

Legal Position of Land in the Agrarian Law and its Implications for National Development

ABSTRACT

Agrarian law in Indonesia is an important part of the national legal system which regulates the use and control of land, water, space and the natural resources contained therein. As the main basis, the Basic Agrarian Law (UUPA) Number 5 of 1960 provides the legal basis for land rights, including Land Control Rights (HPAT), which reflects authority in the use and management of land. Land law in Indonesia consists of written and unwritten provisions, including customary law which still applies in land tenure practices. This research uses a normative juridical approach with analysis of secondary data originating from statutory regulations, books and journals related to agrarian law and land law. The research results show that agrarian law has a strategic role in ensuring social justice and community welfare, especially in the context of agrarian reform which seeks to overcome inequality in land ownership due to the legacy of colonialism. By providing legal certainty over land rights, agrarian law can contribute to sustainable national development, create socio-economic stability, and improve the welfare of the Indonesian people.

Keyword: Agrarian law, land law, Basic Agrarian Law (UUPA), Land Tenure Rights (HPAT), agrarian reform, legal certainty, and national development.

INTRODUCTION

Indonesia, a country founded on Pancasila, is very committed to ensuring fair and just laws (Hasan et al., 2024). Land plays an important role in the life and livelihood of every country, including Indonesia, because it is an important component in the formation of the state (Shebubakar & Raniah, 2019). This is because the lives of the Indonesian people depend on the results of land cultivation, whether for housing, plantations, agriculture, or livestock. One of the subjects of agrarian law is land. In Indonesia, there was dualism and pluralism of agrarian law before the Basic Agrarian Law was enacted (Usman, 2020).

Natural resources such as water, earth, space, and all that is contained therein are gifts from God Almighty to humans. Natural resources, such as water, earth, and space, are very important for building a just and prosperous society. Agrarian Law is the law that regulates land and its contents. In helping to utilize land for the justice and prosperity of the Indonesian people, agrarian law plays a very important role. According to Hartana & Candraswati (2019), the term agrarian means land used for agriculture. Land is an important part of life, and is the basis for all human activities. Land and the content contained therein can generate various sources of income for those who control or own it, making it a source of wealth (Santoso, 2012). Since its inception, agrarian law has undergone many changes and adjustments. According to Justitia (2018), the history of agrarian law has a long and complicated period of development. According to Nugroho (2018), this evolution began with human knowledge and efforts to build a harmonious life through regulations related to land, and agrarian law can be considered the forerunner of this process. The Indonesian economy entered a new chapter in the 1870s when the Agrarian Law and the Sugar Law were passed. These laws protect private property and business rights and play an important role in economic growth (Putra, 2022). Because the agrarian problems of the community need to be updated to keep up with the rapid economic growth in Indonesia, agrarian law influences the development of legal politics (Utomo, 2021). All citizens have an obligation to check each other to determine the main objectives of the state in economic reform. It is very important to ensure the welfare and prosperity of the people in accordance with the 1945 Law (Said, 2018).

The purpose of this study is to see how land law is regulated in the Agrarian Law and how it impacts national progress. Land law, as the main foundation for regulating land rights, has a strategic role in ensuring social justice, legal stability, and progress. In addition, the purpose of this study is to study how Indonesian land law policies have evolved over time and how they impact the economic, social, and environmental sectors. In addition, this study will identify the difficulties and opportunities in implementing land law to ensure that land is used optimally for the benefit of the community. Therefore, the findings of this study are expected to help build a more inclusive agrarian policy and focus on equitable national development.

RESEARCH METHODOLOGY

The normative legal method is used in this study. This study focuses on literature research and legislation on land law in agrarian law and how it impacts national development. In this study, we use secondary data. Secondary data consists of primary legal materials, namely laws relating to land law in agrarian law; secondary legal materials are books and journals used as references; and tertiary legal materials are theories relating to the problems discussed in this study.

In this study, the additional data collection method used is a literature study of secondary data; in other words, this study was conducted by reviewing and analyzing library materials and documents relating to the relationship between agrarian law and land law. Furthermore, the data collected is analyzed qualitatively, namely by combining or compiling data from literature and legislation. Collecting, classifying, and analyzing legal materials is carried out to answer the problems discussed in this article. (Soekanto & Mamudji, 2019).

RESULTS AND DISCUSSION

Understanding of Agrarian Law

The 1945 Constitution (UUD 1945) is Indonesia's written constitution which is the highest basic law of the country. It serves as the primary guide for running the country, establishing laws, and protecting the rights of citizens. The 1945 Constitution is also the basis for all regulations under it, and is the basis that must be followed to run the country (Hasan et al., 2024). According to Law no. 5 of 1960 concerning Basic Regulations on Agrarian Principles, or the Basic Agrarian Law, or UUPA, agraria covers water, earth, space and the wealth contained therein.

