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Civil Law Liability in Land Disputes Between Indigenous Communities and PT Krisrama in Sikka, East Nusa Tenggara

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Abstract: This study examines the critical tension within legal pluralism, where formal administrative legality frequently overrides constitutionally guaranteed customary rights. It analyzes the qualification of an unlawful act and determines the appropriate forms of civil liability regarding the prolonged agrarian dispute between the Soge and Goban indigenous communities and PT Krisrama in Sikka Regency. Utilizing a normative juridical research method, this study employs statutory, conceptual, and case study approaches to evaluate secondary legal data. The findings reveal that the corporation's forced renewal of a Cultivation Rights Title (*Hak Guna Usaha*/HGU) over land actively and physically possessed by indigenous communities during a legal vacuum (*rechtsvacuum*), compounded by forced evictions and the criminalization of residents, cumulatively fulfills the five elements of an Unlawful Act under Article 1365 of the Indonesian Civil Code. Disregarding the strict "clear and clean" requirement during the application process fundamentally invalidates the administrative legitimacy and evidentiary strength of the formal title. Consequently, PT Krisrama bears civil liability for both material and immaterial damages. Ultimately, achieving true agrarian justice demands legal restoration (*rechtsherstel* or *restitutio in integrum*) through the implementation of the Agrarian Reform Priority Location (*Lokasi Prioritas Reforma Agraria*/LPRA) scheme under Presidential Regulation Number 86 of 2018 to permanently redistribute the land back to the customary law community.

Keyword: Agrarian Dispute, Legal Pluralism, Unlawful Act, Customary Land Rights

INTRODUCTION

Customary land (*Tanah Ulayat*) is land controlled collectively by the members of an indigenous legal community, where its management is regulated by traditional leaders (Chief of Customary Law) and its utilization is intended for both the members of the indigenous legal community concerned and outsiders (Erfa, 2023). This land constitutes a *lebensraum* (living space) (Harsono, 2003) that serves as the hub for social interaction, a source of livelihood, and the venue for conducting religious rituals, so that the relationship between the land and the community is communal and transcendental. However, the transcendental values and

communal rights over this land directly confront the needs of modern development, where this vital asset frequently becomes the target of private corporate investment.

The extreme contrast between the worldview of indigenous peoples who regard land as an ancestral heritage and the corporate perspective that views it as an economic asset has created complex, deep-rooted, and prolonged disputes. This dual positioning often gives rise to agrarian conflicts, particularly when claims to customary land rights run counter to the agendas of corporations that have obtained management rights from the state. One concrete example is the land dispute case between the indigenous community in Sikka Regency and PT Krisrama.

Chronologically, the case raised in this study centers on land under a Cultivation Rights Title (*Hak Guna Usaha* or HGU) in the Nangahale area, Sikka Regency. The dispute escalated when PT Krisrama (PT Kristus Raja Maumere), which holds the HGU from the state, attempted to take physical possession of the land for plantation development. This effort faced resistance from the local indigenous community, particularly from the Soge Natarmage Tribe and the Goban Runut Tribe, who claim the land as their ancestral customary land. The indigenous community had inhabited and cultivated the land for generations, long before the HGU was issued. Unrest was inevitable, especially when the company carried out forced evictions of residents' settlements, which subsequently brought this case into a complex legal realm (Bhawono, 2021).

Normatively, national law through Article 3 of Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA) recognizes the existence of customary rights as long as they still exist and conform to national interests (UU No. 5 Tahun 1960, n.d.) . Within the 1945 Constitution, there is also recognition of the existence of indigenous communities and their traditional rights by the state in Article 18B Paragraph (2) (UNDANG-UNDANG DASAR NEGARA REPUBLIK INDONESIA 1945, n.d.). In practice, however, the implementation of this recognition often faces difficulties. National law tends to prioritize administrative legality (certificates, HGU, business permits), while customary law emphasizes historical, communal, and social legitimacy in land possession. This condition reflects a situation of legal pluralism, where two legal orders—customary law and national law—are allowed to interact and operate within the same social space (Pradhani, 2021).

