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DYNAMICS OF LAND LAW: AN ANALYSIS OF THE NEED FOR LEGAL REFORM IN INDONESIA

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Abstract

Land law in Indonesia faces complex challenges due to ownership conflicts, overlapping regulations, and weak law enforcement. The mismatch between outdated regulations and the needs of modern society often gives rise to land disputes, uncertainty over rights, and obstacles to investment. This study analyzes the dynamics of land law in Indonesia, focusing on the urgency of legal reform. The methods used are normative studies and descriptive analysis of laws and regulations, court decisions, and related literature. The findings indicate that land law reform is needed to harmonize regulations scattered across various laws, strengthen legal certainty, and increase public access to land rights. Furthermore, improving administrative procedures, simplifying certification mechanisms, and protecting the rights of indigenous peoples are crucial aspects of reform. This study emphasizes the need for regulatory harmonization and increasing the capacity of law enforcement agencies to reduce land conflicts. In conclusion, land law reform is not only crucial for social and economic stability but also serves as a foundation for equitable, sustainable development. With effective reform, it is hoped that land rights security for all levels of society can be achieved, disputes can be minimized, and a healthy investment climate can be supported.

Keywords: Law, Land, Reform, Indonesia, Certainty

INTRODUCTION

Land is a fundamental asset that holds not only economic but also social, cultural, and political value for society and the state. In Indonesia, land is a central issue in national development due to its broad functions—from providing residential space and food production to strategic investment resources. However, the dynamics of land law in Indonesia continue to experience high complexity, as evidenced by a number of recurring agrarian issues every decade. These issues reflect that the current land legal system is not fully capable of addressing the challenges faced by society, including protecting land rights, social justice, and legal certainty for all citizens. One of the main legal instruments that forms the basis for land regulation in Indonesia is Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA). The UUPA contains agrarian principles that regulate land rights and obligations, as well as the social function of land in the context of national development. The UUPA aims to ensure justice for the community in acquiring and utilizing land and to ensure that land is used as a means of public welfare. However, in its implementation, various academic studies have stated that the UUPA and its derivative regulations have not been able to effectively resolve agrarian issues comprehensively and sustainably.

Similarly, Anggraini (2022); Ferdy et al (2020) in their study of the land law system stated that although the UUPA has become the national agrarian legal framework, challenges remain in protecting land rights, particularly in providing legal clarity to individuals, the state, and indigenous communities regarding the acquisition of land rights. This indicates that the land law system still requires refinement to be more adaptive to the complexities of social realities on the ground. Land law issues in Indonesia include overlapping land ownership and certification conflicts, legal uncertainty over land rights, land mafia practices that harm citizens, and weak legal protection for community land rights. A study by Akmal, Handoko (2019); Sholahudin et al (2022) suggests that the normative orientation of current land regulations is insufficient to mitigate these problems, resulting in legal loopholes exploited by individuals for personal gain, ultimately harming the wider community. Thus, the need for land law reform is increasingly urgent to provide stronger legal protection that is responsive to evolving social dynamics.

Many researchers view land law reform as an urgent necessity for several reasons. First, the land system, which still relies heavily on manual rather than digital administrative mechanisms, has led to inefficiencies in land registration administration, making it vulnerable to recording errors and fraud. Second, overlapping ownership and the lack of transparency regarding land status information have created horizontal conflicts that are time-consuming and costly to resolve. Third, weak understanding and enforcement of agrarian law exacerbates legal uncertainty, particularly regarding the customary rights of indigenous communities and the rights of communities who have owned land for generations but do not yet have formal land titles. Land law transformation is also deemed necessary to address the structural injustices that still plague Indonesia's agrarian system. Various studies have shown that the land law paradigm still tends to be repressive and predominantly favors the interests of investors or those with access to power, while the rights of indigenous and marginalized communities are often neglected. This is also evident in the weak integration between formal and customary law, even though the principle of legal pluralism could provide a more flexible and responsive legal response to social realities on the ground.

With the advancement of information technology, the digitization of land governance has become a crucial component in modernizing the land law system. The implementation of an electronic land registration system and the use of digital technology are believed to minimize administrative errors, increase data transparency, and expedite the completion of the land rights certification process. However, this digitalization still faces numerous obstacles, including unequal access to technology, bureaucratic resistance, and a lack of clear regulatory support. Furthermore, the implementation of the Basic Agrarian Law (UUPA) in the modern context also requires adaptation to the principles of good governance, public participation, and social justice. The sharp disparity in land ownership between small communities and large capital owners indicates that land redistribution and equitable access have not been effectively realized. Legal uncertainty regarding customary rights and the rights of local communities, which have not been fully formally recognized, often leads to protracted agrarian conflicts. Therefore, the urgent need for legal reform to develop legal instruments that adapt to changing social contexts is crucial to ensure that land law is not merely normative, but also contextual and pro-people.

