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The MAC Method (Mediation, Agreement and Certification) for the *Grondkaart*: An Alternative Dispute Resolution Strategy for PT. KAI and Society

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The *Grondkaart* is a Measurement Letter or Technical Preview which is measured by a Landmester (Land Measurement Officer) and endorsed by the Head Office of Cadastre and Resident. It also has a legal basis in the form of a decision (besluit) and/or determination (beschikking) which can also be used as an initial reference for the process of proving land ownership rights. On the other hand, local people feel they have mastered the land around the *Grondkaart* over the years. When PT. KAI reported the residents to the police over a land grab, investigators assumed PT. KAI does not currently have a strong legal standing because the *Grondkaart* is not proof of ownership of the land. It is only as a measurement certificate and initial evidence to be able to register the land. Therefore, it does not have legal power and lacks legal certainty in land ownership. In order to achieve legal certainty over the ownership of the land, Article 49, paragraph (1) of Law No. 1 of 2004 regarding State Treasury confirms that goods belong to countries/regions in the form of land controlled by the central government. Regions must be certified on behalf of the Government of the Republic of Indonesia/local governments, which, according to this research, includes PT. KAI. In line with that, Article 86 of Law No. 23 of 2007 on trains also confirmed that the land already controlled by the government, local government or enterprises in the development of train infrastructure is certified in accordance with the provisions of the legislation in the land sector. However, PT. KAI is hampered by rules that the land must be mastered physically. There is no dispute over whether it wants to be registered. These

provisions become a long series of polemics for the assets of PT. KAI against communities in several regions in Indonesia.

Key words: *Groondkart, land disputes, MAC.*

Introduction

One of main and prioritised programs in the Joko Widodo Administration is infrastructure development. It is embodied in the *Nawa Cita* program and is being implemented through Third National Mid-Term Development Planning (RPJMN) in 2015–2019. Infrastructure development could boost economic development and connectivity as a realisation of state self-sufficient ideology (LBH Bandung, 2017).

Infrastructure is a technical facility, a physical system, hardware and software which is needed to provide public services. It supports a networking structure in order to harmonise social and economic development (Art. 1 (4), Law No. 38/2015). Hence, Agus Suntoro states that Presidential Regulation No. 3 of 2016 on Acceleration of National Strategic Projects (PSN) serves as the legal basis for the President's infrastructure development program. It is established in a new program. There are 245 projects that range from national roads/national strategic roads (non-highway), highway roads, railway infrastructure, airport developments, ports, electricity, etc. (Agus, 2019).

Nevertheless, the infrastructure program, which is now the Government's priority, has had a positive impact on the economy and mass mobilisation. Those development programs have also created some conflicts (Benhard, 2012). This is proved by reports to the National Human Rights Commission (Komnas, HAM). The report includes (1) power station form water, (2) coal, (3) airport and port development, (4) highways and railways, (5) government offices, (6) reclamation projects. Details are provided as follows:

Table 1
Agrarian conflicts report data

No	Conflict	Total
1	Land	104
2	Garden	39
3	Infrastructure	32
4	Mining	28
5	Forestry	24
6	Environment	19
7	Law Enforcement	23

Total	269

Aforementioned data shows that the agrarian conflict in Indonesia is a phenomenon that is still a case that we often encounter. Conflict is defined as a social process between two people or more (also groups) where one party is trying to get rid of the other party by destroying it or make it powerless (Bernhard, 2012). Taquiri, in Newston, and Davis said that conflict is a legacy of social life that might occur in many circumstances. It occurs due to the rise of a state of disagreements, controversy and conflict between two or more parties in a quest (Bernhard, 2012).

