

Ownership Limitation to the Land Rights Based on the Social Justice in Accordance to the Renewal of National Agrarian Rights Act

Widyarini Indriasti Wardani

Lecturer at Faculty of Law, 17 Agustus 1945 Semarang University

Abstract--The limitation to the ownership of land rights in Indonesia is regulated by article 7 and 17 of Land Rights Act, and specifically the agriculture field is regulated by Act No. 56 of 1960 juncto Regulation of Agriculture Minister Number 18 of 2016 juncto Regulation of Agriculture Minister Number 18 of 2016 concerning Control of Mastery Agricultural Land and Presidential Regulation No. 86 of 2018 on Agrarian Reform, the regulation governs the granting of land of 5 (five) hectares to the subjects of land recipients who do not differentiate between the farming community and the non-farming community. The limitation to the ownership of land rights stands as a reflection of fifth precept of Pancasila which is Social Justice for All the People of Indonesia, though it has not been optimally implemented yet. Justice is not merely about providing something worth given to someone, it also means an exclamation and faith to the existence of moral responsibility to fulfill the public living space with solidarity and dignity. The responsibility to sustain social justice does not only belong to the state, but also to economic agents and people in general. The state in this context acts as a facilitator, regulator, and even the mediator which intervenes when it is necessary thus the access to the ownership, usage, and the utilization of land and natural resources for people, specifically farmers and farm workers, can be more open and well-provided.

Keywords: *ownership limitation, land rights, social justice, customs*

I. INTRODUCTION

Act No. 5 of 1960 on the Basic Agrarian Law has emphasized the basic principles in the field of agrarian. One of the regulations is focused on the ownership limitation to the land rights. This limitation shows the position of social justice foundation as the reflection of Pancasila's fifth precept, which is Social Justice for All the People of Indonesia. It was actualized through the provision of ownership limitation to the land rights.

The regulation on the ownership limitation to the land rights is governed under Article 7 of the Basic Agrarian Law No. 5 of 1960, which mentions: To prevent disadvantaging the public interests, land ownership and authorization which exceed the limits are not allowed.

That article states that beside the limited ownership of land rights, it also regulates the domination of land rights. Ownership of land rights means the person definitely has authority over the land, yet for the domination of the land the person does not necessarily has such authority.

The domination is usually bestowed upon pledge right, lease right, or companies that receive concession from the

government based on employment contract to work on mining, plantation, or agribusiness. As for owning land rights means the owner can transfer or inherit the land rights to the heir.

The objectives of Article 7 of the Basic Agrarian Law emphasized by Article 17 of the Basic Agrarian Law, which mentions:

- (1) To reach the mentioned objective in Article 2 paragraph (3), it is regulated the maximum and/or minimum width of the land that is allowed to be claimed under the rights in Article 16 by a family or legal institution.

Article 17 paragraph (1) of the Basic Agrarian Law confirms what the objective of Article 7 of The Basic Agrarian Law is, that the domination and ownership of land rights are regulated in Act No. 56 of 1960 on the Provision of Agricultural Land Area. The provision on the maximum limit of land ownership outside the agricultural land is confirmed in the Article 17 paragraph (2) and (3) of The Basic Agrarian Law.

Article 17 paragraph (2) and (3) stated:

- (2) The provision on the maximum limit emphasized on paragraph (1) of this Article was done by regulation of law within a short time.
- (3) The lands which exceed the maximum limit emphasized on paragraph (2) of this Article is taken over by the government with compensation.

The provision on the maximum limit of land ownership outside the agricultural land as regulated in the Article 17 paragraph (2) and (3) has not been implemented until now due to the implementing regulation as stated in Article 17 paragraph (2).

The legal foundation mentioned in Article 17 paragraph (2) of The Basic Agrarian Law has not been established yet. Therefore, the domination of lands which exceed the maximum limit still happens, which causes discrepancy and injustice among the society.

