Regulation of State Ownership Rights Over Land in The National Agrarian Legal System

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Abstract
State control over land is a fundamental principle in Indonesia's national agrarian legal system, which is based on Article 33 paragraph (3) of the 1945 Constitution and elaborated in Law No. 5 of 1960 concerning Basic Agrarian Principles (UUPA). The state, as the holder of state ownership rights over land, has the authority to regulate the allocation, use, and ownership of land for the greatest prosperity of the people. This study aims to analyze the legal provisions regarding state ownership rights and examine their implementation in land management practices in Indonesia. The research method used is normative legal analysis with a legislative and doctrinal approach. The results of the study indicate that although the regulation of state control rights has been legally regulated through the UUPA and its derivative regulations, in practice, various problems are still found, such as overlapping claims, agrarian conflicts, and weak protection of the rights of indigenous peoples and farmers. Therefore, it is necessary to strengthen regulations and the implementation of agrarian justice principles so that state control rights truly function for the welfare of the people.

I. Introduction

Land is a natural resource that has strategic value in the social, economic, and cultural life of Indonesian society (Nengsih, 2020). As an agrarian country, the majority of Indonesia's population depends on land for their livelihoods, whether for housing, agriculture, or other economic activities (Nuriyanto, 2020). Therefore, regulations concerning land are very important in the national legal system. Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia states that "the land, water, and natural resources contained therein shall be controlled by the state and used for the greatest prosperity of the people." This provision serves as the philosophical and constitutional foundation for the state's right to control land, which is further elaborated in Law No. 5 of 1960 on the Basic Principles of Agrarian Law (UUPA). Under the UUPA, the state is not regarded as the owner of land, but rather as the entity entrusted with the authority to regulate, manage, and oversee the utilization of land for the benefit of the people (Triningsih & Aditya, 2019).

The state's right to control land is rooted in Article 33(3) of the 1945 Constitution, which states that the earth, water, and natural resources are controlled by the state for the prosperity of the people. The 1960 Land Law, particularly Article 2(2) and (3), expands this to three state authorities: first, determining the allocation and utilization of land, water, and airspace; second, regulating legal relations between the community and these elements; and third, controlling legal relations between communities related to agrarian objects. In practice, zoning and land use are determined through general plans—such as Presidential Regulations, Regional Regulations, and Government Regulation No. 16 of 2004 on Land Use—that align with national and regional development objectives and protect the environment. This legal framework ensures that land is used in accordance with its social function, prevents excessive land ownership monopolies, and guarantees the stability of production and distribution of land rights (Slamet, 2024).

The second regulation concerns the legal relationship between the community and land. By adopting a national land registration mechanism—including surveying, certification, and a record-keeping system—the state establishes legal certainty regarding ownership rights, HGU, HGB, HPL, as well as usage and lease rights. Every transfer of rights must be registered to provide legal protection, as mandated by Articles 19–24 of the UUPA. Third, the state has the authority to regulate relations between communities regarding land. Through legal mechanisms such as encumbrances, servitudes, and agrarian dispute resolution, the state establishes a fair and balanced framework. This also includes the granting of customary rights to customary law communities—provided they do not conflict with national interests—as stipulated in Articles 3 and 4 of the UUPA. The implementation of this authority still faces challenges. Agrarian conflicts due

to land allocation for investment, utilization of HPL, and weak protection of indigenous peoples sometimes prevent the principles of social function and justice in the UUPA from being fully realized. Improving regulations and oversight of implementation at the local level is crucial to ensure that state authority truly supports the welfare and protection of citizens. Substantively, state control rights provide legal legitimacy for the state to organize space, legal relations between agrarian subjects, and establish frameworks between communities through modern agrarian norms (Hastarini, 2022). The challenge is to ensure that these mechanisms are consistent and inclusive, pro-people, and uphold the social function of land as mandated by the constitution and the Basic Agrarian Law.
Normatively, the role of the state in regulating land should reflect the principles of social justice, sustainability, and the prosperity of the people. However, in practice, the implementation of state control over land often raises serious issues. One of these is agrarian conflict involving indigenous peoples, farmers, and large corporations. National strategic projects such as infrastructure development, mining, and industrial estates often sacrifice the rights of local communities to their land without consultation or fair compensation. However, in practice, the implementation of state control rights often raises various issues, including agrarian conflicts, land inequality, evictions in the name of development, and weak protection of customary land and the rights of local communities. This situation highlights the gap between the idealism of national agrarian law and its implementation in practice. Therefore, a study on the regulation of state ownership rights over land is crucial to understanding how national agrarian law governs the state's authority over land and how its implementation can reflect the principles of social justice and the welfare of the people as mandated by the constitution. How are state ownership rights over land regulated within the national agrarian legal system, and what issues arise in the implementation of state ownership rights over land in Indonesia.