Viewed in practices, disputed land issues can be itemised in the following types of dispute (Elza, 2012):

a) disputes concerning land which was intended;
b) disputes concerning the boundaries of land;
c) disputes regarding the width of land;
d) disputes regarding the status of the land (state land or land rights);
e) disputes concerning land rights holders;
f) disputes concerning burdensome rights;
g) disputes regarding the transfer of land rights;
h) disputes regarding the location and the wide determination of land for public/private project purposes;
i) disputes regarding the release/liberation of land rights;
j) disputes concerning land endorsement;
k) disputes regarding compensation, severance or other payments;
l) disputes regarding the cancellation of land rights;
m) disputes concerning the revocation of land rights;
n) disputes regarding the handover of land rights;
o) disputes regarding the issuance of land certificates; and
p) disputes regarding the means of proof of the existence of the titles or deeds of the law and so forth.

If we analyse Benhard Limbong's argument, we can conclude that the type of dispute in this research is point (d). It is about land disputes (state land or land rights) between PT. KAI and people.

Furthermore, if we look at the historical aspects of land ownership by PT. KAI, in the days of the Dutch East Indies, there were 2 railway companies that existed in the Dutch East Indies. These are State Train/Staatspoorwegen (SS) and private railway/Verenigde Spoorwegbedrijf (VS). SS was not given proof of land rights but by Bestemming (tenure of land). VS was

nationalised by Law No. 86 in the year 1959 and damages were awarded to the Private Railway Company. Both have now become assets of PT. KAI, formerly called the Department of Railways (DKA). State railway company assets (SS), since August 18, 1945, have become assets of DKA. All land described in the *Grondkaart* SS has become an asset of DKA. Assets of the private railway company (VS), based on Law No. 86 of 1958, have been nationalised based on the Indonesian Government Regulation No. 40 and 41 of 1959. They have become assets of DKA, which is now PT. Kereta Api (Persero; PT. KAI, 2000). Both of these assets are not given proof of right, so it does not guarantee legal certainty.

The *Grondkaart* concretely describes and explains the boundaries of the land that has been handed over to the SS by ordinance, which is published in the Gazette. The lands described in the *Grondkaart* are state lands. They have become the state land assets of the SS, so the land must be in accordance with the state treasury law (*komtabel*).

From a juridical point of view of the *Grondkaart* land (in Article 49 paragraph (1) of Law No. 1 of 2004 regarding State Treasury), it is insisted that 'Goods belonging to the country/region in the form of land controlled by the central government/regions must be certified on behalf of the Government of the Republic of Indonesia/Government.' The areas concerned in this research are PT. Kereta Api Indonesia. In line with Article 46, paragraph (1), which clearly stated that 'The land which is located in an area belonging to the railway line and space that benefits the railway line is certified in accordance with the law.' This is further emphasised by Article 86, which asserted that 'The land that has been controlled by the government, local government or enterprises in the development of railway infrastructure is certified in accordance with the provisions of the legislation in the land sector.' The problem is PT. KAI does not control the land physically, but it is mastered by the citizen. This refers to Government Regulation No. 24 of 1997 on Land Registration, which states that the rights holder must master the land that will be registered. Therefore, PT. KAI has been experiencing barriers to obtain a certificate for their assets.

In connection with the procurement rights of PT. KAI, at the time of entry into the force of the Law of the Republic of Indonesia, Number 5 of 1960 (on Basic Regulation of Agrarian (UUPA)), enacted on 24 September 1960, implies that the *Grondkaart* Land is subject to the *beheer* rights of DKA. *Beheer* theory is initially the implementation of principle '*Domein Verklaring*' or '*Domain Statement*' as stated in Article 1 in *Agrarisch Besluit* 1870, implies the whole land is free from the mastery based in Adat law or Western Law. It is considered as state land (*vrijlanddomein*), which means it is owned and mastered by the state. Nevertheless, further regulation for irremovable goods is stated on Staatblad 1911 Number 110. This was last revised by Staatblad 1940, Number 430. Therefore, irremovable goods are under the mastery of the department that manages the budget for the maintenance of those goods (Arie, 2011).

