



Legal Politics of Changes in Land Ownership Rights Regulations Post Omnibus Law Based on Pancasila Justice

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Abstract-Land ownership regulations have developed, notably following the passage of the Job Creation Act. This research contrasts the legal politics of land ownership regulation changes prior to and following the passage of the Job Creation Act, with the goal of determining whether or not these changes are based on Pancasila fairness. The goal of this research is to analyze land ownership legislation prior to and following the Job Creation Law, using Pancasila justice as a framework. The research strategy is to examine relevant laws and regulations as well as legal literature. The study's findings indicate that the objectives and philosophies of UUPA and Job Creation Law disagree. UUPA focuses on protecting society, economic progress, and social equality with economic balance and justice. Meanwhile, the Job Creation Law changes policies in a more liberal and capitalistic direction, with a focus on economic growth and investment. Changes in Land Ownership Regulations after the Job Creation Law, there is legal uncertainty (Article 20 UUPA vs. Article 64 PP 18/2021) which can affect land owners and legal stability. There are also differences in the definition and implementation of Management Rights (HPL) between the two regulations, creating ambiguity and potential conflict. There are also inconsistencies between the Job Creation Law and existing agrarian law, especially regarding principles such as sovereignty, Humanity, togetherness, democracy, and social justice, such as the notion of Sarusun Ownership Rights, which runs counter to UUPA laws. and PP No. 103 of 2015 concerning residential ownership by foreigners.

Keywords- *Legal Politics, Land Ownership, Pancasila Justice.*

I. INTRODUCTION

Globalization's unrelenting influence has changed many facets of human living worldwide, including Indonesia. The degree to which globalization impacts society is mostly determined by how they respond to and embrace these changes, with potentially profound outcomes.[1] As the cornerstone of the Indonesian state, Pancasila incorporates ideals that shape social structure and provide an essential set of principles for the country.[2] On March 31, 2023, the government formally passed a government regulation to replace Law No. 2 of 2022, which later became Law No. 6 of 2023 [3]. With this action, the law pertaining to partially executed investment plans will become more clear [4]. A variety of problems, such as legal uncertainty and a mismatch with UUPA (Undang-Undang Pokok Agraria) principles, have been brought about by changes in property laws.[5] Communities and land ownership stakeholders are now dealing with uncertainty and the possibility of conflict as a result of these developments. Maintaining the principles of Pancasila and protecting people's rights requires maintaining harmony amongst people and fairness in land ownership. The Job Creation Law has increased legal uncertainty and complexity in land transactions and apartment ownership, even though it does not repeal existing requirements in the UUPA and other property legislation [6].

The old and new regulations must now coexist due to legislative changes brought about Because of the Job Creation Act. This illustrates that the job creation act does not include totally replace the UUPA and other land rules. It is vital to comprehend this exciting aspect of legal advancement within the framework of the existing legal system in order to maintain consistency and legal clarity in the field of property ownership in Indonesia [7].

II. LITERATURE REVIEW

A. *Land Rights Before the Job Creation Law*

The right to land before the Omnibus Law (UU Cipta Kerja) reflects the concept of ownership derived from the root word "milik," referring to rights or ownership. In Indonesia, land is considered the property of the Indonesian nation, a symbol of unity that preserves the nation's integrity. The Basic Agrarian Law (UUPA) asserts the state's highest right of control over land, enabling the government to manage natural resources for the prosperity of the people. Additionally, there are various types of control rights, such as the rights of the Indonesian nation, rights controlled by the state, customary rights, and individual or personal rights[8]. Under the UUPA, land rights consist of various types, including ownership rights, land-use rights (HGU), building-use rights (HGB), usage rights, and lease rights. Ownership is the highest right that can be held by Indonesian citizens or specific legal entities. HGU grants the government the right to cultivate land for

agricultural, fisheries, and livestock purposes. HGB allows the owner to construct buildings on land they do not own, while usage rights and lease rights involve the use of land for specific purposes[9].

B. Land Rights After the Job Creation Law

After the UU Cipta Kerja, the definition of land rights underwent significant changes. Land is no longer limited to those with certificates, encompassing rights related to land, space above, and below ground without the requirement of a certificate[10]. This change reflects a more inclusive concept of land rights, allowing more individuals or legal entities to have land-related rights without needing a certificate first[11]. The UU Cipta Kerja also redefined the concept of space in land rights and modified regulations on the ownership of condominiums by foreigners, providing greater opportunities for them to own property in Indonesia[12].

C. The Concept of Justice in Pancasila

The concept of justice in Pancasila emphasizes the harmony between legal certainty and legal proportionality. Justice based on Pancasila includes principles of human rights, national unity, and social justice. Pancasila's justice views rights and obligations as balanced, ensuring that each individual receives their rights without excessive or insufficient treatment. In the national legal context, justice based on Pancasila refers to the principle of legal equality for all Indonesian citizens, ensuring equal rights to seek justice in the legal system[13].

III. METHOD

This study uses secondary data from library sources, especially legal literature, using a normative legal research methodology.[14] The research approach adopted is legislative, prioritizing the examination of all rules and regulations pertinent to the legal issue under investigation [15]. The legal materials utilized encompass two categories: primary legal materials, which encompass legislation, official treatises, court decisions, and state documents, and secondary legal materials, which encompass law books, journals, the perspectives of legal experts, legal research, legal dictionaries, and legal encyclopedias [16]. The collection of legal materials involves conducting literature and document reviews, and the analysis is performed using qualitative analysis methods, with a specific focus on ensuring data quality and interpretation [17].

