



## THE POLITICS OF LAND LAW AND THE IMPLEMENTATION OF THE AGRARIAN REFORM PROGRAM IN INDONESIA

Jesse Heber Ambuwaru<sup>1</sup>, Bintan R. Saragih<sup>2</sup>, Listyowati Sumanto<sup>3</sup>

<sup>1,2,3</sup>Universitas Trisakti, Jakarta, Indonesia

Correspondence E-mail: [jha.partners@gmail.com](mailto:jha.partners@gmail.com), [bintan.saragih@uph.edu](mailto:bintan.saragih@uph.edu), [listyowati@trisakti.ac.id](mailto:listyowati@trisakti.ac.id)

### Abstract

*Agrarian reform is primarily aimed at overcoming inequality in land ownership, realizing legal certainty, prosperity and welfare for the whole community. The research objective is to describe how the development of agrarian politics related to agrarian reform, the implementation of agrarian reform in Indonesia and the obstacles faced in implementing agrarian reform. This type of normative legal research is descriptive and the statute approach and concept approach are used in this study. Secondary data that has been collected is analyzed qualitatively, and conclusions are drawn using deductive logic. The results of the study show that the politics of agrarian law related to agrarian reform in the Old Order, New Order and Reform Order eras have led to efforts to realize equal distribution of prosperity for all people. The implementation of agrarian reform achieved success achieved by the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency through the acceleration of the Agrarian Reform Object Land and Complete Systematic Land Registration programs which always reach the target every year. It is targeted that in 2025 all land parcels in Indonesia will have been certified through the Complete Systematic Land Registration program. There are various internal and external obstacles faced in implementing agrarian reform.*

**Keywords:** *agrarian politics, agrarian reform*

### 1. INTRODUCTION

The government issues laws-The Basic Agrarian Law Number 5 of 1960 is to regulate land ownership and use and lay the foundations for providing legal certainty of land rights for all Indonesian people (Boedi Harsono, 2013: 220). Laws were created to ensure fairness and equal opportunity for all citizens, regardless of their social status. This has helped reduce land conflicts and promote sustainable development in rural areas. Implementation of this law has been successful so far, and has become an important part of the country's legal framework. In order to realize the interests of a just and prosperous society, one of the ways the government has done is to issue an Agrarian Reform program. This is motivated by the mandate in the Decree of the People's Consultative Assembly Number IX/MPR/2001 concerning Agrarian Reform and Management of Natural Resources, that the management of natural resources that has been going on so far has led to a decrease in environmental quality, an imbalance in the structure of tenure, ownership, use and utilization as well as causing various conflict. Therefore, it is felt that it is necessary to get special attention and handling in order to realize the realization of its equity since the process of planning, implementing, utilizing, up to controlling the land.

RAW Kaligis' research found that agrarian reform was always considered an issue of communism in Indonesia because it was often associated with the actions of the Indonesian Communist Party in 1960. This stigma still lingers today. In contrast, agrarian reform is a policy related to various ideologies to achieve different goals (RAW Kaligis, 2019: 28–42). Setyo Utomo's research found that agrarian reform efforts have so far focused on developing policies aimed at restructuring land ownership and use. Ratification of Law no. 11 of 2020 concerning Job Creation tends to shift the focus to providing easy access to land for development purposes. This change in policy priorities has a negative impact on land access for the poor and will increase agrarian conflict. Meanwhile, this study entitled the politics of land law and the implementation of the agrarian reform program in Indonesia is different from previous studies, because it aims to describe not only the development of land law politics related to agrarian reform, but also the

implementation of agrarian reform and the obstacles it faces. in the implementation of agrarian reform in Indonesia.

## 2. IMPLEMENTATION METHOD

This type of research is normative legal research and is descriptive in nature which aims to describe the politics of land law and the implementation of the agrarian reform program in Indonesia. The approach used is the statute approach and the concept approach. The secondary data used consists of laws and regulations, books and journals (Deassy JA Hehanussa, et al, 2023:5). The data that has been collected is analyzed qualitatively, and conclusions are drawn using deductive logic.

