# Exploring Agrarian Reform Laws in Indonesia

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#### Abstract

Agrarian reform serves as a crucial mechanism for reorganizing land control, ownership, utilization, and addressing agrarian disputes and conflicts, ultimately aiming to achieve justice and enhance the welfare of the people. In Indonesia, the legal framework for agrarian reform is established by the Basic Agrarian Law, formally known as Number 5 of 1960. Nevertheless, the practical implementation of agrarian reform has proven to be a challenging endeavor, often falling short of expectations. This research employs a normative juridical approach, which examines existing and historical laws, as well as potential future legislation. This approach is complemented by statutory, conceptual, historical, and comparative analyses. The findings of this study reveal that the resolution of agrarian conflicts, there has been a perceived lack of substantial change in the outcomes. These findings underscore the complexity and persistent challenges associated with agrarian reform in Indonesia. Addressing the issues related to land control, ownership, and disputes requires a multifaceted approach that goes beyond legislation, necessitating a closer examination of the root causes and more effective strategies for implementation.

Keywords: Agrarian, Law, Land Control, Reform

#### Introduction

Land issues represent a multifaceted and profoundly consequential facet of development, demanding the utmost seriousness and meticulous attention from governments. Nowhere is this truer than in a country like Indonesia, where a significant portion of the population's livelihoods are intimately tied to the land they inhabit and cultivate. The government's role in addressing land-related challenges is a complex one, fraught with intricate dilemmas. On one hand, it bears the weighty responsibility of protecting and regulating the well-being of its citizens, ensuring equitable access to this vital resource. On the other hand, it faces relentless pressure to accelerate economic development, a pursuit that inherently hinges upon the availability and judicious utilization of land resources.

The enduring and profound connection between land and humanity is undeniable. Beyond its physicality, land stands as a fundamental natural asset, serving as both a sanctuary for habitation and a wellspring of sustenance. However, in the contemporary era, relentless anthropogenic pressures have given rise to an array of complexities concerning land access and utilization (Fajar et al., 2022; Nuzul Indrawan et al., 2021). In light of these challenges, agrarian reform emerges as a compelling necessity, offering a holistic approach to address these multifaceted land-related challenges.

Agrarian reform, often interchangeably referred to as land reform, stands as a potent instrument for addressing the intricacies of land governance. Its primary mission is to redress the stark disparities in land ownership and utilization while championing the cause of justice and equity (Zein, 2014). At its core, agrarian reform is a comprehensive and multifaceted initiative aimed at restructuring land control, ownership, utilization, and governance mechanisms, all with the ultimate aim of ensuring that the welfare of the populace is prioritized.

The significance of agrarian reform in the context of socioeconomic development cannot be overstated. It plays an instrumental role in shaping the trajectory of a nation's progress, fostering poverty reduction, sustainable environmental stewardship, and social and economic equity. Moreover, it acknowledges that land, beyond its utilitarian function as a factor of production, holds a broader significance, symbolizing wealth, prestige, power, and authority in society (Fatimah, 2015).

In the Indonesian context, the legal framework that underpins agrarian reform is articulated in the Basic Agrarian Law, formally known as Number 5 of 1960. This landmark legislation outlines the principles, rules, and regulations governing land management, ownership, and disputes. In addition to this, the legal

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commitment to harness natural resources for the welfare of the Indonesian populace is codified in the country's constitution, particularly in Article 33, paragraph (3).

Krishna Ghimire's comprehensive definition of agrarian reform or land reform encapsulates its essence as a substantial transformation in the agrarian structure. This transformation encompasses not only enhanced access to land for impoverished farmers but also secure land tenure for those who diligently cultivate the land. Additionally, it extends beyond land access to encompass vital elements like access to agricultural inputs, markets, services, and other support systems (Limbong, 2012).

However, agrarian reform is not a monolithic concept solely concerned with land redistribution. Instead, it is a multifaceted strategy that seeks to rectify the intricate web of imbalances in land ownership and control. In doing so, it seeks to promote both individual and collective welfare while establishing a more just and equitable social order (Alvian & Mujiburohman, 2022).

