

The Effect Of Agrarian Law In The Development Of Legal Politics In Indonesia

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ABSTRACT

This article examines the influence of agrarian law in the development of legal politics in Indonesia with a focus on issues of land ownership and human rights. This article explains that land ownership is often a source of conflict and disputes in Indonesian society, especially when land does not have clear certificates. The Basic Agrarian Law (UUPA) is the legal basis that provides guarantees for land rights for the people of Indonesia. The National Agrarian Operations Project Program (PRONA) is the government's effort to provide land certificates to people with economically weak groups. This article also reviews changes in legal political views in Indonesia following the transition from the New Order era to the reform era. During the New Order era, there were shackles in various sectors, including law and politics. However, during the reform period, efforts to restore Indonesia's image as a rule of law through changes in government policy were carried out concerning the 1945 Constitution and Pancasila. In the context of land ownership and human rights, this article underscores the need to protect the rights of rural communities and indigenous peoples whose ownership is inherited hereditary, regardless of the completeness of the ownership papers. This article examines the need for a balance between public interest and individual rights in the context of land ownership in Indonesia. In conclusion, this article presents a comprehensive analysis of the influence of agrarian law in the development of legal politics in Indonesia. By highlighting changes in legal politics, protection of human rights, and issues of land ownership,

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INTRODUCTION

A. Background

In Indonesia, land is often the object of disputes and community disputes. One example of community activities that can cause conflicts related to land is the sale and purchase of land or land used as collateral in financial institutions such as banks. The thing that triggered the conflict was the sale of the land without a clear certificate or even without a certificate. In the territory of the Republic of Indonesia, most of the land owned by the community has not been certified and is

generally found in villages where the community is not familiar with land laws. In general, the existing lands are still pethuk only.

With so many disputes regarding land in the community, it is necessary to have certainty over the rights to ownership of land. The legal basis for land rights is regulated in Article 4 paragraph (1) of the Basic Agrarian Law which reads:

"Based on the state's right to control over land as referred to in Article 2, it is determined that there are various types of rights to the surface of the earth called land that can be given to and owned by people, either individually or jointly with other people and other entities. law".

The presence of the Basic Agrarian Law (UUPA) is the basis for providing legal guarantees regarding land rights for all Indonesian people. The guarantee of legal certainty to be realized in this land registration includes certainty of the status of the registered rights, certainty of the subject of rights, and certainty of the object of rights. To realize the guarantee of legal certainty regarding land rights, the government issued a Decree of the Minister of Home Affairs Number 189 of 1981 concerning the National Agrarian Operations Project. Implementation of the National Operations Project or what is commonly referred to as PRONA, namely in the form of mass land certificates and settlement of strategic land disputes. The PRONA program is aimed at people with weak economic groups. The implementation of PRONA is carried out in all districts and municipalities throughout Indonesia and is determined in groups. The responsibilities of PRONA are handed over to the respective Regional Leaders and will later be accountable to the Director General of Agrarian Affairs.

We need to know that the New Order era was a time of coercion and was solely politically charged, for the benefit of the government at that time. It was also during the New Order era that shackles occurred in all sectors, starting from the law/law, economy/business, freedom of information/press, and so on. law and politics, to ensure that the revolution had not yet been completed, and the 1945 Constitution was made an ideal/constitutional basis, with the issuance of a March Eleventh Order in 1967 and the formation of a new cabinet called the Development Cabinet which was the starting point for changing government policy as a whole. By MPRS Decree No. XX :

Land is One source of life That is vital for man, Good in functions as a means For looking for livelihood (supporter eye livelihood) in various fields like agriculture, plantation, farm, fishery, and industry, and It is used as a place For reside with founded housing area as a place

stay.

Provision juridical Which arranges about existence of land that there is in Constitution Number 5 Year 1960 about Regulation Base Main points Agrarian (furthermore called BAL), Which is implemented from provision Chapter 33 paragraph (3) Constitution Base 1945 Which states that earth And water And riches natural Which contained in inside mastered by country And used For big prosperity people. As for embodiment more carry on about law land Lots spread in various regulation legislation other like Regulation Government Number 40 Year 1996 about Right To use Business, Right To use Building, And Right Use on Land, Regulation Minister Agrarian/Head Body land National Number 3 Year 1999 about bestowal Authority Giving And Cancellation Decision Giving Right on Land, Etc.

