

Urban Agrarian Reform as a Legal Effort by Communities to Defend Their Land Tenure Rights

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Abstract

Urban agrarian reform is a significant issue in Indonesia, often overshadowed by rural land disputes. Rapid urbanization in major cities such as Jakarta, Surabaya, and Bandung has led to complex land conflicts, particularly affecting people living in informal settlements with unclear land ownership status. This study aims to explore the legal measures available to urban communities to defend their land rights amidst forced evictions and inadequate relocation solutions. Using a literature review approach, data was collected from academic journals, books, policy reports, and official government documents. The analysis identified key themes such as unclear land ownership status, inadequate compensation, and relocation, as well as the legal barriers faced by affected communities. The findings highlight the need for transparent mediation processes, fair compensation, and effective land titling programs to ensure social justice and sustainable urban development. By strengthening civil society organizations and fostering collaboration between government, communities, and NGOs, the study proposes strategies to improve the effectiveness of urban agrarian reform in Indonesia.

I. Introduction

Agrarian reform is often considered a predominantly rural issue, but urban land issues also require serious attention. Rapid urbanization has led to complex land conflicts, especially in big cities such as Jakarta, Surabaya and Bandung (Pravitasari et al., 2022). These conflicts often involve communities that have long lived in certain areas, facing the threat of eviction due to infrastructure development and commercial projects (Dammayatri et al., 2023). Many urban communities live in informal settlements or have unclear land ownership status. They are often victimized by evictions without receiving fair compensation or adequate relocation solutions. This creates social injustice and threatens their basic right to housing

For example, the evictions in Kampung Pulo, Jakarta, for the Ciliwung River normalization project, left thousands of people homeless. Despite the relocation program, many residents felt that the solutions offered were inadequate and far from their workplaces and public facilities. This case reflects how important the protection of land tenure rights is for urban communities (Ken setiawan, 2015). Another issue that often arises is legal uncertainty regarding land ownership. Many residents do not have official titles, despite having lived in a location for generations. This situation provides an opening for certain parties to claim the land, often to the detriment of the local community.

In this context, agrarian reform in urban areas is crucial. Agrarian reform aims to improve land distribution and ensure that people's land rights are recognized and protected. It involves legal remedies that communities can use to defend their control over land. One of the legal remedies that can be pursued is to fight for land certification through the mass certification program initiated by the government (Indonesia-investments, 2017). This program aims to provide legal certainty to people living in urban areas (Bayu & Kamim, 2022). In addition, communities can also utilize legal channels to challenge eviction decisions that are deemed unfair. However, these legal remedies do not always go smoothly. Communities often face various challenges, including high costs for legal proceedings, limited legal knowledge, and lack of support from local governments. Therefore, effective strategies are needed to overcome these obstacles.

One strategy that can be implemented is to strengthen civil society organizations that focus on land issues. These organizations can provide legal assistance, raise public awareness about their rights, and lobby the government to change unjust policies. In addition, collaboration between the government, communities and non-governmental organizations (NGOs) is also important. The government needs to be more proactive in involving communities in the planning and

implementation of development projects (Chakib, 2014). Transparency and community participation can help reduce conflict and ensure that the interests of all parties are considered. In the long term, there needs to be a more comprehensive policy for agrarian reform in urban areas (USAID, 2024). This policy should include legal protection for people living in informal settlements, fair compensation for those affected by evictions, and the provision of viable alternative housing.

This research aims to explore various aspects of agrarian reform in urban areas and how legal remedies can be used to defend community tenure rights over land. With a deeper understanding of these issues, it is hoped that more equitable and sustainable solutions can be found for urban communities facing land tenure challenges.

2. Literature Review

First, the unclear status of land ownership in informal settlements has resulted in many urban communities losing their rights during evictions. The mass land certification program initiated by the government is expected to provide legal certainty and protect the rights of these communities. Second, inadequate compensation and relocation solutions often lead to injustice, such as the eviction case in Kampung Pulo, Jakarta, where the solutions offered do not meet the needs of residents. A fair and appropriate relocation policy is needed. Third, communities' legal efforts to defend land rights face various obstacles, including high costs and limited legal knowledge (Indonesia-investments, 2017). Effective strategies are needed to overcome these barriers and strengthen communities' legal position.

