

THE ROLE OF LANDREFORM IN AGRARIAN LAW POLITICS IN INDONESIA

I Gede Surata¹, Ni Ny. Mariadi², I Gede Arya Wira Sena³

^{1,2,3}Departement of Law, Universitas Panji Sakti, Indonesia

E-mail: Surata@unipas.ac.id

Received: 05.05.2020

Revised: 02.06.2020

Accepted: 28.06.2020

Abstract

The land reform program was once tried to be implemented in Indonesia in the 1960s, although it only covered a very limited area of land and receiving farmers. Then, during the New Order government, land reform was never openly programmed but was replaced by a program of certification, transmigration, and the development of nucleus estates, which in essence aimed at improving community access to land. Throughout the administration in the reform era, there have been some improvements in diagrammatic law and legislation, but no real program on land reform has yet been found. Theoretically, there are four important factors as a precondition for the implementation of land reform, namely awareness and willingness of the political elite, strong farmer organizations, availability of complete data, and adequate budget support. At present, the four factors are still in a weak condition, so it can be said that the implementation of land reform simultaneously and comprehensively in Indonesia is still difficult to realize.

Keywords-- Land Reform, Old Order, New Order, Reform, Indonesia

© 2020 by Advance Scientific Research. This is an open-access article under the CC BY license (<http://creativecommons.org/licenses/by/4.0/>)
DOI: <http://dx.doi.org/10.31838/jcr.07.08.204>

INTRODUCTION

Land reform in Indonesia is an Indonesian government program that aims to prosper the people of Indonesia as an individual nation. For the people's welfare, the government develops legal politics by equalizing ownership and control of land rights so that there is no imbalance in ownership of land rights. Harsono (Ananda, 2019) stated that Land Reform has included piracy regarding ownership and control of land as well as related relations with the control of the land. This means that as long as Land reform has not yet been implemented, the state of ownership and control of land in Indonesia is deemed necessary to change its structure. Land reform requires a land redistribution program for the benefit of those who work on the land and restrictions on individual rights over land resources. Land reform is part of diagramming activities (Von Bennewitz, 2017) because in agrarian reform one form is land reform. where ownership rights are considered to be able to improve the welfare and lives of many people (Nia Kurniati, 2016). The notion of agrarian not only concerns the land (Easterday et al., 2018) but also regulates the waters and air above the land and all the wealth contained therein which is often called the bowels of the earth, only land for the people/land to the tiller (Bernhard Limbong, 2011). Agrarian Venn Theory quoted by Moh. Mahfud MD describes the agrarian scope as follows (Moh. Mahmud MD, 2011):

1. The earth includes objects on earth, objects planted on earth, objects in the body of the earth.
2. Water covers ocean waters, inland waters, the earth is underwater.
3. Space includes the sky above the waters and the sky above the earth.

If we look at the Venn theory, what is meant by agrarian law is to include everything that is related directly or indirectly to the earth (Zeng et al., 2018). But in this discussion what is discussed is the politics of agrarian law, the realm of agrarian law in the narrow sense, which is limited to land tenure, and procedures for control, as well as ways to submit applications for land rights controlled by the community, especially the Tani people (Urip Santoso, 2012), and regarding government policies in realizing even ownership and control of land rights (Zeng et al., 2018). The higher the Farmer Exchange Rate (TNP), the better the welfare of

farmers (Bustanul Arifin, 2007). Land reform is an effort to strengthen the position of land that has been controlled by farmers, both redistributed lands due to excess (Easterday et al., 2018), and because of control of state land. The nature of land reform, in this case, is to provide legal protection to the farming community to be given the rights to the land that is their need (Skenicka, 2016). The concept of Land reform is to provide populist oriented policies, promote justice, be integrated, be sustainable, and be sustainable in their management (Achmad Sodiki, Yanis Maladi, 2009).