The land dispute case in Sikka highlights the problems arising from these differing paradigms: does a company as a holder of a cultivation rights title possess more legal legitimacy compared to the indigenous community that has possessed the land for generations? How should civil law liability be applied in a case like this? This question is crucial, because the law functions not only as an instrument of certainty, but also as a means of justice for vulnerable groups such as indigenous communities.

Based on this background, this study aims to analyze in order to clarify the boundary line and points of intersection between national law and customary law in resolving land disputes. By examining civil law liability in the case of the indigenous community against PT Krisrama in Sikka Regency, this research is expected to provide an academic contribution to the development of agrarian law, while at the same time offering a more inclusive perspective of justice for indigenous peoples.

METHOD

This study utilizes a normative juridical or doctrinal legal research method, which focuses on examining library materials or secondary data as the primary source (Soekanto, 2021). This approach aims to discover legal instruments, princuples, and doctrines to address the raised legal issues (Dr. Kristiawanto, 2022), while basing its analysis on valid statutory regulations that are relevant tto the legal problems under investigation (Benuf & Azhar, 2020).

The approach employed in this research consists of three methods. First a statutory approach, which inbvolves examining all laws and regulations relevant to the legal issues (S.H. M.H. & Rahayu S.H. M.Hum, 2019), specifically the Civil Code (KUHPerdata) and Undang-Undang Pokok Agraria. Second, a conceptual approach, which is used to analyze legal issues arising from a legal vacuum, particulary the lack of clear regulations governing the procedural mechanisms for the determination, registration, and protection of customary rights (hak ulayat) within the national land system, as well as the dispute resolution mechanisms if conflicts over such rights arise (Pasek Diantha, 2016). Third, a case study approach, which is applied to understand the phenomenon of legal pluralism in the land dispute between the indigenous community of Sikka Regency and PT Krisrama in a deeper and more detailed manner by focusing closely on this specific case (Poltak & Rianto Widjaja, 2024).

RESULTS AND DISCUSSION

Legal Dualism: Customary Rights of the Soge-Goban Tribe vs. PT Krisrama's Cultivation Rights Title (HGU)

Constitutionally, the state has guaranteed the recognition of the existence of customary law communities and theri traditional rights under Article 18B Paragraph (2) of the 1945 Constitution (UNDANG-UNDANG DASAR NEGARA REPUBLIK INDONESIA 1945, n.d.). This recognition is further implemented in the Basic Agrarian Law (UUPA), particularly in Article 3, which represents the state's authentic manifestation in recognizing the existence of a traditional right of customary law communities, specifically customary rights (*hak ulayat*). However, this recognition is conditional, namely "insofar as in reality they still exist" and must be adjusted to national interests (UU No. 5 Tahun 1960, n.d.). The claim of the Soge Tribe and Goban Tribe indigenous communities over the former HGU land of Nangahale is not an empty claim; rather, it is based on oral traditions recorded in their genealogical history, tribal names, customary territory boundaries, historical sites, and traditional rituals. Furthermore, they are legally accommodated within the Customary Community Empowerment Institution (LPMA) and bound by the same shared history regarding the rights of ancestral land origins. Based on the conditions required by the state for the recognition of customary rights (UUPA), the legal standing of the Soge Tribe and Goban Tribe indigenous communities possesses constitutional legitimacy because empirically, these indigenous communities exist and customary law practices are still carried out.