The benefits of a well-implemented agrarian reform initiative are manifold. It encompasses economic selfreliance and food security (Waryanta, 2018), heightened community income and prosperity (Istiningdyah, 2018), and a marked reduction in land disputes and conflicts (Martini et al., 2019). Moreover, agrarian reform contributes to the broader goal of preventing recurring conflicts that have the potential to destabilize a nation and undermine its unity.

In the Indonesian context, agrarian conflicts and disputes unfold against a backdrop of multifaceted factors. The national landscape of agrarian conflicts has witnessed a significant uptick, coinciding with the country's aggressive economic development agenda (Sinaga, 2020). From the 1990s onward, the Indonesian government initiated a series of policies aimed at accelerating industrialization, expanding large-scale plantations, encroaching upon forests, and fostering industrial timber estates (HTIs). These ambitious endeavors, while promising economic growth, have inevitably led to conflicts and confrontations between the state and its citizens.

The consequences of these policies are most notably reflected in agrarian conflicts, where citizens, often resource-dependent and marginalized communities, find themselves at odds with the state. Records from Komnas Ham, the National Commission on Human Rights, bear witness to a significant surge in land-related grievances during the years 1994, 1995, and 1996. In response, advocacy and legal aid organizations like the Legal Aid Institute of Jakarta have prioritized agrarian issues as key areas of focus to protect the rights of citizens and prevent violence.

As of the year 2022, a staggering 212 agrarian conflicts have been reported, accompanied by 497 instances of criminalization against land rights activists across various regions. However, despite persistent efforts to address these agrarian conflicts, the outcomes have not witnessed significant change, underscoring the need for a more comprehensive and sustainable approach (Pandu, 2023).

The labyrinthine nature of agrarian issues underscores the need for diligent observation and systematic intervention, given their profound and wide-ranging impacts on society and development. In light of the transformative changes sweeping through rural areas due to rapid development, it becomes imperative that agrarian policies are underpinned by a nuanced understanding of social dynamics. Such an approach would facilitate the reorganization of land without sowing the seeds of disruptive social upheaval (Indrawan & Munandar, 2022).

In response to these pressing land-related challenges, it is paramount to advocate for the comprehensive implementation of agrarian reform in Indonesia. Such an initiative holds the potential to address the multifaceted challenges surrounding land management, access, and justice while safeguarding the welfare of the population. By embracing agrarian reform as a holistic strategy, Indonesia can pave the way toward a more equitable, just, and sustainable future where land serves as a catalyst for progress and prosperity for all its citizens.

### Methods

This research is normative juridical research, which is essentially an in-depth examination of legal norms, encompassing those that are presently in effect, those projected for future implementation, or those that have been applied in the past. To carry out this research analysis comprehensively, it utilizes a multifaceted approach that encompasses the legislative perspective, referred to as the "statuta approach," wherein existing legal statutes are scrutinized. Additionally, it incorporates a conceptual approach, which delves into the theoretical aspects and underlying principles.

Furthermore, it adopts a historical approach that explores the evolution and historical context of these legal norms. Lastly, it employs a comparative approach, where comparisons are drawn between different legal frameworks and their application. This multifaceted approach allows for a thorough exploration of the legal landscape, enabling a comprehensive understanding of the subject matter at hand by considering not only the existing legal framework but also its historical development, theoretical foundations, and comparative perspectives with other legal systems.

By encompassing these diverse approaches, this research aims to provide a holistic perspective on the subject under scrutiny, facilitating a deeper comprehension of the intricate interplay of legal norms and their implications. In doing so, it endeavors to shed light on the nuances and complexities of the legal landscape, offering insights into the past, present, and potential future developments within the legal domain. This multifaceted research approach is crucial in fostering a well-rounded understanding of legal norms and their significance within the broader legal context.

## **Results and Discussion**

### The Objective of Agrarian Reform in Indonesia for Ensuring Socioeconomic Equality

Agrarian reform involves the reorganization or renewal of land and territory ownership and usage, aiming to benefit the underprivileged, marginalized, and landless agricultural laborers (Amaliyah et al., 2021). In summary, agrarian reform represents a systematic and planned effort, executed relatively swiftly, to foster prosperity, social justice, and the establishment of a democratic and equitable society. It commences with the restructuring of land ownership, usage, and management, followed by a range of support programs designed to boost farmer productivity and overall economic development (Riawan et al., 2019).