3. Research Method

This research will use a literature review approach to explore various aspects of agrarian reform in urban areas and legal efforts in maintaining land tenure rights by communities. Data will be collected from scientific journal articles, books, policy reports, and official documents from government and non-governmental organizations (NGOs) (Mazerolle et al., 2007). The literature selected should be relevant to the topic of urban agrarian reform, legal efforts to defend land rights, and eviction cases in major cities such as Jakarta, Surabaya, and Bandung. The selected literature should be published within the last ten years to ensure the relevance and currency of the data, so as to provide a comprehensive overview of previous studies and policies that have been implemented (Amanita & Septiansyah, 2020).

The literature analysis will be conducted using a thematic approach to identify

key themes such as unclear land ownership status, inadequate compensation and relocation, and barriers to legal recourse (Anderson et al., 2015). These themes will be analyzed in depth to understand their impact on urban communities facing land conflicts. For example, literature on the government's mass land titling program will be evaluated to assess its effectiveness in providing legal certainty to communities. In addition, case studies such as the eviction in Kampung Pulo will be analyzed to understand the impact of eviction and relocation policies on local communities. This approach is expected to provide in-depth insights and identify effective strategies to overcome various challenges in urban agrarian reform.

4. Results and Discussion

Agrarian problems in Indonesia are not only an issue in rural areas, but also a serious problem in urban areas. The following table presents data on various agrarian problems that occur in Indonesia from year to year. For example, the eviction in Kampung Pulo, Jakarta, in 2015 for the Ciliwung River normalization project resulted in thousands of people losing their homes. Despite the relocation program, many residents felt that the solutions offered were inadequate and far from their workplaces and public facilities (Ken Setiawan, 2015a).

In 2017, the issue of unclear land ownership status in informal settlements was highlighted in Jakarta. Many residents who have lived in these locations for generations do not have official land titles, which leaves room for certain parties to claim the land, to the detriment of the local community (Shatkin et al., 2023). In Surabaya, land conflicts in informal settlements in 2018 also occurred due to infrastructure development that led to eviction threats and unclear ownership status (Ernawati et al., 2013).

Furthermore, land conflicts in Bandung in 2019 were triggered by commercial development projects that resulted in communities facing eviction without fair compensation (Adhim, 2023). A similar case occurred in Medan in 2020, where land evictions for toll road construction resulted in homelessness with inadequate compensation (Nurmansyah, 2024). In 2021, land conflicts in Jakarta again surfaced due to the construction of apartments in informal settlements, which led to forced evictions and unclear ownership status (Leitner & Sheppard, 2018).

In 2022, Surabaya again faces land conflicts due to toll road construction, with communities threatened with homelessness without adequate relocation solutions (USAID, 2024). Meanwhile, in Bandung in 2023, land conflicts in informal settlements continue due to commercial and infrastructure development, leading to eviction threats and legal uncertainty over land

ownership (Dammayatri et al., 2023). In 2024, Jakarta again faced land conflicts in informal settlements due to urban expansion, where forced evictions were carried out without adequate compensation and relocation solutions (Suhartini & Jones, 2019).

Table 1 shows that agrarian issues in Indonesia are diverse, but are often related to infrastructure and commercial development projects that threaten the land tenure rights of urban communities. Each case reflects the challenges faced by communities, such as unclear land ownership status, lack of fair compensation and inadequate relocation solutions. This research aims to provide a deeper understanding of these issues and seek more equitable and sustainable solutions.