The provisions of Article 7 and 17 The Basic Agrarian Law are intertwined and substantially do not work as it was expected. A Non-Governmental Organization (NGO) that works in the field of agrarian law renewal mentions: If it is explored further, by looking at the government policy, land domination in a big number seems to be

started in 1980s. Most of the land domination is not only held by forest rights management companies, but also by companies that received mining concession or contract of mining works. Besides, big companies that run business in the field of plantation or agribusiness is also dominating lands in quite a big number.[1]

Started from the statement above, Danto and Gunawan Wiradi noted that up to 1999, there are 561 companies that dominate about 525 million hectares of land for mining. Those companies received concession from the central government based on the contract of mining works.[2]

Furthermore, according to Danto and Gunawan Wiradi, until 2000, there are 2178 companies that dominate 3,52 million hectares of land for plantation or agribusiness. If it is calculated, each of these companies dominate at least 1616 hectares of land. Many of those companies are owned by upper-class entrepreneurs.

The data described above show that domination of land rights by big companies is massive that it causes injustice towards people who still do not own any land.

The injustice as the impact of the absence of regulations over the ownership and domination of land rights as mandated by Article 17 paragraph (2) of The Basic Agrarian Law is obviously noticeable, considering there are still many people who do not own agricultural land as their source of family income. The need of legislation which limits and/or regulates the ownership and domination of land rights is absolutely needed in accordance to the renewal of national agrarian law which is based on the social justice.

The ownership limitation to land rights based on Social Justice is a concept that can be used in accordance to the renewal of national agrarian law. This limitation is related to the limitation of maximum and minimum land ownership of rights over agricultural land.

Forests are environmentally beneficial, they are the water regulator, the biodiversity reserve in it and the control of the climate balance. Indonesia's forest area of approximately 121 hectares occupies about 63.7% of its land area or about 3.13% of the world's forests, which is about 3.87 billion hectares.

II. FINDINGS AND DISCUSSION

1. *The Regulation of Ownership Limitation to Land Rights Based on the Politics of National Agrarian Law*

The politics of national law according to Teuku M Radhie is a statement about the will of the state authorities about law that is enacted in their territory, and about the direction where the law will be developed further.[3]

Legal development as a part of the politics of national law is related to the land or agrarian, therefore there is politics of agrarian law. The politics of agrarian law is an official legal policy that will be enacted by whether the establishment of new law or the old one, in order to reach the state's objective in the field of agrarian law and land reform. One of the politics of agrarian law is the land ownership limitation as regulated in Article 7, 16, and 17

of The Basic Agrarian Law. Furthermore, it is specifically regulated in the Act No 56 of 1960 on the Provision of Agricultural Land Area. The politics of the law of ownership limitation to land rights has not been implemented yet.

The ownership limitation to land rights is one of the land reform programs in Indonesia, which is also the implementation of Article 7 and 17. Act No. 56 of 1960 is the main implementation of land reform in Indonesia that includes 6 programs such as:

- (1) The limitation of maximum width of land domination;
- (2) The prohibition of land absentee or clumsy ownership;
- (3) Redistribution of excess of lands that goes over the maximum limits, lands that are exposed by the absentee prohibition, formerly autonomous lands, and state lands;
- (4) Regulation on the return and redemption of mortgaged agricultural lands;
- (5) Re-regulation of agreement on profit sharing of agricultural lands;
- (6) The provision of minimum width of land ownership along with the prohibition to conduct acts that cause division of agricultural land ownership to micro parts.

Land reform program basically was expected to improve the farmers welfare, by providing land (land redistribution) to the farm workers (farmers who do not own lands). The excess of agricultural lands that exceed over the limits will be given to these farm workers.

The maximum ownership within one family or husband has been regulated by Article 17 of The Basic Agrarian Law, which states:

What is meant by "family" is a husband, wife, and the children who have not married and becomes their dependents, and who have around seven members in total. Both man and woman can be the head of the family.

The definition of family according to Article 1 of shared Instruction of Minister of Home Affairs and Regional Autonomy Minister of Agrarian Affairs 15/1974 is:

A group of people who is a unity of livelihood that has element of filiation or marriage. If the member of the family is more than 7 persons, then the maximum width for each member after the 7th person is increased by 10%, but the total addition cannot be more than 50%, while the total of agricultural land managed by the family cannot exceed 20 hectares, whether it is paddy fields, dry land, or even both of it.