The efforts of the indigenous community to defend their customary rights did not stop at historical narratives and constitutional or statutory guarantees, but were manifested through active legal efforts by the customary law community during the *rechtsvacuum* (legal vacuum) (Amrizal & Handoyo, 2021) of PT Krisrama's HGU between 2013 and 2023. After the HGU expired on December 31, 2013, the community reoccupied the land, built temporary houses, and planted productive crops to satisfy Article 3 of the UUPA regarding the "reality that customary rights still exist" through continuous physical possession. The customary law community also made formal efforts to change the status of the disputed land into land redistribution for the people by registering the former Nangahale HGU land with the Ministry of ATR/BPN as a Priority Location for Agrarian Reform in order to activate the mechanisms of Presidential Regulation (Perpres) No. 86 of 2018 concerning Agrarian Reform (PERPRES No. 86 Tahun 2018, n.d.-a). More specifically, Article 7 of Perpres 86/2018 states that one of the sources of TORA (Land as an Object of Agrarian Reform) is land whose HGU expiration period has ended, and the ultimate result of this effort is the potential issuance of communal Certified Ownership Rights (SHM) or Rights to Manage (HPL) granted to the relevant customary institutions. In addition to these, the efforts of the customary law community included establishing the LPMA as an official and legal administrative forum to conduct

negotiations, protecting the Mahe cultural site as proof that the land is indeed customary land, and conducting independent data collection.

It is important to note that although the legal efforts undertaken by the customary law community were massive, during that period, the technical mechanisms for registering customary land were still highly limited and dependent on the political will of the local government to issue a Decree (*SK*) establishing the customary law subject. Ministry of ATR/BPN Regulation (Permen) No. 18 of 2021, which served as the relevant legal framework during the *rechtsvacuum* period when this case took place, was still limited to administrative record-keeping rather than providing legal certainty. Under this ministerial regulation, the registration of customary land does not grant a certificate of ownership like other land rights, but rather merely functions to guide applicants toward obtaining a Right to Manage (HPL) on behalf of the customary community.

The limitations of the legal framework at that time created a situation where customary rights, which constitutionally "existed," became administratively unprotected, which was subsequently exploited as a legal loophole to reissue PT Krisrama's HGU in 2023. Therefore, any discussion regarding PT Krisrama's HGU cannot be separated from the condition of "administrative paralysis" experienced by the indigenous community in formalizing their rights, which ultimately triggered a conflict of interest between the commercial nature of the HGU instrument and the fundamental nature of ancestral rights of origin.

On the other hand, the legal standing of PT Krisrama's Cultivation Rights Title (HGU) in the Nangahale region must be reviewed based on the principle of administrative legal certainty and the dynamics of civil possession in a proportional manner. During the validity period of the permit up until December 31, 2013, the possession of land by PT Krisrama had a valid legal title under positive law and was protected by the principle of *praesumptio iustae causa*, which means that the state's decision must be presumed valid until a court ruling annuls it (Muhlashin, 2018). However, following the expiration of the HGU, a *rechtsvacuum* arose, which administratively reverted the status of the disputed object to land controlled directly by the state, as asserted in Article 34 letter a of the UUPA juncto Article 32 of Government Regulation (PP) Number 18 of 2021 (UU No. 5 Tahun 1960, n.d.). It is during this transitional period that PT Krisrama's legal standing became problematic. The corporation's efforts to renew its permit or maintain physical possession clashed with the land occupation by the Soge Tribe and Goban Tribe.

Procedurally, applications for the renewal of land rights are subject to the Ministry of ATR/BPN Regulation Number 18 of 2021, which requires the object to have a "clear and clean" status (Peraturan Menteri Agraria Dan Tata Ruang/Kepala BPN No. 18 Tahun 2021, n.d.). Given the factual dispute on the ground as reported in Henderikus Jon's journal, the legality of the HGU extension becomes substantially flawed if it is proven to have been forcefully issued (Jon & Aswin, 2023). Therefore, the absence of valid land rights post-2013 implies that unilateral corporate actions, such as forced evictions or the enforcement of possession over land sociologically inhabited by indigenous communities, can no longer take refuge behind past legality, but instead hold strong potential to satisfy the elements of an Unlawful Act (*Perbuatan Melawan Hukum* or PMH) under Article 1365 of the Civil Code (*KUHPerdata*).