The concept of agrarian encompasses far more than just "agricultural land" or "farming"; it extends to all natural (both physical and biological) resources and the social life intertwined with them. According to the Basic Agrarian Law (UUPA) No. 5 of 1960, agrarian includes land, water, and airspace, along with the natural resources contained therein, collectively referred to as agrarian resources (Afriliyeni et al., 2021). Agrarian reform represents an endeavor to rectify disparities in land and natural resource ownership through legislation and government programs, all aimed at achieving social justice for the majority of impoverished rural residents (Nurfaiziya et al., 2021).

The goals of agrarian reform, as outlined in MPR RI Decree No. IX/MPR/2001, include reducing poverty, enhancing access to economic resources (land) for the population, restructuring land ownership, usage, and management disparities, as well as resolving land and agrarian conflicts (Sulistyaningsih, 2021).

MPR RI Decree No. IX/MPR/2001 plays a pivotal role in Indonesian agrarian policy for several reasons:

- a. It serves as a strategic policy guideline that fundamentally alters the vision and mission of agrarian policy, prioritizing the welfare of the community.
- b. It establishes the legal foundation for subsequent agrarian regulations and policies. The implementation of MPR RI Decree No. IX/MPR/2001 must be taken into account in the formulation of agrarian policies to ensure alignment with the revised humanitarian vision and mission mentioned in the first point (Sari & Suwanda, 2019).

Conversely, Presidential Regulation No. 86/2018 primarily focuses on land legalization, land redistribution, and community empowerment. This seems to diverge from the core principles of agrarian reform itself, as

one of its principal issues pertains to land ownership disputes. This oversight becomes even more evident in Article 17, paragraph (3) of Presidential Regulation No. 86/2018, which stipulates that "Further provisions regarding the handling of land and agrarian conflicts shall be regulated by the Ministerial Regulation" (Sinaga, 2020).

The escalating disparities in land ownership and possession have a direct impact on the increasing rates of poverty and unemployment in rural areas. This situation is primarily a result of land policies that focus solely on increasing productivity, ultimately leading to economic growth, while disregarding the reorganization of production assets, consequently causing marginalized communities to lose access to land (Oswar, 2020).

This scenario has given rise to agrarian conflicts, including land disputes at the household level, the expansion of large-scale land ownership, uncoordinated land use conversion, inconsistent spatial planning, and overlapping land use. These conflicts not only directly affect communities but also impact government programs such as food security, housing for the people, and environmental concerns.

Agrarian conflicts linked to land ownership persist unabated. These conflicts will continue until the nation effectively implements comprehensive agrarian reform (Nurjihadi, 2019). The current source of contemporary agrarian conflicts in Indonesia can be traced back to the enactment of Law No. 2/2012 on Land Acquisition for Public Interest and its subsequent regulations (Setyaka, 2016). Since the introduction of this policy, the expropriation of people's land for development purposes has become significantly more straightforward.

To address the proliferation of agrarian conflicts, it is imperative for the state to resolve this issue, both in terms of policy and practical on-ground solutions when managing agrarian conflicts (Utomo, 2021). The government's role in minimizing agrarian conflicts lies in policies related to accelerating agrarian reform through asset reorganization and access provision. The agrarian reform envisaged during the Sukarno era should serve as the guiding principle for all government policies aimed at achieving comprehensive agrarian reform.

The primary aim of agrarian reform, conceived alongside the enactment of the Basic Agrarian Law in 1960, is to restructure the imbalanced agrarian structure, resolve agrarian conflicts, and enhance the well-being of the populace post-agrarian reform implementation (Rahadian, 2017).