2. Research Method

This study uses a normative legal method, which is an approach conducted through a review of written legal norms governing state control over land in the national agrarian legal system. Normative legal research focuses on the study of legal principles, legislation, and legal doctrines or theories relevant to the topic under investigation.

This method was chosen because the main focus of this study is to understand, analyze, and evaluate the positive legal provisions governing the state's authority in the control and management of land, as well as how these norms should be applied in the context of agrarian justice.

The statute approach traces constitutional legitimacy in Article 33(3) of the 1945 Constitution, which grants the state the right to control the earth, water, and natural

resources for the prosperity of the people; followed by Law No. 5 of 1960 (UUPA) with detailed provisions on the state's authority over land use, legal relations with communities, and the protection of social functions and restrictions on land ownership accumulation; subsequently implemented administratively through subsidiary regulations such as Ministry of Agrarian Affairs and Spatial Planning/National Land Agency Regulation No. 16 of 2022 (transfer of land administration services to local governments) and Government Regulation No. 18 of 2021 (Cipta Kerja), which introduced management rights, harmonized existing rights, and expanded regulations on vertical land use. The conceptual approach uses social justice theory (John Rawls: "fairness" and the principle of difference) as well as utilitarianism (Jeremy Bentham: greatest happiness) and Aristotle's theory of distribution (distributive and commutative justice) to understand the principles of agrarian justice, equitable access, and land tenure policy. The historical approach then examines the transformation of agrarian law from the colonial era—with the Domein and Cultuurstelsel systems—to the formation of the UUPA and regulatory reforms through the omnibus Cipta Kerja, showing a paradigm shift in state control from colonial control to sustainable and inclusive development. When incorporating a case approach, the research will examine how these norms are implemented in practice through studies of agrarian conflicts or land acquisition, illustrating the alignment or misalignment between legal provisions and actual community practices.

The type and source of data in this research rely entirely on secondary data, which includes three main categories based on their authority: primary legal materials in the form of the latest legislation such as the 1945 Constitution, Law No. 5 of 1960 and its derivative regulations; secondary legal materials consisting of analyses and interpretations by experts through books, journal articles, previous research publications, and academic opinions; and tertiary legal materials that provide additional explanations through legal dictionaries, encyclopedias, and legal indexes that help understand the substantive and terminological context of the primary and supporting sources.

3. Results and Discussion

Regulation of state control over land in the national agrarian legal system

Lampung Province is the largest Robusta coffee producing area in Indonesia with The state is one of the subjects of law. As subjects of law, state-owned organizations or government agencies can be regarded as subjects or public legal entities with the authority to regulate citizens and carry out all activities as an inherent sovereignty as mandated by applicable laws and regulations(Santosa, 2019). The state as a legal entity is defined as a legal entity that can be interpreted as the owner of certain rights in support of various obligations and the rights of citizens. The government is referred to as a legal entity because, in legal theory, the government can be likened to or considered

as the party that holds the right to regulate, and if examined more deeply, the state or government can be referred to as a *public rechtspersoon*, which means that it supports obligations and rights in the public sphere, giving the state the authority to carry out all activities related to the public interes (R. Soeroso, 2006).

Regulations concerning State control over land in Indonesia are closely related to the principles contained in Article 33 paragraph 3 of the 1945 Constitution of the Republic of Indonesia and implemented through the Basic Agrarian Law (UUPA) of 1960. State ownership of land belonging to individuals is a legal authority that has been acquired or mandated directly under the UUPA and the 1945 Constitution. The forms of state ownership over land owned by individuals can be categorized into three parts: regulations on land allocation, regulations on various relationships that may give rise to legal consequences regarding land as part of the state's territory, and regulations on various relationships concerning the relationship between citizens and their actions that are inevitably related to land as part of the state's territor(Boedi Harsono, 2007). Regulation of State Control over Land Based on Article 33 Paragraph 3 of the 1945 Constitution and the 1960 Basic Agrarian Law. Article 33 Paragraph 3 of the 1945 Constitution serves as the fundamental basis for the regulation of land control in Indonesia. The article states that "The earth, water, and natural resources contained therein are controlled by the State and utilized for the greatest benefit of the people." This statement affirms that the control of natural resources, including land, must be carried out with the aim of improving the welfare of the people, not for the interests of individuals or specific groups. The phrase "controlled by the State" in this article serves as the basis for the regulation that the State has the highest authority over natural resources in the territory of Indonesia, including land.