Based on the description above, the writer needs to provide the formulation of the problem as the object of discussion and the limitations that will be discussed in this paper, which are as follows: How does influence position agrarian law in the development of legal politics in Indonesia? And right basic man And right on land?

LITERATURE REVIEW

A. Definition Law Agrarian

Law agrarian is something law Which arranges primal land along all the ins and outs Which There is a relationship with the land, for example, matter waters, fishery, plantation, mining, And so on. As for including in-room scope matter land along all the ins and outs, according to Constitution number 5 the Year 1960 about Constitution tree Agrarian (UUPA) in a manner detailed can explain as follows:

- a. whole earth, in meaning beside surface earth (Which is called land), including on body earth in underneath as well as part earth Which is in lower water;
- b. whole water, meaning waters, Good waters inland nor sea region Republic Indonesia;
- c. whole room space, meaning room Which There is in on earth;
- d. sources riches naturally contained in earth, which is called ingredients excavation or sources excavation Which is an object from efforts industry, mining, And the like;
- e. sources riches natural Which contained in water, Good waters inland nor waters sea region Republic Indonesia, for example, fish and compatriots, various nation animal sea other, salt, pearl, And yes.

Matter of This, the law agrarian is Wrong One means to answer the ambition of national Indonesia, through essence and function i.e. as law Which:

- a. guard harmony between natural and man as well as maintain harmony life all creature filler natural This in life naturally Which tutoring dance;
- b. arrange And ensure whole people For as much as possible And evenly Possible obtain benefit on lands Which There is in whole region country;
- c. arranges right people/private law nor civil for utilize source riches natural Which There is based on interest and position personal each;
- d. arranges all obligations (public/private law) aligned with all rights they Which regarding land and its use;
- e. give limitation Which clear about level circumstances land Which There is following level right and obligation along all condition and must be noticed by para holder and para candidate holder right and obligation on land Which concerned;
- f. outline right maximum and obligation minimum Which must be fulfilled by Which use land That in a manner consequently in meaning firm equally and balanced, by upright justice in field land in the whole country.

B. Source Law Agrarian

As for source or material Which made reference by law agrarian, that is:

a. Legislation

1. Constitution base 1945.
2. Legislation Number 5 Year 1960 About Regulation Base Main- tree Agrarian.
3. Regulation Government Replacement Constitution Number 56 the Year 1960 About Determination Wide Land Agriculture.
4. Regulation Government Number 224 Year 1961 About Implementation Distribution Land and Giving Change Loss.
5. Regulation Government No. 41 the Year 1964 About Change and Addition
Regulation Government No. 224 the Year 1961 About Implementation Distribution
Land and Giving Change Loss

b. Law Habit

Law custom And Jurisprudence as “*rechters gewonrecht*”.

C. Principles Law Agrarian

As for origins in law agrarian, that is:

- a. Principle Deity Which One Article 1 paragraph (2) UUPA states that whole earth, water, and room space including riches natural Which contained in inside, in region Republic Indonesia as bounty Lord One for nation Indonesia And is riches national.
- b. Principle Unity Indonesia Chapter 9 paragraph (1) UUPA states that only the inhabitant country Indonesia data have a connection fully with earth, water, And room space. Notes inhabitant country foreign only can obtain right use.
- c. Principle Democracy and Citizenship Article 9 paragraph (2) UUPA states that each inhabitant country, Goodman- man nor woman, has a chance Which The same For obtain something right on land as well as For get benefit And result, Good for self Alone nor person other. Notes in mastery land No held difference Again between inhabitant country indigenous And non-native And between man- man And Woman.
- d. Principle Procurement Conference land for implementation development For interest general done through discussion. Process or activity each other hear with attitude each other accept opinion and desire Which based on volunteerism between party holder right on land and party Which need land, for obtain agreement about form and magnitude change loss.
- e. Principle Humanity Which Fair and Civilized Article 10 UUPA states that obligation for do and try Alone in a manner active land agriculture Which owned somebody or body law must be done with prevent ways extortion. Explanation General II Number 7 states that remember will arrange public agriculture in Indonesia, for a temporary time presumably Still possible exists use land agriculture by people with no owner, for example through rent buy, profit sharing, pawning, etc. However, all something must be held with prevent relationships law Which characteristic oppression Which weak by Which strong, No can hold agreement or agreement on base *free-fight*, must prevent ways extortion.
- f. Principle Justice Social Article 11, 13, 15, And articles Which arrange land reform (Chapter 7, 10, 17,53) UUPA. Explanation Chapter 11 states that must be noticed exists different circumstances public and necessity classes people, but with ensures protection for the economically weak interest class. class economical weak the, Can inhabitant country original nor descendants foreign. Thereby also on the contrary.