Land reform in Indonesia is divided into 3 Ages, namely: Old Order, New Order, and Reformation. During the old Orda era (1960-1965) land reforms went well with large landowners being withdrawn by the government, to be distributed to farmers who did not own land (Temprano, 2013). In the New Order Era (1966-1999) Land Reform was not driven by the Government (Easterday et al., 2018), then in the Reformation Era (1999-present) Land Reform was re-mobilized, by controlling absentee lands so people could not buy land outside the sub-district where they are domiciled (Rejekiingsih et al., 2019) therefore in the Reformation era, the government applies the Agrarian Law, especially Landreform, even if there is a conflict between customary law and the principles of the BAL, then what applies is the provision in the BAL (I Made Suwitra, 2010). The policy concepts underlying the imbalance of land tenure structures, instead of an equal distribution of wealth from time to time the world is increasingly laden with inequality (National Library, 2006) and give birth to land disputes, must be changed to lead to policy concepts that are oriented towards democracy, promoting justice, integrative, sustainable and sustainable in its management (Ahmad Sodiki and Yanis Maladi, 2009). The purpose and focus of this research are to discuss Land Reform in Indonesia, divided into 3 eras, the Old Order era, the New Order era, and the Reformation era.

DISCUSSION

Implementation of the Land reform Program in Indonesia

Landform which, in the narrower sense is a rearrangement of the structure of authority and land ownership, is a central part of the concept of agrarian reform. Since the reformation era, there have been encouraging developments, where there have been quite a several parties who have discussed and cared about this

problem, although it is still limited to the level of discourse. However, until now it has not been agreed on how land reform and agrarian reform (agrarian reform) should be for conditions in Indonesia. The land reform program was once attempted to be implemented in Indonesia in the 1960s, although it only covered a very limited number of land and receiving farmers which in essence aimed to improve community access to land. Throughout the administration in the reform era, there have been some improvements in diagrammatic law and legislation, but there has not yet been any real program on land reform so that it can be said that simultaneous and comprehensive implementation of land reform in Indonesia is still difficult to realize.

The politics of agrarian law has been enacted through Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles, and Law Number 56 of Prp of 1960 concerning Land Distribution and Giving Compensation. But its application is not maximally carried out by the Indonesian government. So it is felt by the community that land reforms that should be used as a basis for advancing public welfare (Bernhard Limbong, 2014), also to get rid of feudalism and get rid of capitalism (Mnsour Fakh, 2003) were not realized by the Government of the Republic of Indonesia. Finally, the farming community continues to live in misery.

Boedi Harsono was quoted by Urip Santoso, saying that the UUPA was an act that carried out agrarian reform because it contained a program known as the Five Indonesian Agrarian Reform Program which included (Urip Santoso, 2012):

- a. Renewal of Agrarian Law through the unification of law with a national concept and provision of legal certainty.
- b. Abolition of foreign rights and colonial concessions on land.
- c. Crying feudal suction gradually.
- d. Change the ownership and control of land and legal relations concerned with the exploitation of land in the distribution of prosperity and justice.
- e. Planning the supply and allotment of the earth, water, and natural resources contained therein, as well as planned use, in accordance with the carrying capacity and capabilities.

The same thing was stated by Sudikno Mertokusumo quoted by Urip Susanto that the UUPA does not only contain provisions on the Reformation of the old Agrarian Law into a new Agrarian Law, the UUPA also contains other agrarian issues that must be resolved called Agrarian Reform Indonesia (Agrarian Reform Indonesia) which consists of eight programs, including (Urip Susanto 2013);

- a. Renewal of Agrarian Law.
- b. Abolition of foreign rights and colonial concessions on land.
- c. End the feudal exploitation gradually.
- d. Change in ownership and control of land and legal relations related to land acquisition.
- e. Planning the supply, designation, and use of the earth, water, and natural resources contained therein and the use of the earth, water, and natural resources contained therein in a planned manner following the ability and ability.
- f. The protection of economic groups is weak.
- g. Prevention of businesses in agrarian fields that are private monopolies, while monopolistic government businesses can only be carried out by law.
- h. Protection against damage, soil maintenance, and the addition of its fertility, in other words, protection against environmental damage.

