, the object and content of the Agreements for the results**

The object of the agreement in principle for the results, not the ground but the power and plants. Hence the custom of head does not need to ratify this agreement. Anyway, the mail information on such agreements rarely made. It further asserted that the land transaction: rather than the field of land which became the object of the agreement, but his wealth, of processing or create any warranty. Thus, land was just caught, plots of land as though only as an attachment from the subject matter e.g.: agreement for the results, agreements rent, Covenant, agreement or quasi meets the land as an attachment or land as a factor of production.

The agreement for the results among the community of Gorontalo is largely made verbally, by reason of the parties already trust each other, easy implementation and not convoluted. However, the agreement is then notified to the head of the village with the intention of preventing conflict. The form of the agreement orally it is the nature of customary law which is the law of the original people of Indonesia are worthy of high esteem and preserved.

The content of the agreement is what is expressly stated by both parties in the agreement. The content of the agreement for this result is, among others, include the rights and obligations of each party, the risks, the length of time, sharing of results and sharing of



results. In a society that is still modest, it is obvious that the owner of the land as a strong economist always will help tenants during hard times, be it in terms of humanity as well as in terms of business. Sometimes tenants always suffered losses, as burdened with heavy duty or interest that she could not speak. Landowners often providing simple housing or give used clothing to the tenants and the granting of more to simply relieve or assist tenants.

One form of liability is the tenants who work on the land of another person must submit half of the result to the owner of the land, this is a general principle in customary law. While the duration of the agreement for the results of the growing season up to harvest. In Law Number. 2 the 1960 Treaty for the length of time the results for rice at least 3 (three) years and for dry land 5 (five) years. According to the rules of customary law Division result set up the approval of the parties, which generally do not benefit the tenants. In all regions of the State of the ground, overcrowding and other economic factors, determine the small section between great owners with tenants. But in Indonesia practice

for the results between owners and tenants are markedly like 1:1 to the rice grown vegetable crops for rice fields as well as for plant in land dried parts of the tenants is 2/3 and 1/3 owner.

The agreement for this outcome is the relationship of cooperation between the land owners with workers who worked on the land, then after the land was worked on, planted, harvested, and then he made a division of the proceeds between land owners with tenants based on balances that have been approved by the parties according to the habits that have occurred. In order to attempt to protect the weak against the economic practices that are very detrimental to the sharecroppers of a strong group in connection with the Treaty for the results, the Government has various wisdom as the basis for the results, including the implementation of the tax law. 2 in 1960 so that the result is no longer a problem for pre-existing customary law but it is a provision of State law and reject its size should be returned to the tax law. 2 in 1960.

### **Ordinance For the results of the agricultural land in Gorontalo**

In terms of function and its position as a law that complements the positive law of the land, customary law not written over or face to face or with the national law of the land. The norm of customary law is part of the national law of the land. All things that originally set by customary law then gets a new setting in legislation, customary law absorbed in it. In terms of the formation of a new land law was sourced or take any material from customary law.

With the development of the new land law, the scope of customary law be reduced.

According to Ridwan Tohopi, Gorontalo which also custom character profession as educators, argued that the customary is the notion of culture which consists of cultural values, norms, habits, institutional, legal and customs prevalent sector in daerah<sup>22</sup>. In Indonesia, the reality shows, that customs and customary law in use by citizens simultaneously. However

Distinction between indigenous customary law was still needed even though in terms of theoretical. Customs are maintained continuously by itself will establish legal certainty. A certainty will be produced by the norms that have the force of law, a more powerful set up tata's present life and future.

Gorontalo area formerly divided into limo lo pohalaa (the five Fellowship), namely Gorontalo, Pohala'a Pohala'a Toba, Pohala'a Pohala'a Tilamuta, Suwawa, Pohala'a Atinggola. pohalaa each have the habits and customs of the people. Similarly, the arrangements concerning the agreement for the results of agricultural land, there is a custom in force as law in the midst of the people. In principle in Indonesia there are three (3) custom environment, namely Gorontalo, Suwawa, and Toba.

According to d. k. Usman, custom figures currently in Indonesia give the title "Ti Loo-Hulondalo Baate Loopo, for the results of agricultural land based on custom Gorontalo done by Division i.e.:

Seasonal crops such as maize; The division between land owners and tenants is 2/3 the results of the farm belong to the Tenants, while the owners get the right 1/3 of the results of agricultural land.