The state acts as the sovereign authority over land in accordance with the mandate of Article 33(3) of the 1945 Constitution and elaborated upon in Article 2 of the Land Law (Law No. 5 of 1960), which grants the state the highest authority to regulate the allocation, use, provision, and maintenance of agricultural resources, including the granting of rights such as the Right to Use for Business and the Right to Manage. In practice, the state exercises this authority to distribute land, manage spatial planning, and grant land rights with the aim of addressing social welfare aspects. Recent regulations such as Ministry of Agrarian Affairs and Spatial Planning/National Land Agency Regulation No. 16 of 2022 strengthen this function by delegating administrative authority to local governments to improve access to and efficiency of land administration services.

As a constitutional mandate, the utilization of land by the state must be directed towards achieving the prosperity of the people, meaning that every agrarian

policy must benefit the social and economic welfare of the wider community(Muhammad Ilham Arisaputra, 2021). In line with this principle, the UUPA emphasizes the social function of every land right (Article 6), requires the maintenance of fertility and ecosystems, and enforces maximum ownership limits to prevent inequality. Reform policies such as agrarian reform are also aimed at redistributing agricultural assets, recognizing the rights of indigenous peoples, and improving the welfare of small farmers, with a program to redistribute 9 million hectares of land, demonstrating the state's commitment to agrarian justice and increasing village income (Prasja dkk., 2022).

The Basic Agrarian Law (UUPA) No. 5 of 1960 is the primary legal framework governing agrarian matters and land rights in Indonesia. The UUPA implements Article 33(3) of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945), particularly regarding the regulation of State Land Ownership Rights (HPN) over land. Further elaboration is provided in Law No. 5 of 1960 on the Basic Provisions of Agrarian Law (UUPA), specifically Article 2(1), which states: "Based on the provisions of Article 33(3) of the Constitution and matters referred to in Article 1, land, water, and airspace, including the natural resources contained therein, are controlled by the state as the organization of the entire people's power at the highest level." This term, based on Article 33(3) of the 1945 Constitution, is reinforced through Article 2 of the UUPA, granting the state the authority to regulate the allocation, use, and control of land, water, and airspace. Thus, the state establishes land functions, including the distribution of land rights such as ownership rights, HGU, HGB, and HPL, as legal instruments for fair agrarian control.

The state also has the authority to establish and grant land rights—either directly or through delegation—as stipulated in Permen ATR/BPN No. 16 of 2022, which delegates some of the administrative tasks of establishing rights and registration to regional and local offices in order to improve the effectiveness of public services. In addition, the state plays a role in regulating the legal relationship between the community and the land(Sari, 2017). HMN functions as a public legal instrument that bridges individual or collective rights with agrarian objects, for example through rights agreements, servitude encumbrances, and recognition of customary community rights. The Constitutional Court's interpretation confirms HMN as a public right, not private ownership. Finally, the state has a supervisory function to ensure that land use is in line with national/regional spatial plans and the public interest. The implementation of HMN also includes enforcing environmental regulations, regulating the social functions of land, and taking corrective actions in case of deviations, including through administrative and legal instruments(Yuliantiningsih, 2019).

