

## THE ROLE OF AGRARIAN REFORM IN RESOLUTION OF TENURAL CONFLICTS IN THE LEGISLATION AREA

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### Abstract

Land ownership and control disputes in Indonesia are complex legal issues, rooted in unequal land distribution, overlapping laws and regulations, and minimal recognition of the rights of indigenous peoples and local communities. From the colonial period to the reform era, agrarian policies in Indonesia have often created legal uncertainty, particularly regarding the designation of state forest areas and conservation that ignore community customary rights. Agrarian reform exists as a strategic instrument to address structural inequalities, resolve land disputes, and realize social justice as mandated by MPR Decree No. IX/MPR-RI/2001 and UUPA No. 5 of 1960. This study uses a normative method by examining various laws and regulations, doctrines, and legal theories related to agrarian matters and the resolution of tenural conflicts. The results show that the effectiveness of agrarian reform in resolving tenural conflicts is highly dependent on the harmonization of cross-sectoral regulations, the strengthening of state institutions such as the Agrarian Reform Task Force (GTRA) and the ATR/BPN, and the recognition of indigenous peoples' rights. The theoretical approach of national agrarian law, social justice, and a holistic legal system emphasizes that agrarian reform is not merely land redistribution, but also a process of legal renewal and agrarian governance that is just, participatory, and sustainable. Therefore, agrarian reform must be positioned as the primary legal instrument in resolving tenure conflicts, leading to legal certainty and social justice for all levels of society.

**Keywords:** Agrarian Reform, Tenural Conflict, Social Justice

## INTRODUCTION

Tenure disputes in Indonesia are a multidimensional issue inextricably linked to the dynamics of agrarian policies that have developed from the colonial era to the current reform era. These conflicts are often triggered by unclear land ownership and management statuses or natural resources between the government, indigenous communities, and business actors. The designation of certain areas as state forests or conservation areas without respecting the traditional and customary rights of local communities is one of the main causes of tenure conflicts (Afrizal, 2022).

Agrarian reform emerged as a strategic effort to address inequality in land control and ownership, while simultaneously reducing existing agrarian conflicts. This policy is based on the constitutional mandate as stipulated in MPR Decree No. IX/MPR/2001, the Basic Agrarian Law (UUPA) No. 5 of 1960, and a number of implementing regulations supporting its implementation. Agrarian reform not only redistributes land (asset reform) but also empowers communities (access reform), aiming to create justice and reduce inequality in agrarian control (SPI, 2019).

The structural inequality in agrarian control remains stark: forestry corporations control 71% of agrarian resources; plantation corporations control 16%; wealthy individuals and entities account for 7%, leaving marginal amounts for impoverished populations (WRI Indonesia & BPS, 2024). This concentration stands in direct contradiction to UUPA's foundational principles of egalitarian land distribution and the state's obligation to ensure social welfare. Data from 2017 indicates that the poorest decile controls only 2.3% of national wealth while the richest 10% control 77% of national assets.

In response to this complex landscape, successive Indonesian administrations, particularly during the presidency of Joko Widodo (2014-2024), have prioritized agrarian reform through Presidential Regulation No. 45 of 2016 and subsequent implementing regulations including Presidential Decree No. 86 of 2018. These frameworks define agrarian reform through three principal programmatic components: (1) asset legalization (legalisir aset); (2) land redistribution (redistribusi tanah); and (3) social forestry (perhutanan sosial).

In its implementation on the ground, the agrarian reform program still faces a number of issues, including overlapping sectoral regulations, weak coordination between relevant agencies, and the emergence of abuses of authority that have the potential to disregard the rights of local communities. Therefore, the urgency of this research is increasingly strong: an analysis is needed that focuses on how agrarian reform can concretely resolve tenure conflicts to achieve social justice, community welfare, and sustainable land governance (Diantoro, 2020).

This research is expected to provide theoretical and practical contributions in formulating policies for resolving tenure conflicts through an agrarian reform approach in the legal area, so that the rights of communities, especially indigenous communities and farmers, can be recognized and protected effectively (Kasiati, 2024).