For the ownership and domination over the barren, and whose number of members are big, are regulated by the Minister of Agrarian, that the maximum width is 20 hectares plus an addition up to 5 hectares. Article 4 of Act No. 56 of 1960 emphasized:

A person or the whole family who own agricultural land that exceed the maximum limit is prohibited to transfer the right of ownership over the whole or part of the land, except by the permission of the local Head of Agrarian of the District Area/City. The permission can only be issued if the land which right of ownership is about to be transferred is not exceeding the maximum width, and by referring to the conditions mandated in Article 9 paragraph (1) and (2) as well.

Article 9 Paragraph (1) and (2) Act No. 56 of 1960 emphasized that:

- (1) The transfer of right of ownership over agricultural land, except for distribution of inheritance, is prohibited if the transfer itself results in ownership of a land which width is less than 2 hectares. The prohibition is not applied if the seller only have a land which width is less than two hectares and demand it to be sold at once.
- (2) If two persons or more at the moment this regulation is applied have agricultural land which width is less than two hectares within one year period, they must appoint one of them as the owner of the land or transfer it to other party, by referring to the conditions of first paragraph (1).

The conditions on the article above determine the minimum limit of agricultural land ownership on 2 hectares. Considering the population and the amount of agricultural land today, then it can be acknowledged that the implementation of the article is needed to be re-examined and re-regulated especially on the minimum limit of ownership of land rights.

On the other side, by taking a close look at Government Regulation No. 224 of 1961 on how much farm workers have received their part of the land by looking at the width of the land which is available to be distributed and the number of farmers who need it (Article 10 paragraph 2). Therefore it would be best if it is implemented right so that there will be no farmers who do not own agricultural land. The government half-heartedly implements the regulation due to some factors, which are:

- (1) There are still a lot of land owners who exceed the limits of their ownership and they are the dominators itself, thus psychologically the authorities of the National Land Agency are not able to deal with it.
- (2) The National Land Agency's data do not cover the population who own lands which exceed the ownership limit therefore it is rather difficult to follow up the regulation.

As Reformation Era of 1998, which ended the New Order that did not implement Land reform optimally, the system of decentralization is implemented. As the result, the renewal on agrarian law also got more attention which later led to the People's Representative Council's Decree No. IX of 2001 by recommending a renewal or revision to The Basic Agrarian Law and Natural Resources

Management. This decree is an instruction to the President of Republic Indonesia:

- (1) To immediately implement the Land reform program which justice concerns ownership, enterprise, usage, and utilization (Land reform) of land towards the people (Article 5 paragraph 1.f).
- (2) To seek seriously for the funding for the implementation of the program of renewal of Agrarian and the resolution of Agrarian resources conflicts that still happen (Article 5 paragraph 1.e).
- (3) To organize the data collection of land through inventory and registration of domination, ownership, usage, and utilization of land comprehensively and systematically in accordance to the Land reform implementation, whether it is for agricultural land or urban land (Article 6 paragraph 2).

In Article 6 and 7 of People's Representative Council's Decree No. /IX /2001, the House of Representative along with the President is assigned to immediately regulate further the implementation of Agrarian law renewal and the natural resources management, to immediately remove, change, and/or replace the whole law and the regulations of the implementation that do not go hand in hand with this Decree, and also to immediately implement the Decree and report the implementation in the annual Assembly of People's Representative Council's.

The People's Representative Council's People's Representative Council's Decree above actually supports the renewal in the field of agrarian in Indonesia. The specificity of each article, complemented by resolution/sanction in case the agrarian programs are not implemented, are hoped to enhance the welfare of the agrarian affairs. However, the resolution from the government to implement this regulation has not been fully made due to factors of interest from both involved parties and the authorities, such as:

- (1) The party who has interest in this matter is the entrepreneurs and policy makers, who work together and disadvantaging the local farmers.
- (2) The investors are really privileged by owning agricultural land without even considering the local farmers.

The policy of renewal of agrarian law is still referring to the People's Representative Council's Decree No. IX/2011 by synchronizing the policy between sectors and resolving the conflicts related to the agrarian resources that has been occurring, as well as anticipating the potential conflict in the near future to guarantee the implementation of law enforcement that is based on the principles of justice.[4]

The ratification of the law in the field of natural resources management has ruined the renewal of agrarian law and natural resources, therefore the potency brings back the natural resource management patterns which are exploitation-oriented (use oriented), that also ignore the importance of conservation and the sustainability of natural resources.