The 1960 Basic Law on Land (UUPA) is the legal instrument that regulates

land rights in Indonesia. In its articles, the UUPA regulates various forms of land rights, such as Freehold Rights, Right to Use for Business, and Right to Build. In particular, State Control Rights grant the state the authority to regulate and manage land for the public interest. The UUPA also regulates the mechanism for granting permits and control over land, with the aim of ensuring that land is used fairly and sustainably. The Right to Manage (HPL) is a form of delegation of some of the state's authority to contr ol land, as explicitly regulated in Article 1(3) of Government Regulation No. 18 of 2021: "The right to control from the state, the authority to implement which is partially delegated to the holder of the HPL." HPL is not a right to land like ownership or right to use, but rather a means for the state to distribute land management functions to certain bodies orcommunities for public purposes(Rahadiyan Veda Mahardika dkk., 2022). **Land sources that can be granted as HPL include state-owned land and customary land—including land under the control of indigenous communities —with the designation made through a decision by the Minister of ATR/BPN. Entities eligible to receive HPL include government agencies, state-owned enterprises (BUMN/BUMD), legal entities, Land Banks, and customary law communities—in line with the objectives of collective, efficient, and sustainable land use.**

HPL holders are authorized to plan allocation, manage use, and set annual rates or fees for land use, both for their own interests and in cooperation with third parties..(Fauzi & Sujadi, 2023) **In addition, HPL can serve as the basis for granting other land rights such as HGU, HGB, and Right of Use through agreements, in line with efforts to improve spatial efficiency and increase investment. Although it is specific in nature and cannot be freely transferred or used as collateral for debt, HPL may be released or revoked under certain circumstances—for example, when the land is transferred into private ownership, used for public purposes, or becomes abandoned land—and if released from customary land, its status is returned to the customary law community. This demonstrates that HPL is designed as a temporary management mechanism responsive to changing social needs and development objectives**(Resa dkk., 2024).

Agrarian justice demands the equitable and fair distribution of assets and access to land resources, in accordance with the mandate of Article 33(3) of the 1945 Constitution and Law No. 5 of 1960. This concept is reinforced through the social function of land rights (Article 6 of the Land Law), which states that land ownership cannot be exploitative but must ensure the welfare of the community. From a legal perspective, the state is obligated to restructure land ownership and ensure that all agrarian policies address the needs of the poor and small-scale farmers.(McMichael, 2020) Land redistribution is a key pillar in realizing this justice, with a national target of distributing 4.5 million hectares

out of a total of 9 million hectares within the framework of agrarian reform (Kementerian Agraria dan Tata Ruang/Badan Pertanahan Nasional (ATR/BPN), 2024). However, data as of June 2024 shows a greater focus on asset legalization—reaching 10.7 million hectares—while only 1.8 million hectares have been redistributed (Adil Al Hasan, 2024). This inequality is exacerbated by the high number of conflicts, according to the 2024 Year-End Report of the Agrarian Reform Consortium, which recorded a 21% increase in the number of agrarian conflicts in 2024, equivalent to more than 50 cases of agrarian conflict. These conflicts involved approximately 1,113,577.44 hectares of land, ultimately affecting 67,436 families in 329 villages. Among the thousands of victims affected, there are three groups most impacted by agrarian conflicts: farmers, urban poor, and indigenous communities (Abita Jovina, 2025).

The government has pursued various strategies to accelerate redistribution, including the establishment of the Agrarian Reform Acceleration Team (October 2024), certification of transmigration assets, HGU, and converted forest areas; as well as the development of institutions such as the Land Bank and empowerment of customary areas. However, evaluations indicate that there are still bureaucratic obstacles, sectoral egoism between agencies, and a lack of political commitment to resolve conflicts completely. State control rights in the UUPA give the state the authority to regulate all matters related to land, whether in the context of use, management, or distribution. This authority covers several important aspects. Land distribution is the main instrument of agrarian reform aimed at equalizing access to land for disadvantaged communities. Its constitutional basis lies in Article 33(3) of the 1945 Constitution and is mandated by Law No. 5 of 1960 (UUPA). The government has set a target of redistributing 4.5 million hectares out of a total of 9 million hectares under the national agrarian reform program planned through the RPJMN. However, by mid-2024..

The challenges of distribution are not only about the quantity of land, but also the quality of data, institutional synergy, and conflict resolution. During the 2015-2023 period, the KPA recorded at least 2,939 agrarian conflicts covering an area of 6.3 million hectares, affecting 1.75 million farming households. Repressive measures in conflict-affected areas have added to the long list of victims, with 2,442 people facing criminalization, 905 experiencing violence, 84 shot, and 72 killed in agrarian conflict zones(Hendrik Yaputra, 2024). The reality of sectoral bureaucracy and overlapping data remains a major obstacle to implementation. Land distribution is also supported by programs such as asset legalization, transmigration certification, and land acquisition for public purposes. However, asset legalization has surpassed redistribution: approximately 10.7 million hectares have been certified, but redistribution still lags behind. This underscores that legal certainty through certificates, though important, does not yet reflect structural agrarian justice if redistribution and

conflict resolution are not balanced.