Tenure conflicts in jurisdictions, particularly over land control and use in forest areas and other agrarian regions, are deep-rooted issues stemming from the legacy of colonial policies and the failure of national regulations to ensure equitable access, ownership, and utilization of agrarian resources. These conflicts are exacerbated by population growth, limited productive land, development expansion, and escalating demands from community groups for land ownership and management rights.

Agrarian reform, as a national policy mandated by MPR Decree No. IX/MPR-RI/2001 and various other legal instruments, such as Presidential Regulation No. 86 of 2018, is a key strategy for restructuring land ownership, management, and utilization in a just manner. This program is expected to address structural inequalities, resolve agrarian disputes, and provide legal protection for communities, particularly farmers, indigenous communities, and those who have been excluded from a fair land tenure system.

The study of the role of agrarian reform in resolving tenurial conflicts is highly relevant given the continued prevalence of land conflicts, particularly in forest areas, plantations, and transmigration areas. This research provides an opportunity to analyze settlement patterns both litigation and non-litigation as well as alternative policies such as social forestry, TORA redistribution, and the protection of indigenous peoples' rights, which have not been optimally addressed (Fauzan, 2023).

This research contributes academically to the development of a theoretical and practical legal framework for resolving land tenure conflicts based on justice and sustainability, and recommends regulatory and institutional models responsive to the dynamics of land conflicts in Indonesia. This study also serves as a useful reference for policymakers, academics, and agrarian law practitioners in strengthening the effectiveness and legitimacy of agrarian reform in Indonesia.

This title was chosen based on the need for a comprehensive, systematic, and multidisciplinary study capable of unraveling the roots, impacts, and methods for resolving tenurial conflicts, which

have so far been unresolved through conventional approaches. This study also explores a new paradigm: the role of a holistic legal system (legal substance, structure, and legal culture) in addressing agrarian conflicts without leaving behind ongoing injustice (Diantoro, 2020).

Tenurial conflicts in Indonesia are a very complex and diverse problem, arising from disputes over control, utilization, and ownership of land that often occur between various parties including indigenous communities, local farmers, the government, corporations, and state institutions such as the Ministry of Environment and Forestry (KLHK) and the National Land Agency (BPN).

One concrete form of tenure conflict is overlapping land claims in state forest areas, which often creates tension between indigenous communities and the government, particularly when customary areas are designated as state forest areas without full recognition of the communities' customary rights. For example, the conflict in Kampar Regency, Riau, where indigenous communities have been fighting for years for recognition of their customary territories within conservation forest areas or oil palm plantations.

Another case involves land conflicts in forest areas managed by the state-owned forestry company Perum Perhutani, such as the protracted dispute over the Muara Gembong fishpond in Bogor. This conflict stemmed from community cultivation of the fishpond, which was subsequently litigated in the district court, with the community farmers ruling in favor. However, Perum Perhutani appealed the case due to complex legal and land ownership issues, administrative issues, and conflicts between state forest management and the rights of the community, who had long cultivated the land (Irawan, Mairi, & Ekawati, 2016).

Furthermore, conflicts arise from transmigration programs implemented in forest areas, where migrant farmers and local communities face conflicting interests. This is compounded by the intervention of bureaucrats and political elites, which make it difficult to resolve conflicts fairly. These conflicts not only have social impacts but also hinder development and environmental conservation.

In general, land tenure conflicts in Indonesia are influenced by weak recognition of indigenous peoples' rights, overlapping forestry and agrarian policies, regulatory fragmentation, and law enforcement issues. This results in protracted conflicts and legal uncertainty, which weakens the legitimacy of forest areas and opens up opportunities for fraud in the issuance of land certificates.

These factors make tenurial conflict a central issue in natural resource governance and sustainable development in Indonesia, and emphasize the importance of agrarian reform as a solution for land ownership regulation, community rights protection, and comprehensive land dispute resolution (Sajogyo, 2009). Thus, tenurial conflicts in Indonesia are not merely legal issues, but also social, economic, and political issues that require a multidimensional approach to resolve them fairly and sustainably.

