



Redistribution of Land for the Plantation in Indonesia

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Abstract. Farmers and fishermen have a very strategic position in fulfilling the food of the Indonesian people. So it is necessary to increase agricultural and fishery commodities. Agrarian conflicts and land disputes are one of the frictions that interfere with the effectiveness of agricultural and fishery life. There are at least two triggers for agrarian conflicts, firstly the lack of precise laws and policies governing agrarian issues, both related to views on land, land status, and ownership, land rights, as well as methods for obtaining land rights. Second, inaction and injustice in the process of resolving land disputes, which ultimately lead to conflict. Therefore, Agrarian Reform is here to narrow the inequality of land tenure and ownership, which in fact will provide new hope for change and distribution of socio-economic equality of society as a whole. Agrarian Reform following Presidential Regulation of the Republic of Indonesia Number 86 of 2018 is a restructuring of the structure of control, ownership, use, and utilization of land that is more equitable through Asset Management and accompanied by Access Management for the prosperity of the Indonesian people. The implementation of Agrarian Reform is carried out through the stages of Asset Management and Access Arrangement. Asset Management consists of Land Redistribution and Asset Legalization. Access arrangements are carried out on a cluster basis to increase economies of scale, add value and encourage entrepreneurial innovation on Agrarian Reform Subjects.

Keywords: agrarian reform · land redistribution · conflict

1 Introduction

Agrarian is closely related to the scope of agrarian in the narrow sense of the land. In this case, the land in question is one of the agrarian reform programs, namely land reform where for Indonesia, what is meant is an equal distribution which is the political will of the government [1]. So that it is called land reform, and it is an activity that is directly related to the effort of “equal distribution”, this is a strategic place and will play a major role in carrying out a land tenure arrangement to realize social justice for all Indonesian people. This means that there is equal distribution of land for cultivators to their mainland. The targets for this land reform program include several activities, namely redistribution of agricultural land, the maximum area of agricultural land tenure,

absentee/guntai land, compensation for agricultural land, agricultural land production sharing, and agricultural land pawning.

One of the mainland reform activities is the redistribution of agricultural land sourced from land reform object (TOL) as the object land. This activity has also been carried out since 1961 since the beginning of the land reform program, this land redistribution is the government's effort to increase land ownership for farmers who do not own agricultural land and farmers who have narrow agricultural land ("small farmers").

Land redistribution is an activity whose initiation comes from the government to be able to distribute the land object of this land reform fairly and equitably to all recipients of agricultural land who meet the requirements to improve their welfare, where the agricultural products are not sufficient to support the life of the farmer's family before this activity is carried out. Therefore, the redistribution of agricultural land is expected to be a system that can improve the problem of inequality in the control and ownership of agricultural land [2]. The redistribution of agricultural land which was carried out from 1962 to 2009, according to data, has redistributed agricultural land with an area of 1.58 million hectares to 1.74 million farming families with an average area of agricultural land distributed 0.91 hectares per head of the family [3].

However, the continuity of land redistribution activities does not rule out the possibility that agrarian conflicts will arise in Indonesia which cannot immediately be released from the root of the problem, namely through the pattern and structure of control of agrarian sources. Patterns of unequal land tenure have led to various problems regarding land that have arisen. Agrarian conflicts include plantation conflicts in land redistribution activities, which are basically on plantation land the object of this redistribution is plantations. It is around these plantations that are in direct contact with plantation administrators, on the other hand, the majority of the people living around plantations are groups of poor people, smallholders who do not own land, who of course depend on farming for their lives but do not own land.

For the case of land redistribution in Indonesia, there are at least two types of problems, namely first, the imbalance between the availability of land for activities to make profits from capitalized companies and providing land for smallholder agriculture. The occurrence of this inequality shows the overlap between the policies on the division of territory (*land zoning*) with lands that are the object of forest and non-forest areas. Second, is the unequal distribution of land for the farmers' land.

2 Methods

This legal research conducted there using normative legal research. The normative juridical approach is an approach based on the main legal material by examining the normative juridical approach is an approach based on the main legal material by examining the theories, concepts, legal principles and laws and regulations related to this research.

Normative legal research is also called doctrinal legal research. According to Peter Mahmud Marzuki [4], normative legal research is a process to find a rule of law, legal principles, and legal doctrines in order to answer legal issues faced by theories, concepts, legal principles and related laws and regulations. With this research. That is used is regarding the arrangement of agrarian reform, existing laws and regulations.

3 Agrarian Reform

This agrarian reform activity has been contained in the Basic Agrarian Law (UU No. 5/1960), particularly in Articles 7, 10, and 17, although this is only an idea for agrarian reform. Bernhard Limbong [5] explained that the UUPA has a program of *agrarian reform* (agrarian reform), it is stated that: **First**, the renewal of national.