The policy direction for Agrarian Renewal is articulated in Article 5, paragraph (1) of MPR Decree No. IX of 2001, encompassing: 1) Reviewing various laws pertaining to agrarian matters; 2) Reorganizing land ownership, usage, and management; 3) Conducting land inventory through registration and inventory of land ownership, usage, and management; 4) Resolving conflicts related to agrarian resources; 5) Strengthening land institutions for the implementation of agrarian renewal and conflict resolution; 6) Enhancing professional human resources in the field of agrarian/land; and 7) Seeking financing for the implementation of agrarian renewal and land conflict resolution (Erlina, 2017).

#### Current Agrarian Reform Policy: The Two-Term Leadership of Joko Widodo

A new chapter in agrarian reform policy began with the election of Joko Widodo as president and Jusuf Kalla as vice president in 2014. Their "*nawa cita*" framework included agrarian reform as an agenda, highlighting Indonesia's development strategy starting at the regional and village levels. Nine priority agendas, collectively known as "*nawacita*," emphasized agrarian improvements, such as ensuring legal certainty of land ownership rights, resolving land disputes, and opposing the criminalization of land rights. These measures aimed to enhance the quality of life for the Indonesian people. To achieve this, the government pushed for land reform and a land ownership program covering 9 million hectares (Luthfi, 2018).

The implementation of "*nawacita*" during President Joko Widodo's governance shares similarities with the concept during Soekarno's presidency. Soekarno envisioned Indonesia becoming the "Tiger of Asia" and a formidable nation, inspiring fear in other countries worldwide through government policies (Utomo, 2021).

Agrarian reform serves as a means to improve the welfare of the people. However, it is not an instantaneous distribution; its benefits do not materialize immediately. In addition to land distribution, there is a need to enhance access to agrarian reform. Furthermore, efforts and support, such as training and education, are required (Komala et al., 2021).

Among the nine priority programs or "Nawacita" formulated by the Jokowi-JK administration, several are related to agrarian issues. Point number 5 focuses on improving the quality of life for the people through the "Indonesia Kerja" and "Indonesia Sejahtera" programs, achieved by promoting land reform and a land ownership program covering 9 million hectares. To fulfill this promise, the government has allocated 9.1 million hectares of land for targeted redistribution of assets and agrarian reform programs. This land, located in Sumatra, Kalimantan, Sulawesi, and Papua, will be utilized for agriculture, plantations, and housing. "Out of the approximately 9.1 million hectares of land, only about 4.5 million hectares are currently being processed for the agrarian reform program" (Marzuki et al., 2018).

Although there has been a decrease this year, it is important to take serious note that, since President Jokowi's first term, according to KPA, the plantation sector has consistently been the main contributor to agrarian conflicts in Indonesia. The Jokowi administration issued Presidential Regulation No. 86 of 2018 concerning agrarian reform (Rahmadani & Saraan, 2022). Various policies have been implemented since 1960 to resolve various agrarian conflicts in Indonesia. However, it is unfortunate that these policies, in their various forms and types, have not been able to address the problems faced by the people. Instead of delivering justice to the people, the government has rolled out the red carpet for investors, and various corporations have taken over land belonging to communities.

#### Indonesian Agrarian Reform Program

The enactment of UUPA and Agrarian Reform Indonesia aims to create a just and prosperous society based on Pancasila. Agrarian Reform Indonesia encompasses five programs:

- a. Agrarian law reform.
- b. Elimination of foreign rights and colonial concessions on land.
- c. Gradual end to feudal exploitation.
- d. Restructuring of land ownership and control, as well as legal relationships.
- e. Planning for the provision, allocation, and utilization of land, water, natural resources, and their planned use in accordance with capacity and capability (Boedi, 2008).

The fourth program among these five is commonly referred to as the land reform program (FX. Sumarja, 2017). According to Rachman & Hastri (2021), some root problems that need to be resolved to implement agrarian reform are: (1) The absence of policies to provide land tenure security for access to land/resources/community-managed territories, including access within state forest areas; (2) Dominance and expansion of giant business entities in extractive industries, plantation production, forestry, conservation, (3) Instrumentation of government bodies as "land acquisition agencies" through regimes of granting land/resource licenses, (4) UUPA, which originally served as an umbrella, is narrowed down to non-forest areas (about 33.3% of the country's land area), and its principles are disregarded; (5) Customary laws among the people are ignored or invalidated by agrarian, forestry, and mining regulations, and (6) Institutional sectoralism, systems, mechanisms, and administration governing land, forestry, and other natural resources have become increasingly complex (FX. Sumarja, 2017).