Based on Minister of Agrarian and Spatial Planning Number 9 of 1965, it is confirmed that the lands controlled by government agencies with entitlement (*beheer rights*), from the date of 24 September 1960, are converted into Management Rights and Usage Rights. These are valid, as long as they are used. Management Rights and Usage Rights were born after control rights. Under states, they are registered at the Land Registry Office and issued the certificates of Management Rights or usage rights as proof of their rights (Urip, 2012). Nevertheless, such certification is hampered because the land is physically controlled by the community, resulting in a never-ending dispute.

Based on aforementioned facts that sociologically impact the presence of the *Grondkaart* throughout Indonesia in its development, problems are caused between communities who control the *Grondkaart* and PT. KAI. Communities who have been occupying the land for years feel they have right to apply for ownership rights to the local Land Office. PT. KAI insists that these lands are assets of PT. KAI, which is proved by Indonesia's history that gave birth to the soil map named the *Grondkaart* and is proof of PT. KAI's land ownership.

Discussion

Analysis of the problem

PT. KAI is a state-owned company. It has the ownership rights of the land, as drawn in the *Grondkaart*. The function of the *Grondkaart* is a map of soil measurements made for the purposes of government agencies. In contrast to the function of *Meebrief*, the *Grondkaart* is the final result that does not need to be followed up with a letter granting decisions from the government (PT. KAI, 2000). There is no solid proof in the form of a certificate, but the *Grondkaart* is already evidence that shows these lands are controlled by PT. KAI. The problem is that people often grab land which is controlled by the PT. KAI because people consider such land as being abandoned and not used by PT. KAI. When PT. KAI wants to take over the land again for the purpose of certification, the community rejects is because they have been occupying the land over the years and they feel entitled to apply for ownership rights. Thus, this gives rise to a new round of conflict between communities and PT. KAI throughout Indonesia.

In relation to the land controlled by PT. KAI, it has been described above that PT. KAI has the *Grondkaart* as proof of ownership. Given the perspectives of related laws and regulations, according to Government Regulation No. 8 of 1953, the *Grondkaart* is not included in the group of old evidence of land. This is because the *Grondkaart* has *beheer* (control) over land in character. The *Grondkaart* proves that it was controlled by the agency/department concerned. It is being debated because the *Grondkaart* does not ensure legal certainty of land

ownership, whereas Article 19 of Law No. 5 of 1960 mandates that 'In order to ensure legal certainty by the Government, it is held the land registration throughout the territory of the Republic of Indonesia should be in accordance with the provisions stipulated by Government Regulation'. Then, Article 49, paragraph (1) of Law No. 1 of 2004 reagrding State Treasury insists that 'Goods belonging to the country/region in the form of land controlled by the central government/regions must be certified on behalf of the Indonesian government'. The article is no exception. It also applies to the *Grondkaart* land. In line with the Article 46, paragraph (1) of Law No. 23 of 2007 regarding railways confirms that 'The land is located in a room belonging to the railway line and space benefits of the railway line are certified in accordance with the legislation.' Then, it is further emphasised in article 86, which asserted that 'The land that has been controlled by the government, local government or enterprises in the development of railway infrastructure should be certified in accordance with the provisions of the legislation in the land sector'. Hence, the obligation for PT. KAI to obtain a certificate is inevitable.

In order to ensure legal certainty, based on the regulation of the Minister of Agrarian and Spatial Planning No. 9 of 1965, it is confirmed that the lands controlled by government agencies with entitlement (*beheer*) from the date of 24 September 1960 are converted into Management Rights and Usage Rights. These are valid as long as they are used. The Right to Use and Management Rights were born after the tenure regarding state lands that are registered at the Land Registry Office. Published usage rights or Management Rights act as proof of this right (Urip, 2012).