Agrarian law has gone through legal unification. **Second**, for the abolition of foreign rights and colonial concessions to land. **Third**, regarding the gradual end of feudal rule. **Fourth**, to reform the structure for ownership and control of land rights for the realization of equitable distribution of prosperity and justice. **Fifth**, planning for the supply, designation, use, and utilization of the earth, water, space, and natural resources contained therein under their carrying capacity and capabilities.

Agrarian reform their carrying capacity and capabilities. *Reform* that has been mentioned has been stated to be following the current developments, therefore agrarian reform is implemented, which consists of regulatory reform, asset reform, and access reform, with the following details:

3.1 Regulation Reform

At a certain time, regulations or regulations no longer support the realization of agrarian reform, thereby hampering the realization of welfare and social justice for citizens. Maria SW Soemardjono [6] states that there are five characteristics of sectoral legislation, namely:

First, exploitation-oriented, which ignores the conservation and sustainability of natural resource functions and is only used as a tool to achieve economic growth through increasing income and foreign exchange. **Second**, it is more in favor of large investors. **Third**, the ideology of control and utilization of natural resources is centered on the state so that it has a centralized pattern. **Fourth**, when coordination between sectors is weak, resources are managed sectorally. **Fifth**, it does not provide proportional protection for human rights.

Meanwhile, Muhammad Ilham Arisaputra in the context of agrarian reform, explained that agrarian reform is always related to economic and political power, as well as the relationship between the two. Therefore, agrarian reform must include: **First**, agrarian policy instruments that refer to relatively small changes, such as subsidies and tax rates. **Second**, structural changes that can change the structure of agriculture, such as credit programs, and investment in infrastructure. **Third**, institutional reforms can change the basis of the rural economy and society, such as land redistribution and changes to the collective land rental system [7].

Regulation reform or regulatory reform is an important element in implementing agrarian reform. Structuring and regulating a policy and law that favors the people, especially for small farmers or small farmers, also needs to be implemented through the implementation of asset reform (*asset reform*) and access reform.

3.2 Aset Reform

For smallholders or smallholders and most of the Indonesian people, the land is a valuable asset that should be protected. In terms of being an asset, then in terms of control

and ownership of land parcels as well as in carrying out its administration, it is an important thing, and there is a need for reform. Whereas asset reform can be used as the basis for social and economic development, in a society that can become advanced and democratic. As is well known, asset reform is divided into three main concepts, which can be implemented in an integrated manner. These three main conceptions consist of *land reform*, *land redistribution*, and *asset legalization*, the details of which are as follows:

3.2.1 Land Reform

In his book, Boedi Harsono [8] explains that *land reform* is a series of activities carried out in the context of *agrarian reform*, which may include reforming the structure of land tenure and ownership, as well as legal relations related to land tenure. Therefore, according to Lipton [5] in this land reform activity, it is necessary to carry out a mandatory land acquisition. Where the expropriation is carried out by the state from the owners of large lands, by providing compensation so that the expropriation of the land can provide optimal benefits for all parties, especially for farmers. Similar to the previous statement, AP Parlindungan [1] revealed that there are political aspects to *land reform*. He also explained that *land reform* has a statement that “*land to the tiller*”, which can be useful as an encouragement for smallholders in dealing with *landlords* or landlords.

Based on the views of agrarian experts such as Boedi Harsono, Lipton, and AP Parlindungan above, of course, it shows a close relationship between *land reform* and the expropriation of land by the state against large land owners or, landlords to then be distributed to land or land owners. narrow or *tiller*. This is what underlies the existence of a land redistribution activity in the implementation of *land reform* or *asset reform*.

3.2.2 Land

Redistribution Land redistribution is regarding the expropriation of agricultural lands that exceed the maximum limit set by the government, which is then distributed to landless farmers [9]. Russet King [10] also stated that land redistribution is expropriation of part of the land, or the entire land belonging to the landlord, which is then handed over to farmers with narrow lands or farmers who do not own land. To complete Russet King's explanation above, E. Jacoby [10] explained that land reform has three stages, namely: land acquisition, land redistribution, and adjustment of new agricultural units.

The views of Russet King and E. Jacoby are further complemented by Diyan Isnaeni [11] y revealing that the objectives of land redistribution are: **First**, to make a fair distribution of the people's sources of life, namely land. **Second**, to implement the principle of “land for farmers”, so that land is not used as an arena for speculation by speculators. **Third**, to end the existence of the landlord system and abolish the control and ownership of land on a large scale. **Fourth**, to strengthen and expand the land ownership rights of every Indonesian citizen. **Fifth**, to increase national production and encourage intensive implementation. **Sixth**, to reduce poverty and create new jobs for the poor. Therefore, when in the context of this land reform, the state has taken over land from large land owners with compensation being given, then land redistribution is a very important next stage.