Structural problems in land law are also evident in the complexity of the land rights acquisition process in Indonesia. Erfa (2020); Arisaputra (2021) explain that land rights acquisition is often hampered by a complex web of inconsistent rules and regulations, including the implications of the 2021 Government Regulation (PP) governing management rights, land rights, apartment units, and land registration. Despite progress in land rights acquisition procedures, their research indicates a continued need to refine the legal process to provide greater certainty and protect the interests of all parties involved in legal and social land transactions. Beyond procedural issues, land dynamics in Indonesia are also influenced by ongoing social and economic changes. Agrarian issues such as land conflicts involving indigenous communities, disputes between rights holders, and mismatches between land use and economic development objectives demonstrate that land law must adapt to the principles of social justice and sustainability. This is crucial because land is not only an individual asset but also a resource closely linked to collective rights and environmental sustainability. In this context, land ownership dynamics are also influenced by other agrarian phenomena, such as the influence of new regulations, such as the Job Creation Law, which has brought significant changes to national agrarian policy and its interaction with the principles of sustainable development. Several researchers argue that land law reform must consider the need to strengthen the protection of community rights to their land, including in the face of rapid and complex regulatory changes without sacrificing fair legal certainty for all parties.

The increasingly complex agrarian issues in Indonesia are not merely administrative issues but also reflect the lack of a legal approach capable of embracing diverse community interests, including indigenous communities with traditional legal systems and land governance (Zaelani et al., 2022; Sukmawati, 2022). Current legal approaches tend to be formalistic and state-centric, often ignoring the existence of customary law and local social mechanisms that have long served as the foundation for regulating community relations with their land (Simarmata, 2018, Sholahudin et al., 2020). A modern land law paradigm needs to recognize this legal pluralism to create a system that is more inclusive and adaptive to the heterogeneity of Indonesian society. Furthermore, issues of transparency and integrity in land administration are also important factors influencing justice in land regulation. The lack of clarity in land data management, the weakness of the digitalization system, and the imbalance in access to services between urban and rural areas indicate that the existing land system is unable to meet the challenges of modernization. Accordingly, Lilik Mulyadi (2022); Santosa & Purwaningsih (2022); Resie (2021) argues that improved land governance must be supported by legal reforms that simultaneously strengthen the digitalization process to increase efficiency, transparency, and protect community land rights more accurately and quickly.

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The urgency of land law reform is also inseparable from the challenges of the ongoing agrarian conflict phenomenon involving various parties. Legal uncertainty regarding land rights status triggers disputes that can have far-reaching social and economic impacts. Therefore, land law reform needs to focus not only on regulatory changes but also requires a restructuring of the principles, processes, and institutions involved in land regulation. This approach is expected to create a more efficient, equitable, and respectful conflict resolution mechanism that respects the rights of all parties involved in agrarian issues. Considering these facts, this paper starts from the premise that current land law in Indonesia is unable to fully address contemporary challenges, both from the perspective of rights protection, legal certainty, and social justice. The need to develop laws that are more responsive, inclusive, and adaptive to the social realities of the wider community is the primary foundation for promoting land law reform. This study of the dynamics of land law is crucial for providing a comprehensive understanding of the root causes, weaknesses in the existing legal system, and potential regulatory redesigns that can strengthen the function of land law as an instrument of justice and sustainable development.

Thus, this introduction will serve as a foundation for a more detailed exploration of aspects of land law reform in the Indonesian context, from substantive, structural, and procedural perspectives. This study is expected to identify the need for reform holistically and propose a more progressive, effective, and equitable land law policy direction to realize superior and sustainable agrarian governance in the future. Overall, the dynamics of land law in Indonesia demonstrate that existing regulations are still less responsive to changing societal needs and technological developments. Legal uncertainty, land ownership conflicts, and weak implementation of the principle of social justice indicate a fundamental need for comprehensive and integrated land law reform. Understanding this urgency, this study aims to qualitatively analyze the need for reform in Indonesian land law based on a review of legal literature, land practices in the field, and relevant contemporary academic perspectives.