Land use is regulated through national and regional spatial plans, as mandated by Article 2 of the Basic Law on Spatial Planning and reinforced by Government Regulation No. 21 of 2021 and Ministerial Regulation No. 12 of 2021. These regulations categorize land based on its function—residential, agricultural, industrial, conservation, and above- and below-ground space—and establish technical requirements such as water management, erosion control, and protected area management. The aim is to align land use with public interests, the environment, and sustainable spatial planning. ATR/BPN Regulation No. 2 of 2024 adds an important dimension: verification and protection for rice fields. Technical guidelines require the establishment of baseline land maps and control over the conversion of rice fields through official recommendations before any change permits are issued. These provisions emphasize that the transformation of agricultural land must undergo a comprehensive evaluation of land and spatial planning data (Utomo, 2021).

The physical use of land is also regulated by ATR/BPN Regulation No. 12 of 2021, which requires the fulfillment of a number of criteria: maintaining ecosystem sustainability, protecting protected areas, avoiding damage to water sources and landscapes, and providing space for community participation in planning. These technical guidelines aim to ensure that land development takes into account socio-ecological aspects and environmental sustainability. Additionally, Government Regulation No. 39 of 2023 (amending Government Regulation 19/2021) modifies the land acquisition mechanism for public and industrial purposes, ensuring allocation in accordance with spatial planning and fair value. This regulation further emphasizes that land use conversion must be preceded by thorough analysis and inter-agency coordination to avoid significant social or ecological impacts.

The granting of land rights in Indonesia is based on Law No. 5 of 1960 (UUPA) as an elaboration of state ownership rights – HMN – and developed through derivative regulations such as Government Regulation No. 18 of 2021 (Omnibus Law on Job Creation). Through this Government Regulation, HMN becomes the source of various rights such as ownership rights, HGU, HGB, usage rights, and HPL. HPL—a form of management rights where the state relinquishes some of its authority—can be granted to the government, state-owned enterprises (BUMN/BUMD), legal entities, or even customary law communities, as a means of directed management over state land or customary land before it is converted into other land rights. In practice, the granting of land rights is carried out through official decisions by land administration officials (the Minister or ATR/BPN officials), based on official requests and administrative requirements. Regulation of the Minister of ATR/BPN No. 3 of 2024 clarifies the procedures for issuing certificates for registered and unregistered land parcels, prioritizing

digitalization and data integration within the PTSL system—targeted to cover 120 million parcels by the end of 2024. For cases involving the granting of HPL rights, Government Regulation No. 18 of 2021 stipulates that HPL cannot be used as collateral and cannot be transferred, except through a release that converts it into ownership rights or HGU/HGB/Hak Pakai. This provision ensures that HPL remains for temporary management purposes and can be enhanced with other land rights if certain conditions are met, including through approval and recommendations from authorized officials.

In the context of customary land, Ministry of Agrarian Affairs and Spatial Planning/National Land Agency Regulation No. 14 of 2024 clarifies the administration and registration of customary land rights of customary law communities and opens the possibility of conversion into management rights (HPL) or land rights based on a decision by the Minister of Agrarian Affairs and Spatial Planning/National Land Agency. This regulation aims to recognize the existence of customary land while providing a legal pathway for the issuance of modern forms of rights over such land.

Bentuk Pelaksanaan Hak Penguasaan Negara atas Tanah

No.	Bentuk Pelaksanaan	Keterangan	Dasar Hukum
1	Pemberian Hak Atas Tanah	Negara memberikan hak seperti Hak Milik, HGU, HGB, dan Hak Pakai	UUPA Pasal 16 dan PP No. 18 Tahun 2021
2	Pengadaan Tanah untuk Kepentingan Umum	Pengambilan tanah oleh negara untuk proyek strategis atau fasilitas publik	UU No. 2 Tahun 2012 jo. Perpres No. 62 Tahun 2018
3	Redistribusi Tanah	Distribusi ulang tanah negara	UUPA Pasal 7 dan 17;

		kepada rakyat kecil atau petani	Perpres No. 86 Tahun 2018
4	Penetapan Peruntukan Tanah	Penentuan penggunaan tanah sesuai dengan tata ruang atau kebijakan negara	UU No. 26 Tahun 2007 tentang Penataan Ruang
5	Pengawasan Pemanfaatan Tanah	Negara mengawasi agar penggunaan tanah sesuai izin dan tidak melanggar hukum	UUPA Pasal 2 dan UU No. 11 Tahun 2020 (UU Cipta Kerja)