The procedure for the lands with proof of entitlement, like the *Grondkaart* registration, is a process based on procedures for determining rights under the provisions of Article 3 of the Regulation of the Minister of Agrarian and Spatial Planning No. 1 of 1966 jo. No. 9 of 1965 on the Registration of Usage Rights and Management Rights involves the decision to grant land rights belonging to the agency/department concerned. Thus, the problem resulting from the *Grondkaart* can be completed if it is emphasised. This regards their land rights in order to fulfil the principle of publicity and the principle of specialty land registration. It is tested through '*contradictoire de limitatie'* to meet the principle of '*nemo plus iuris*'. This is given that the *Grondkaart* is not included as a proof of the rights listed in soil bookkeeping in order to reach the status of legal certainty and protection of legality of the land (Rusmadi, 2013). However, the problems encountered in the field are that lands controlled by PT. KAI are often taken over without permission by the local community. This is because people thought that the land was not used by PT. KAI. After such a long time, people master the land, which eventually gives people reason claim that the land belongs to them, as stipulated in several cases:

1) There are land disputes involving PT Kereta Api Indonesia (Persero) against the Muara Gula people, District Ujan Mas, Muaraenim Regency, South Sumatra. People objected when PT. KAI wanted to carry out development in the carriage depot land. PT. KAI still insisted that the land was controlled by PT. KAI. Hence, one of the people claimed to have a certificate of ownership rights in those lands. 'Ownership of the land provided a letter stating the Description on Ownership Rights No: 31/district/1976, signed by the Head of district (Camat) on behalf of Mohd Salah bin Mapi, who is a biological father named Muaraenim A Muis Manjan BA' (Sumatera Deadline, 2018).'
2) Land disputes involve PT Kereta Api Indonesia (Persero) and people in Lohdoyong Village, District Ambarawa, Semarang regency, Central Java, related to policing 134 families who are affected by an activation project of Ambarawa - Kedungjati. People claimed that they had certified land with ownership rights in PT. KAI's lands. Finally, PT. KAI gave compensation to citizens who were evicted from their property. (Regional Kompas, 2018).
3) Land disputes exist between PT Kereta Api Indonesia (Persero) against people in Emplasemen Station, Muara Gula, Palembang. This case was started by people who claimed to have evidence of ownership of the land with Certificate of Ownership Letter Number: 31/district/1976 on behalf of Mohd Soleh bin Mapi, who is a real father. It was signed by the Head of District Muaraenim named A Muis Manjan BA (Kompasiana, 2018).

From abovementioned cases, it is clear that illegal land occupation of PT. KAI's assets still occurred often. This is an obstacle that PT. KAI encounters in its effort to obtain a certificate for their land as stipulated in Government Regulation No. 24 of 1997 on the Land Registration. This regulation indicates that the subject of the rights must master the land which will be registered. Thus, it is necessary to uphold a proper solution that brings justice for both sides, meets the principle of legal certainty and is consistent with laws.

The solution

In a land dispute between PT. KAI and communities, there are strategies offered by the author in the three stages of the MAC Method (Mediation Agreement and Certification). It is further elaborated in the following:

Mediation

Mediation is a negotiation process through a neutral third person's help. This person does not have the authority to make a decision (Takdir, 2010). In relation to that, the Minister of Regulation of Agrarian Affairs No. 11 of 2016 on Land Dispute Settlement states that mediation is dispute settlement mechanism through the negotiation process to achieve mutual agreement supported by the mediator. On the other hand, the mediator is a party (s) who is working on facilitating the negotiation and finalising the dispute without using decision or

force. Furthermore, Takdir Rahmadi explains that the essential elements of mediation are: (1) that both parties resolve the dispute through negotiation, (2) that it is based on mutual consent, (3) that assistance is requested from another, impartial party (s). Laurence Boulle emphasises that mediation is separated into three major steps (Laurence, 2010):

1. The first stage (preparation):
a. the initiator for mediation and involvement of the mediator,
b. intake and screening,
c. information gathering and exchange,
d. provision of information to the parties,
e. contact with the parties,
f. a preliminary conference,
g. settling the topic to mediate.
2. A mediation meeting:
a. the preliminary mediator's opening statement,
b. the party presentation,
c. identifying areas of agreement,
d. defining and ordering the issues,
e. exploring of issues,
f. negotiation and problem solving,
g. the separate meetings,
h. final decision making,
i. a closing statement and termination.
3. Post-mediation activities:
a. ratification and review,
b. official sanction,
c. referrals and reporting obligations,
d. the mediator's debriefing,
e. other follow-up activities.