METHOD

This research uses a qualitative approach to deeply understand the dynamics of land law in Indonesia and the emerging need for reform. A qualitative approach was chosen because the research focuses not only on formal legal aspects but also on the practices, perceptions, and interactions of various parties related to land issues, which are often complex and contextual. This approach allows researchers to explore socio-legal phenomena that are not easily measured quantitatively and to capture the meaning and interpretation of existing experiences, policies, and regulations. The data sources in this research are divided into two categories: primary data and secondary data. Primary data were obtained through in-depth interviews with informants competent in the land sector, including National Land Agency (BPN) officials, legal academics, advocacy practitioners, and community leaders with direct experience related to land disputes or management. The interviews were conducted semi-structured, allowing researchers to follow the flow of the informants' conversations while ensuring that key topics related to land law and reform were covered. Secondary data were obtained from legal documents, legislation, scientific journals, government agency reports, and relevant previous studies. The selection of secondary data aims to support the validity of the findings and provide historical and conceptual context to the dynamics of land law in Indonesia.

Data collection techniques were carried out in several stages. First, an initial literature study was conducted to identify key issues and developments in land regulations. Second, in-depth interviews were conducted both face-to-face and online, depending on the availability of informants. Third, observations of legal documents, such as the Basic Agrarian Law (UUPA), government regulations, and regional regulations related to land, were conducted to analyze gaps between regulations and field practices. Furthermore, media analysis was conducted to capture land issues of public concern, particularly those that sparked debate about the need for legal reform. After data collection, the analysis phase was conducted using a descriptive and interpretive qualitative approach. Data from interviews were transcribed, coded, and analyzed to identify key themes that illustrate the challenges, obstacles, and needs of land law reform. Legal documents and literature were analyzed by comparing existing regulations, field practices, and academic and policy recommendations. A triangulation approach was used to enhance the credibility of the findings by comparing information from interviews, documents, and other secondary sources.

RESULTS AND DISCUSSION

1. The Dynamic Context of Land Law in Indonesia

Land law issues in Indonesia are structural issues rooted in colonial history and the national agrarian legal system, which has not yet been fully resolved. The Indonesian land legal system was initially established through the Basic Agrarian Law (UUPA) Number 5 of 1960, which aimed to unify various colonial land regulations into a single national legal system governing land rights, registration, and the social function of land as a source of public

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welfare. However, in practice, the UUPA continues to demonstrate weaknesses in addressing evolving social, political, and economic dynamics, leading to legal uncertainty, recurring agrarian conflicts, and unequal access to land. Although the UUPA has become the primary legal basis, protection of community rights, particularly smallholder farmers, indigenous communities, and other vulnerable groups, remains weak due to overlapping implementing regulations and a lack of responsiveness to contemporary societal needs. The UUPA, as a normative foundation, has not fully achieved a balance between legal certainty, social justice, and efficient agrarian governance.

2. Challenges in Land Law: Uncertainty, Conflict, and Land Mafia

One of the most obvious dynamics in land law is the high number of recurring land disputes and the practice of land mafias exploiting legal loopholes. Legal gaps and disharmony between regulations allow interested parties to exploit the system for personal gain, thus effectively protecting community land rights. This problem is also related to the complexity of land registration administration, which is still manual and not yet digitally integrated, and the lack of harmonization between regulations. Slow bureaucratic practices and a lack of transparency open up opportunities for land rights conflicts, duplicate certificates, and lengthy ownership disputes in the courts. Furthermore, the reactive and slow nature of land law to respond to community demands leads to the continued emergence of agrarian conflicts, both in the form of vertical conflicts between the people and the state and horizontal conflicts between community members themselves. The still dominantly repressive legal paradigm tends to ignore community participation in decision-making regarding land policies, thus prolonging the conflict resolution process and creating substantial injustice.

3. The Need for Land Law Reform: Policy Direction and Priorities

The dynamics of land law issues indicate the need for comprehensive reform of the national agrarian legal structure. Several scientific reasons underlie the urgency of this reform.

a. Strengthening Legal Certainty and Justice

First, land law reform is needed to strengthen legal certainty. Legal certainty is a fundamental principle in every national legal system; without strong legal certainty, land rights become vulnerable to disputes, encroachment, or illegitimate claims that are difficult to resolve. This uncertainty affects not only individual landowners but also investors, the government, and other economic actors who require clear and consistent legal guidelines. Furthermore, the principle of social justice enshrined in the preamble to the 1945 Constitution demands the redistribution of access to land and the recognition of the rights of indigenous peoples in a fair and responsive manner to social realities. Current laws are considered inadequate to achieve this equitable distribution, particularly in the context of the persistently high inequality in land ownership in Indonesia.