## RESEARCH METHOD

This method is used to analyze various laws, doctrines, and legal principles related to agrarian and tenurial conflicts in Indonesia. Using normative methods, the research focuses on tracing, testing, and assessing the substance of applicable laws, such as the Basic Agrarian Law (UUPA), the Presidential Regulation on agrarian reform, and forestry and land regulations, which are often sources of overlap and dispute. This method is highly effective in analyzing consistency, overlap, and harmonization between regulations, as well as identifying basic principles for resolving land conflicts within Indonesian jurisdictions.

## RESULTS AND DISCUSSION

Agrarian reform constitutes a complex governmental intervention designed to restructure prevailing agrarian systems and relationships. Kuhnen defines agrarian reform as action undertaken to overcome obstacles to development that arise from defects in existing agrarian structures. Within the Indonesian context, agrarian reform encompasses more than simple land redistribution; rather, it represents a holistic reorganization encompassing land control arrangements, ownership structures, land utilization patterns, and access reform mechanisms designed to advance social justice and collective welfare.

The foundational framework for Indonesian agrarian reform originates in UUPA No. 5 of 1960, which embedded agrarian reform within nationalist ideology and conceptualized land as possessing dual dimensions: economic and social functions. UUPA established that while the Indonesian state holds sovereign rights of control (*hak menguasai*) over land, the state must exercise these rights in service of collective welfare and must actively prevent landholding concentration.

Subsequent legal interpretations, particularly the People's Consultative Assembly (MPR) Decree No. IX of 2001 on Agrarian Reform and Natural Resources Management (Ketetapan MPR RI No. IX/MPR RI/2001), reaffirmed that agrarian reform represents a national reform agenda that

government administration must implement comprehensively, across sectors, and with tangible results. This decree established agrarian reform not merely as a policy option but rather as a constitutional imperative binding upon state institutions.

The role of agrarian reform in resolving tenure conflicts within jurisdictions is crucial, although its implementation in Indonesia still faces significant challenges. Recent data shows that tenure and agrarian conflicts are still widespread and promised land distribution often falls short of targets. However, agrarian reform measures remain the primary solution in efforts to resolve structural tenure conflicts.

#### Latest Statistics on Agrarian Reform and Tenurial Conflicts

1. Throughout 2024, 295 agrarian conflicts were recorded in Indonesia, a 21% increase from the previous year, affecting 1,113,577 hectares of land and 67,436 families in 349 villages. The plantation (especially palm oil) and infrastructure sectors contributed the most cases. Conflicts have spread across 34 of Indonesia's 38 provinces, with South Sulawesi being the worst-hit region.
2. In terms of land redistribution, by 2024, only 251,049 plots (a total of 125,552 hectares) were successfully distributed, still below the target. The total land redistribution target during the previous administration (a target of nine million hectares) was also not achieved, with only 1.67 million hectares successfully distributed.
3. By 2025, there were still 865 priority agrarian reform locations (LPRA) with agrarian conflicts covering approximately 1.7 million hectares awaiting resolution, involving approximately 2.4 million people.

#### Concrete Cases of Tenure Conflict Resolution:

1. The tenure crisis in Tesso Nilo National Park (TNTN), Riau, for example, occurred due to the failure to implement agrarian reform principles—inequality in land ownership and control was exacerbated by the absence of the state. Agrarian reform-based solutions (through redistribution and protection of farmers' rights) are recommended as a solution, in accordance with the mandate of the 1960 Basic Agrarian Law and the government's Nawacita (nine priorities).
2. In the first 100 days of the new government in 2025, agrarian conflicts remained high, such as the eviction of farmers in Kertajati, West Java, related to the government's food self-sufficiency program. This conflict demonstrates that without agrarian reform, national programs are vulnerable to conflict with local residents (Tempo, 2024).