Table 1. State of Art of Previous Research

Year	Location	Agrarian Issue	Cause	Impact
2015	Jakarta	Eviction in Kampung Pulo	Ciliwung River normalization project	Thousands lost their homes, inadequate relocation solutions
2017	Jakarta	Unclear land ownership status in informal settlements	Lack of official certificates	Opportunity for certain parties to claim land, harming local communities
2018	Surabaya	Land conflicts in informal settlements	Infrastructure development	Threat of eviction, unclear ownership status
2019	Bandung	Land conflicts due to commercial projects	Commercial development projects	Community faces eviction without fair compensation
2020	Medan	Eviction for toll road construction	Infrastructure project	Loss of homes, inadequate compensation
2021	Jakarta	Land conflicts in informal settlements due to apartment construction	Commercial development projects	Forced eviction, unclear ownership status
2022	Surabaya	Land conflicts due to toll road construction	Infrastructure project	Community threatened with eviction without adequate relocation solutions
2023	Bandung	Land conflicts in informal settlements	Commercial and infrastructure development	Threat of eviction, unclear ownership status
2024	Jakarta	Land conflicts in informal settlements due to	Urban expansion	Forced eviction without fair compensation and relocation solutions

Year	Location	Agrarian Issue	Cause	Impact
		urban expansion		

Agrarian Law in Indonesia

Agrarian law in Indonesia is a set of regulations governing land and the natural resources on it. This regulation covers various aspects, ranging from ownership, use, to land management. As a country with a strong agrarian background, agrarian issues have always been an important issue in the context of development and social justice in Indonesia (Daryono, 2010).

Basic Agrarian Law (UUPA) No. 5/1960 is the main foundation of agrarian law in Indonesia. Some important articles in the UUPA include Article 1, which states that the land, water and space, including the natural resources contained therein, are vested in the state and are to be used for the greatest prosperity of the people. This emphasizes that the state has full power over natural resources for the benefit of the people. Article 2 reinforces this by stipulating that the state as the power organization of the entire people controls the land and has the right to regulate and administer the allotment, use, supply and maintenance of the land, indicating the state's responsibility for land management. Article 4 authorizes the government to determine existing rights on land through the state's right of control, while Article 5 recognizes that the prevailing agrarian law is customary law as long as it does not conflict with national interests, integrating customary law in agrarian arrangements (Gold & Zuckerman, 2014).

In addition to the UUPA, there are various government regulations and ministerial regulations that regulate technical and administrative aspects related to land and natural resources. Government Regulation No. 24 of 1997 on Land Registration, for example, regulates the procedures for land registration to provide legal certainty, ensuring a clear and transparent registration process to avoid disputes. On the other hand, Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency No. 3 of 1997 stipulates technical guidelines for the implementation of land registration, providing the necessary technical guidance for effective and efficient implementation. Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency No. 6/2018 on Land Case Settlement regulates the mechanism for resolving land disputes and conflicts, helping to resolve land disputes in a fair and transparent manner (Kawasan et al., 2007).

Constitutional Court decisions have also played an important role in shaping agrarian law in Indonesia. Constitutional Court Decision No. 35/PUU-X/2012 recognized customary forests as part of customary territories, not part of state forests, strengthening indigenous peoples' rights to their customary lands and protecting their constitutional rights (Kawasan et al., 2007). In addition, the

Constitutional Court Decision No. 85/PUU-XI/2013 states that land expropriation without a clear process violates the constitutional rights of citizens, emphasizing the need for a transparent and fair process in land expropriation by the government.

Agrarian law in Indonesia regulates various types of land rights that are crucial for ensuring legal certainty and promoting fair and efficient land utilization. These rights encompass *Hak Milik* (Right of Ownership), *Hak Guna Usaha* (Right to Cultivate), *Hak Guna Bangunan* (Right to Build), and *Hak Pakai* (Right of Use). *Hak Milik*, as delineated in Article 20 of the Land Law (UUPA), confers complete ownership of land upon individuals or legal entities, entailing inheritable, paramount, and unrestricted rights. *Hak Guna Usaha*, as stipulated in Article 28 of the Basic Agrarian Law (UUPA), grants individuals or legal entities the authority to cultivate state-owned land for agricultural, fisheries, or livestock purposes for a specified duration. *Hak Guna Bangunan*, as articulated in Article 35 of the UUPA, bestows upon its holder the prerogative to erect and possess buildings on land not owned by them for a designated period. Conversely, *Hak Pakai*, governed by Article 41 of the UUPA, confers upon individuals or legal entities the right to utilize state-owned land or land belonging to others for specific purposes within a predetermined timeframe (Cahyaningrum, 2016).