b. Legal Pluralism and Recognition of Indigenous Peoples' Rights

Reforms are also needed to strengthen legal pluralism, namely the recognition of customary legal systems that still exist and are relevant in many communities. Currently, the dominance of state law in the land sector often conflicts with local customary-based legal systems, leading to conflict and eroding local cultural values. Strong legal pluralism can help incorporate customary legal norms into the national system so that indigenous peoples' land rights are recognized and protected more effectively.

c. Digitalization and Modern Land Governance

Furthermore, the implementation of a digital-based land administration system is a crucial part of reform. Digitization is designed to address manual administrative inefficiencies, increase data transparency, and reduce opportunities for document and certificate manipulation. Digital transformation in Electronic Land Registration will accelerate the registration process, minimize the risk of overlapping certificates, and expand public access to real-time land legal information.

d. Regulatory Harmonization and Institutional Synergy

Land law reform must also address overlapping regulations and the lack of synergy between authorized state institutions. Currently, a number of implementing regulations of the UUPA and other derivative laws remain inconsistent, often creating legal loopholes that can be exploited by interested parties. Reforms must include the

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development of harmonized, clear, and easily implemented regulations, including reforms to the law enforcement system to effectively address land violations.

4. Implications of Reform for Future Land Governance

Comprehensive land law reform will have several positive implications if implemented appropriately. First, increased legal certainty can mitigate the frequent agrarian conflicts that have arisen, both vertically and horizontally. Legal certainty and transparency will enhance the community's sense of justice and strengthen public trust in state institutions. Second, legal recognition of the rights of indigenous peoples and the implementation of social justice principles will result in a more equitable land tenure structure that aligns with community aspirations. This is important not only from an ethical and social perspective, but also to reduce the marginalization of vulnerable groups and maintain social stability in conflict-prone agrarian areas. Third, digitalization of land administration will reduce cumbersome bureaucratic practices, improve data accuracy, and facilitate public access to land registration and certification services. This step will also increase the transparency and accountability of national land institutions, thus positively impacting the overall quality of agrarian governance. Finally, inclusive and participatory reforms—involving local communities, academics, and other stakeholders—will result in land policies that are more responsive to the real needs of communities. This will also encourage active community participation in decision-making regarding the use, management, and distribution of land resources.

5. Challenges in Implementing Land Law Reform

While the need for reform is clear, numerous challenges remain during the implementation phase. First, conflicts of interest among political and economic actors often hinder the reform agenda, especially when the reform is perceived as reducing the benefits of certain groups. Second, resistance to administrative and structural changes is also a major obstacle, as the reform process requires significant investment in human resources, technology, and legal infrastructure. Third, implementing the principle of legal pluralism faces challenges in harmonizing customary law systems with formal national law. All of these challenges require a well-thought-out, collaborative, and evidence-based strategy to ensure that the desired reforms are not merely discourse but are actually realized.

CONCLUSION

An analysis of the dynamics of land law in Indonesia shows that the current legal system still faces significant challenges, both in terms of regulation and implementation. The complexity of overlapping regulations, for example between the Basic Agrarian Law, regional regulations, and provisions from other sectors, often creates legal uncertainty for the public, investors, and related parties. This situation is exacerbated by convoluted bureaucratic practices, land ownership conflicts, and weak dispute resolution mechanisms that hinder access to justice. Furthermore, there are still inequalities in the protection of the rights of indigenous peoples and vulnerable groups, which gives rise to potential social conflict and unfair land distribution.

Land law reform in Indonesia needs to be directed at harmonizing existing regulations, simplifying administrative procedures, and increasing the transparency and accountability of relevant institutions. Law enforcement must be strengthened through clear and participatory oversight mechanisms, including the integration of information technology to facilitate land registration, mapping, and data publication. Furthermore, reform must consider the balance between economic, social, and environmental interests, so that national development does not harm the rights of individuals or the wider community. Improving the capacity of legal officials, including judges and land officials, is also key to ensuring more consistent and equitable implementation of regulations. Overall, land law reform is not simply a matter of regulatory updates, but a strategic effort to create a legal system that is efficient, fair, and responsive to the needs of the community. Thus, this reform is expected to reduce disputes, clarify ownership, and encourage sustainable economic growth while protecting the interests of the wider community. Implementing comprehensive and inclusive reforms will strengthen public trust in the land law system and ensure justice for all stakeholders in Indonesia.

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