The Joko Widodo administration operationalized agrarian reform through Presidential Regulation No. 45 of 2016 (integrated into the National Medium Term Development Plan 2015-2019) and Presidential Decree No. 86 of 2018, which defined agrarian reform implementation through three principal programmatic components:

1. **Asset Legalization Program (Program Legalisir Aset):** This component addresses the formal certification and registration of land rights for previously uncertified holdings. The program prioritizes provision of property certificates to smallholder farmers, urban poor residents, and indigenous communities, thereby formalizing customary or informal tenure arrangements into state-recognized property rights. Legalization generates tenure security, improves borrowing capacity (through collateralization possibilities), and enhances land dispute resolution capacity (by creating enforceable documentary proof of rights).
2. **Land Redistribution Program (Program Redistribusi Tanah):** This component involves transfer of land from state lands (tanah negara), abandoned private holdings (tanah terlantar), and appropriated corporate concessions toward marginalized populations including landless peasants, tenant farmers, agricultural laborers, and transmigration participants. Land redistribution directly addresses agrarian structure inequality and creates pathways toward independent land ownership for impoverished populations.
3. **Social Forestry Program (Program Perhutanan Sosial):** This component provides forest resource access and utilization rights to local communities adjacent to forest zones, including customary communities (masyarakat hukum adat) and forest-dependent populations. Social forestry arrangements permit sustainable livelihood extraction while maintaining forest conservation objectives.
4. These three components function interconnectedly as mechanisms for addressing tenurial conflict root causes: asset legalization addresses tenure insecurity and formal rights recognition challenges; land redistribution addresses structural inequality and landlessness; social forestry addresses marginal populations' livelihood security and resource access equity.

Through a normative approach, this study highlights the importance of cross-sector policy updates, recognition of indigenous peoples' rights, and improvement of dispute resolution institutions so that agrarian reform is truly able to realize social justice and legal certainty for all citizens affected

by tenurial conflicts, and the author will present several relevant theoretical frameworks that can be applied to analyze tenurial conflict problems and the role of agrarian reform in resolving them in Indonesia. Some of the authors present are:

### **1. Theory of Inequality in Land Ownership Structure**

This theory explains that land tenure conflicts stem from inequality and injustice in the distribution and control of land, often caused by inharmonious regulations and overlapping permits and state policies. Its primary implication is the need for agrarian reform to address inequality in access to and control over natural resources, with land redistribution as one solution.

### **2. National Agrarian Law Theory**

This theory positions UUPA No. 5 of 1960 as the legal umbrella governing the relationship between humans and land, including ownership, use, and utilization. Conflicts arise due to the lack of synchronization between national agrarian law and sectoral regulations (forestry, plantations, mining), resulting in legal dualism and uncertainty regarding land rights. Resolving tenure conflicts must adhere to the principles of legal certainty and social justice as outlined in national agrarian law (Mayasari, 2023).

### **3. Conflict Resolution Theory**

This theory discusses dispute resolution mechanisms, both through litigation and non-litigation. In the context of tenure conflicts, resolution can be achieved through deliberation, mediation, negotiation, conciliation, arbitration, and even court intervention. This theory emphasizes the need for dialogue, compromise, and the creation of win-win solutions that are fair and beneficial to both parties in conflict.

### **4. Legal System Theory**

Referring to Lawrence Friedman's ideas, this theory emphasizes three elements: legal substance (rules), legal structure (law enforcement agencies), and legal culture (public legal awareness). Tenure conflicts often arise from disharmony or weaknesses in one of these elements, necessitating systemic improvements through agrarian reform and institutional reforms that support conflict resolution.

### **5. Theory of Human Rights to Land and Natural Resources**

This theory highlights the importance of state recognition of indigenous and local communities' land rights. Tenurial conflicts often arise because the state fails to recognize or even denies communities' rights to customary/customary land. This approach is relevant to demands for recognition of local community rights in agrarian reform and the importance of community participation in decision-making regarding natural resources (Lubis & Ura, 2019).

### **6. Social Justice Theory**

This theory, as developed by John Rawls and also incorporated into the Indonesian constitution, emphasizes the distribution of wealth, access, and natural resources to achieve equitable social welfare. Agrarian reform programs are oriented toward fulfilling the principle of social justice and reducing the disparities and inequalities that are the primary sources of tenure conflict (Susilowati, 2015).