Compared to Laurence Boulle, Laura Nader and Harry F. Todd Jr. argued that there are 7 methods to solve disputes in the society: (1) lumping it, (2) avoidance, (3) coercion, (4) negotiation, (5) mediation, (6) arbitration (7) adjudication (H. Salim, 2013). The Author agreed with Laura's view that mediation is at the 5th stage. This is because before the mediation phase, people just let it be. They avoid it and sometimes coercion happens, until, in the end, parties negotiate and then end up in mediation.

Given the importance of mediation in society, the Government has regulated it, is stated in Article 37 Regulation of Agrarian Minister No. 11 of 2016 on Land Disputes Settlement. In Article 37, (1) dispute resolution or conflicts, as stated in Article 12 (5), could be solved

through mediation. In paragraph (2), in case of the other party declining mediation as the method, parties are given freedom to solve their own issues in accordance with law.

Regarding that, the Author argues that it is the time to maximise or strengthen of the role of the Land Office (BPN), which has huge responsibilities. This is in line with Benhard Limbong's views that normatively, the BPN is the one and only institution in Indonesia that has the authority to manage land. In Presidential Regulation No. 10 of 2006 on National Land Department (BPN), as amended in Presidential Regulation No. 85 of 2012, it is stated that the BPN conducts the duty of the government in both national and regional land. It is sectoral by the authority. The BPN has control over the formulation of national policy in land, technical policy, planning, programming, implementation of administrative services in order to fulfil the legal certainty over lands, land management, agrarian reform and the empowerment of society (Benhard, 2012).

It is also supported by Nia Kurniati's views, which emphasise that the Government has given the real attention, as stipulated in TAP MPR RI No. IX/MPR/2001. It says that the management in land for long-term disputes is not yet solved. Therefore, in article 6 (1) (d) and € on the Guidelines of Agrarian Policy Reform, it is stated that:

'Solving conflicts concerning agrarian natural resources, which has arisen for decades, as well as to prevent the future conflicts in order to make sure that law enforcement is in accordance with the principles embodied in Article 5 of the Decision.' This strengthens the institution and its authority in order to be mandated with an agrarian reform agenda. This solves conflicts concerning agrarian natural resources. Measures are taken for budget implementation, the reform program and conflict resolution (Nia, 2016).

Based on previous discussions, the initial phase should be done to attempt mediation between PT. KAI and communities who control the land. Implementation of the mediation can be based on the initiative of the desire of the parties or the initiative of the Ministry of Agrarian and Spatial Planning/BPN. The latter also serves as a mediator because the Ministry is the party that has the authority to handle the settlement of land disputes in accordance with the Regulation of Minister of Agrarian and Spatial Planning/ Head of the Land Office No. 11 of 2016 on the Settlement of Land Disputes.

Participants of the mediation, under section 39, paragraph (1) of the Regulation of the Minister of Agrarian/Head of Land No. 11 of 2016 on the Settlement of Land Disputes are

a. The management team.
b. Ministry officials, BPN Regional Office and/or the Land Office.
c. Mediators from ministries, regional offices BPN and/or the Land Office.

d. The parties and/or other related parties.
e. Specialists and/or experts related to disputes and conflicts, the relevant agencies, the public, communities/cultures/religions, observers/agrarian activists of the arrangement of space, as well as other elements which are deemed necessary. All the participants must receive an assignment from the Ministry of Parties in accordance with the provisions of paragraph (2) in the article above.

In the attempt of mediation, the people who control the land will be requested to give up land they control to PT. KAI to be certified on behalf PT. KAI with Management Rights. They will also be willing to have the Ministry of Agrarian and Spatial Planning/ BPN declare their certificates as invalid. Land objects that are about to be certified must be free from any disputes. However, when one of the parties refuses to hold Mediation, the dispute resolution would be given to the parties in accordance with the provisions of the legislation, as stated in Article 37, paragraph (2) of the Regulation of the Minister of Agrarian/Head of Land No. 11 of 2016 on the Settlement of Land Disputes.