One of the main objectives of agrarian law is to realize social justice through land redistribution. The agrarian reform program aims to distribute land to small farmers and landless communities, in an effort to reduce inequality in land ownership and improve people's welfare. UUPA Article 7 states that excessive land ownership is not allowed to prevent land monopoly. Article 17 of the UUPA further regulates the limitation of the maximum area of land that can be owned by a person or legal entity, with the aim of supporting equitable land redistribution. The implementation of land redistribution is also supported by Presidential Regulation No. 86/2018 on Agrarian Reform, which clarifies the implementation procedures and objectives of land redistribution to support social justice and community welfare (Republik Indonesia, 2018).

Settlement of Agrarian Disputes in Indonesia

Agrarian law provides mechanisms for the settlement of land disputes, both through the courts and through mediation and arbitration, which are essential for maintaining social and economic stability. UUPA Article 56 stipulates that any land dispute must be resolved based on the provisions of the applicable law and with due consideration for justice. Government Regulation No. 24 of 1997 on Land Registration also provides procedures for resolving land disputes relating to land registration and certification. In addition, Minister of Agrarian and Spatial Planning/Head of the National Land Agency Regulation No. 6/2018 on Land Case

Settlement establishes a dispute resolution mechanism through mediation and arbitration, which aims to resolve disputes in a faster and more efficient manner compared to litigation. With this dispute resolution mechanism, it is hoped that social and economic stability can be well maintained, and people's rights to land can be effectively protected (BPN, 2017).

However, the fact is that the resolution of agrarian disputes, especially in urban areas, is still far from being mutually beneficial for both parties to the dispute, especially for people who are trying to defend their land rights, which can be observed from several cases.

In 2015, the Ciliwung River normalization project in Kampung Pulo, Jakarta, caused thousands of residents to lose their homes. The government applied an eviction approach in implementing this project, which should have complied with Article 18 of the Basic Agrarian Law (UUPA). The article stipulates that land expropriation must be accompanied by the provision of adequate and fair compensation. However, the reality on the ground shows that many residents complained about the inadequate compensation and relocation solutions. This has resulted in dissatisfaction and injustice for the affected residents, reflecting the need to re-evaluate the compensation and relocation mechanisms to make them more humane and in accordance with the principles of social justice (Kawasan et al., 2007).

In 2017 in Jakarta and 2018 in Surabaya, the lack of official land titles became a major problem, providing loopholes for certain parties to claim land belonging to local communities. The government has established Government Regulation No. 24/1997 on Land Registration to provide legal certainty, but its implementation is still less than optimal. The handling of land disputes due to infrastructure development is also regulated through Minister of Agrarian and Spatial Planning/Head of the National Land Agency Regulation No. 6/2018, which requires mediation and arbitration. Unfortunately, settlements are often inadequate due to regulatory limitations and unclear land status, so many mediation cases fail to provide a fair solution (Qorib, 2016).

In 2019 in Bandung, a commercial development project led to communities facing eviction without fair compensation. This violated Article 18 of the UUPA, which requires land expropriation to be accompanied by fair compensation. In 2020, a toll road project in Medan also caused many residents to lose their homes without adequate compensation. In many cases, the compensation provided did not meet residents' expectations and needs, leading to dissatisfaction and suffering. Therefore, it is important for the government and related parties to review the compensation mechanism, ensuring that every resident receives adequate and fair compensation in accordance with legal provisions (Kompas.om, 2018).