The legal standing of PT Krisrama's Cultivation Rights Title (HGU) in the Nangahale region needs to be examined through the dialectic between administrative priority rights and the principle of physical certainty. Technically, Government Regulation (PP) Number 18 of 2021 does grant a preferential or priority right to former HGU holders to apply for an extension or renewal of land rights they previously managed. However, this priority right is conditional and does not stand alone; rather, it is strictly limited by the "clear and clean" principle as regulated in the Ministry of ATR/BPN Regulation Number 18 of 2021 [11]. During the *rechtsvacuum* period following the expiration of the permit on December 31, 2013, PT

Krisrama's position as a priority right holder was automatically suspended if the land object in question no longer met the criteria of being free from physical and juridical disputes. The factual possession of the land by the Soge Tribe and Goban Tribe indigenous communities resulted in the loss of the "clear and clean" status, thereby legally delaying or even invalidating the legitimacy of the application for new rights until the dispute is resolved. Therefore, disregarding the technical requirement of being "clear and clean" and the corporate coercion of land possession over land whose status has reverted to the state constitutes not only a procedural administrative flaw but also materially qualifies as an Unlawful Act (*Perbuatan Melawan Hukum* or PMH) under Article 1365 of the Civil Code, as it violates the subjective rights of the indigenous community guaranteed by the constitution (Kitab Undang-Undang Hukum Perdata, n.d.).

Qualification of an Unlawful Act and Civil Liability

The qualification of an Unlawful Act (*Perbuatan Melawan Hukum*/PMH) in the land dispute case between the customary law community and PT Krisrama must test the fulfllment of its elements cumulatively as regulated under Article 1365 of the Indonesian Civil Code (*KUHPerdata)*. The elements of an Unlawful Act regulated in the article include the existence of an act, unlawfulness, fault, damages, and a causal relationship. In the perspective of civil law, "unlawful" is not merely limited to violating written statutory regulations (*onwetmatig*), but also encompasses violating the subjective rights of others protected by law (*subjectief recht*), acting contrary to the perpetrator's legal duty (*rechtsplicht*), conflicting with good morals (*goede zeden*), and contradicting social appropriateness or due care in society (*zorgvuldigheid*) (Agustina, 2003). This broad framework of PMH exists due to the landmark case precedent of *Lindenbaum v. Cohen* in 1919 by the Dutch Supreme Court (*Hoge Raad*), famously known as the *Drukkers Arrest*. This milestone significantly expanded the definition of an Unlawful Act (Ismalia, 2020).

The success of indigenous communities in defending their customary rights through the mechanism of an Unlawful Act (PMH) is by no means impossible. As a precedent, in the Supreme Court Decision Number 435 K/Pdt/2021, the judges ruled in favor of the indigenous community (the descendants of Situmorang) over a land dispute in Samosir. The Supreme Court stated that even though the opposing party had occupied the land, their actions in claiming unilateral ownership and destroying customary symbols were still qualified as an Unlawful Act because they violated the subjective rights of the original owners who were legitimate under customary and historical terms (Br. Hombing et al., 2025). This serves as a strong foundation for the Soge Tribe and Goban Tribe to demand similar justice regarding the actions of PT Krisrama, which consciously disregarded the existence of customary rights in Nangahale. Building upon this precedent, the examination of PT Krisrama's actions in Nangahale must be conducted systematically.

First, regarding the element of the existence of an act: the acts committed by PT Krisrama in this dispute include the application for, receipt of, and utilization of the HGU Certificate under HGU Certificate Number 00057/Nangahale in 2023 as a legal basis to reassert control over the land cultivated by the community during the *rechtsvacuum* period, accompanied by unilateral physical possession attempts over the former HGU land. This unilateral physical possession also involved mobilizing assistance from security forces and exploiting official authoritative instruments, including the execution of an Eviction Order in 2016 signed by the Regent of Sikka to evict the indigenous community from the former HGU land. These active and repressive acts clearly aimed to displace the Soge Tribe and Goban Tribe communities, who were known to have reoccupied their ancestral land since the year 2000 following the expiration of the previous HGU tenure in 2013 (DOING, 2025).