Issues arising from the implementation of state control over land in Indonesia

Agrarian reform is a strategic policy that redistributes land from large landowners to small farmers or communities in need in order to reduce agrarian inequality and improve economic welfare (Sihaholo dkk., 2021). The main legal basis comes from Article 33 paragraph (3) of the 1945 Constitution and Law No. 5 of 1960 (UUPA), which emphasizes the social function of land and equitable distribution. The government aims to redistribute 9 million hectares of land in the RPJMN, with the objectives of asset legalization and land redistribution. Over the past decade, the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) reported a total achievement of 14.5 million hectares in agrarian reform—including 12.56 million hectares of asset legalization and 1.86 million hectares of actual land redistribution to the community (M. Rizki Yusrial, 2024). Specifically for the year 2024, the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) has redistributed land to the community in 2024 totaling 251.049 plots or covering an area of 125,552 hectares. With this year's achievement, the total area of land successfully redistributed to the community has reached 4.3 million hectares or equivalent to 6.1 million plots of land since the enactment of the Basic Agrarian Law (Aji

Cakti, 2024). The ministry also handles agrarian conflicts in 24 Priority Locations for Agrarian Reform (LPRA) and regulates financial access and facilities for at least 368,000 households to strengthen their productivity and welfare.

Agrarian reform does not only focus on redistribution, but also includes empowerment through supporting infrastructure, access to capital, and legalization of rights (Anwar, 2025). The President's approval through Presidential Regulation No. 62 of 2023 reinforces the five-pillar strategy: asset legalization, land redistribution, economic empowerment, agrarian reform institutions, and community participation. Efforts to accelerate the registration of customary land have been announced with a target of recording 3.2 million hectares for approximately 3,000 indigenous communities in 16 provinces; however, these efforts face realistic challenges in identifying indigenous communities, recognizing their territories, and ensuring the availability of data(Vendy Yhulia Susanto, 2024). BRWA data shows that as of August 2024, there were 1,499 registered customary areas covering 30.1 million hectares—but only 1.8 million hectares have been formally certified and only 4.85 million hectares have received regional recognition(Admin, 2024). This shows a gap between the social and formal legal existence of customary land. The government, through the ATR/BPN, has also issued a number of land management rights certificates (HPL) for customary land, for example for nine indigenous communities in September 2024, as well as communal certification for the Baduy and Minangkabau tribes in late 2023 to early 2024. These certificates are communal in nature and non-transferable, and they also grant immunity from taxes and conflicts with investors' land use rights (HGU). The Minister of ATR emphasized that this certification will provide strong legal protection for indigenous communities across various provinces.

This formal commitment was reaffirmed during the 2024 HANTARU Commemoration, where the state demonstrated its commitment to protecting customary rights through the issuance of 41 HPL certificates covering nearly 972 hectares across seven provinces(M. Rizki Yusrial, 2024). The International Conference on Customary Land Registration (September 2024, Bandung) will serve as an important moment and a platform for Indonesia and ASEAN countries to share best practices in strengthening the democratic rights of indigenous peoples. Despite existing regulations and programs, implementation remains hindered by data duality, weak official recognition at the local level, and a fragmented sectoral system between the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN), the Ministry of Environment and Forestry (KLHK), and district/city governments. The Indigenous Peoples' Alliance of Asia (BRWA) states that the Law on Indigenous Peoples (UUMA) is eagerly awaited to provide a stronger national legal framework for protecting indigenous territories. Without a comprehensive legal

framework, indigenous territories risk being exploited or displaced in development processes.