Based on the six theories that have been explained previously, the results of normative research on tenurial conflicts and the role of agrarian reform in Indonesia can be presented as follows:

#### **a. Inequality in Land Ownership Structure and Regulatory Harmony**

Research shows that the main sources of land tenure conflicts in Indonesia are inequality in land ownership and overlapping regulations between the Basic Agrarian Law (UUPA) and other sectoral laws, such as forestry, mining, and plantations. This overlapping and fragmented regulation has resulted in dualism in land rights, which often complicates law enforcement and creates uncertainty about ownership status. MPR Decree No. IX/MPR-RI/2001 and Presidential Decree No. 2 of 2015 have mandated agrarian reform as a solution to this imbalance.

#### **b. Implications of National Agrarian Law**

A review of the implementation of the UUPA shows that the fundamental principles of justice and legal certainty regarding land are often "trumped" by the power of sectoral regulations. The status of community lands located in forest areas, plantations, or business concessions is a frequent source of conflict, so efforts to harmonize regulations are urgent to ensure that community rights are not neglected.

#### **c. Conflict Resolution: Consultation and Mediation**

Research highlights that tenurial conflict resolution has traditionally been regulated through litigation and non-litigation channels, with mediation at both the local and national levels being a key instrument. Deliberative mechanisms are considered more effective in addressing the root causes of

disputes, but are often hampered by weak community bargaining power or a lack of capacity within local government facilities to manage conflicts equitably.

#### **d. Strengthening the Legal System and Institutions**

The normative study also found that weak legal structures and law enforcement are contributing to the slow resolution of land tenure conflicts. Institutional reforms such as strengthening the Agrarian Reform Task Force (GTRA), the ATR/BPN, and integrating land data through the one map policy are key recommendations for improving the agrarian service and oversight system to be more transparent and accountable (Mayasari, 2023).

#### **e. Recognition of Rights to Communal (Ulayat) Land**

State recognition of indigenous peoples' rights and collective or customary land rights remains weak in formal regulations. This situation is a major cause of tenure conflicts, particularly in forest areas and areas with strong local wisdom. Regulatory reform and the implementation of substantive justice principles are urgently needed to protect the collective rights of indigenous peoples, as mandated by the constitution (Prasetya, 2024).

#### **f. Social Justice as the Ultimate Goal**

Research has found that agrarian reform programs, both the redistribution of Land Objects of Agrarian Reform (TORA) and social forestry, are based on social justice theory derived from the constitution and the thinking of John Rawls. However, their implementation in the field still faces serious challenges, such as bureaucratic resistance, low public participation, and abuse of power. Normative studies emphasize the need for legal reform and consistent policy innovations oriented toward the welfare of the poor and vulnerable groups.

Overall, normative studies demonstrate that agrarian reform can be a key instrument in resolving tenure conflicts if implemented based on consistent legal reform, cross-sectoral regulatory harmonization, strengthening state institutions, and prioritizing social justice as the ultimate goal of agrarian policy. Implementation of agrarian reform must be supported by a transparent monitoring system, effective conflict resolution mechanisms, and active community involvement at all stages.

### **CONCLUSION**

The results of this research's normative review indicate that achieving social justice and legal certainty for communities affected by land tenure conflicts in Indonesia depends on cross-sectoral policy reform, strengthening recognition of indigenous peoples' rights, and optimizing dispute resolution institutions. Agrarian reform should serve as a key instrument that comprehensively integrates these three aspects, encompassing regulation, implementation, and oversight mechanisms.

The application of the six theories used in this study clearly demonstrates that the primary sources of agrarian conflict are rooted in unequal land distribution, overlapping sectoral regulations, weak legal certainty, and ineffective dispute resolution mechanisms and recognition of indigenous peoples' rights. A holistic legal system approach is crucial to ensuring integration between the substance, structure, and culture of law. Thus, agrarian reform should not be understood merely as a land redistribution program, but rather as a strategic step to comprehensively improve national agrarian governance and achieve just conflict resolution.

Thus, this study recommends agrarian reform as a strategic solution through consistent legal reform, regulatory harmonization, strengthening inclusive institutions, and implementation that is responsive to the rights and needs of the community, especially those living in areas vulnerable to tenure conflicts.

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