The second element is *onrechtmatig* (unlawfulness). In examining this element, PT Krisrama cannot merely shield itself behind the formal legality of holding an HGU. In this case, PT Krisrama's actions clearly satisfy this element, particularly based on two criteria. First, PT Krisrama's actions in this case violate the subjective rights (*subjectief recht*) of the indigenous community over their living space (*lebensraum*) and customary land, which historically existed long before this state was established to regulate it. Second, forcing the renewal of the corporation's expired HGU certificate over land that was actively being pursued through the relevant framework at that time (LPRA) constitutes a violation of the principle of social appropriateness and due care (*zorgvuldigheid*). The company disregarded its moral obligation to ensure that the HGU application was clear and clean from humanitarian claims and living *de facto* customary rights. The formal legality possessed by PT Krisrama does not automatically negate its unlawful nature, as the subjective rights of the communal society were sacrificed in its acquisition process.

Third, the element of fault (*schuld*). According to Indonesian civil law doctrine, fault is an independent element in the construction of an Unlawful Act, the application of which involves a subjective assessment of the mental condition, intention, and blameworthiness of the perpetrator (Abdurrahman & Agustina, 2024). In the context of this dispute, PT Krisrama's fault is clearly manifested in the form of intent (*dolus*) driven by bad faith. The corporation was fully aware of the physical possession and customary land rights claims of the Soge Tribe and Goban Tribe, who had reoccupied the area since 2000, particularly after the expiration of HGU Number 1 of 1993 in 2013. PT Krisrama unilaterally exploited the vulnerability of the customary community organizations—which rely solely on oral traditions—through repressive measures, including utilizing the 2016 Eviction Order from the Regional Government of Sikka and attempts to criminalize indigenous residents under penal law, as reported by Mongabay (Rosary, 2026). Utilizing criminal law mechanisms and formal authority amidst the ongoing application for the Agrarian Reform Priority Location (LPRA) scheme reflects a systematic intention to displace the indigenous community solely for commercial ambitions, a form of legal fault that cannot be tolerated within an appropriate legal ecosystem. The presence of such evident bad faith dismantles any corporate defense attempting to hide behind the excuse of "administrative negligence" or unilateral ignorance, making the fulfillment of the fault element in this PMH lawsuit absolute and legally leaving no room for a defense of justification or excuse.

Fourth, the presence of damages (losses) incurred by the victims or plaintiffs. Damages under Article 1365 of the Civil Code are divided into two types: material damages (losses suffered by a person in the form of property or money) and immaterial damages (losses suffered by a person in a form that cannot be quantified by money, such as reputation and emotional or physical distress) (Christian, 2019). As a consequence of the unlawful act committed by PT Krisrama, the Nangahale customary law community suffered both types of damages. Materially, the community lost economic access to their living space (*lebensraum*), consisting of subsistence farmland and residential areas that form the primary backbone of their daily survival. Even more fundamental are the immaterial (moral) damages. Mirroring the case of the destruction of the Hariara tree in the precedent of Supreme Court Decision Number 435 K/Pdt/2021, PT Krisrama's actions—which threatened the existence of the sacred "Mahe" site and pursued criminalization—have uprooted the community's psychological peace, triggered social trauma, and severed the community's relationship with their ancestral land (Belseran, 2025). In the view of customary law and modern PMH doctrine, the loss of communal sovereignty and the suffering caused by the entanglements of criminal law constitute a violation of dignity whose value far transcends mere material calculation.