#### Implementation of Agrarian Reform Policy in Indonesia

The technical institution responsible for implementing Agrarian Reform is the land administrative authority. The National Land Agency (Badan Pertanahan Nasional or BPN) is the government agency responsible for the administration of land in Indonesia (Wahidin, 2017). BPN administratively plays a crucial role based on land principles that significantly influence the realization of societal well-being, the organization of society based on justice, and the reflection of harmony (resolving all land disputes and issues) (Badan Pertanahan Nasional, 2017).

BPN's efforts to achieve their goals (2007) encompass 11 land-related agendas, which include:

- a. Building public trust in the National Land Agency of Indonesia.
- b. Enhancing land registration and land certification services comprehensively nationwide.
- c. Ensuring the strengthening of people's land rights.
- d. Addressing land issues in disaster-stricken areas and conflict areas nationwide.
- e. Systematically handling land cases, problems, disputes, and conflicts.
- f. Developing the National Land Management Information System and land document security system nationwide.
- g. Addressing issues of Collusion, Corruption, Nepotism (KKN) and increasing community participation and empowerment.
- h. Building a database of large-scale land ownership and possession.
- i. Consistently implementing all land-related laws and regulations.
- j. Restructuring the National Land Agency of Indonesia.
- k. Developing and updating land policy, law, and regulations (Agrarian Reform) (Wahidin, 2017).

Based on the above objectives, BPN establishes the main objectives of land reform as follows (BPN, 2007):

- a. Restructuring the imbalance in land ownership and use towards greater fairness.
- b. Reducing poverty.
- c. Creating job opportunities.
- d. Improving people's access to economic resources, especially land.
- e. Reducing land disputes and conflicts.
- f. Enhancing and preserving environmental quality and food security.

The implementation of agrarian reform under Presidential Regulation 86 of 2018 faces several challenges, including:

- a. Resistance from holders of land use rights (HGU).
- b. High expectations from the public, while the Land Reform Team (GTRA) faces various pressures and temptations.
- c. Dominance and expansion of giant business entities in extractive industries, plantation production, forestry, and conservation.
- d. The instrumentalization of government bodies as "land acquisition agencies" through regimes of granting land/resource licenses.
- e. Ongoing overlapping and conflicting land, forestry, and other natural resource regulations.
- f. Neglect or invalidation of customary laws among the people by agrarian, forestry, and mining regulations.
- g. Institutional sectoralism, systems, mechanisms, and administration governing land, forestry, and other natural resources that are difficult to eliminate.

Therefore, as a top priority to be optimally accommodated through the agrarian reform program, the government must genuinely uphold the law in efforts to protect a just society in line with the welfare of the people (welfare state).

#### Conclusion

Various developments in agrarian reform in Indonesia have undoubtedly given rise to numerous dynamics within the agrarian landscape itself. Based on the research analysis, it is evident that the ongoing implementation of agrarian reform has not reached its maximum potential. Efforts to resolve agrarian conflicts have not made significant progress in various regions across all provinces in Indonesia. This aligns with the findings of the Agrarian Reform Consortium, which noted that in 2020, agrarian conflicts occurred in 30 provinces, increasing to 32 provinces in 2021. A total of 212 agrarian conflicts took place in 2022, and land rights activists faced criminalization in various regions, totaling 497 cases. It appears that there has been no significant change in the efforts to resolve agrarian conflicts.

The current agrarian reform is progressing, albeit at a seemingly slow pace. This is demonstrated by the considerable gap between the target for land title certificates issued and the total land area in the Republic of Indonesia. Moreover, there is still overlapping legislation, resulting in local governments, both at the provincial and city/district levels, being unable to take meaningful action in the field of land administration within their respective jurisdictions. The central government still appears reluctant to fully delegate land-related matters to local governments.

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