



# Analysis of Government Commitment Regarding the Land Conflict in Indonesia

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**Abstract.** This article aimed to find out the results of the analysis and to provide knowledge and insight regarding the government's commitment to resolving unresolved land conflicts. The juridical-normative research method was utilized in this paper, meaning library law research, which was carried out by studying library materials or secondary data using a statutory approach (statue approach). The research findings revealed that the ideal goal that this Republic intended to achieve when Law Number 5 of 1960 concerning the Basic Agrarian Regulations was promulgated was the prosperity of the people, particularly farmers, and the absence of conflicts. One of the conflicts that existed before the passage of this law was due to the prevalence of legal duality in agrarian concerns. It is envisaged that the unification of agrarian laws will be able to answer and provide solutions to current issues. It turned out that the more agrarian regulations were established, the more new difficulties were introduced. Changes in conflict patterns and characteristics occur in tandem with the development of people's lives; changing mindsets and views on agrarian, particularly land, require the search for conflict resolution patterns that will lead to a humane resolution of land conflicts based on principles of benefit and justice.

**Keywords:** Government Commitment, Land Conflict, Indonesia

## 1. Introduction

The strengthening of post-reform civil society has resulted in the emergence of various community aspirations, both related to governance and related to various social institutions. The government's unequivocal commitment to resolve the country's agrarian disputes. The assertion was made by the Head of State during the presentation of land certificates to the public at the Bogor Presidential Palace. "I remind you once again that the government is fully committed to eradicating the land mafia." [1] However, until now, aspirations have been accommodated proportionally, resulting in a variety of societal issues. Problems related to agrarian resources are one sector that clearly shows the existence of these social tensions. Land disputes, in general, can be defined as disagreements over land rights, whether agricultural, plantation, or mining land, between farmers and the government and private sector about land management. [2]

The politics of agricultural law in Indonesia are inextricably linked to the

aforementioned issues. The UUPA, or Law Number 5 of 1960 Concerning Basic Agrarian Regulations, grants the state very broad rights over agrarian resources through the concept of the "right to control by the State" (HMN). Originally, this concept was developed to remove the concept of domain verklaring, which was used by the colonial authority to "seize" indigenous peoples' land. This HMN in its growth is virtually identical to the concept of virtual domain in the colonial period.[3]

Until now, this conflict has not been satisfactorily resolved and has even seen a stalemate in the resolution process. This is due to the problem's high level of complexity, with issues relating to law, politics, the economy, and the rights of local people. As a result, the rights of individuals who have been managing certain land or farms for centuries are being neglected.

When compared with previous research that has been conducted. One of them was conducted by a research team led by Mr. Achmad Hariri in his research entitled "Corporate vs Community Head to Head: The Complexity of Land Tenure Conflict in Indonesia" which examines land conflicts that occurred at the end of 2018, residents replanted the land with thousands of banana stems. In January 2019, Pakel residents were reported by P.T. Bumi Sari; police summoned 11 residents. In 2020, residents set up a post and planted for six months. However, in 2020 PT Bumi Sari claimed to have obtained the latest Cultivation Rights Title (Hak Guna Usaha), which included several villages within their Cultivation Rights Title (HGU). However, the village head and residents of Pakel Village did not have copies of the documents. The study concluded that the reclaiming carried out by Pakel residents is the right of Pakel residents in accordance with the objectives of the Basic Agrarian Law (UUPA), namely for the prosperity, happiness and justice of the State and the people, especially especially for the peasants. The Cultivation Rights Title of P.T. Bumi Sari is not in accordance with the laws and regulations stipulated in the UUPA and Government Regulation of the Republic of Indonesia Number 40 of 1996 concerning Cultivation Rights Title, Building Rights Title, and Land Use Rights.[4] However, even if it is finally resolved, land conflicts like this take a long time to be legally resolved.