## 3. RESULTS AND DISCUSSION

### 3.1 Politics of Land Law

The national land policy is regulated in Article 33 paragraph (3) of the 1945 Constitution that the land and water and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people. The sentence "Earth and water and the natural resources contained therein" means principles of people's prosperity. Sentence 'controlled by the state' means the authority of the state to regulate land throughout Indonesia through statutory regulations. The phrase 'used for the greatest prosperity of the people' means the goal to be achieved. The provisions of Article 33 paragraph (3) of the 1945 Constitution are further elaborated in the Basic Agrarian Law Number 5 of 1960 concerning Basic Agrarian Regulations. The politics of land law during the Old Order era had led to efforts to achieve equal distribution of prosperity for all people through the land reform program as stipulated in Law Number 56 of 1960 concerning Determination of Agricultural Land (M.Nazir Salim, Westi Utami, 2020:32). However, the land reform program failed, because it was not supported by clear implementing regulations, giving rise to controversy among companies as landlords who did not want their land to become land reform objects.

Even so, there were political advantages to land law in the Old Order era, when compared to the New Order and Reform Order periods (Nurhasan Ismail, 2021: 37). This can be seen in terms of the issuance of implementing regulations from the UUPA which are responsive, and the rule of law is still upheld (Darwin Ginting, 2012: 44). Meanwhile, politics land law During the New Order, President Soeharto put more emphasis on the spirit of development based on foreign capital with a policy of granting wide-ranging land concessions, agrarian policies prioritizing land for agricultural, industrial and public infrastructure development, exploitation of natural resources, excluding people from their livelihood lands. Noor Fauzi, 2012: 106).

In the reform era in 1988, there were various reclaiming of Cultivation Rights lands, especially in Java, Sumatra, Kalimantan and Makassar, farmers demanded that the lands previously taken by the state for various development purposes be returned to them. In 1999-2001, President BJ Habibie carried out agrarian reform again, and issued Decree of the People's Consultative Assembly No. IX of 2001 concerning Agrarian Reform and Natural Resource Management which provided the basis for changes to Indonesia's land policy. During the administration of President Abdurrahman Wahid and Megawati Soekarnoputri, not much was produced in solving agrarian problems. President Abdurrahman Wahid was more focused on handling international relations and rescuing the slumping economic conditions caused by the crisis in 1998. Boedhi Wijardjo, 2001: 6), because it only focuses on administrative issues of asset legalization policies and redistribution of land to the community.

In March 2012 the Alliance of Indigenous Peoples of the Archipelago as Non-Governmental Organizations submitted a judicial review to the Constitutional Court regarding Law Number 41 of 1999 concerning Forestry which was indicated to be detrimental to indigenous



peoples, and the results of the lawsuit were partially rejected and partially granted by the Constitutional Court (M. Siscawati, 2014: 3-24). Agrarian reform during Joko Widodo's administration underwent many changes, as stated in Presidential Regulation Number 45 of 2016 concerning the 2017 Government Work Plan which contains 5 (five) priority programs consisting of (1) strengthening the regulatory framework and resolving agrarian conflicts, (2) structuring control and land ownership as the object of the agrarian reform, (3) legal certainty and legalization of land rights as the object of the agrarian reform, (4) community empowerment in the use, utilization and production of land as the object of the agrarian reform, and (5) institutions implementing the agrarian reform by the government and regional governments. President Joko Widodo ordered to accelerate agrarian reform by realizing justice in the control, ownership, use and utilization of land and natural resources in Indonesia.