Apartment construction in Jakarta in 2021 led to forced evictions with unclear land ownership status, which should have been resolved through mediation as per Ministerial Regulation No. 6/2018. However, mediation is often inadequate due to a lack of transparency and fairness. In 2022, a toll road project in Surabaya again threatened communities with evictions without adequate relocation solutions. In 2023 and 2024, commercial development and urban expansion in Bandung and Jakarta also faced similar problems. Non-transparent mediation processes and inadequate compensation cause dissatisfaction and insecurity for residents. The government and related parties must ensure that every eviction is conducted fairly, involves active participation from the community, and provides compensation and relocation solutions that are truly feasible, so as to create justice and prosperity for all affected parties (PMATRKBPNRI/17/2021 et al., 2021).

Agrarian Reform

The implementation of agrarian reform in Indonesia is regulated by the Basic Agrarian Law (UUPA) No. 5 of 1960, which serves as the legal basis for land redistribution. Although agrarian reform has noble goals, its implementation in Indonesia faces various challenges. One of the main problems is the unclear status of land ownership, which often leads to conflicts between communities and the government or private parties. The lack of land titles leaves many communities, especially in rural areas and urban slums, vulnerable to forced evictions and unilateral claims by other parties (PKS, 2018).

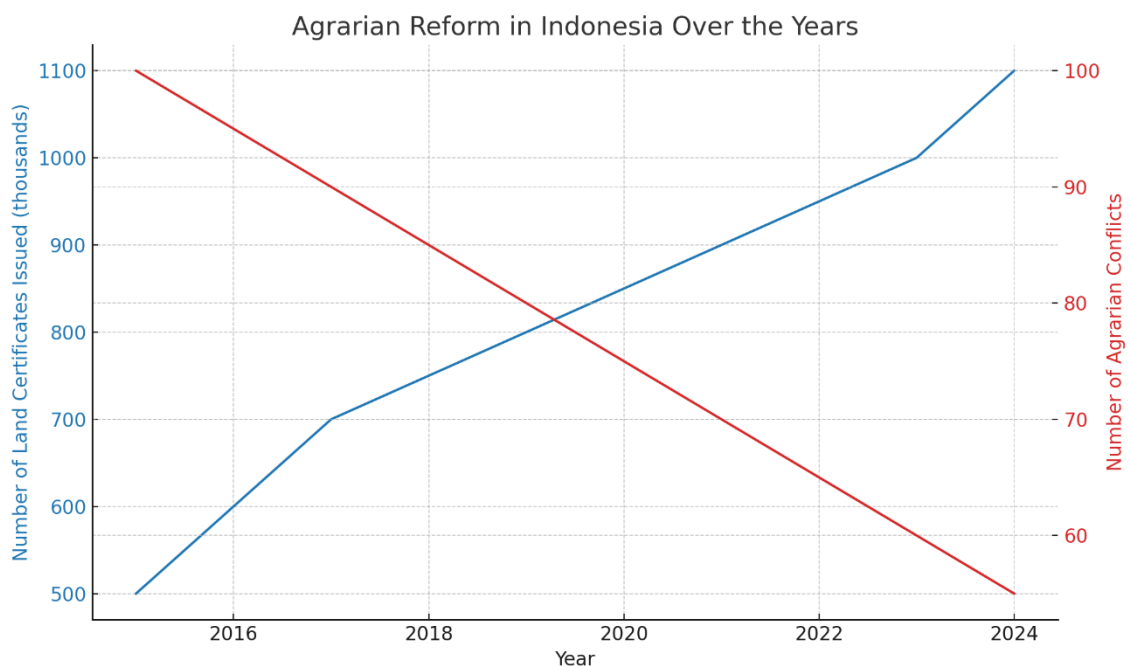


Figure 1. Agrarian Reform in Indonesia

Description:

- a) The blue line shows the number of land certificates issued each year (in thousands).
- b) The red line shows the number of agrarian conflicts that occur each year

From the chart, we can see an increasing trend in the number of land certificates issued from 2015 to 2024. Meanwhile, the number of agrarian conflicts shows a downward trend from year to year. This illustrates the government's efforts in accelerating the land certification program and reducing agrarian conflicts in Indonesia.