After comparing with previous research with the same issue of study, a basic conclusion can be drawn that although studies and research have been carried out to find the latest solutions to date, land conflicts have not been resolved satisfactorily and have even experienced a deadlock in the resolution process. This is due to the high level of complexity of the problem, with issues relating to law, politics, economics and the rights of local communities. As a result, the rights of individuals who have managed certain lands or farms for centuries have been overlooked.

## 2. Problems

The problem can be formulated as follows based on the above background:

- a. How committed is the government to resolving land issues?
- b. How are the government's efforts in realizing its commitment to resolve land conflicts?

### 3. Method

This article was written using the juridical-normative research method. Library law research is a normative juridical research method that involves evaluating library materials or just secondary data.[5] About the juridical-normative research method, the approach taken in this paper is the statutory approach which is the main source of reference.

### 4. Discussion

#### 4.1. The Importance of Land for Life

The Earth's terrain is a divine bestowal upon humanity. The land is an essential human requirement. The need for land extends from providing shelter to serving as a wellspring of life from birth to the end of life's journey. The land is where humans live, work, and play, as well as where they come from and where they are headed. This tract of land encompasses economic, societal, cultural, political, and environmental facets in this context.

Land has always been the most important factor in determining the production of each period of human civilization. It transcends its high economic value to encompass profound philosophical, political, social, and cultural significance. Consequently, land emerges as a unique asset that perpetually gives rise to multifaceted and intricate social deliberations.

As conveyed by the Ministry of Agrarian Affairs and Planning/National Land Agency (ATR/BPN), between 2022 and 2023 there were 8,111 unresolved land cases in our country, the Republic of Indonesia. Of these cases, a total of 4,211 were identified as dispute cases, 550 were conflict cases and 3,290 cases were litigation in court. From the records of the ATR/BPN Ministry, this is a case of a dispute over land ownership.[6] The majority of cases involve ownership disputes, such as a plot of land that is already owned by another person, but other parties are claiming to own the land object by showing physical evidence or other documents stating that the person concerned believes he has certain legal evidence, which can lead to further disputes or new disputes, such as the Wonorejo Blora land conflict, which lasted up to 28 years and was not resolved.[7]

Land, as the most important agrarian resource, is a much-required source of production, therefore various interests require it. The growth of the population and the associated needs are becoming increasingly disproportionate to the land area, which has never risen.

The rise in land use produces varied patterns and forms of human-land relations, which in turn causes advances in the field of normative land law, both written and unwritten rules. These changes have altered people's attitudes towards land, whether in terms of ownership, control, or use.[8] This can be noticed when examining the transition from an agrarian to an industrial civilization. The association between humans and their land in an agrarian civilization is religio-

magical-cosmic, particularly the relationship between humans and land that emphasizes collective control.[9] In a society that is starting to leave dependence on the agrarian sector (towards an industrial society), human relations with land refer to relationships that are individualistic and economically oriented. The change in the form of this relationship is increasingly evident with the development of land law, especially written law which tends to approve individual ownership. Land for human life is highly vital in meeting their needs.

Humans have been "introduced" to the value of the land since birth, so a person's life is never separated from the "business" of the land. Naturally, it is stated that humans have been conditioned for generations to always interact with the earth as a location where they dwell. How much land means to someone to the extent that their life is jeopardized if it is harassed or seized? For the Indonesian people, the land is not only of economic value but also contains magical values/bindings as a source of life when it is in the mother's womb and contains historical, psychological, and monumental values.

The rate of population expansion is strong, yet the condition of the land does not improve, resulting in a large population requirement for land. Even though there is still a lot of uncultivated land, the high demand for land by landless farmers makes land problems extremely complex. This complication is exacerbated by the issue of unintegrated land administration. Land issues are prone to conflict due to unequal ownership.[10]

As a result, humans are expanding their attempts to acquire land to attain their various aims in land utilization. If the business is not properly supervised, land grabbing, occupancy, and taking will be obvious, and there may be bloodshed, monopoly, neglect (in the sense that the use or benefits of land are not maximized), injustice in using or utilizing land, space, and the like.[11]

Land is the fundamental capital of human life. Land, as a basic capital, serves two functions: production and non-production. The requirement for land use frequently clashes, given that there is a limited quantity of land area available, and, on the other side, there is an explosion in population expansion.