### 3.2 Implementation of the Agrarian Reform Program

Agrarian reform is one of the priority development agendas outlined in the Nawacita program, the government is committed to being able to complete and provide legal protection for people's rights. Agrarian reform is the rearrangement of the structure of control, ownership, use and utilization of land in a more just manner through the arrangement of assets and is accompanied by the arrangement of access for the prosperity of the Indonesian people. Asset management is the realignment of control, ownership, use and utilization of land in order to create justice in the field of land control and ownership. Meanwhile, the arrangement of access is the provision of opportunities for access to capital and other assistance to subjects of agrarian reform in the context of increasing welfare based on land use, which is called community empowerment. There are 3 main things in agrarian reform consisting of structuring assets, structuring access, and resolving disputes. This is in accordance with the National Strategy for Implementing Agrarian Reform 2015-2019. Agrarian reform aims to (1) reduce inequality in land tenure and ownership in order to create justice; (2) Handling agrarian disputes and conflicts; (3) Creating agrarian-based sources of prosperity and social welfare through regulation of control, ownership, use and utilization of land to create employment opportunities to reduce poverty; (4) Improving community access to economic resources; (5) Improving food security and sovereignty; (6) Improve and maintain the quality of the environment.

According to Wiradi, conceptually land reform is the rearrangement of land tenure arrangements, in the interests of small farmers, tenants and landless farm labourers, while agrarian reform is used to refer to a broader and comprehensive understanding (Gunawan Wiradi. 2009: 10), in order to move the land in a hierarchical manner farmer productivity requires supporting conditions in it (R. Komala, et.al, 2021: 495-509). Agrarian reform is a modification of various requirements in the form of granting credit, pricing policies, research, counseling, cooperatives. All of these components have been the focus of government policy so far, but in addition to the results achieved not being optimal, there is also an imbalance in land tenure which has implications for inequality in welfare, the marginalization of small farmers, uncontrolled urbanization of agricultural laborers and smallholders. Therefore, if agriculture is to be promoted, the conditions that must be implemented include education, production credit, farmer group cooperation, improving and expanding agricultural land, national planning for national agricultural development (Mosher, 1987: 50).

Ida Nurlinda argued that the implementation of agrarian reform in Indonesia was directed at changing the structure of tenure, ownership, use and use of land to ensure the realization of justice and legal certainty in the control, ownership, use and use of land (I. Nurlinda, 2018: 252-273). The implementation of agrarian reform is carried out by the government and regional governments through the stages of planning and implementing Agrarian Reform. Planning includes planning for the arrangement of assets for the control and ownership of land as objects of agrarian reform, planning for arranging access in the use and utilization and production of land as objects of agrarian reform, planning for legal certainty and legislation over land as objects of agrarian reform, planning for handling disputes and agrarian conflicts,

The object of land for agrarian reform is land that is controlled by the state and/or land already owned by the community for redistribution or legalization. The definition of state land is land that is not owned with any land rights, and/or is not customary law community customary land, waqf land, state/regional/village property or state-owned enterprises/regional-owned enterprises, and land that has been there is control and has not been attached with any rights over land. These lands will be redistributed or legalized through agrarian reform, by handing over certificates of land rights to the community, thus providing legal certainty, settlement of land tenure, boosting the economy, welfare of the community. Therefore, The need for land to carry out the Agrarian Reform Program in terms of the total target Land for Agrarian Reform objects includes two things, namely the legalization of assets of 4,500,000 hectares and the redistribution of land of 4,500,000 hectares. Director General of Agrarian Arrangement of the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency Andi Tenrisau said the realization of legalization of land assets had exceeded the target of reaching 155.4% or 6,990,000 hectares. Meanwhile, for land redistribution it has only reached 29.32% or 1,370,000 hectares (Ardiansyah Fadli, 2022). President Joko Widodo is targeting 9,000,000 hectares of land as objects of agrarian reform in the 2020-2024 National Medium-Term Development Plan to make Agrarian Reform successful (Masya Famely Ruhlessin, 2022).