Because it is merely used as a legal instrument to support the economy growth, orientation of natural resources management stands more on the side of major financiers (capital oriented). That will ignore the interests and excesses of natural resources as well as shut down the potencies of economic development of local people.

The implementation of management that is done by the Government finally becomes more sectoral, thus the natural resources do not seem as integral and uncoordinated ecological system which potentially violates human rights by domination, utilization, and management of natural resources. This is against the People's Representative Council's Decree NO. IX/2001 itself, which violates the human rights even with the Opening paragraph IV of the Constitution of 1945 that states:

..... to form a Government of Indonesia which protects the whole nation of Indonesia and all over the blood of Indonesia and to promote general welfare, enrich the life of the nation and participate in world which based on the independence, eternal peace, and social justice.

Any deviation in the field of agrarian which basically tend to privilege particular groups especially those who have authority causes inequality in ownership of land rights. Based on that consideration, in President Joko Widodo's administration, field of agrarian is included as important program in order to National development which is summarized in Nawa Cita. Agrarian is mentioned in the nine high-priority agendas, specifically in point 4 and 5:

- (4) to guarantee the legal assurance of ownership of land rights, resolution of land disputes and oppose criminalization of the reclaiming of community land rights; Protection of children, women, and marginalized groups, along with the respect to Human Rights and resolution in justice towards Human Rights violation cases.
- (5) As well as improvement on people's welfare through programs of "Indonesia Kerja" and "Indonesia Sejahtera" by encouraging Land reform and land ownership program covering an area of 9 million hectares; country house and cheap flats programs which is subsidized also with Social Security for the whole Indonesian in 2019.[5]

Related to the Land reform which is re-stated in Joko Widodo's program to promote improvement to actualize self-reliant economy through programs that is written in the point 2 number (3) which emphasized:

Our commitment to implement agrarian reform through: a) access and reform assets distribution to farmers with distribution of land rights ownership through Land reform and program of land ownership for farmers and farm workers; hand over 9 million hectares land; b) to improve the access of minor farmers to the land ownership from on average 0.3 hectares to 2.0 hectares per

family, and opening of 1 million hectares of agricultural dry land outside of Java and Bali. (4) Agribusiness establishment for local people through Development of Special Bank for Agriculture, Small, medium Enterprises and Cooperatives.

The President Joko Widodo's policy clearly states that minimum limit on the land rights ownership (agricultural land) for farmers of 2.0 hectares per family is for area outside of Java and Bali, while for inside Java there is no possibility for minimum limit on the agricultural land of 2.0 hectares per family, considering the dense population in the island.

At the end of President Jokowi first term, President Jokowi issued Presidential Regulation No. 86 of 2018 on Agrarian Reform, including regulating the granting of 5 (five) ha of land to several legal subjects both agricultural and non-agricultural. Legal subjects of Agrarian Reform mentioned in article 11 paragraph 3 which includes: smallholders, sharecroppers, farm laborers, small fishermen, traditional fishermen, labor fishermen, small fish cultivators, fish cultivators, small salt farmers, salt salt cultivators, salt farmers, honorary teachers, casual daily laborers, paid laborers, informal traders, informal sector workers, non-permanent employees, private employees with incomes below Non-taxable income, civil servants of class III/a, members of the TNI/Police with the rank of Lieutenant of two or equivalent level, and other workers who stipulated by the Minister. The subject of the Agrarian Reform law with a minimum provision is 18 years old and has been married and is willing to reside in the area of the Agrarian Reform object Besides that land as an object of agrarian reform is expected to be used and utilized in accordance with the capabilities of the land, land suitability and spatial planning.

Presidential Regulation of the Republic of Indonesia Number 86 of 2018 concerning Agrarian Reform aims to realize equitable distribution of tenure, ownership, use and use of land structures, in order to realize community justice and people's welfare.

The limitation of maximum land rights ownership for citizens whether on the hard land (residence) or on the agricultural land is not mentioned at all. If there is no re-regulation in this matter, there will be imbalance in the ownership of land rights. That imbalance is happened due to some interests that need to be fulfilled by the state who has authority.