When there are two meanings for the importance of land, it becomes very important. Land can be viewed as having economic value, but it also has non-economic purposes (religious-magical and social value of land). It was around this period that a land dispute arose that did not appear to be easily resolved. History demonstrates that conflicts, carnage, and all wars on our planet have been triggered more by a struggle for control of a piece of land. A Western academic compares land to a diamond or gemstone with multiple sides; the land is sometimes viewed as space, nature, factors of production, consumer goods, property, and capital.

Furthermore, many consider land as an item tied to the creator (God), related to society, giving rise to the concept that land is the universe, and the notion that land is as savings, making the land an asset (wealth). The importance of land for human survival will result in an intense relationship between humans and their land. A dialectic will emerge in the relationship between humans and the land, lending its

own 'color' to human life in society. This relationship has the potential to determine and impact the entire structure of human relations with humans, humans and society, and even human relationships within a country.[12] Land tenure arrangements were initially discovered in the form of unwritten regulations, which arose and were made collectively by the community, and which apply and are obeyed only by the unity of the society. In Indonesian legal literature, such restrictions are referred to as customary law and customary land tenure rules.[13]

Land Law arose as a response to human interest in land. Land ownership is restricted by laws. Land cannot be free of its regulation based solely on private/individual relationships, but land is a state domain. The land is a source of a nation's prosperity, and when it comes to the nation, the state takes an active part in land management and utilization. Article 33 (3) of the 1945 Constitution establishes a legal framework for the management of natural resources, one of which is land. This is the fundamental principle of the state's right to manage land, to achieve a degree of prosperity for the Indonesian people. In practice, however, there have been several land conflicts.

Even though the government has committed to resolving land conflicts, they are difficult to resolve. This is comprehensible given that the dimension of land tenure includes not just authority over a tangible object in the form of land in plain sight, but also a societal conviction that land has a significant magical religious worth. The influx of investments that view land as a physical object with purely economic value will be met by people who believe that land has sacred value as well as economic value because it is on this land that one is born, one's parents are buried, and one's self-esteem is raised through mastery over the land. In summary, there is a monumental value to the land. Indigenous peoples' existence as 'native' Indonesians has long been a social reality. It has existed for hundreds of years, as evidenced by the presence of distinct human groups with life arrangements in a certain location. Their relationship is always founded on a shared philosophy of life, which is characterized by togetherness and kinship.[14] *Ulayat* rights are a set of powers and obligations for communities governed by customary law about land in their area or environment. Some of these powers and obligations fall under civil/private law, such as joint rights to the land they occupy, while others fall under general or public law, such as the authority to organize and manage, regulate and determine allotment, control, use, and maintenance over agrarian resources under customary rights.[15]

#### **4.2. Definition of Conflict**

Land conflict represents an enduring and traditional quandary persisting for extended periods, spanning years or even decades, and maintaining a ubiquitous presence across various locations. Land disputes and conflicts are examples of complicated and multi-dimensional problems. As a result, efforts to avoid, manage, and resolve must consider a variety of legal and non-legal factors. The management and resolution of land disputes and conflicts can often encounter complexities arising from conflicting interests. Achieving equilibrium or mutually beneficial outcomes in addressing these concerns requires intricate efforts, which are inherently intricate. As a result, the comprehension of the sources of the conflict, alongside the factors that sustain and

incite it, becomes imperative for devising effective strategies and resolutions. The overarching objective is to mitigate land disputes and conflicts to the greatest extent possible by addressing their fundamental underpinnings, simultaneously fostering an enabling environment that upholds legal certainty and facilitates the realization of equitable agricultural justice.[16]