In order to accelerate agrarian reform, the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency has carried out a pilot project on Production Forest Area land as an effort to reserve Land for Agrarian Reform Objects. Furthermore, to be reserved as land objects of agrarian reform, and distributed to those who need land, so that in the implementation of redistribution and arrangement of access to land, objects of agrarian reform can reach the people who need it. The Ministry of Environment and Forestry also encourages government agencies to quickly submit requests in the context of providing land for agrarian reform objects from the allocation of forest areas. The pilot project for the location of reserves for unproductive Convertible Production Forest covers four provinces consisting of South Sumatra located in Musi Banyuasin Regency and Banyuasin Regency covering an area of 30,306.29 hectares. East Kalimantan is located in Kutai Kartanegara Regency with an area of 3,842.31 hectares. Central Kalimantan is located in Pulang Pisau Regency with an area of 5,500.94 hectares. West Kalimantan is located in Sintang Regency with an area of 14,310.42 hectares (Suheila Bahfein, 2022).

The success of the implementation of the agrarian reform program can be seen from President Joko Widodo's initiative to find an answer to this problem through the acceleration of the Agrarian Reform Object Land program as well as the National Agrarian Operations Project and Complete Systematic Land Registration. According to Sudaryanto, Director of Land Reform at the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency, this success is one of the achievements achieved by the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency in the implementation of Agrarian Reform. According to Sudaryanto, land redistribution has existed since 1960, but it was only activated through the Agrarian Reform program in 2014. To date, 1,400,000 hectares of people have received the land. Previously it was only 400,000 hectares so that its current achievements have increased.

As of 2019, the redistribution of land originating from Expired and not extended Cultivation Rights, abandoned land, and other state land has successfully redistributed certificates for 573,432 plots or 440,085 hectares. Meanwhile, the redistribution of land from the release of forest areas with the realization of issuance of certificates for 25,310 plots or an area of 19,490 hectares (Kristantyo Wisnubroto, 2022). According to Sudaryanto, it is not easy to provide land redistribution to the community because the locations given are of various conditions. Starting from the release of forest areas, Cultivation Rights, and the many processes that must be passed, after that the land can be distributed to people in need. In addition to land redistribution, agrarian reform is still being carried out through asset legalization activities through the Complete Systematic Land Registration which always reaches the target every year. Agrarian Reform itself has the goal of





legal certainty and realizing prosperity and welfare for the whole community. The main objective is also to overcome inequality in land ownership.

Sofyan A Djalil (Former) Minister of Agrarian Affairs and Spatial Planning/National Land Agency said the government is focused on doing two things in the agrarian reform effort, namely structuring assets and structuring access. In terms of asset management, the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency continues to intensify the Complete Systematic Land Registration program to register all land parcels in Indonesia, which is targeted for 2025, with the aim that there are no disputes and the community has legal certainty (Ardiansyah Fadli, 2022). With regard to asset management, the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency gives lands controlled by the state to subjects who do not have land rights, such as smallholders. Through access arrangements, given access to capital and assistance, how to use the land properly. Thus, the production can be optimal so that the smallholder farmers' prosperity can be achieved. The Ministry of Agrarian Affairs and Spatial Planning/National Land Agency ensures that agrarian reform runs optimally, also applies the Sustainable Agrarian Management System approach which focuses on collecting data bases, starting from whether the land is in accordance with the spatial plan, how the ability of the land to meet the requirements for utilization and data socioeconomic.