The theory of people's welfare focuses on efforts to improve the quality of life and overall welfare of society(Evita, 2024). Well-being is not only measured by economic aspects, such as income or wealth, but also includes social, environmental, and psychological factors that influence the quality of life of individuals. In this context, resource management, including land, is key to achieving people's well-being. In the field, overlapping ownership remains a serious problem. Although the government has initiated the One Map Policy—which, according to official data, claims to have reduced overlapping from 77.3 million hectares to 54.4 million hectares by 2024—the Participatory Mapping Network (JKPP) notes that many conflicts remain unresolved because the issue is not merely about synchronizing maps between agencies, but rather overlapping between communities, corporations, and forest or mining areas (Bayu Saputra, 2024).

Normative regulations such as Government Regulation No. 24/1997, Government Regulation No. 18/2021, and the One Map Policy aim to strengthen data harmonization and land use planning. However, in practice, issues such as duplicate rights (HGU vs HGB), double certificates, and claims over customary land indicate that regulations still need to be implemented more effectively—including land data digitization, strengthening human resources at the National Land Agency (BPN), and inter-agency cooperation—to reduce the potential for disputes.Top of Form Since the ruling recognized the existence of customary forests as part of the territory of customary law communities, implementation on the ground remains highly limited. NGOs such as the Alliance of Indigenous Peoples of Nusantara (AMAN) reported that throughout 2024, customary lands spanning 2.8 million hectares were seized from 140 communities, with at least 121 cases of criminalization and violence (Irsyan Hasyim, 2024). This high number indicates that legal claims over customary land are not yet effective enough to prevent investment and development projects that often do not involve local community participation.

Legislative imbalances also exacerbate the vulnerability of customary lands. Although Permen ATR/BPN No. 14 of 2024 was issued to regulate the administration and registration of customary lands, its implementation has raised concerns because it tends to ignore the communal identity inherent in customary law communities. Meanwhile, BRWA data shows that of the 30.1 million hectares of identified customary land, only 4.85 million hectares have been recognized through local regulations, and customary forest certification has only reached 265,250 hectares out of a potential 23.2 million hectare (Hari Widiowati, 2024). There is clearly still a significant gap between social

recognition and formal legal certainty. Symbolic recognition without real protection makes customary land easy to seize for various projects such as plantations, mining, infrastructure, and national strategic areas. AMAN emphasizes that economic and investment policies are often prioritized over the fulfillment of the basic rights of indigenous communities. The cases of land grabs around the relocation of the IKN and the food estate program illustrate how legal legitimacy is insufficient without participatory and transparent protection mechanisms.

Inequality is concentrated in land ownership, where a handful of individuals or groups control most of the agrarian assets—a phenomenon that contradicts the spirit of equitable distribution in the UUPA. According to a report by the KPA, nearly 68% of land (Hilda B. Alexandre, 2024). The Central Statistics Agency (BPS) recorded that the number of smallholder farmers in Indonesia increased from 14.25 million households in 2013 to 16.89 million households in 2023. Meanwhile, the proportion of smallholder farming households to the total number of farming households in Indonesia also increased from 55.33 percent in 2013 to 60.84 percent in 2023 (Yohanes Maharso, 2024). Conglomerate families become large-scale landowners: The Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency stated that 46% of the total 70 million hectares of non-forest land is controlled by around 60 families through land use rights and building rights, creating structural inequality in access for small communities (Haya Syahira, 2025). One family is even known to own 1.8 million hectares—a phenomenon that clearly reflects the domination of natural resources by the elite, far from the mission of agrarian reform to eliminate agrarian feudalism.

Fenomena distribusi aset yang timpang ini disebabkan oleh fokus kebijakan terhadap certificate legalization—while actual land redistribution still lags behind. This legalization does contribute to legal certainty, but it does not change the unequal agrarian structure. As a result, many small farmers remain trapped in poverty because they do not own productive land, while agrarian land continues to be concentrated in the hands of large corporations. The government, through its agrarian reform program and the establishment of the Land Bank Agency, is attempting to restore structural balance.

The procedure for issuing land rights is often closed and lacks public transparency. A study by the Corruption Eradication Commission (KPK) identified four main issues that open opportunities for corruption in land services, including data manipulation and the influence of PPAT officials on the National Land Agency (BPN) in changing land status without clear procedures. This phenomenon shows that collusion can occur at the structural level, which then triggers the practice of buying and selling permits and duplicate

certificates. Weak administrative systems and data integrity in land administration further exacerbate the situation. Recent legal research has documented numerous cases of duplicate certificates resulting from administrative errors, manipulation, or illegal actions by land administration officials. These duplicate certificates not only threaten legal certainty but also provide opportunities for land mafia to exploit system loopholes, harming small farmers and vulnerable communities.