Fifth, the element of a causal relationship (*causaal verband*). This causal element ensures that the incurred damages are truly the direct consequence of the act committed (Susanto et al.,

2025). Indonesian civil law does not rely solely on a direct, uninterrupted cause-and-effect relationship under the *conditio sine qua non* principle; rather, it must be supplemented with legal causality via the theory of adequate causation (*adequat veroorzaking*) linking PT Krisrama's unlawful act to the multidimensional losses experienced by the indigenous community. The adequate theory dictates that an act can be regarded as a legal cause if, reasonably and according to normal human experience, the act could be expected to produce such damages; in this communal agrarian dispute, this aspect of legal causality is fully met [23]. The cultural marginalization, degradation of economic sovereignty, and psychological trauma afflicting the members of the Soge Tribe and Goban Tribe are direct results of the forced issuance claim of the new HGU in 2023. Had PT Krisrama adhered to the principle of social appropriateness by respecting the rights of ancestral origin guaranteed by Article 18B Paragraph (2) of the 1945 Constitution, and allowed the agrarian administrative process under the LPRA scheme proposed by the Customary Community Empowerment Institution (LPMA) to run its full course, the material losses and social crisis in Nangahale would undoubtedly have been avoided.

Based on the proof of the five elements above being cumulatively fulfilled, the civil liability of PT Krisrama to restore the original state (*restitutio in integrum*) regarding the rights of the Soge Tribe and Goban Tribe becomes legally absolute, while simultaneously affirming that the evidentiary strength of the formal HGU certificate has been paralyzed by flaws in social appropriateness and the violation of the indigenous community's human rights.

Forms of Liability: Damages and Restoration of Rights

An examination of the legal framework of an Unlawful Act (*Perbuatan Melawan Hukum/*PMH) in Indonesia, particularly though the construction od Article 1365 of the Civil Code, demonstrates that civil liability is oriented toward the function of restoring rights through compensation instruments (*schadevergoeding).* Within this legal framework, material damages encompass two primary components: actual losses suffered (*damnum emergens*) and lost profits reasonably expected (*lucrum cessans*) (Badri et al., 2024). If this normative framework is analyzed using the dynamics of the conflict following the expiration of HGU Number 1 of 1993 in Nangahale, a misalignment is apparent between the protection of the economic rights of the customary law subjects and the civil actions of the corporation, which continues to maintain physical possession of the disputed land unilaterally. Through the analytical lens of civil law causality, the testing of the cause-and-effect relationship does not merely screen empirical facts rigidly; rather, it applies the Theory of Adequate Causation (*adequate veroorzaking*), conceptualized by Johannes von Kries (Lienarto, 2016) . This theory establishes an objective standard stating that an act constitutes a legal cause if, according to normal human life experience, it can be reasonably anticipated (*foreseeable*) to bring about such adverse consequences. Normatively, the act of occupying land without a valid legal title and mobilizing forced eviction instruments inherently possesses a strong legal foreseeability to paralyze the subsistence economic foundations of the local community. Thus, doctrinally, the fulfillment of material damages becomes relevant as a form of restoring degraded civil rights.

On the other hand, Indonesia's positive civil law framework also provides avenues to accommodate immaterial damages through the expanded interpretation of Article 1372 of the Civil Code (*KUHPerdata*), which includes remediation for injuries to honor, reputation, and mental suffering. This normative construction finds its significance when confronted with the phenomenon of criminalizing indigenous citizens under penal law, as reported in Mongabay records. In the dimension of communal agrarian disputes, immaterial damages must not be narrowly reduced to individual losses; instead, they must be viewed as an injury to the social dignity and collective harmony of the customary law community whose existence relies on oral traditions. The presence of jurisprudence through the Supreme Court Decision Number 435

K/Pdt/2021 strengthens this legal framework, establishing a precedent that the violation of the living space (*lebensraum*) or sacred territory of an indigenous community constitutes a violation of subjective rights that gives rise to the right to *smartengeld* (solatium or compensation for emotional distress) (Mantili, 2019). Therefore, in the theoretical review of civil law, the restoration of this immaterial dimension is ideally manifested not merely through a financial approach, but through mechanisms of legal status rehabilitation and an open public apology to restore the power imbalance that frequently discredits communitarian legal subjects.

