

Reconstruction of National Land Law Based on Social Justice and Agrarian Reform

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ABSTRACT

This study aims to analyze and reconstruct the national land law system in Indonesia based on the principles of social justice and the social function of land. The main focus of this research is to identify challenges in the implementation of social justice principles, including agrarian conflicts, legal uncertainty, and the marginalization of indigenous communities. The methodology employed is normative legal research, with data collection entailing the examination of secondary documents pertinent to the execution of the Basic Agrarian Law (UUPA). The results of the study indicate that the reconstruction of the land law system based on social justice and the social function of land can improve community access to land resources, reduce conflict, and encourage sustainable development. These findings also suggest the need for policy reform and more effective law enforcement to address social dynamics on the ground. Policymakers can expect this research to provide recommendations for the formulation of regulations that are fairer and more responsive to community needs.

A. Introduction

The land law system in Indonesia is a crucial pillar in regulating natural resources directly related to people's lives. Land is a limited resource that is important for both economic and social and cultural reasons. In this context, land ownership and utilization are often sources of conflict and injustice (Purwitasari, 2023). Therefore, it is crucial to review the national land law system so that it can function optimally in supporting social justice. This aligns with the principles contained in Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA), which prioritizes the principle of social justice and the social function of land.

The phenomenon of injustice in land ownership in Indonesia remains very real. Many communities, especially small farmers and indigenous peoples, lose access to their land due to unfair land ownership practices. Cases of evictions and agrarian conflicts frequently occur, demonstrating that the implementation of the UUPA has not been fully successful. Furthermore, land ownership by

large corporations often ignores the rights of local communities. This raises questions about the effectiveness of the UUPA in achieving the intended goals of agrarian reform (Arrasid, 2018).

In the context of agrarian reform, the principles of social justice and the social function of land are relevant. Social justice requires fair and equitable land distribution, while the social function of land emphasizes that it must be used for the welfare of the community. However, in practice, these two principles are often neglected. Prior studies indicate that the execution of the UUPA continues to encounter numerous obstacles, such as insufficient law enforcement and a deficit in public awareness regarding their rights. This creates a gap between theory and practice in land management. (Siregar & Siregar, 2022)

The research gap in this study lies in the lack of in-depth analysis of the impact of the UUPA's implementation on society, particularly in the context of social justice. Several previous articles focused more on formal legal aspects without considering the social realities on the ground. The novelty of this research lies in its critical approach that links the principles of social justice and the social function of land with the implementation of the UUPA. Therefore, we anticipate this research to offer a fresh perspective on the intricacies of land law in Indonesia.

One of the main challenges in implementing the UUPA is overlapping land ownership, which often leads to disputes. Many communities lack land certificates, so their rights are not legally recognized. This creates legal uncertainty that impacts community security and well-being. In many cases, communities that have cultivated land for years face the threat of eviction by parties claiming ownership. Therefore, it is important to reevaluate existing land tenure and management mechanisms (Nasir et al., 2019).

Another aspect that requires attention is the government's role in regulating and overseeing land use. Often, existing policies do not favor small communities but rather favor large investors (Subandi, 2018). Such behavior creates inequities in the distribution of land resources. We will investigate how we can modify government policies to enhance social justice and the social role of land. Such an effort is expected to lead to significant changes in land management in Indonesia.

Furthermore, community involvement in decision-making processes related to land management is crucial. Community participation in land resource planning and management can encourage a sense of pride and responsibility. This study will investigate participatory models applicable to land management. By involving communities, it is hoped that more sustainable and equitable solutions will be created.

In the legal context, it is necessary to implement a more inclusive and responsive approach to community needs. Existing land laws must be able to address the challenges and dynamics that arise on the ground. This research will analyze how the Dutch legal principles underlying the Basic Agrarian Law (BAL) can be adapted to local contexts. This will enable the reconstruction of a national land law system based on social justice and the social function of land.

This idea is relevant not only for legal purposes but also for the welfare of society as a whole. By prioritizing the principles of social justice and the social function of land, it is hoped that a more just

and sustainable legal system will be created. Recognizing that agrarian reform is not just a policy change, but also a profound social transformation, is crucial. People in communities need to know more about their land rights and how to protect them. We must intensively conduct legal education and outreach regarding the Basic Agrarian Law to raise public awareness. With adequate knowledge, communities can be more active in protecting their rights. This will contribute to the creation of greater social justice in land tenure.