The agreement making process

State mastery rights, as stated in Article 2 in Law no. 5 of 1960, give authority as follows:

a. They regulate and take measures for the use, procurement and conservation of earth, water, and outer space.
b. They determine and regulate the legal relations between people and earth, water, and outer space.
c. They determine and regulate the legal relations between people and legal acts pertaining earth, water, and outer space.

In line with that, the meaning of the words: ‘greatest number of people’s welfare’, in a legal perspective, is the existence of legal certainty upon the right to social aspects and economics for people as it is fit for citizens (Umar, 2014).

Furthermore, from legal point of view, the Constitutional Court defines ‘mastered by state’ as stipulated in Article 33 of Constitution 1945. The Constitutional Court determines that the phrase has higher meaning or is wide rather than related to ownership in a civil sense. The concept of mastery by state is a public legal conception related to the principle of people’s sovereignty based on the Constitution of 1945 both in politics and economics. In people’s sovereignty, the people are the source. The owner, as well as the highest power in the nation, should be in accordance with the statement: ‘from people, by people, for people’. In the context of that highest power, it is also included in the definition of public ownership by people collectively (Yance, 2014). Further details of the five functions or forms of state mastery are provided below:

1. Regulation (*regelendaad*). Regulation is conducted by the government in both a national and a regional context. It starts from law, government regulation, regional regulation and decisions which govern the legal relationship between the government, private sector and people involved with the land and other natural resources.
2. Management (*beheerdaad*). Management is conducted directly by the National Government or Regional Government, a State-owned Enterprise (BUMN) or Regional State-owned Enterprise (BUMD). The management is also held in the form of government shares in private companies. For BUMN and BUMD, the Government shall own the major shares. However, the ownership of shares does not necessarily have to be the absolute majority (50% + 1). Instead, it is relative majority that is required. The state is the majority shareholder that cannot own more than 50% of shares, as long as the control of state over the BUMN and BUMD is considered strong enough.
3. Policy (*beleid*). The making of policy is conducted by the Government through the formulation and establishment of policy concerning mastery, procurement, the use of land and other natural resources. The policy also could be initiated by the National Government by formulation of planning in conducting land administration and other natural resources.
4. Administration (*bestuursdaad*). Administration is conducted by the Government through its authority to issue and terminate permit facilities (*vergunning*), licences (*licentie*), and concessions (*concesie*). The administration could also be done by the government through the establishment of legal relations, such as rights to land involving individuals or communal rights (*hak ulayat*) in *adat* law within society.
5. Supervision (*toezichthoudensdaad*). Supervision is conducted by The Government in order to supervise, evaluate, audit, control and enforce the law to exercise the power of state over land and natural resources. This is to make sure that it is used for the greatest number of people's welfare (Yance, 2014).

Based on the abovementioned information, we can conclude that the Government can implement 5 types of functions in mastery. As it is stipulated in administration function (*bestuurdaad*) in Law No. 1 of 2004 regarding State Treasury, one of the essential elements is state property. The management of state property is regulated by the Ministry of Finance, which acts as the manager of state property. On the other hand, the officials other than Minister of Finance are the users. Based in Article 45 (1) of Law No. 1 of 2004 regarding State Treasury, it is stated that state property that is needed for the administration of government cannot be transferred (Imam, 2016).

According to the legal provisions of the state treasury, the land assets of PT. Kereta Api (Persero) either already certified or not, should not be released to third parties if there is no permission from the Minister of Finance first. The land assets of PT Kereta Api (Persero)

have still not yet been certified or given state land status, so they may not be provided with a right of the land to a third party if there is no permission from the Minister of Finance (PT. KAI, 2000). Therefore, PT. KAI's land assets must be certified first. After the PT. KAI land is certified with Right Management, these lands can be used by a third party on the basis of the leasing agreement. This is so under Article 21 of Government Regulation No. 40 of 1996 on Business Rights, Development Rights, and Usage Rights. Business rights (HGU), development Rights (HGB), and usage rights (HP) may be charged with the Management Rights. The lease agreement could include HGU, HGB, and HP. The submission procedure is set in the Regulation of Minister of Agrarian and Spatial Planning/Head of the Land Agency No. 9 of 1999 on Procedures for the granting and cancellation of rights over state land and Management Rights.