The program letter (d) includes carrying out land reform or land reform programs in the narrow sense (Easterday et al., 2018), while other programs are called agrarian reform (land reform) or land reform in a broad sense. Likewise, Boediarsono said that land reform in a narrow sense is a series of actions in the context

of agrarian reform. Land reforms include an overhaul of land ownership and control as well as legal relations relating to land use (Zeng et al., 2018). R. Soeprapto states that land reforms mean a reshuffle of the tenure and ownership system of agricultural land adapted to the limits of the human ability to work on their land, taking into account the balance between the existing land and humans in need (R. Soeprapto, 1986). Bachsan Mustofa stated that land reforms meant that the system of land ownership and control was changed with a new land management system that was adjusted to the changes and developments of the people who were actively implementing their economic development. In this case, law enforcement is needed. Because law enforcement means a process to make legal wishes come true (Ida Nurlinda, 2009).

The fact that exists in society as a result of the existence of Land reform is only suffering, because the discourse in the development of agrarian law politics has not yet materialized. Inequality of land tenure/ownership, weak, inadequate and overlapping regulations, chaotic land administration, unfinished spatial planning are several problems faced during the past 12 years of the Reformation Order (Bernhard Limbong, 2012). This is proven by the fact that there are still many landowners who own lands up to hundreds of hectares, on the other hand, there are very many of our farmers who do not have arable land, but farming whose land belongs to someone else (landlord).

Therefore, the right of the farming community to obtain legal recognition of rights can be carried out by the government by taking into account the requirements determined by Article 61 PMNA / Ka. BPN No. 3 of 1997 concerning Implementation of Government Regulation Number 24 of 1997 concerning Land Registration. Paragraph 1 of this article states that "In the case of ownership of land rights cannot be proven utilizing evidence as stated in Article 60, physical control for 20 years or more by the relevant party or its predecessors as stated in Article 24 paragraph (2) of Government Regulation Number 24 of 1997 concerning Land Registration, can be used as a basis for an accounting of land rights for the person concerned as the owner".

One of the steps of the government program in the context of agrarian reform is to carry out a land reform program (Zeng et al., 2018), which is an effort to realize the ideals of reform as the goals of the nation and state by upholding the rights of every citizen through equality in terms of control land rights. As the nation's ideology, Land reform is a means of political pressure or raising support, and as a program is a blueprint for action and implementation (Ahmad Sodiki 2013). This always creates poverty, which is prolonged for most Indonesian citizens, especially farmers and farm laborers. The noble ideals of the Indonesian nation as set out in paragraphs 2 and 4 of the opening of the 1945 Constitution of the Republic of Indonesia, arouse the conscience of the Indonesian people with the spirit of reform in the field of land, one of which is through the Landreform program.

Understanding Land reform in the Big Indonesian Dictionary is not explained, but according to Lipton quoted by Bernhard Limbong. Land reform includes two things: firstly the compulsory acquisition of land from large landowners by the state with compensation, and secondly, land management in such a way as to spread benefits beyond human relations with the land than before the acquisition (Bernhar Limbong, 2012). Land reform is one of the instruments of agrarian reform, because agrarian reform has the same goal as land reform, namely to improve the welfare of the community, especially in the distribution of ownership and ownership of land rights (Easterday et al., 2018).

Agrarian Reform is a mandate of MPR Decree Number IX of 2001 with the direction of agrarian renewal policy which includes two things namely (Havadi-nagy & After, 2017);

First, implement the restructuring of the ownership, ownership, use, and utilization of land (land-reform) with due regard to the ownership of land by the people.

Second, organizing land data collection through inventorying and registering control, ownership, use, and use of land comprehensively and systematically in the context of implementing land reform.

The concept of land reform is the restructuring of the ownership/ownership structure by the government for fairer farmers, including preventing the concentration of land ownership (Zeng et al., 2018). That is why land reform is interpreted as a land distribution and/or retribution program, especially to poor farmers and landless farmers or sharecroppers (Easterday et al., 2018).

Agrarian Reform is a government effort that is systemic, planned, and carried out relatively quickly in a certain period and limited, to create prosperity, social justice, transfer of power (political participation) (Temprano, 2013), as well as pave the way for the formation of new societies that are democratic and fair. Agrarian Reform also involves securing tenure for farm laborers, labor tenants, breeders, and tenant farmers, so that they have better prospects for receiving private sector loans, education services, health and infrastructure support, government support through capital and technology formation for companies rural companies as a complement to agriculture and increased productivity and community participation in rural government decisions (Bernard Lmbong, 2012).