This research will also address the impact of climate change on land management. Climate change can affect land productivity and community access to natural resources. Therefore, it is crucial to integrate environmental issues into land management policies. This research will explore how agrarian policies can adapt to the challenges of climate change. We hope that a holistic approach can make land management more sustainable and adaptable to changes.

Many countries around the world have successfully implemented land law systems that are fairer and more sustainable. The experiences of these countries can serve as a reference for Indonesia in formulating better policies. This research will compare best practices from other countries with conditions in Indonesia. This study is expected to inspire the creation of a more effective land law system. This investigation will also strengthen Indonesia's position in the global context of natural resource management.

The idea of reconstructing the national land law system based on the principles of social justice and the social function of land is an important step towards a better future. We expect this research to provide concrete recommendations for policymakers by integrating the various aspects discussed. These recommendations will include strategic steps to improve the implementation of the Basic Agrarian Law and create a more equitable legal system. Thus, we can achieve the goal of a more equitable and sustainable agrarian reform, which will benefit all levels of society.

Previous studies have made important contributions to mapping agrarian problems in Indonesia. For example, research by Arrasid (2018) comprehensively outlined the failure of the implementation of the UUPA in achieving the core objectives of agrarian reform. Other, more specific studies, such as those by Nasir et al. (2019) and Subandi (2018), have successfully identified the root causes of the problems on the ground. Nasir et al. (2019) focused on the problem of legal uncertainty resulting from overlapping ownership, while Subandi (2018) highlighted how government policies often favor large investors over small communities. However, the majority of these studies tend to focus on problem identification and failure analysis. Siregar & Siregar (2022) have highlighted the gap between theory (the principles of the UUPA) and practice (law enforcement) but have not offered concrete steps to bridge it systemically. This is where the research gap that this study aims to fill lies. There is still very limited research that goes beyond simply asking 'why the UUPA failed' to 'how the UUPA should be reconstructed.' In particular, no study holistically offers a model for reconstructing the national land law system by prioritizing the principles of social justice and the social function of land as its main foundation, instead of treating them as merely normative principles.

B. Research Methods

This research employs a normative juridical methodology, concentrating on the examination of primary legal materials, including statutes, regulations, judicial rulings, and official documents pertaining to agrarian law in Indonesia. The research began by collecting and analyzing relevant legal norms for each problem formulation, including the Basic Agrarian Law (UUPA) and its implementing regulations, as well as documents reflecting legal practices in the field. Next, an analysis was conducted of the implementation of these regulations in the context of protecting land rights, customary rights of indigenous communities, and policies to regulate abandoned land. In this way, the research aims to identify challenges and solutions within the national land law system and provide recommendations based on valid and accountable legal findings.

C. Results and Discussion

The effectiveness of Legal Protection Regulations for Certified Landowners in Preventing Land Mafia Practices in Indonesia

The effectiveness of regulations providing legal protection for certified landowners in Indonesia depends heavily on the implementation of articles in the Basic Agrarian Law (UUPA). Article 19, paragraph (1) of the UUPA emphasizes the importance of land registration to ensure legal certainty. Land certificates serve as proof of legal ownership, providing protection for their owners (Marbun, 2021). However, despite clear regulations, land mafia practices still frequently occur. Their existence indicates gaps in the implementation of legal protection that require further analysis.

One major challenge is weak oversight of land ownership practices. Inadequate oversight allows for abuse of authority by certain parties, including the land mafia. In the Dutch legal context, the concept of "eigendom," or ownership, is a crucial foundation for protecting land rights (Apriani & Bur, 2020). Conflicts of interest and weak law enforcement often cause legal uncertainty for certified landowners. Therefore, we need to strengthen oversight and law enforcement mechanisms.

Effective legal protection also requires support from relevant institutions, such as the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (KATR/BPN), which plays a central role in land management, registration, and certification in Indonesia. The BPN plays a strategic role in registering land and issuing certificates to rightful owners. However, in practice, delays and inaccuracies often occur in the registration process (Rahayu et al., 2023). Such behavior creates opportunities for land mafias to exploit the situation. Therefore, the BPN urgently needs to implement internal reforms to enhance the efficiency and accuracy of land registration.