Concrete examples of this problem are agrarian conflicts that occurred in various regions, such as Kampung Pulo in Jakarta in 2015 and Surabaya in 2018. Infrastructure and commercial development projects are often the main cause of evictions, where residents are forced to leave their land without adequate compensation or viable relocation solutions. Unclear land status and complex bureaucracy in the land titling process exacerbate this situation. and more equitable regulation of land ownership.

To resolve agrarian conflicts, the Indonesian government has implemented various policies and regulations. One of them is the Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency No. 6/2018, which regulates mediation and arbitration mechanisms in handling land disputes. The aim is to provide fair solutions for all parties involved in agrarian conflicts. However, the implementation of mediation and arbitration is often inadequate due to the lack of involvement of all interested parties and the lack of transparency in the process. Many residents feel that their voices are not heard and their rights are ignored, while developers often have an advantage in negotiations. This injustice leads to discontent and resistance from affected communities (Graha, 2022).

For this reason, Agrarian Reform in Indonesia is a major issue in resolving agrarian cases, especially for people in urban areas who are directly related to the rapid development in maintaining their land rights. To increase the effectiveness of agrarian reform in Indonesia, concrete steps are needed that involve all parties actively and transparently. such as accelerating the land certification process, the Government must accelerate the land certification program through Government Regulation No. 24 of 1997 concerning Land Registration. With official certificates, communities have legal certainty over their land ownership and can avoid harmful unilateral claims.

Increase transparency in mediation processes, mediation and arbitration

processes should be conducted with full transparency, involving all interested parties, and ensuring that every decision is made fairly. The government and relevant parties should commit to actively involving communities in every stage of the process.

Providing adequate compensation and relocation solutions, any land expropriation must be accompanied by the provision of adequate compensation in accordance with article 18 of the UUPA, as well as adequate relocation solutions in terms of accessibility, facilities and convenience. Thus, social justice can be created and the welfare of affected communities is maintained.

5. Conclusion

Agrarian reform in Indonesia is crucial for addressing long-standing inequalities in land ownership and control. Through the Basic Agrarian Law (UUPA) No. 5/1960, the government aimed to ensure a more equitable redistribution of land to improve the welfare of the community, especially smallholders and vulnerable groups. However, the implementation of agrarian reform faces significant challenges, including bureaucratic complexity and unclear land ownership status.

One of the main issues in implementing agrarian reform is the unclear status of land ownership, which often leads to conflicts between communities, the government, and the private sector. Numerous eviction cases in major cities like Jakarta, Surabaya, and Bandung illustrate how residents lose their land rights without adequate compensation or proper relocation solutions, leading to dissatisfaction and resistance from affected communities.

To address agrarian conflicts, the government has issued various policies, such as Government Regulation No. 24 of 1997 on Land Registration and Minister of Agrarian and Spatial Planning Regulation No. 6 of 2018 on Land Case Settlement. However, the implementation of these policies is often inadequate due to a lack of transparency and insufficient involvement of all interested parties. Many residents feel their rights are ignored, while developers often dominate mediation and arbitration processes.

Data trends show a significant increase in the number of land certificates issued from 2015 to 2024, while agrarian conflicts have decreased. This reflects the government's efforts to accelerate the land certification program and reduce agrarian conflicts. However, to achieve comprehensive justice, more concrete and effective measures are needed.

To improve the effectiveness of agrarian reform, the government must accelerate the land certification process and ensure that any land expropriation is accompanied by adequate compensation and relocation solutions. Transparency

in mediation and arbitration processes should also be enhanced, involving all interested parties and ensuring fair decisions. By actively involving communities and improving existing mechanisms, agrarian reform in Indonesia can become more effective and equitable. These steps are expected to address land ownership inequality, reduce agrarian conflicts, and improve the overall welfare of communities in both urban and rural areas. Successful agrarian reform will provide a strong foundation for sustainable development and social justice in Indonesia.

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