The interests include several factors such as state's interest (investastion) and people's interest, farmers' interest and agricultural entrepreneurs' interest (owners of major plantation), or even the interest of culture which existence has to be preserved well, and state's interest (perhutani). Social justice for all people can be implemented in each aspect including in the ownership limitation to the land rights.

2. *Concept of Ownership Limitation to the Land Rights Based on the Social Justice in accordance to the Renewal of National Agrarian Acts*

Human is the most perfect beings created by God, they have soul and body complete with common sense. Other than personal interests, human also is social beings who needs others which means a common interest. Individual interests sometimes in contrast with common interests. Based on the two kind of interests, which are equally urgent, there are two concepts:[6]

(a) Concept of Individualism

Individualism is a concept that sees human as an individual being who is free and not bound to another human. The individual freedom is the one that becomes foundation of every value exists. This concept is also known as liberal individualism ideology. Liberalism guarantees personal ownership and total ownership belongs solely to one person, prioritizes individual interests and the individual itself. The open competition phenomenon is accomodated widely.

(b) Concept of Socialism

Socialism emphasized on the common or general interests. The position of individual is merely an object from the people, while individual rights as basic right is disappeared. Individual rights occur due to the membership of a particular community or group. Socialist hope to establish community which is fair, aligned, free, and prosperous, aside from individual domination of ownership rights and means of production. Radical socialism promotes Marxism and Communism.

Examined closely, Land Rights Act consists of the two concepts. The concept of socialism is mentioned in article 6 that land rights function socially, which means in individual ownership of land rights individual interests will be put aside if the common interests wish to. Meanwhile, the concept of individualism is also considered with the adequate compensation if the common or governmental interests call for individual land rights.

Rights Act confirmed that there are 3 legal subjects of owner of land rights, which at the same time shows three forms of legal relationship between the land and the rights owner:

- (1) The legal relationship that brings forth nation rights (a public legal relationship). The legal relationship of Indonesia with land is possessive. That is because it is personal, which also a reflection of Human Rights: natural, a blessing from God, follows and sticks to the prestige and dignity of the nation. In addition to that, there has to be corresponding with the existence of human in the nation and state. The nation rights over a land is supposed to be regulated in the Constitution of 1945 due to the nation's fundamental rights which is one of the material contents of the constitution, according to the conditions in constitutional law. This particular matter is principal considering the normatization process of basic regulation to the implementation regulation The Basic Agrarian Law.

- (2) The legal relationship between land and state is domination. This relationship is applied outward and inward the area of Republic of Indonesia. The outward relationship is known as a concept of legal relationship within legal protection towards territorial sovereignty of Republic of Indonesia. Meanwhile, inward relationship is known as a concept of legal relationship within the protection of individual land rights and the concept of legal administrative relationship (the government has authority to regulate, organize and supervise land rights which belong to individual from Indonesia nation).
- (3) Legal relationship between individual and land is possessive relationship (a civil legal relationship), therefore individual and private legal entity can have land rights which type is depending on the allocation and development planning.[7]

The existence of those three makes it clear that there are 3 (three) different interests, even three fundamental needs that have to be considered by the government in implementing social justice in order to provide each ownership and land rights. The nation's rights are the most fundamental ones in the regulations of ownership limitation to land rights, which in this case is related to the moral and character of the holder of the politics of the state's agrarian law.

The importance of this nation rights is also related to the natural resource management of Indonesia and its people's welfare, instead of the interests of other states. Nation rights are also closely related to state rights which implement nation rights whether outward or inward, the balance of common interests and individual interests has to be hand in hand with social justice.

The moral and character of authority holder in regulating, organizing, and supervising both individual and communal land rights are really influential to the regulation of ownership limitation to the land rights. Individual rights over a land in The Basic Agrarian Law along with its regulation of implementation is pretty clear, that is within individual or legal entity's rights there is a legal certainty in its ownership, but still needs to consider the common interests (article 6: land rights function socially). The regulation definitely needs to be supported by the implementation which based on social justice, without considering the authority holder.