Legal education is also a crucial factor in raising landowners' awareness of their rights. Many landowners do not fully understand their legally protected rights, leaving them vulnerable to fraud (Wibowo & Mariyam, 2021). In this context, the term "rechtsbescherming," or legal protection, becomes relevant. Education regarding land rights and applicable legal procedures can help landowners protect themselves from mafia practices. Therefore, legal education and outreach programs must be an integral part of protection efforts.

The existing legal system must also be able to impose strict sanctions against violations committed by land mafias. Weak or inconsistent sanctions will reduce the deterrent effect for perpetrators (Wahyuningsih, 2022). In Dutch law, the "dwangsom" principle imposes financial penalties on violators. Applying a similar principle to Indonesian land law could be an effective measure to curb land mafia practices. Thus, firm and consistent law enforcement is essential.

We cannot ignore the importance of community involvement in monitoring and protecting land rights. Active participation by communities in reporting illegal practices can help strengthen the legal protection system. In this regard, the concept of "gemeenschapsrecht," or community law, can be applied (Asriwijaya & Astariani, 2024). Communities need to be empowered to understand their rights and dare to fight against land mafia practices. Therefore, collaboration between the government, legal institutions, and the community is crucial.

Legal protection for certified landowners must also consider technological aspects. The use of information technology in land registration and monitoring can increase transparency and accountability. An integrated land information system can facilitate landowners' access to information regarding their ownership status (Asriwijaya & Astariani, 2024). In this context, the term "digitale registratie," or digital registration, becomes relevant. Implementing this technology can reduce the potential for land mafia practices.

Obstacles to law enforcement are also often caused by a lack of competent human resources. Many law enforcement officers lack an adequate understanding of agrarian law (Salam et al., 2020). Training and education for law enforcement officers need to be improved to ensure they are capable of handling land-related cases. In this regard, the concept of "rechtsgeleerdheid," or legal knowledge, is crucial. By improving human resource capacity, law enforcement can be more effective.

Budget constraints also pose a challenge to legal protection for landowners. Many programs designed to improve legal protection are hampered by funding issues. Therefore, adequate budget allocation is necessary to support these programs (Lakburlawal & Matuankotta, 2023). In this context, the principle of "financiering" is crucial. The government must ensure that the budget allocated for land legal protection is sufficient to support various necessary initiatives.

Private sector involvement in supporting legal protection can also have a positive impact. Companies operating in the agrarian sector need to be aware of the importance of legal compliance (Jaya, 2022). In this regard, the term "maatschappelijk verantwoord ondernemen," or corporate social responsibility (CSR), becomes relevant. By collaborating with the government and communities, the private sector can help create a safer environment for landowners. Therefore, synergy between the public and private sectors is essential to address land mafia practices.

This evaluation is crucial for identifying weaknesses and strengths in the existing system. In Dutch law, there is the concept of "evaluatie" used to assess policies and regulations. Through systematic evaluation, the government can make necessary improvements to enhance legal protection. This way, efforts to prevent land mafia practices can be more effective and sustainable.

Key Challenges in the Implementation of Agrarian Law that Accommodates the Customary Rights of Indigenous Communities within the National Land Law System

The implementation of agrarian law in Indonesia faces significant challenges in accommodating the customary rights of indigenous communities. Customary rights are the inherent rights of indigenous communities to land and natural resources within their territories. Article 3 of the Basic Agrarian Law (UUPA) states that land ownership must take into account the interests of the community, including the rights of indigenous communities (Amanda et al., 2024). However, in practice, recognition of customary rights is often neglected, creating tension between development interests and the protection of indigenous peoples' rights.

One major challenge is the lack of legal recognition of customary rights in the national legal system. Although the UUPA recognizes the rights of indigenous communities, its implementation is often inconsistent. Many indigenous communities lack land certificates; thus, their rights are not formally recognized (Djakatara et al., 2023). In Dutch law, the concept of "gemeenschappelijk eigendom," or joint ownership, can serve as a reference for understanding customary rights. Clearer recognition of customary rights in regulations could help address this issue.

The complicated land registration process also presents an obstacle for indigenous communities in claiming their customary rights. Many indigenous communities lack access to or adequate understanding of land registration procedures. This makes it difficult for them to obtain legal recognition for the land they manage. (Satrianty & Maulisa, 2024) In this context, the term "registratie," or registration, becomes highly relevant. Simplifying the land registration process for indigenous communities needs to be a priority in agrarian law reform.