Making the agreement between PT KAI and the community is one type of implementation of mastery, as stated in the point policy (*beleid*). It could be in the form of lease agreement, cooperation and others. Therefore, after land certification has been done, the *Grondkaart* PT. KAI can obtain legal certainty on the *Grondkaart* land and the community can continue to enjoy the land with the agreement so as to create a win-win solution.

Land certification

In national land law, the certificate is the strongest and fullest evidence, as stated in Article 19 (2) (c) Law No. 5 of 1960 jo. Government Regulation No. 24 of 1997 on Land Registration. In addition to that, M. Machfud Zarqoni tried to shift the meaning of externality of a Land Certificate. They stated that even so, it is not an absolute guarantee that certified land would not be sued by another party who has legal standing. Furthermore, Machfud emphasised that the obligation to protect land not only belongs to the government, but it belongs to the owner (Machfud, 2015). However, Benhard has different opinion. He stated that there are at least four privileges involved with having a certificate of ownership: (1) it gives legal certainty to the owner, (2) it could prevent disputes, (3) it give the owners more composure, (4) they are able to exercise any legal action pertaining the land as long as it is accordance with the law and not against public policy and decency (Benhard, 2014).

A certificate is a proof of rights. It is issued for the purpose of the interests of the relevant right holders, in accordance with the existing physical data in the measurement of the certificate and juridical data, as registered in the land book (Boedi, 2008). Issuance of certificates mean that rights holders can easily prove their rights. Therefore, the certificate is a form of solid evidence, as stated in article 19 UUPA (Boedi, 2008). Certification of the state assets, including fixed objects such as land, is obligatory in principle as set forth in Act No. 1 of 2004 regarding State Treasury. Certification of the *Grondkaart* land is also required in the Act No. 23 of 2007 on railways.

Based on the regulation No. 9 of 1965 of the Agrarian Minister, it is confirmed that in terms of the lands controlled by government, as of 24 September 1960, agencies with entitlement (*beheer*), can convert it into Management Rights and Usage Rights. This is valid as long as it is used. According to the author, the PT. KAI's land assets should be certified with Management Rights. Unlike the usage rights, they serve as the base for other rights, such as the usage rights and development rights under Section 21 of Government Regulation No. 40 of 1996. The procedure for the application Management Rights is set out in the Regulation of Minister of Agrarian/Head of the Land Agency No. 9 of 1999 on the granting and cancellation of rights regarding State Land and the Land Management Rights.

In filing land certification for Management Rights, it is important to scrutinise whether the PT. KAI is the subject/applicant of the Management Rights. PT. KAI, as a state-owned enterprise, is one of the parties that may request Management Rights (HPL). Based on Article 67 of the Regulation of the Minister of Agrarian/Head of National Land Agency No. 9 of 1999 on subject/applicant Management Rights, these parties include

1) government agencies including the local government,
2) state-owned enterprises,
3) regional owned enterprises,
4) PT. Persero (Limited),
5) authorised bodies, and
6) other Legal Entities appointed by the government.

Information about the applicant consists of the name of legal entity, domicile, deed or founding regulations (in accordance with the provisions of the legislation in force). Things to consider in the field of Management Rights are

a. a land use plan, and
b. the type of land (agricultural or non-agricultural).

The documents that must be prepared are

a. photocopies of identity information requested or a decree/certificate of incorporation in accordance with the legislation in force;
b. a land utilisation plan for both the short-term and long-term; and
c. a location permit, permit for the designation of land use or land permit for reservation in accordance with the spatial plan area.