Conflict is derived from the Latin word *configere*, which means to collide. Conflict is described sociologically as a social process between two or more persons (it might also be a group) in which one party attempts to eliminate the other side by destroying it or rendering it weak. Conflict may also be defined as a type of social interaction that occurs when two people have opposing interests and lose harmony with one another. Essentially, conflict is a normal occurrence that occurs frequently in everyday life.[17]

Conflict arises when a group strives to defend its interests. Conflict, whether for profit, security, or glory, will result in death, according to Hobbesian terms as well as Susetiawan. Max Weber established that conflict cannot be avoided in social interactions. Peace is nothing more than a shift like the conflict, whether in terms of opponents or objects of contention or, ultimately, in the possibility of selection.[18] Conflict is an important aspect that is frequently encountered when interacting in society. Experts, practitioners, and academics all have different perspectives on conflict resolution. Here are several definitions of conflict:

*Conflict is a social life legacy that can develop in a variety of conditions as a result of persistent conflicts, controversies, and disagreements between two or more parties.[19] Conflict is an expression of conflict between individuals, groups, and other groups for a variety of reasons. Conflict, according to this viewpoint, denotes differences between two or more individuals that are expressed, remembered, and experienced.[20]*

From the several definitions of conflict presented by the experts above, it can be concluded that conflict is a dynamic process and its existence is more related to the perceptions of people or parties who experience and feel it. Thus if a situation is not perceived as a conflict, then basically the conflict does not exist, and vice versa.

### **Definition of Agrarian Dispute/Conflict**

Land dispute can be described as a conflict arising from a connection between individuals or entities concerning matters related to land resources and natural assets present either on the surface or within the depths of the earth. The terms land disputes and conflicts are frequently used interchangeably to indicate the same thing. However, the two names have distinct properties.

The Regulation of the Head of BPN RI Number 3 of 2011 concerning the Management of Land Case Study and Resolution sets forth limitations for instances of land disputes, conflicts, and cases by the BPN RI. As defined in Article 1 of the aforementioned regulation, land cases encompass situations involving land disputes, conflicts, and cases that are formally presented to the BPN RI for proper management and resolution, in alignment with pertinent laws, regulations, and national land policies.

### a. Land Disputes

Land disputes pertain to disagreements over land between individuals, institutions, or legal entities, and they lack significant socio-political ramifications. This particular emphasis on the absence of widespread influence is the key factor differentiating the characterization of land disputes from that of land conflicts. These disputes can manifest in various forms, including administrative disputes, civil disputes, and criminal disputes related to matters such as ownership, transactions, registration, guarantees, utilization, control, and *Ulayat* land rights.

### b. Land Conflict

Land conflicts encompass disputes over land involving individuals, organizations, or even legal entities that either exhibit a propensity for or have already demonstrated a significant socio-political repercussion.

### c. Land Cases

Land cases refer to land disputes that are subject to resolution through judicial processes or court rulings, and these disputes are currently under consideration for handling by either the BPN RI or the judiciary.

## Roots of Land Conflict

The root of land conflict is a foundational element giving rise to such conflicts. It holds significant significance to acknowledge and methodically classify the underlying causes of land conflicts, thereby enabling the creation of efficacious remedies or strategies for resolution. Land conflicts typically emanate from two distinct categories: legal factors and non-legal factors.[21]

### a. Legal Factors

Some of the legal factors that have served as the roots of recent land conflicts include:

#### 1) Overlapping regulations

The UUPA serves as the foundational framework for regulations encompassing the wider sphere of agrarian resources. In the course of its development, numerous legislations and regulations addressing agrarian resources were enacted, yet the UUPA was not designated as the principal legal instrument. Instead, it was positioned on par with other agrarian laws. Originally conceived as the overarching legal framework for land policy in Indonesia, the UUPA eventually encountered operational challenges and significant incongruities in relation to the issuance of various sector-specific laws, including the Forestry Law, Mining Law, Transmigration Law, and other related statutes.