Conflicts between indigenous communities and private companies often arise from the exploitation of natural resources. Many companies ignore indigenous communities' customary rights in carrying out their business activities (Farahzita & Arsin, 2022). Article 28I, paragraph (2), of the 1945 Constitution stipulates that the rights of indigenous communities must be respected and protected. However, in practice, this protection is often not implemented effectively. Therefore, stricter regulations are needed to protect indigenous communities' customary rights from exploitation.

Limited human resources in law enforcement also pose a challenge in accommodating customary rights. Many law enforcement officials lack a thorough understanding of indigenous peoples' rights and agrarian law. Training and education for law enforcement officials need to be improved to ensure they are competent in handling cases related to customary land rights (Lubis et al., 2024). In this regard, the concept of "rechtsgeleerdheid," or legal knowledge, is crucial. By improving human resource capacity, law enforcement can be more effective.

The involvement of indigenous communities in decision-making processes related to land management is also crucial. Indigenous communities must be involved in the planning and management of natural resources in their territories (Ramadhani et al., 2025). The concept of "participatie," or participation, is key to creating fair and inclusive policies. By involving indigenous

communities, the resulting policies will be more aligned with their needs and aspirations. Therefore, collaboration between the government, indigenous communities, and other stakeholders is essential. Cultural aspects also pose a challenge in implementing agrarian laws that accommodate customary land rights. Many indigenous communities have different traditions and norms regarding land tenure. National laws often fail to consider these cultural values, creating dissatisfaction among indigenous communities. (Amri et al., 2024) In this context, the term "cultuurrecht," or cultural law, becomes relevant. Recognizing indigenous cultural values in regulations can help create harmony between national law and customary rights.

Obstacles to accessing information regarding indigenous rights also pose a challenge. Many indigenous communities lack access to relevant legal information, preventing them from effectively claiming their rights (Sahara & Susanto, 2023). In this regard, disseminating information regarding customary rights and applicable legal procedures is crucial. Legal education and outreach programs should be an integral part of efforts to protect customary rights.

The need to strengthen institutions that oversee and protect the customary rights of indigenous peoples cannot be ignored. These institutions must have adequate capacity and authority to address issues related to customary rights. (Safitri et al., 2022) In this context, the term "toezicht," or oversight, becomes crucial. Strengthening supervisory institutions can help ensure that the rights of indigenous peoples are respected and protected. Therefore, institutional reform in the oversight of customary rights needs to be a priority.

Budget constraints for programs supporting the protection of customary rights also pose a significant challenge. Many initiatives designed to increase the recognition and protection of customary rights are hampered by funding issues. The principle of "financiering," or funding, plays a crucial role in ensuring the sustainability of these programs in this context. The government needs to allocate an adequate budget to support efforts to protect the customary rights of indigenous peoples. With sufficient budget support, various initiatives can be implemented effectively.

Regular evaluation of policies and regulations governing customary rights is also necessary to ensure their effectiveness. This evaluation process is crucial for identifying weaknesses and strengths in the existing system. In Dutch law, the concept of "evaluatie" is used to assess policies and regulations. Through systematic evaluation, the government can make necessary improvements to enhance the protection of customary rights. Thus, challenges in implementing agrarian laws that accommodate the customary rights of indigenous peoples can be addressed more effectively.

The proposed reconstruction of national land law aims to achieve social justice and sustainable agrarian reform through amendments to the Basic Agrarian Law (UUPA), the issuance of a Government Regulation in Lieu of Law (Perppu) to address urgent disputes, institutional reform of the Ministry of Agrarian Affairs and Spatial Planning/BPN, and the establishment of a specialized judicial institution. This ensures adequate funding and regular evaluation of customary rights policies for indigenous peoples so that recognition of rights, legal certainty, and equitable land distribution can be achieved effectively and sustainably.

An Abandoned Land Control Policy Can Reduce Inequity in Land Distribution and Improve Community Welfare

The abandoned land control policy in Indonesia is a strategic step to reduce inequity in land distribution. Abandoned land, defined as land not being used productively, is often a source of conflict and dissatisfaction in society. Article 14 of the Basic Agrarian Law stipulates that unused land can be taken over by the state for public interest (Santosa & Purwaningsih, 2022). This policy aims to ensure that land is used optimally and provides benefits to the community. With proper regulation, it is hoped that land distribution can be more equitable.