3.2.3 Asset

Legalization Asset legalization can be defined as a land administration process, which includes adjudication, registration of land rights, and issuance of land rights certificates [12]. It is known that the adjudication process is a series of activities, which consist of: **First**, the collection of physical data and juridical data. **Second**, is the announcement of physical data and juridical data. **Third**, the determination and/or issuance of a decree on the recognition or granting of land rights.

After the legalization of assets, the participants of agrarian reform or recipients of the land redistribution program have had strong evidence of ownership of their land. Therefore, some parties say that asset legalization activities are also called “asset strengthening”. But some parties give a more technical term, namely “land registration”. For some people, this designation is more juridically correct, because it is following the terminology in Government Regulation Number 24 of 1997 concerning Land Registration.

3.3 Access Reform

Access reform relates to structuring the use or utilization of land that is more productive accompanied by structuring support for facilities and infrastructure that allows farmers to gain access to economic resources in rural areas [13]. Such access includes access to agricultural facilities and infrastructure, irrigation, roads, farming, production marketing, farming cooperatives, and banking (people’s business credit) [7]. In this case, the government only acts as a facilitator by providing these facilities and infrastructure, but these activities are still under the supervision and responsibility of the government. The government provides facilitation of access to the community, both to land or land as well as access to land or land supporting instruments, one of which is in the form of capital, either in the form of credit or sourced from the APBN or APBD [7]. However, in terms of the exploitation of land or land, it is entirely the personal responsibility of each beneficiary.

4 Social Welfare

As previously explained, one of the objectives of this land redistribution activity is a welfare and social justice. Welfare and social justice still need hard work to achieve them. While in this land redistribution activity until now there have been several land conflicts in it, especially for plantation lands, there is an imbalance and overlap between landowners or owners of large capital who seek profit with smallholders as recipients of land redistribution. R. Krenenburg [14] stated that a country must actively strive for prosperity and act fairly so that it can be felt by all people equally and in balance. The state is required to be able to expand its responsibilities to the economic problems faced by the people. Therefore, according to Joseph Agassi [15] there are four types of states in the context of welfare, namely the traditional state, the collective state, the individualist state, and the welfare state.

Meanwhile, Bernhard Limbong [14] said that social welfare is a condition in which the fulfillment or accessibility of service to the community’s needs. Bernhard Limbong’s

explanation was then supplemented by Muhammad Ilham Arisaputra [7] who explained that social welfare is an organized function of a set of activities to provide the possibility for individuals, families, groups, and communities to cope with the problems they face.

Within the scope of this agrarian reform, social welfare can be interpreted where conditions are met or the service needs of the agrarian reform community are reached. Besides that, social welfare is also interpreted as an organized function in agrarian reform activities, to be able to provide possibilities for the community/farmers (recipients of land redistribution) in overcoming the problems they face.

5 Social Justice

The Stanford Encyclopedia of Philosophy In social justice, Michael Slote in “*Justicia as a Virtue*” (2010) published in The Stanford Encyclopedia of Philosophy [16] describes three philosophical views on justice, consisting of **First**, Plato’s view, that justice is a virtue (*virtue*), which arises from individual reflective efforts regarding a good way of life, and following ethics. **Second**, Aristotle’s view, is that justice which is a virtue does not only arise from the individual but also appears in a wider scope in the community.

On the other hand, John Rawls [17] said that good justice is contractual justice, which guarantees the interests of all parties *fairly*. In justice as *fairness*, there are two important principles, namely: **First**, the principle of freedom, where everyone should be able to have the same rights to the broadest basic liberties, as wide as the same freedom for everyone. **Second**, the principle of inequality, concerning social and economic inequalities must be regulated in such a way, to benefit everyone, and all positions and positions must be open to everyone.

When justice is touched with social aspects (society), then the term “social justice” emerges. As is well known, social justice is justice related to social or moral morals in society. Friedrich von Hayek) [16] explains, that there are differences in the mention between individuals and society in the context of social justice. He said that individuals are called “*agents*”, while society is called “*society*”.

Social justice is closely related to human rights in everything that can support life. Agrarian in the narrow sense of this land can be said as a supporter of human life so that later its management needs to fulfill the principles of social justice, which is very relevant to the ultimate goal of agrarian reform activities.

6 Conclusion

For the case of land redistribution in Indonesia, the first is the imbalance between the availability of land for profit-seeking activities from capitalized companies and providing land for smallholder agriculture. However, this has a rule that minimizes this, investors who own land are obliged to 20 percent of the total area of land cultivated (Ministry of Agriculture No. 26 of 2007 Article 11).

Second, the unequal distribution of land for farmers’ land. On the problem both of these that until now are required for data verification. Verification of this data applies to farmers or parties who are entitled to the land of the object of redistribution by applying the precautionary principle and involving the community.

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