For more details, the case of an application for registration is submitted to the Minister for the Management of Agricultural and Space through the Land Office in the following stages:

a. The Applicant applies for the Management Rights to the minister through the head office of the land region. The authority includes the layout of the land area concerned with the document as mentioned in the section concerning land licensing and the control of land above.
b. After the document is accepted, Head of the Land Office shall take action as follows:
1) They will inspect and examine the completeness of the juridical and physical data.
2) They will fill the form fields.
3) They will provide a receipt of the acceptance of the document.
4) They will notify the applicant to pay the necessary costs of such a request for finalisation with the details in accordance with applicable law.

c. The Head of the Land Office then checks eligibility for further processing in accordance with applicable laws.
d. In the case of the requested land having no letter of measurement, the Head of the Land Office instructs the Section Chief of Land Infrastructure to prepare a measurement certificate or takes measurements.
e. Furthermore, the head of the Land Office orders the

1) Head of the Land Acquisition Section or a designated officer to check for the right to land that is already registered. This is so as long as all the physical data and juridical data is satisfied in making a decision as stated in the Minutes of Examination Land (establishing Rapport); or
2) Land Research Team to check for the right to land that has not been registered as outlined in the report; or
3) Land Audit Committee to examine the request for the right to land in addition to being examined as referred to in paragraphs a and b, as outlined in the Proceedings of the Land Investigation.

f. If the juridical and physical data are incomplete, the Head of the Land Office notifies the applicant and asks them to complete it.
g. Once the application has been qualified, the Head of the relevant Land Office files the request to the Head of the Regional Office, accompanied by the opinion and judgment.
h. After receiving the accompanying application file that contains the opinion and judgment, the Head of the Regional Office instructs the Head of Section Land Rights to

1) Record the form fields.
2) Inspect and examine the completeness of the juridical and physical data. If it is not complete, then the head of the relevant Land Office is immediately asked to complete the requirements:

i. The Head of the Regional Office would check the feasibility of the application for Management Rights for further processing in accordance with the applicable law.
j. Once the application has been qualified, the Head of the Regional Office bersangkutanmenyampaikan files the request to the minister accompanied by danpertimbangannya opinion.
k. After receiving the application file and consideration of its opinion, the minister orders the designated Officer to

1) Record the form fields.
2) Inspect and examine the completeness of the juridical and physical data. If it is not complete, the Head of the Regional Office concerned is immediately asked to complete it:

l. The minister examines the completeness and accuracy of the juridical and physical data on the land concerned. It considers the views and considerations of the Head Regional Office and further examines whether or not it is in accordance with the provisions of applicable law.
m. The minister issues a decree involving Management Rights on the land applied for or refuses it with reasons for disapproval.
n. The decision to grant refusal or to grant Management Rights is conveyed to the applicant by registered mail or in any other way that ensures that the decision gets to the beneficiary.

Based on the description above, it can be concluded that the *Grondkaart* land can also be registered with Management Rights. PT. Kereta Api Indonesia also qualified as a Management Rights holder. Nevertheless, the implementation is hampered by the fact that the land is physically controlled by people. The important aspects in the making of land certification are not only those who are legally entitled but also those who master the land, as is evidenced by

a. proof of ownership and proof of land acquisition in the form of certificates, designation or surrender of the government, the release of a forest area from the competent authority, the deed of release of former land belonging to indigenous people or other proof of land acquisition;
b. the land's layout, its boundaries and its extent (if any measured letter or situational picture mentioned dates and number);
c. the status of the land (state land or land rights); and
d. information about the number of fields in, the size of and status of lands owned by the applicant included in the land requested.

Conclusion and Recommendation

Conclusion

Dispute Settlement between PT. KAI (Kereta Api Indonesia) involving communities or people on the *Grondkaart* land could use the MAC Method (Mediation, Certification, and Agreement) as an alternative form of dispute settlement. This can be done without harming or damaging the parties, so that it is carried out in the spirit of a win-win solution and not a win-lose solution.

Recommendation

The Government shall establish a policy in the form of a Ministerial Decree of Agrarian and Spatial Planning concerning the resolution of land disputes involving the *Grondkaart* land.

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