- g. Characteristic communalistic Religious Article 6 UUPA state that all right on land have a function social, which possible mastery land in a manner individual with right- right on land Which characteristic personal at a time contains togetherness, don't ignore, but must heed elements Which lean on law religion. Then Chapter 7 states that for No harm interest is general, so ownership and mastery of land go beyond the limit No allowed.
- h. Principle Separation Right Horizontal on land No with itself covers ownership building and plant Which There is in on it. Deeds law about land No with itself covers building And plant Which There is in on it. However in practice, possible something deed law about land covers buildings And plants There is in on it, provided building And plant the in a manner physique is One unity with land Concerned, It means building Which foundation And plant is plant hard, building And plant both of them owned by is owner land; Meaning thereby in a manner firm mentioned in deed Which prove he did deed law Which concerned.
- i. Principle Specialty That Land Which is registered must be known and real There is in location the land.
- j. Principle Publicity Every person can know something about field land That is owned by Whom, how much breadth, and if there is a burden on it.
- k. Principle Negative That ownership of something field land Which registered on Name somebody No means absolute exists because can just question Who the owner through court.

D. Subject Right Owned by On Land

On the principle rights owned only can be owned by people (hit *natuurlijke person*), Good Alone nor together with a person other. Body law No can have land with rights owned by, except body law Which is set by the government And has fulfilled the conditions. Thereby chapter 21 paragraph (1) And (2) UUPA According to the law of agrarian Which long every person can have with right *eigendom*, a Good inhabitant country nor inhabitant foreign, Good No Indonesian original, or No Indonesian original. Even body law even entitled have right *eigendom*, Good body law Indonesia nor body law foreign.

By Chapter 9 paragraph (1) BAL, according to Chapter 21 paragraph (1) UUPA only the inhabitant country Indonesia can have right owned by, as has explained, that prohibition No held difference between people Indonesia original And descendants foreign. However, according to Chapter 9 paragraph (2) BAL, no difference between fellow inhabitant countries in matter of ownership of land held difference between nationality single And double.

Citizenship double It means, that besides citizenship Indonesia also has citizenship. Chapter 24 paragraph (4) UUPA determines, that somebody besides citizenship Indonesia has citizenship foreign No can have land with the right land. This means, that during the relationship in question ownership of land equated with a person foreign. In in explanation chapter they said, that Already properly person- person Which lets self besides citizenship Indonesia have citizenship other in a matter of ownership land distinguished from inhabitant country Indonesia other. Thus, Which can have land with rights owned by That inhabitant country Indonesia single. Now position child still follows the citizenship person old, Also after become mature. If the person his parents have released citizenship to Indonesia, his son still has nationality in Indonesia. To become an inhabitant country Indonesia, must take method naturalization, or naturalization. Need is known that besides the condition of citizenship Indonesia single, special ownership land agriculture Still needed conditions.