Natural resources in Indonesia which is related to land, such as forestry, agriculture, plantation, mining, and terrestrial fisheries are Indonesia's wealth assets. In article 33 paragraph (3) of Constitution 1945, it is mentioned that Earth, water, and the whole assets contained in it is controlled by the state and as much as possible would be distributed for people's welfare. The people trust the state as the one who will provide prosperity to them through overflowing natural resources given by the almighty God.[8]

Soedjito's Concept of Social Justice according to Article 5 of Pancasila is that Justice is prevail in the

society throughout many aspects, be it material or spiritual. The material needs for people in any aspect of life related to land are:

- (a) Human's primary needs
 - (1) Food needs are human's primary need to survive. It is constantly improving in both quality and quantity, in line with the increasing population. The attempts to fulfill the food needs usually is done by extensification, widening agricultural land, and intensification, the selection of superior seeds and good cultivation methods. The adequate irrigation and the construction of dams are needed to produce quality agricultural products which definitely needs big number of lands.
 - (2) Housing needs, the function of a house for humans, other than as the place to shelter from heat and rain, is to fulfill the desire of comfort and aesthetics.
- (b) Secondary needs

Human secondary needs occur after the primary ones is fulfilled, especially the needs as the result of humans that needs relationship with other human. Secondary needs are: industry to fulfil humans needs collectively, transportation to deliver things of needs from one place to another, or for humans to travel from one place to another, more assured health, etc.

 - (1) Field of Industry

Field of industry occurs as the result of technology which is a way of human to fulfill their increasing needs, both in quality and quantity. It is not apart from the need of wide land/field to establish factories or for industrial waste disposal.
 - (2) Field of Transportation

Field of transportation is important to support industrial development, as a tool of carriage for industrial products. If transportation cannot keep up with the industrial development, then both industrial or agricultural products may be in vain due to its inability to be quickly delivered to the consumer. The road construction badly needs land/field that is quite a lot, it is also one of the things that must be prioritized.

Human's spiritual needs is the need to maintain or restor the faith and fulfil the religious obligations along with the need to achieve forgiveness, to love and strengthen the relationship with the God.[9]

This spiritual dimension attempts to maintain the harmony with the outer world, struggle to answer or obtain power especially when facing emotional stress, physical illness or even death. The relationship of the human's spiritual need and land can be interpreted as human's need in corresponding with God and as the resting place for human after death, that is the worship

places and grave which also has to be provided by the state.

The material and spiritual needs for humans are something that must be provided by the state aside from the state's needs in order to actualize the state's objectives. The distribution to fulfil human's needs (material and spiritual) and state's needs have to be fair, this justice is vital in relations with political morality.

Justice as *fairness* basically is a political morality which pays attention to the rights and obligation distribution fairly in order to build a advantageous relationship for the whole society, therefore the concept of justice as fairness itself brings forth several requirements of social arrangement which is politically important, especially the ones that is in accordance with the spirit of democraton which puts civil's sovereignty as the milestone towards well-arranged society wherein sovereignty is not taken as rights to prosecute something from someone else, but at once as the obligation to implement the sovereignty itself responsibly. As political morality, *fairness* does not only demand the importance of fair distribution of all available social resources, but also emphasizes the must to admit each individual political rights, the same with the equal right to political participation, rights to civil disobedience, and civil rights to refuse any policy or political decision that is against the conscience (right to conscientions refusal).

Justice as *fairness* can be fulfilled if humans get back to their original position which is an active position, yet this hypothetical position is required so that the justice principles is not affected by dishonest considerations. The definition of *justice as fairness* which concentrates on the original position is actualized by procedural justice. That means, justice has to be based on the ways that can reach common approval instead of on particular values. It does not mean it disowns fundamental values of substantial moral, instead it enhances the substantial value on togetherness, that is the right for one to be a human. Briefly, justice consists of equality and respect.

The definition of justice is divided into two aspects that are formal and substantial:

- (1) Justice is formal aspect
 - (a) Suitable and/or meet the applicable legal regulations
 - (b) The regulations attempt, guarantee, and provide an equal relationship in fields of life such as economy, social, politics, culture, technology, etc.
 - (c) Equality is established to resolve the natural obstacles that causes development inability in certain individuals.
 - (d) The regulation comes in a form of procedures.
 - (e) There is a dependency and/or influence from the regulatory authorities.
 - (f) Justice is dynamic and not well established.

- (2) Substantial Justice
 - (a) Justice was born as the primacy of nature.
 - (b) It has ethical and moral values.
 - (c) It is generally approved as a virtue to other individuals or groups.
 - (d) It gives what is worth achieved by individuals upon their efforts.
 - (e) It opens access and participation for each individual.