The aim is to continue the ideals of the nation to realize the will of the people, with the slogan "sitting equally low standing equally high" in all respects including in terms of control and ownership of land rights, through the implementation of land reform. R. Soeprapto stated the purpose of Land Reform as follows (R. Soeprapto, 1986):

- a. Equal distribution of ownership/ownership of agricultural land to equalize the results of their production.
- b. End the system of capitalism and feudalism in mastery, ownership, and exploitation in the field of diagramming.
- c. increase in agricultural production.
- d. Improving the standard of living of farmers and the people in general.
- e. Increasing the dignity of the cultivators and increasing work enthusiasm.
- f. Eliminating the gap between rich and poor groups (farmers)

The implementation of land reform is carried out by the government through 3 ages based on regime or government:

1. Old Order Era (Sukarno regime, 1960-1965)
2. The New Order Era (Suharto's regime, 1966-1999)
3. The Reformation Era (Habibi, Gus Dur, Megawati, SBY and Joko Widodo regimes, 2000-present)

Land reform in the Old Order era, 1960-1965, the implementation was quite a reality because at that time, landowners who exceeded the maximum limit, consciously reported by choosing land which according to the owner, were infertile or less strategic then reported, by obtaining compensation from the state. Then the State distributes to the entitled farmers, namely the cultivating farmers, through a Governor's Decree, with the obligation to pay compensation to the state in installments for 15 years, then a certificate of land rights is issued. So today people can enjoy the Landreform

program, but at that time with the events of the Indonesian Communist Party Movement (PKI) there was a commotion, then this era ended.

During the New Order era, 1966-1999, during the Soeharto Landreform government suffered death, even the community was able to buy agricultural land freely without regard to its domicile, at that time the community could buy land rights with only the identity of the Domicile Certificate (not the Resident Identity Card (not the Identity Card (KTP), so there is a very visible gap (gap) between large landowners and farmers, on one side there are people owning land reaching hundreds of hectares, while many farmers do not have land. Land reform at this time has no function at all, as regulated in Law Number 56 Prp of 1960 with Government Regulation Number 224 of 1961. As a national ideology, Land reform is a means of political pressure or raising support, and as a program is a blueprint for action and implementation (Ahmad Sodiki 2013).

This always creates poverty, which is prolonged for most Neg citizens ara Indonesia, especially farmers and farm laborers. The noble ideals of the Indonesian nation as set out in paragraphs 2 and 4 of the opening of the 1945 Constitution of the Republic of Indonesia arouse the conscience of the Indonesian people with the spirit of reform in the land sector.

The Reformation Era, 1999-Present, When the Habibi, Gus Dur, Megawati, and SBY Landreform Programs were among scientists said to be suspended, because the government focused economic and political affairs, by trying to bring in investors from various countries, with the primary aim being advance the tourism sector. In this era, agricultural lands are controlled by foreigners by buying. Because Foreign Citizens may not have Ownership Rights over Land, many foreigners buy agricultural lands by borrowing the names of Indonesian Citizens to be named in their Land Rights Certificates.

Agricultural lands controlled by foreigners will then be converted into non-agricultural land, specifically housing land which will then be built by hotels and other facilities to support tourism. Based on these conditions the Landreform program did not materialize according to its main purpose is to make the community prosperous. Whereas philosophically the purpose of Landreform is to continue the ideals of the nation in the context of realizing the will of the people, with the slogan "sitting equally low standing equally high" in all matters including in terms of control and ownership of land rights, through the implementation of land reform. R. Soeprapto stated about the objectives of Land Reform as follows (R. Soeprapto, 1986):

- a. Equal distribution of ownership/ownership of agricultural land to equalize the results of their production.
- b. End the system of capitalism and feudalism in mastery, ownership, and exploitation in the field of diagramming.
- c. increase in agricultural production.
- d. Improving the standard of living of farmers and the people in general.
- e. Increasing the dignity of the cultivators and increasing work enthusiasm.
- f. Eliminating the gap between rich and poor groups (farmers)