Terms That related to provision about maximum wide land agriculture Which can be owned And mastered by somebody (Chapter 1 jo. 6 Constitution number 56 (year 1960) about ownership together land agriculture Which breadth not enough from two hectares (Chapter 9 paragraph 2 And 33 UUPA). Law number 56 year 1960s, And about prohibition ownership of land agriculture in a manner *absentee* or *gunita* (Chapter 3 pp Number 224 year 1961 jo. pp Number 41 year 1964). If the condition mentioned in chapter 21 paragraph 1 jo. paragraph 4 UUPA called condition general for individual For have land with right owned by, It means to condition the must fulfilled by every owner. By because That, matter Which determined by regulations *land reform* is condition- condition special, It means special For ownership land agriculture. For land agriculture, No in requires that the owner must be a farmer.

DISCUSSION

The influence of agrarian law in the development of legal politics in Indonesia

Ownership right on land is right base Which Also is part of the right basic man. Repeal ownership right on land by the president done For the interest general. Protection subject right on in face repeal right based to understanding understanding interest general. Interest general is something Which abstract, and easily understood in a manner theoretical, but becomes very complex when implemented.

Policy public has set by the government about authority government For do repeal right on land by interest general with has issued Regulation President Number 36 the Year 2005 About procurement land for Implementation Development For Interest General (For furthermore written Perpres Number Year 2005). According to notes Compass, the provision repealed the right to land This turns out Far different from the Decision President Number 55 Year 1993 About Procurement of Land for Implementation Development For Importance General, Which was Once issued by President Suharto. Good Decision President Number 55 the Year 1993 nor Perpres Number 36 the Year 2001, You're welcome to refer to Constitution Number 20 the Year 1961 About the Repeal of Rights on Land And Objects Which There is one. Furthermore, during the period of reform moment must Be a revision to the provision That arranges rights on land with give guarantee of ownership of land. With revision the, No means right owned by on land No Can revoked, but the process No easy in era order new, Because must pass rule Which strict.

In the period of reform, This Lots public worthy surprised with issued policy public Which poured in Perpres Number 36 Year 2005. Surprise That reasoned Because We all Do think when the government emits regulation in the middle hope walk process democracy And strengthening rights people civil. birth Perpres Number 36 the Year 2005, remind person on practices government order new intake forced lands people Good Which in city nor in village with on behalf of development, so that raises eviction And conflict agrarian.

Rights Position Fundamental Man And Right On Land

The law protects the interest of somebody with a method that allocates some power to her For acting in framework interests. (Rahardjo, 2000: 53). With thereby, right is something interest Which protected by law, so that somebody fulfills interest. As stated by Allen *the legal guarantees power to realistic* interest. That implication from the definition about right the between other:

- a. Right is something power, that is something ability To modify the situation.
 - b. Right is guaranteed Which is given by law.
 - c. Use right to produce something circumstances Which relate directly to interest owner right.
- (Ali, 1996:242) In literature knowledge law known theory or teachings To explain existence right, between other:

a. *Belangen Theory* (theory of interest) states that a right is an interest Which protected. Wrong One adherent is Rudolf von Jhering, Who argues that the right That something interests important somebody Which protected by law, or something That.

b. *Wilmacht Theory* (theory will), that is will Which is equipped by will. Wrong One adherent is Bernhard Windscheid, Who states that right is That something will be equipped with strength And given by a system of orderly law to somebody. Based on will somebody can have House, car, land, etc.

c. Theory function socially Which was put forward by Leon Duguit, Which states that No There is somebody human Who have right. On the contrary, in public, for men only, There is One task social. System orderly law No based on the right freedom man, but on task social Which must run by member public. (Man, 2004: 32-33).

Based on corner authority, so understanding right core freedom For do or No do something regarding with something or to subject law certain or all subject law without hindrance or disturbance from party wherever, And freedom the own arbitrariness For do deed certain, including demand something. (Kusumaatmadja And Siddhartha, 2000: 90).

Not enough or minimal proof of ownership on land becomes Wrong One reason for minimal process registration right on the land. Matter other Which become reason ie Also minimal knowledge public will meaning importance proof ownership right on the land. For the process of making certificates, they must own letters completeness For land they have, will put on lands owned public rural, or public custom owned in a manner down hereditary from grandma ancestor they, so that letter ownership land they have very minimal even There is No own The same very.

They occupied And worked land the Already dozens of years so that the public knew that land was owned by si A or si B without needing to know letters of ownership on land.