Justice is not merely about providing something worth given to someone, it also means an exclamation and faith to the existence of moral responsibility to fulfil the public living space with solidarity and dignity.

Social justice is one of many kinds of justice. It can be defined not as an individual moral, but a social moral problem that is related to structural impersonal problems which means social justice problem is not determined by good or bad will of certain individual, yet it depends on the authority structures that exists in the society such as economic, political, and cultural structures. Social justice according to the social functions among the society has to be distributed in such a way thus it reaches the people even the ones in the lowest level.

Referring to the diverse identity throughout the society, Nancy Fraser also defines social justice comprehensively. According to Nancy Fraser, social justice refers to 2 (two) things, which are redistribution and recognition problems.[10] The tendency that occurs in the development of political social ideas is to separate and differentiate two types of those views.

Redistribution problem focuses on the economic structure in the society. The attempts to cope with this problem include income distribution program, organizational arrangements of labor, democratization of investment policy formulation procedures or alternation on other basic economic structures.

The recognition problem has inequality target in the field of culture which is considered as rooted in social problem such as representative, interpretation, and communication problems. The attempts to deal with this inequality is the respect toward identity, cultural products from marginalized groups, including attempts to recognize cultural difference. All of it is done according to the attempts of radical change toward social-based problem, that is transformation and representative, interpretation, and communication. Therefore, it can change the people's awareness upon identity diversity.

According to those views, there are two ideas:

- (a) The first idea is that social justice can be viewed from side of normative philosophical, social-theoretical issues, and practical problems. It contains synthesis between political distribution attempts and political recognition. Nancy Fraser states, "*no redistribution without recognition and no recognition without redistribution*". The example of this idea is emerged in the social welfare programs that usually becomes the main characteristics of the welfare state. The social welfare programs have targets such as a group of

less fortunate people that is not only in need of material aids, but also in needs of welcome and hospitality from their social environment. There is always be linkages between attempts of economic distribution and social recognition.

- (b) The second idea is the concept of parity of participation. Based on this concept, justice, specifically social justice, needs a social regulation that allows every member of the society to interact each other as a group. For that, the conducive situation is required to make it successful, such as:

- (1) The distribution of materiil source must be such as to ensure participants independence and "voice".
- (2) Instituionalized cultural patterns of interpretation and evolution express equal respect for all participants and ensure equal appportunity for achieving social esteem.

The responsibility to sustain social justice does not only belong to the state, but also to economic agents and people in general. The state in this context acts as a facilitator, regulator, and even the mediator which intervenes when it is necessary thus the access to the ownership, usage, and the utilization of land and natural resources for people, specifically farmers and farm workers, can be more open and well-provided.

The process of transformation from agrarian society to industrial society, the problem of social justice still prioritizes the farmers, because the ones who work in the agrarian sector has been sacrificed for industrialization. Land acquisition, land procurement whether for construction or revocation of land rights is the sectors that has been causing casualties. Even though the physical establishment has been becoming the part of Indonesian daily activities, the signs to keep an eye to supervise the deviation in the implementation must be enacted and applied tightly. If not, then the manifestation is the anarchist acts and oppression from the superior to the inferior.

III. CONCLUSION

The politics of national agrarian law shows that the ownership limitation to the land rights has not been implemented as it was expected. The concept of limitation on ownership rights has not been operated according to the applicable regulations. Acts No. 56 of 1960 on Width Limitation of Agricultural Land has not been implemented optimally.

Social justice can be viewed from side of normative philosophical, social-theoretical issues, and practical problems. It contains synthesis between political distribution attempts and political recognition. The social welfare programs have targets such as a group of less fortunate people that is not only in need of material aids, but also in needs of welcome and hospitality from their social environment. The second idea is the concept of parity of participation. Social justice needs a social

regulation that allows every member of the society to interact each other as a group. The responsibility to sustain social justice does not only belong to the state, but also to economic agents and people in general.

The state in this context acts as a facilitator, regulator, and even the mediator which intervenes when it is necessary thus the access to the ownership, usage, and the utilization of land and natural resources for people, specifically farmers and farm workers, can be more open and well-provided.

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