During the Joko Widodo administration, the Landreform program began to be raised, especially the prohibition of owning land outside the sub-district, so that the community did not freely sell their agricultural land, because it could only be transferred and transferred to the people in the same sub-district, to reduce the existence of absentee lands. The situation is different, the government is focusing its attention on the housing sector, by providing opportunities for investors to help the community in the form of homeownership by providing subsidies, and there will automatically be a change of function of

agricultural land into residential land, so that not a few agricultural lands are converted into residential land. On that basis, then the Landreform program which aims at the welfare of the farming community in the form of equitable ownership and control of agricultural lands is neglected.

The Land reform program has been enacted through Law Number 56 Prp 1960, but the government's attitude is not maximum in implementing it so that the community cannot enjoy the real objectives of the land reform program (Susan, 2013). Finally, the impediment to the implementation of land reform is due to the changing political development that is more oriented to the interests of the capital owners (investors) than the peasants.

If land reforms in Indonesia can be carried out seriously and consequently by the government and are supported by all parties, then the state's goal is to achieve a prosperous, just and prosperous society based on the Pancasila and the 1945 Constitution of the Republic of Indonesia. The ideals of the State through the National Agrarian Politics, are more directed at the principle of people's welfare (Suhariningsih, 2009). That is caused by the main key to achieving these goals is to equalize the lives of the people as a whole, and to equalize in occupying their social status. Equalizing the dignity and status of peasants among fellow citizens as a whole (Sartania et al., 2017). The ultimate goal of land reforms under Article 17 of the UUPA is the use of land for the greatest prosperity of the people. That means happiness, prosperity, and independence in the society in an independent, sovereign, just and prosperous Indonesian law state and the people enjoy physical and spiritual security and health, as stated in Article 2 paragraph (2) of the UUPA can be achieved UUPA is a basic regulation even though there is a conflict between customary law and the basic principles in the UUPA then what applies is the provision in UUPA (IMade Suwitra, 2010)

Land reform is a continuation of the spirit of the struggle for independence, which is to break away from colonialism (Irwan Nirwana et al, 2002). This opinion contains a very high philosophical value.

This means that the Indonesian people with the spirit of their struggle want to sit together (equality before the law) in enjoying human rights, especially in the control and ownership of land rights. Land in human life is very important, and the issue of distribution of land tenure becomes very important since private land ownership is legalized (Ali Sofwan Husein, 1995). In simplifying the Legal Institution, land rights are divided into 2 types namely Ownership Rights and Use Rights (H.M.Zaki Sierrad, 2006). In fact, until whenever inequality will occur in the realm of control and ownership of land rights as long as our agrarian structure is not amended.

UUPA requires changes in the structure of ownership and control of land that reflects the interests of farmers and farm laborers who are the majority of the people of Indonesia from an agrarian-style country (Ahmad Sodiki, 2013). In the course of the UUPA as a land reform soul faces obstacles, both from outside the UUPA and inside (Ahmad Sodiki, 2013). Barriers from the inside, that many land reform provisions that include exclusion clauses for certain groups of people.

This exemption if applied intensively will reduce the legal weight of the land reform (Vanzetti et al., 2019), for example, the BAL provides an exception for civil servants and ABRI to own agricultural land absently. External barriers are the strong opposition to land reforms from groups to be disadvantaged and the absence of a strong peasant organization that supports the implementation of land reforms.

CLOSING

Based on the description in the discussion about the role of Land Reform in the politics of agrarian law in Indonesia, it can be concluded that; The government has not been able to implement land reforms in Indonesia to the fullest because agrarian legal structures still have a lameness, so there is no unity of perception from all parties, both the government, regional governments, and large landowners who consciously give their share to farmers who need land. The Regional Government has not fully understood the meaning and purpose of land reforms both philosophically and legally so that they do not have much role in the implementation of land reforms.