The land registration process still does not facilitate community involvement. Based on the principle of transparency in Government Regulation No. 24/1997—which requires data disclosure—its implementation in the field is still far from ideal. Reports from the Corruption Eradication Commission (KPK) and supervisory agencies state that the public receives incomplete and late information about land use plans or certification, thereby increasing the potential for conflict and manipulation. The digitization of land data through electronic certificates promises greater transparency. The implementation of ATR/BPN Regulation No. 1 of 2021 and the application of digital certificates in Depok have demonstrated improved access to information and data security. However, this technology has not yet been fully adopted across all regions—particularly in remote areas or traditional communities—leaving significant gaps in transparency.

Strengthening agrarian regulations is necessary so that policies are more favorable to the poor (Munziri dkk., 2024). In reality, only a small percentage of large landowners are able to access land use rights, while tens of millions of smallholder farmers still struggle to obtain certificates for their land. To address this injustice, new regulations or revisions to the Land Law (UUPA) and its implementing regulations are needed, prioritizing the redistribution of land use rights and limiting their accumulation by corporations. Transparency and accountability in the granting of rights are crucial. Digital transformation with electronic certificates—regulated through ATR/BPN Regulation No. 3 of 2023—has been implemented in more than 80% of land offices and has produced more than 500,000 electronic documents. Additionally, the Bhumi ATR/BPN platform has made public geospatial data accessible since 2012, enabling citizens to interactively access land information. However, challenges such as validating existing land parcels and cybersecurity remain critical to maximize the benefits of technology and minimize corruption.

Recognition and protection of customary land must be improved through formal regulations. Social law projects such as Permen ATR/BPN No. 14 of 2024 and the HPL certification initiative for indigenous peoples are underway, but the scale and recognition of locations are still far from sufficient. The system still shows shortcomings because only some customary areas have been formally

registered and certified. Therefore, the Indigenous Peoples Bill (UUMA) is urgently needed to provide a stronger and more comprehensive legal framework.

Evaluation of strategic land acquisition projects needs to be strengthened to prevent social conflict. Although infrastructure programs under the PSN and food estates are important, conflicts such as those in Wadas and Rempang Island show that socialization, local partners, and compensation mechanisms are still not participatory enough. Regulations on land acquisition—Government Regulation No. 39 of 2023—also require ongoing evaluation to ensure that land acquisition procedures are truly transparent, well-organized, and provide fair compensation in accordance with spatial planning. Overall, land sector reform must encompass legal, technological, and institutional aspects. Regulatory reformulation, accelerated digitalization, legal recognition of indigenous communities, and evaluation of public land acquisition are the main pillars for agrarian governance to become a real, inclusive, and sustainable instrument of social justice.

4. Conclusion

The state's right to control land, as stipulated in Article 33 paragraph (3) of the 1945 Constitution and elaborated in the UUPA, gives the state public authority to regulate the utilization, use, and distribution of land for the prosperity of the people. However, the implementation of this authority often faces serious challenges such as agrarian conflicts, overlapping ownership, inequality in land control, weak recognition of customary land rights, and a lack of transparency in policy-making processes. The gap between norms and practices shows that the state's role in land management has not fully ensured social justice for all segments of society. The state needs to promote comprehensive reforms in the land system and policies, including revising the UUPA and its implementing regulations to truly prioritize the interests of the people and limit the accumulation of assets by large corporations. Strong recognition of the rights of indigenous peoples is needed through operational regulations—such as ATR/BPN Regulation No. 14/2024 and the Indigenous Peoples Bill—as well as the acceleration of legally valid registration of customary land. Transparency and accountability in the granting of rights and land acquisition can be improved through full digitalization, such as electronic certificates and the Bhumi ATR/BPN public geospatial data system, to prevent mafia practices and abuse of authority. In addition, institutions such as the BPN and the Land Bank must be optimized through strict internal oversight, integrated data management, and the swift and fair resolution of agrarian conflicts. Finally, the state must limit speculative and exploitative control by corporations and accelerate the implementation of redistributive agrarian reform—with strict evaluation of land acquisition projects to ensure they are in line with spatial plans, transparent, and socially responsible—so that the principles of agrarian

justice mandated by the UUPA are truly realized.

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