One of the challenges in regulating abandoned land is the identification and control of unproductive land. This process requires accurate and systematic data on land ownership status (Sudana et al., 2022). In Dutch law, the concept of "cadastral," or land registration, is crucial to ensuring legal certainty. Proper registration will facilitate the government's identification of abandoned land and take necessary action. Therefore, strengthening the land registration system should be a priority in land regulation policies.

Policies to regulate abandoned land must also consider the rights of communities who have customary land ownership. Many communities have managed abandoned land for years despite not having official land titles (Anam et al., 2024). Article 3 of the Basic Agrarian Law (UUPA) emphasizes that land control must take into account the interests of the community. In this regard, recognizing the rights of indigenous communities is crucial to preventing conflict. Inclusive policies will help create equity in land distribution.

Implementing policies to regulate abandoned land can also improve community welfare through land redistribution. Land that has been regulated can be allocated to communities in need, especially small farmers (Suhendar, 2024). Article 15 of the Basic Agrarian Law states that land controlled by the state can be used for the benefit of the people. By providing communities with access to productive land, it is hoped that their welfare will improve. Fair land redistribution will create better economic opportunities for the community.

The aspect of education and outreach regarding the abandoned land regulation policy cannot be ignored. Many communities do not understand their rights regarding land and the applicable regulation process. Education regarding legal procedures and land rights can help the community participate actively (Hermawan et al., 2024). In this context, the term "rechtseducatie," or legal education, becomes highly relevant. Effective outreach programs will raise public awareness and support policy implementation.

Obstacles in law enforcement also pose a challenge to the abandoned land regulation policy. Many land disputes remain unresolved, which can hinder the regulation process. Article 32 of the UUPA stipulates that land disputes must be resolved through legal channels (Sumaya, 2024). Firm and consistent law enforcement is essential to ensure that land clearing policies are effectively implemented. Therefore, increasing the capacity of law enforcement officers is urgent.

Land clearing policies must also consider environmental aspects. Unproductive land use often has negative environmental impacts, such as declining soil quality and ecosystem damage (Winarno et al., 2024). In this regard, the principle of "duurzaamheid," or sustainability, must be applied to land management. Policies that consider environmental aspects will create long-term benefits for the community. Therefore, integrating environmental aspects into land clearing policies is crucial.

Budget limitations for land clearing programs also pose a significant challenge. Many initiatives designed to improve land clearing are hampered by funding issues. In this context, the principle of "financiering," or funding, is crucial to ensure the sustainability of these programs. (Indriasari & Pratama, 2022) The government needs to allocate an adequate budget to support efforts to regulate abandoned land. With sufficient budget support, various initiatives can be implemented effectively.

Regular evaluation of abandoned land regulation policies is also necessary to ensure their effectiveness. This evaluation process is crucial for identifying weaknesses and strengths in policy implementation. In Dutch law, the concept of "evaluatie" is used to assess policies and regulations (Baetal et al., 2021). Through systematic evaluation, the government can make necessary improvements to improve the results of regulation policies. This way, these policies can adapt to the dynamics of society.

Abandoned land regulation policies must also be supported by clear and firm regulations. Without strong regulations, policy implementation can be ineffective and vulnerable to abuse. Article 16 of the Basic Agrarian Law emphasizes the importance of regulating land use for the benefit of the community. Clear regulations will provide legal certainty for all parties involved in the regulatory process. Therefore, the development of comprehensive regulations must be part of this policy.

Ultimately, the success of abandoned land control policies depends heavily on the commitment of all stakeholders. The government, communities, and the private sector must work together to achieve the desired goals. The concept of "samenwerking," or cooperation, is key to creating synergy between various parties. With strong cooperation, abandoned land control policies can be implemented more effectively and provide tangible benefits to the community. Therefore, we must continue to encourage collaborative efforts to achieve justice in land distribution and enhance community welfare.

C. Conclusion

The conclusions from the discussion of the three research questions indicate that the effectiveness of regulations providing legal protection for certified landowners in preventing land mafia practices in Indonesia is still hampered by weak oversight and law enforcement, as well as a lack of public understanding of their rights. The main challenges in implementing agrarian laws that accommodate the customary rights of indigenous communities lie in a lack of legal recognition, complicated registration processes, and conflicts of interest between indigenous communities and private companies. Meanwhile, abandoned land control policies can reduce injustice in land distribution and improve community welfare if supported by clear regulations, community

participation, and adequate evaluation and funding. Therefore, achieving the goal of sustainable agrarian justice requires synergy between the government, communities, and other stakeholders.

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