The implementation of the next agrarian reform is related to customary law communities, one of which is the implementation of contextual agrarian reform in Papua, in which case the Ministry of Sustainable Agrarian Management is mandated to carry out the development of these customary territories, through the development approach of Papua from a socio-cultural perspective, customary territories and ecological zones in framework for sustainable development and focus on Indigenous Papuans. Surya Tjandra (former Deputy Minister of Agrarian Affairs and Spatial Planning/National Land Agency) said, as an implementation of the agrarian reform, the government has granted Management Rights that were previously held by the government to the Customary Law Community in Papua, which has been recognized and established in accordance with laws and regulations. invitation (Suhaeila Bahfein, 2022). With regard to the implementation of agrarian reform, President Joko Widodo said the government was redistributing land, with a target of reaching 4,300,000 hectares of the target of 12,000,000 hectares to be distributed. The land used for land redistribution is in the Land Bank Agency which is currently owned by Indonesia, part of which comes from the Cultivation Rights and Building Use Rights on land which are currently abandoned by the right holders, and their rights were revoked by the government at the end of last year . It has been more than 20 to 30 years that the abandoned land has not had its rights processed, so that it has become an obstacle for the government to carry out land redistribution to the community or parties in need (Dian Erika Nugraheny, 2022).

The process of accelerating the agrarian reform program until February 2020 with the issuance of certificates covering 5.88 million hectares or around 65% of the National Medium Term Development Plan's target of 9 million hectares of land. For asset legalization, certificates were issued covering an area of 5.05 million ha or around 112% of the National Medium Term Development Plan's target of 4.5 million ha. Meanwhile, for the redistribution of assets, certificates were issued covering an area of 0.795 million ha or around 18% of the National Medium Term Development Plan's target of 4.5 million ha. Acceleration of the realization of the issuance of agrarian reform certificates is urgently needed, especially for agrarian reform object land originating from forest areas and transmigration lands (Setiyo Utomo, 2021). The percentage results for the realization of the agrarian reform target show that the government still has much to do based on unresolved targets. Implementation of agrarian reform not only provide certificates to the community but there is a follow-up of the delivery of certificates based on the benefits obtained by the community. Settlement of agrarian conflicts is also an important matter to resolve because there have been 2,047 incidents of agrarian conflicts in all sectors.

The conflict data also shows the dominance of the plantation sector as the highest contributor to conflict, namely 729 (35.5%), the property sector has 499 conflicts, infrastructure development has 369 conflicts, agriculture conflicts have 145 conflicts, forestry conflicts have 118,

mining has 117, coastal and small islands there are 60 conflicts, and military facilities there are 10 conflicts (Consortium for Agrarian Reform, 2019). Agrarian reform has been designated as a National Strategic Program implemented by multisectoral institutions including the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency, due to the fact that there are still imbalances in land tenure and ownership in Indonesia. Inequality in land tenure and ownership in Indonesia is not ideal so that agrarian reform is one way to correct this inequality.. In 2025 all land parcels in all regions of Indonesia are expected to be registered.

### 3.3 Barriers to the Implementation of the Agrarian Reform Program

According to Sofyan Djalil, the implementation of agrarian reform certainly cannot be separated from the constraints that occur in the field. One of them, if people are given land, but are not given access to capital it will make it difficult for them to empower their land. Because they have difficulty obtaining fertilizer, seeds and ultimately unproductive land (Muhdany Yusuf Laksono, 2022). Limited government budget is one of the main reasons why it can hamper the Reform program. Therefore, direct assistance from the government is needed in financing land certification, for example through Agrarian National Operations Projector Complete Systematic Land Registration. However, what is actually needed goes further than that, for example providing credit for farmers to obtain land. The following is the problem of agrarian reform in Banjarnegara, which occurred on the Cultivation Rights land owned by PT. Pakis Aji Banyumas covering an area of 76,661 hectares, before the expiry of the Cultivation Right was used for coffee, coconut and clove plants, but not utilized properly. The land has been physically controlled and cultivated by members of the farmer groups around the plantation area. In 2011, after the expiration of the Cultivation Rights period, because it was indicated as abandoned land or former land Cultivation Rights whose term had not been extended by the rights holders, the land was proposed to be used as land for agrarian reform objects (S. Martini, Ash-Shafikh, NC Afif , 2019).