The moment This with exists Constitution tree Agrarian Which is dealt with continue with exists Regulation Government Number 10 the Year 1961 Which Then replaced with Regulation Government Number 24 the Year 1997 No Possible Again published rights Which submit to Book Constitution Law Civil or Which will submit to law custom local except explained that rights the are right custom. Remember the importance of registration rights owned by land customs as proof of ownership right on land in a manner legitimate by Chapter 23, Chapter

32, And Chapter 38 Constitution tree agrarian, so given something obligation For register land custom specifically right owned by custom.

Certificate right on land gives certainty law on ownership of land for the party Whose name is listed in the certificate. Because That publishing certificate can prevent dispute land. An ownership certificate will give a feeling of calm And peace Because protects from action arbitrary Which done by anybody. With ownership certificate right on land, owner land can do deed law What just throughout No contrary with Constitution, order general And decency. Besides That, a certificate lands its mark economically like for rent, guarantee debt, or as a share. Giving certificate right on land intended For prevent ownership land with wide excessive Which determined by regulation legislation.

Rights Land For Inhabitant Country Foreign

Although on the principle only people inhabitant country Indonesia single just Which can own land, in things certain during in time Which limited UUPA Still possible people foreign And inhabitant country Indonesia Which nationality double For have land with right owned by. He gave the possibility That is on base consideration fairly humanity. Chapter 21 Paragraph 3 UUPA determines, that a person foreign Who after the date of 24 September 1960 obtains a right owned by Because of inheritance without a will or mixing treasure Because of marriage, must release the right That in period One year since he got right the. Provision That applies Also to an inhabitant country Indonesia Which has right owned by And after the date 24 September 1960 lost his nationality.

Period time One year the counted since loss citizenship Indonesia That. Chapter 21 paragraph 3 UUPA apply Also to them based on provision chapter 21 paragraph 4 UUPA. Ways mentioned in paragraph 3 is a method of obtaining rights without doing something action positive Which on purpose addresses happening transition right concerned. Thereby explaining chapter 21 paragraph 3 UUPA the. Ways other No allowed Because forbidden by chapter 26 paragraph 2 BAL, Also buy, swap exchange, grant, And gift with will (fixed).

Obtain the right to own with second method the on Still possible for people foreign And inhabitants country Indonesia Whose nationality doubled, but in time One year ownership must terminated.

It says in paragraph the, that is time One year right hers That must release. If right hers That No released, right the become wipe And the land become land country, that is land Which

mastered directly by country. It means, that after That used owner is given a chance To request a return of land Which is concerned with the rights he has, that is for a person foreign right use And for a person Indonesia Whose nationality double, HGU, HGB, or right use.

Conclusion

Law agrarian is something law Which arranges primal land along all ins and outs ins and outs There is a relationship with the land, for example, matter waters, fishery, plantation, mining, etc. Law agrarian sourced on the law Act base 1945 And Constitution Number 5 the Year 1960 About Regulation Base Main points Agrarian Which discusses principles of law agrarian, subject right owned by on land, position right on land, right basic man And right on land, And rights land for inhabitant country foreign.

In land law, the term "land" is used in a juridical sense, as an understanding that has been given official boundaries by the BAL. Land is given and owned by people with the rights provided by the UUPA, and is to be used and utilized. Right Nation Indonesia This on land This is right control over land is the highest and includes all land that exists within the territory of the state, which is common land, is eternal in nature, and becomes the parent for other tenure rights over land. All control of land rights cannot negate the existence of the Indonesian people's rights to land. The common land contained in Article 1 paragraph (2) of the UUPA is declared as national wealth indicating the existence of a civil element, namely the ownership relationship between the Indonesian people and the shared land.

The state's right to control over land is contained in Article 33 of the 1945 Constitution paragraph (2) production branches which are important for the state and affect the livelihood of the public are controlled by the state, (3) the earth, water and natural resources contained therein are controlled by the state and used for the greatest possible prosperity of the people.¹⁰ Control by the state over land is a form of the concept of the Welfare State and does not mean control in the sense of absolute power which is not intended for the welfare of the people.

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