REFERENCES

1. Achmad Sodiki, 2013 Politik Hukum Agraria. Jakarta: Konstitusi Press,
2. Achmad Sodiki, Yanis Maladi, 2009. Politik Hukum Agraria. Yogyakarta, Mahkota Kata.
3. Ali Sofwan Husein, 1995. Ekonomi Politik Penguasaan Tanah. Jakarta, Pustaka Sinar Harapan
4. Bernhard Limbong, 2011. Pengadaan Tanah Untuk Pembangunan. Jakarta: Cv Rafi Maju Mandiri.
5. Bustanul Arifin, 2007. Diagnosis Ekonomi Politik Pangan Dan Pertanian. Jakarta: Pt Rajagrafindo Persada.)
6. Easterday, K., Mcintyre, P., & Kelly, M. (2018). Forest Ecology and Management Land ownership and 20th-century changes to forest structure in California. *Forest Ecology and Management*, 422(April), 137–146. <https://doi.org/10.1016/j.foreco.2018.04.012>
7. Havadi-nagy, K. X., & Usai, A. (2017). SCIENZA IN AZIONE and regional policies towards an integrated and. *Journal of Dairy Science*, 76(7), 261–272. <https://doi.org/10.13128/Scienze>
8. Isnaeni, Diyan. (2017). Kebijakan Landreform Sebagai Penerapan Politik Pembaharuan Hukum Agraria Yang Berparadigma Pancasila. *Ju Ke-*, 1 (2), 83-97.
9. Rejekiningsih, T., Muryani, C., & Lukitasari, D. (2019). Study of the History and Dynamics of the Agrarian Policy in Transforming the Indonesia 'S Agrarian Reform. 8(2), 309–329.
10. Sartania, D., Nikolaishvili, D., Ujmajuridze, A., & Chkhikvishvili, G. (2017). Annals of Agrarian Science The agrarian zones of Georgia according to the map by Ivane Javakhishvili. *Annals of Agrarian Sciences*, 15(3), 352–355. <https://doi.org/10.1016/j.aasci.2017.05.025>
11. Sklenicka, P. (2016). Land Use Policy Classification of farmland ownership fragmentation as a cause of land degradation: A review on typology, consequences, and remedies. *Land Use Policy*, 57, 694–701. <https://doi.org/10.1016/j.landusepol.2016.06.032>
12. Susan, N. (2013). The 3 rd International Conference on Sustainable Future for Human Security Scenario building on Law No . 7 of 2012 about social conflict intervention : The possible f future of land conflict management in Indonesia. *Procedia Environmental Sciences*, 17(7), 870–879. <https://doi.org/10.1016/j.proenv.2013.02.105>
13. Temprano, A. G. (2013). Política agraria común y la de cohesión frente a la Estrategia Europa 2020. *Problemas Del Desarrollo*, 44(173), 105–132. [https://doi.org/10.1016/s0301-7036\(13\)71877-7](https://doi.org/10.1016/s0301-7036(13)71877-7)
14. Vanzetti, A., Marzocchella, A., Saccoccio, F., La, R., & Moro, P. A. (2019). The Campanian agrarian systems of the late Copper-Early Bronze Age (ca . 4550-3850 cal BP): A long-lasting agrarian management tradition before the Pomici di Avellino eruption. *Quaternary International*, 499(September 2018), 148–160. <https://doi.org/10.1016/j.quaint.2018.09.034>
15. Von Bennewitz, E. (2017). Land tenure in Latin America: From land reforms to counter-movement to neoliberalism. *Acta Universitatis Agriculturae et Silviculturae Mendelianae*

- Brunensis, 65(5), 1793–1798.
<https://doi.org/10.11118/actaun201765051793>
16. Zeng, D., Norton, G., Jaleta, M., Shiferaw, B., & Yirga, C. (2018). Land Use Policy Land ownership and technology adoption revisited: improved maize varieties in Ethiopia. *72*(December 2017), 270–279.
<https://doi.org/10.1016/j.landusepol.2017.12.047>
 17. Syahyuti, (2019). Kendala Pelaksanaan Landreform Di Indonesia: Analisa Terhadap Kondisi Dan Perkembangan Berbagai Faktor Prasyarat Pelaksanaan Reforma Agrarian. Tersedia Pada
<https://Media.Neliti.Com/Media/Publications/55888-Id-Kendala-Pelaksanaan-Landreform-Di-Indone.Pdf>.