#### 2) Judicial overlap

Currently, three legal entities are authorized to address land disputes: the civil court, the criminal justice system, and the state administrative court (TUN). In specific instances of conflict, it is important to note that prevailing as the

victorious party in a civil proceeding does not inherently ensure a corresponding triumph in a criminal context, particularly in cases where the conflict is accompanied by unlawful behavior.

b. Non-Legal Factors[22]

1) Overlapping land use

Over the passage of time, the swift expansion of the population has led to a heightened populace, while the production of sustenance has remained stagnant or potentially declined. This can be attributed to the conversion of numerous agricultural lands for alternative purposes. It is unavoidable that multiple interests will exist on the same piece of land.

2) The economic value of land is high

There exists a presumption that, apart from gold, the value of land will appreciate over the course of time, thereby augmenting the challenges associated with land acquisition.

3) Public awareness increases

The presence of worldwide advancements and the escalating progress in scientific and technological fields contribute to a heightened level of public consciousness. This, in turn, has prompted a transformation in societal perceptions. Regarding land's role as a developmental asset, a change has occurred in societal perspectives regarding land ownership. Property is no longer perceived merely as a mechanism for production; rather, it has transitioned into being recognized as a conduit for investment or a tradable economic commodity.

4) The land remains the same, but the population increases

The swift expansion of the population, propelled by both natural births and migration, along with the process of urbanization, in conjunction with the finite supply of available land, transforms land into a valuable economic asset. As a consequence, each patch of ground becomes fiercely contested, with strenuous efforts made to safeguard its use and control.

5) Poverty

Poverty, a complex challenge, results from the intricate interplay of numerous interconnected elements. Among the factors exacerbating poverty is the inadequate accessibility to land, a circumstance intensified by the constrained assets and productive resources available to individuals grappling with poverty.

### **Typology of Land Conflicts**

The typology of land conflicts refers to the various sorts of conflicts, disputes, and/or land cases that are reported, raised, and resolved. The Indonesian National Land Agency addresses a total of 78 distinct types of land conflicts, all of which encompass matters connected to land possession and ownership. These include variations in



perspectives, principles, or viewpoints, as well as vested interests in the tenure status of specific lands that are unclaimed or unencumbered (state land), or those affiliated with certain parties' rights:[22]

- a. Rights Determination and Land Registration, which entails divergent viewpoints, principles, or stances, as well as vested concerns concerning the procedure for ascertaining rights and registering land. Such differences can be disadvantageous to other parties, consequently casting doubt upon the validity of determinations or permissions within the land sector;
- b. Land Parcel Boundaries or Locations, encompassing differing interpretations, valuations of interests, and opinions concerning the location, demarcation, and dimensions of land parcels. These interpretations might be recognized by one party but have either been established by the BPN RI or remain under the process of boundary determination;
- c. Land Acquisition, involving dissenting perspectives, vested interests, divergent perceptions, or underlying principles that question the legality of land rights procured through the land acquisition process. This facet further extends to the legitimacy of the procedural framework, the execution of land release or acquisition, as well as the intricate subject of compensation;
- d. Land Reform Subjects, entailing variations in outlooks, values, or attitudes, alongside diverse interests that intersect with methods of validation, control, and the standing of ownership. This segment delves into the intricate process of determining compensation, the subject matters at hand, and the intricate allocation of land resources in alignment with land reform initiatives;
- e. The realm of Claims for Private Land Compensation, encompassing variations in perceptions, interests, and guiding principles, all of which orbit around governmental determinations pertaining to compensatory measures for private land that has undergone expropriation;
- f. *Ulayat* Land, involving variations in viewpoints, values, opinions, and interests pertaining to the position of *Ulayat* and customary law communities in relation to distinct geographical zones. This domain specifically addresses the determination of whether land rights have been conferred or remain pending, yet the land remains controlled by other parties; and
- g. The execution of court judgments, specifically pertains to variations in viewpoints, principles, or stances, and vested concerns concerning judicial rulings concerning either the subject or object of land rights, or in regard to the procedural aspects governing the issuance of specific land rights.