Perennials such as bananas. The division between land owners and tenants is 1/2 the results of the farm belongs to the Tenants, while the owners get the right 1/2 of the proceeds of such farms;

Annual crops such as coconut, and so on. The division between land owners and tenants is 1/3 the results of the farm belongs to the Tenants, while the owners get the right 2/3 of the agricultural crops.

D. k. Usman explained further that the setting of custom shaped farm results Division has not been written, regarding the sharing of the results of agricultural land that has been described above do not cover the possibility that the Division of the soil is carried out based on the initial agreement between the owner of the land and peasants. There is also another way that was done earlier with people dividing it according to the size of the land. How adhering to it is the size of the land has been divided before planting, the part that belongs to the tenants and owners. After harvest, the result of land in for the rights of each Party (the owner and tenants). The Division of agricultural land should be based on honesty and sincerity between the owner

and tenants, so as not to create conflicts.

Abdul Wahab Lihu as indigenous figures and community leaders in the area of Limboto, States that in the beginning the Division over the results of the agricultural land in the region of Limboto done by ' Mayulu ' Lolopo (measuring officer) based on the foregoing, the whole crop can only be divided by these institutions. Over time, Toba has now followed the system for results of agricultural land that has been set by the Government namely, provided that the results of the Division of agricultural land between the owner of the field and beat him, when rice gave the owners needs of agriculture since the beginning of time cropping up during the harvest as well as the provision of seeds, fertilizer and irrigation, then Division is 1/3 of the whole produce into a rice paddy owners and 2/3 part of the whole agricultural tenants rights into rice fields. However, the Division will be different when all will be loaded on the agricultural needs of the tenants, then the Division is ¼ be right owners of paddy fields and rice paddy peasant's rights <sup>3</sup>/<sub>4</sub>.

Abdul Razak was Infallible, a character explains that the customary Culture Suwawa is a rule that applies to the community are public, those settings originate and grow in the community itself. Suwawa custom as a source (origin) and the oldest of all the customs in Gorontalo, perform the Division of agricultural land results in two ways namely: Division Seasonal plants such as: rice, beans, corn, vegetables. The division between owners and tenants of rice fields is 1/3 part is the right of the owner of the land, while the peasants have the right 2/3 of agricultural output; Annual plants such as coconut: the division between owners and tenants is 1/2 part is a right of the owner of the land, while the peasants have the right 1/2 from the results of the farm. Thus, the Division is the same. But sometimes in inland areas Suwawa if owners of land and tenants there are familial emotional relationship then the Division only based on trust the owner of the land to the peasants, so no special rules are made as the basis of apportionment. Determination of top landowner in passing to the tenants. Each harvest to give the results of agricultural tenants and land owners and owners accept what it is that has given tenants.

Thus, for the results of agricultural land according to the custom of Gorontalo tend to vary markedly depending on type of plant even more siding sharecroppers as hope ACT Nno. 2 in 1960 about the Result, so it is in this area that is undergoing a period of transition in various areas of life including the law, the society easily accepts a written law system. Although the written law regulating the largest part of people's lives, the law is not written about for the produce still function. This is caused by the common law is based on the process of interaction in the community, then serves as a pattern for organizing as well as streamline the interaction.

According to d. k. Usman provisions regarding the sharing of the results of agricultural land in the city of Gorontalo from ancient until now generally well received by the public, having been hereditary in place as well as implementation is technically easy to implement. But it was the first community carry out based on customary law in force although only orally/in writing, not in line with the times, the community of the city of Gorontalo currently have switched system contract i.e. by doing

The agreement in writing of the Division of agriculture, with the formulation of the agreement remains sourced from customary law.

### III. Conclusion

For results in terms of Gorontalo custom known as "Mootayade" extremely variable nature, is right on where someone is aiming at the farm on the land belonging to other people with an agreement that results would be divided between the two parties based on approval with consideration so that the results of the division between owners and tenants is exercised on the basis of a fair and secure the position of law worthy of tenants by affirming the rights and obligations of each party. The Agreement committed verbally it remain sustainable and relatively unaffected by globalization, give opportunities for landowners to determine status and work rights tenants, but sometimes it can cause a conflict between the two later in the day. Despite such disputes arising are settled by both parties through consensus discussion in a family by involving indigenous figures as a mediator. It's just that the obstacles the process of dispute resolution is located on education, weakening the binding provisions of customary power and less specifically sanction given the head of customs.

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B. Peraturan perundang-undangan

Undang-undang No.2 Tahun 1960 tentang Perjanjian Bagi Hasil.

Undang-undang No 5 Tahun 1960 tentang Pengaturan Dasar Pokok-pokok Agraria.