According to UUPA, what is meant by "earth" is what is included other than the surface of the earth, including the body of the earth, and that which is under water; what is meant by "water" is what includes Indonesian sea areas and inland waters; and what is meant by "space" is what encompasses the space above water and earth in Article 1 point 5. So, legally, land is just the surface of the earth, not the rights to anything on it or other natural resources. According to the UUPA,

agrarian law is not only a collection of legal fields that regulate rights to natural resources, but also a collection of legal fields:

- 1) Land law, which regulates rights to land on the surface of the earth, and
- 2) Water law, which regulates rights to water in the Indonesian sea area.
- 3) Mining law, which regulates control of mining materials in the mining law;
- 4) Fisheries law, which regulates control of natural resources in the water;
- 5) Law on energy and space elements, which is contained in UUPA Article 48.
- 6) Agrarian law, which covers all legal fields that regulate control of various natural resources,

In a narrow sense, agrarian includes only land, or the surface of the earth, but in a broad sense, agrarian includes all the earth, water, space, and natural resources contained therein. Here, land is not meant in the physical sense, but in the sense of rights, namely land. According to Santoso (2006), UUPA uses a comprehensive agrarian definition.

Understanding of Land Law

Law is a rule set by the authorities to regulate human behavior and is followed by clear sanctions if it is violated. Law is a rule in a narrower sense. According to Article 7 concerning the Hierarchy of Legislation, the 1945 Constitution serves as the highest legal basis in Indonesia (Hasan, et al., 2023). In the agrarian scope, land is part of the land, or the surface of the earth. The land in question does not regulate the whole thing, but only one aspect of it, namely land in the legal sense called rights. This is stated in Article 4 Paragraph 1 of the UUPA, which states that "on the basis of the state's right to control as referred to in Article 2, there are various types of rights to the surface of the earth, called land, which can be Different from "taking benefits", land rights are used for interests other than building buildings, such as agriculture, fisheries, animal husbandry, and plantations.

Land law is a collection of legal regulations, both written and unwritten, that focus on the same object: land control rights as a legal institution and as a legal relationship between public and private parties. These regulations are compiled and examined thoroughly to form a complete system. Land law only

regulates certain aspects of land, namely land control rights (HPAT, if abbreviated). Other aspects, such as using or giving land to others, are regulated by spatial planning, scope, and inheritance laws. Due to legal politics, the laws applicable in HPAT must be written so that they are easier to understand and comply with. Therefore, to ensure legal certainty, the National Land Law must be written as far as possible. However, the fact is that we have not succeeded in establishing in writing all HPAT laws in Indonesia to date. In other words, HPAT is regulated in both Customary Law and New Customary Law, which is not Customary Law. Therefore, the HPAT law stipulated in the National Land Law to date consists of:

- 1) Written law, including Article 33 of the 1945 Constitution, UUPA, Implementing Regulations, and old regulations before the UUPA came into effect based on the transitional regulations of the 1945 Constitution;
- 2) Unwritten law, including customary law and new customs that are not customary law.

Land Law regulates various land tenure rights (HPAT). Each land tenure right (HPAT) contains the authority, responsibility, and prohibition for the rights holder to do anything about the land that is claimed, whether permitted or prohibited. The contents of this tenure right function as an outline or boundary that distinguishes land tenure rights in Land Law. Legally, what is meant by doing something can be public or private authority, or even both public and private. The definition of tenure in HPAT includes broad authority, not only the right to use and use land as collateral for civil authority. Therefore, HPAT is greater than Land Rights. Thus, the approach as a legal institution and concrete legal relationship (HPAT) must be applied in agrarian and land law. In this way, the legal provisions governing land law can be arranged and studied systematically and logically. In this way, the legal provisions governing land law can not only be arranged and studied systematically, but can also be studied comprehensively.

The first point, as a legal institution, HPAT is a legal institution that regulates the right to control land as a legal institution. These land law provisions regulate the mention of control rights, actions that are permitted, mandatory, and prohibited by the rights holder, and the period of control. The second point is as

a concrete legal law, usually referred to as a right if it has been associated with certain land as its object and a certain legal entity as the subject or rights holder. The provisions of land law that regulate the right to control land as a concrete legal relationship, start with its creation which makes it a concrete legal relationship, burdens it from other rights, transfers it to other parties, deletes it, and proves it.

The scope of Land Law is obtained from the hierarchy of land control rights in the National Land Law which encompasses the Rights of the Indonesian Nation contained in Article 1 of the UUPA as the highest land control rights in terms of civil and public aspects, the State's Right to Control contained in Article 2 of the UUPA as a control right solely in terms of public aspects, the Customary Rights of Customary Law Communities contained in Article 3 of the UUPA in terms of civil and public aspects, and Individual Rights in terms of civil aspects, which consist of land rights as individual rights, all of which directly or indirectly originate from the Rights of the Nation, contained in Articles 16 and 53.

CONCLUSION

According to the Basic Agrarian Law (UUPA) Number 5 of 1960, Indonesian agrarian law covers all-natural resources, including earth, water, and space. Land Law, which regulates legal rights to land on earth, is an important part of agrarian law. Land law in Indonesia consists of written and unwritten laws, as well as customs and traditions that are still in effect.

In national land law, land tenure rights (HPAT) include broad rights to utilize land. HPAT regulations include individual rights, customary rights of indigenous peoples, state control rights, and the rights of the Indonesian nation as the holder of the highest sovereignty over land. The purpose of UUPA is to increase prosperity, welfare, and justice for the community, especially for farmers, because they are the group most affected by the inequality of land ownership caused by colonialism. In the national development process, land law serves as a basis for a more equitable and just agrarian policy and provides legal certainty regarding land ownership and control. With legal certainty over land,

social and economic stability is expected to encourage the long-term progress of the nation.

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