Analysis of the management of communal agrarian disputes reveals that conventional PMH resolution models focusing heavily on monetary compensation are often inadequate, thus requiring integration with the concept of *rechtsherstel* or the restoration of the legal state to its original position prior to the violation (*restitutio in integrum*) (Susilo et al., 2026). This theoretical concept views land for customary law communities not merely as an economic commodity quantifiable by money, but as a living space (*lebensraum*) that possesses a profound religio-magical bond. Within Indonesia's positive legal system, the highest legal framework underlying the concept of *rechtsherstel* is rooted in Article 18B Paragraph (2) of the 1945 Constitution of the Republic of Indonesia (*UUD 1945*), which mandates the state to recognize, respect, and protect customary law community units along with their traditional rights. This constitutional guarantee collaborates harmoniously with Article 6 of Law Number 5 of 1960 concerning Basic Agrarian Regulations (*UUPA*), which outlines the principle of the social function of land. Doctrinally, when a Cultivation Rights Title (*HGU*) concession has expired by operation of law, the land reverts to State Land. Consequently, forcing the issuance of a new HGU certificate over land that is currently in a state of disputed customary claim can be examined as a form of abuse of rights (*misbruik van recht*), justifying the cancellation of the certificate to restore the land's legal status to its original state.

Operationally and legally, the implementation of the *rechtsherstel* principle within the framework of agrarian law in Indonesia is facilitated through the instrument of Presidential Regulation (*Peraturan Presiden*) Number 86 of 2018 concerning Agrarian Reform, specifically regulating asset restructuring and access restructuring policies (PERPRES No. 86 Tahun 2018, n.d.-b). This regulation provides the legal basis for implementing the Agrarian Reform Priority Location (*LPRA*) scheme, an instrument that has historically been the focus of institutional advocacy by the Sikka indigenous community (Jon & Aswin, 2023). Through the lens of critical agrarian law, the LPRA scheme serves as a corrective instrument for the state to intervene in imbalances within the structure of land possession through communal redistribution policies of former HGU land to indigenous communities. The implementation of this agrarian reform framework is viewed not merely as an administrative solution to the expiration of a corporate HGU, but as a form of rights restoration capable of permanently halting destructive and repressive conflict resolution patterns. Accordingly, an examination of the entire legal framework confirms that agrarian justice can be achieved if positive civil law is capable of synergizing subjective compensation instruments with restorative public law instruments to restore the existence of customary law community units.

CONCLUSION

The land dispute between the Soge-Giban indigenous communtiy and Pt Krisrama in Sikka Regency highlights the critical tension within Indonesia’s system of legal pluralism, where formal administrative legality frequently overrides constitutionally guarenteed costumary rights *(hak ulayat).* This study concludes that the actions taken by PT Krisrama, specifically forcing the renewal and enforcement of its HGU certificate over land actively possessed and claimed by indigenous community during the 2013-2023 *rechtsvacuum*, cumulatively fulfill all five elements of an Unlawful Act under Article 1365 of the Indonesian Civil Code. The corporation's disregard for the strict "clear and clean" requirement, combined

with clear indicators of bad faith and the repressive criminalization of local residents, effectively paralyzes the evidentiary strength of its formal administrative title, as it directly violates the fundamental, historically rooted subjective rights of the indigenous peoples.

Consequently, PT Krisrama bears absolute civil liability to provide comprehensive remediation. This must encompass both material damages for the disruption of the community's subsistence economic livelihood (*lebensraum*) and immaterial damages (*smartengeld*) to remedy the profound psychological trauma, loss of communal sovereignty, and threats to their sacred ancestral sites. Ultimately, conventional monetary compensation alone is inadequate to resolve communal agrarian conflicts of this nature. True agrarian justice demands *rechtsherstel* (the restoration of the legal state to its original position) through *restitutio in integrum*. This is best achieved by canceling the flawed HGU and utilizing restorative public law instruments—specifically the Agrarian Reform Priority Location (LPRA) scheme under Presidential Regulation Number 86 of 2018—to permanently redistribute the former HGU land back to the customary law community.

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