Research from the Sajogyo Institute stated that based on research from November to December 2020, many problems were found in the implementation of agrarian reform in Sigi Regency, Central Sulawesi, namely Bunga Village, Sigi Regency, which is the implementation of flora in the Cultivation Rights area belonging to a private limited company. Balumpewa Village, Dolo Barat District, is a representation of the implementation of flora in forest areas. Bumirejo Village, Dampit Regency represents the implementation of flora in the Cultivation Rights area owned PT Plantation Nusantara XII (State Owned Enterprise). Based on research in the field, it was found that for the certification program, in general, the land was legally owned before the certificate was issued. Meanwhile, the land distribution program is divided into forest areas, the area of Right to Use for Private Enterprises and the Area of Use Right for State-Owned Enterprises. The three of them have their own problem area which turns out to be a difficult process. There are even conflicts that have been going on for more than 20 years. Obstacles to agrarian reform in the land case of PT Archipelago Plantation XII due to regulatory factors from the Ministry of State-Owned Enterprises, it is stated that every disposal of assets from a State-Owned Enterprise, is obliged to provide compensation. If there is no compensation, the State-Owned Enterprise will suffer losses on its books. This is a legal issue so it must be seen from two sides of the problem (Ganies Oktaviana, 2022).

Meanwhile, the obstacle in the implementation of agrarian reform is the difficult measurement between plan and implementation, indicating that planning is not mature. This means that the implementation of agrarian reform has not met the specified target, because the government is unable to clearly identify the obstacles to the implementation of agrarian reform policies. Due to the fact that it is increasingly providing greater freedom and opportunity to corporations, groups of capital owners, capitalists, and ultimately marginalized people. Therefore, a partnership between the government, local government and the community is needed from the start of planning, so that there are no deviations in the legalization of assets and the redistribution of land. Other obstacles consist of (1) The validity of land data in Indonesia has not been integrated,



especially data from the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency, the Ministry of Agriculture and the Ministry of Forestry. (2) Ministries and bureaucracy are not matched by political capacity for agrarian reform. (3) The issue of agrarian reform in higher education institutions is not yet popular, causing a lack of scientific studies and experts on agrarian reform in Indonesia (Dwi Murdaningsih. 2022). The next problem that becomes an obstacle in agrarian reform is the practice of the land mafia which results in difficulties in resolving conflicts, disputes and land matters. The land mafia, in order to be able to control the land, and make it into industrial areas, warehouses, housing, intimidates the legal owners. The practice of the land mafia is a real form of conspiracy between big investors, the bureaucracy, and law enforcement officials who often use violence, creating horizontal conflict between the people who control the land and other community organizations (Kristian Simarmata, 2022).

#### 4. CONCLUSION

1. The politics of agrarian law related to agrarian reform in the Old Order, New Order and Reform Order eras have led to efforts to realize equal distribution of prosperity for all people.
2. The successful implementation of the Agrarian Reform program is one of the achievements achieved by the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency in the implementation of Agrarian Reform, which can be seen from President Joko Widodo's initiative through the acceleration of the Agrarian Reform Object Land program as well as the Agrarian National Operations Project and Land Registration. Complete Systematic that always reaches the target every year. Agrarian reform is primarily aimed at overcoming inequality in land ownership, realizing legal certainty, prosperity and welfare for the whole community. Agrarian reform originating from abandoned land or Cultivation Rights whose terms are no longer extended, the majority in the distribution of land to the community, is indirectly prone to conflict.
3. There are various internal and external obstacles faced in the implementation of agrarian reform.

#### Recommendation

1. Agrarian reform is expected to resolve agrarian conflicts and distribute land in a fair manner to small farmers, indigenous peoples, fishermen and the poor.
2. The Ministry of Agrarian Affairs and Spatial Planning/National Land Agency is expected to reach the target in 2025 all plots of land in Indonesia have been certified with the aim that the community has legal certainty and there are no disputes, conflicts and land disputes.

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