Upon meticulous examination, it becomes apparent that certain aspects of previous analyses of agrarian conflicts hold validity. For example, Maria SW Sumardjono emphasized that various agrarian conflicts were caused by people cultivating land into forestry or plantation areas, violations of land reform provisions, efforts to provide land for development purposes, and, various civil problems.[23]

Another noteworthy aspect to consider regarding the attributes of agrarian conflicts is the observed transformation in patterns from the post-independence phase to the New Order period. In the post-independence epoch up until the late 1960s, conflicts primarily transpired within rural communities, involving sharecroppers and landlords. Conversely, in the 1980s until the culmination of the New Order regime, conflicts shifted to encompass conflicts between local landholders and prominent investors, as well as government entities.[24] However, based on this research, it was discovered that throughout the reformation era, conflicts manifested as confrontations between the agrarian populace and either governmental entities or industrial actors. In this scenario, the local community wielded substantial influence, often resulting in frequent incidents of land usurpation.

Furthermore, numerous elements are frequently engaged in various agrarian disputes, the most important of which are:

- a. There are economic actors, political actors, and powerful social actors.
- b. Inefficient administration, including a disorganized adjudication process.

Involving community members who possess limited familiarity with formal legal frameworks, yet hold substantial historical control over the land, often spanning multiple generations. This particular segment tends to be adversely affected. The nuanced causes contributing to the emergence of agrarian disputes encompass several factors. Firstly, there exists an inequitable allocation of the utilization of available agrarian resources. Secondly, the expansion of territories by specific groups, which is notably prevalent in urban settings. Thirdly, economic endeavors pursued by certain members of the community, with the caveat that these activities might disrupt the harmony of the local surroundings. Lastly, the presence of high population density necessitating the allocation of increasingly larger tracts of land.[25]

Upon examining the positions of the disputing parties, a vertical conflict emerges, signifying a clash between the local populace and governmental bodies or authorities. Similarly, a horizontal conflict arises, denoting discord between distinct communities. Additionally, conflicts between the community and investors can also be observed.[24]

### **Characteristics of Agrarian Disputes in Indonesia**

The founders of the nation recognized that Indonesia has a significant level of diversity in terms of culture, geographical location, and religion. Such variety will probably have major consequences for the nation's future development. As a result, the growth of this country cannot be accomplished solely by generalizing the many components of its diversity.

As a result, under the 1945 Constitution (before the amendment), the State was defined as consisting of *Zelfbesturende landschappen* and *Volksgemeenschappen*. This step, according to some, has two sides of ramifications. First, the state endeavored to establish one nation by integrating the characteristics of each existing group. Conflict is unavoidable, as is the reality that it will always

exist in society. Apart from resolving the existing conflict, the only way to do so is to predict new conflicts that would form early, so that surplus conflicts can be reduced.

In conflict theory, diversity is a contribution to the occurrence of differences. These differences are elements that can lead to disintegration and change.[26] Agrarian disputes are common in society, particularly in Indonesian society, which is an agrarian country. According to the research, many incidents of agrarian disputes have happened involving various forms of agricultural land, plantations, mining, or other sorts of land.

## 5. Conclusion

From the description above, the conclusions obtained are as follows:

- a. Land conflict is an issue that always emerges and is always present from time to time, in response to population growth, development developments, and the increasing access of various parties to get land as the basic capital in varied interests.
- b. Agrarian conflicts arise as a result of a variety of factors, *First*, there is an uneven distribution of existing agrarian resources. *Second*, group area expansion, which is more typical in metropolitan areas. *The third* factor is the economic activity of some members of the community. This is a commercial operation that has the potential to disrupt the local community. *Fourth*, increasing population density necessitates the provision of more and more land.
- c. As a basic right, land rights are very significant as a sign of one's existence, freedom, and self-esteem. On the other hand, the state is obliged to guarantee legal certainty regarding land rights even though these rights are not absolute because they are limited by the interests of other people, society, and the state. At this time the existing regulations still show that there is an overlap between sectors, and institutions that have authority in the field of agrarian resource management.

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