IV. RESULT AND DISCUSSION

Pancasila Justice embodies the concept of treating every individual fairly and with dignity, respecting their fundamental rights, which are inherent from the moment they come into existence, even before birth. Safeguarding human rights is a fundamental principle because the law serves the entire society.[18] The principle of equality before the law is an inseparable right, and within Pancasila Justice, there is also a commitment to social justice for all Indonesian citizens.[19] This encompasses a moral obligation that binds all members of society to one another, and it serves as a source of values that should be translated into legal justice. The ultimate goal is to achieve justice through the application of appropriate principles and legal regulations, a concept known as procedural justice, symbolized by the figure of the goddess of justice, with a sword, scales, and a blindfold, representing impartial judgment devoid of discrimination based on an individual's identity.[20] From a national legal perspective, Purnadi Purbacaraka, as presented by Ridwan Halim, contends that justice is the harmony between legal certainty and legal equality. The discourse on fairness and social justice revolves around recognizing and ensuring a balanced treatment of rights and responsibilities. In situations where rights and responsibilities are harmoniously acknowledged, individuals with rights, such as the right to life, also must uphold that right through hard work. However, it is crucial to ensure that such efforts do not infringe upon the rights of others, as the right to life applies to all individuals.[13]

Justice founded on Pancasila is a fundamental principle used to uphold justice within the legal system. It arises from the five principles of Pancasila, reflecting certain essential characteristics: 1. Justice Based on Belief in One Almighty God: This form of justice is rooted in the belief in one God and includes religious freedom without coercion, allowing citizens to practice their religion freely and without external pressure. Justice Reflecting National Unity and Integrity: Pancasila Justice also mirrors national unity and integrity, to ensure that all citizens feel united in the pursuit of justice. Justice Prioritizing Human Rights: Pancasila places a strong emphasis on human rights as a core element of justice, promoting the respect and fair enforcement of human rights within the legal system. Justice Arising from the Democratic State Process: Pancasila recognizes the importance of democratic processes in achieving justice, considering citizen participation in democratic processes as a vital foundation for justice. Justice Ensuring Equality for All Indonesian People: Pancasila-based justice strives for equality for all Indonesian citizens in their quest for justice, granting every citizen the same right to seek justice within the legal system.

Legal politics involves the interplay between politics and law in society, where actions are undertaken to achieve legal objectives in line with political or social perspectives.[21] Land legal politics in Indonesia seeks to harmonize agrarian law with general legal values, particularly in Indonesia, and the needs and interests of the community, to establish a well-functioning land framework.[22] These concepts are intertwined with Pancasila as the ultimate value in Indonesian national and state life.[23] The 1945 Constitution (UUD 1945) is the official legal framework controlling land rules, encompassing land, air, water, airspace, and natural resources. Law No. 5 of the Republic of Indonesia of 1960 Governing Basic Agrarian Regulations (UUPA) is the fundamental

legislative framework that governs Indonesia's land sector.[24] Ultimately, ensure comprehensive editing of both content and organization before proceeding to formatting. While proofreading for spelling and grammar, pay special attention to the following aspects:[6]

A. Legal and Political Dimensions of Land Ownership Rights in UUPA

The overarching goal of the national land legal policy is to safeguard the rights of the Indonesian populace, foster progress and well-being, promote intellectual development in the nation, and actively contribute to the global order.[12] These objectives are in harmony with the ideals of Indonesian independence, striving to establish peace, social justice, and prosperity for every Indonesian citizen.[25] The principles embedded in UUPA are rooted in two sets of social values representing the diversity of Indonesian society-modern and traditional social values.[26]

1. Modern Social Values

No	Values	Explanation	Article
1.	Individualization of Land Ownership	UUPA underscores the significance of individual land ownership, signifying that land rights are vested in individuals or legal entities. This aligns with the prevailing worldwide tendency toward decentralized land ownership, transcending specific groups or entities.	Article 4 in conjunction with Article 9 and the land rights articles.
2.	Encouragement of Intensive Land Use	UUPA advocates for the efficient utilization of land, emphasizing the need for optimal use to maximize agricultural and industrial production. This underscores a commitment to fostering productive agriculture and industry.	Article 10, Article 13, and Article 15.
3.	Equality of Access for All Individuals	UUPA affirms the equal right to land ownership for every individual, irrespective of nationality or gender, across Indonesia. This underscores the principle of ensuring equality in access to land ownership.	Article 4 and Article 9, as well as the articles on land rights.
4.	Granting Land Ownership for Large-Scale Business Development	UUPA permits the allocation of land ownership for extensive business ventures in the agricultural or industrial sector, albeit within specified constraints. This mirrors a commitment to fostering investment and promoting broader economic development.	Article 28 and Article 35

2. Traditional Social Values

No	Values	Explanation	Article
1	Limiting the Amount of Land That Can Be Owned and Attaching the Social Role of Land Rights	There are limits on the amount of land that any person may hold, and land ownership must have a social purpose that benefits the community. This attempts to avoid an excessive concentration of land ownership among a small number of people.	Article 6 and Article 7 jo. Article 17.
2.	Promotion of Soil Resource Conservation	By requiring the maintenance of soil fertility, UUPA promotes the preservation of soil resources. UUPA also forbids absentee ownership, which is the ownership of land by people or organizations that are not physically present on the property. In order to maintain soil sustainability and production, this is done.	Article 15 and Article 10.
3.	Particular Attention to Vulnerable and Disenfranchised Groups	By requiring the government (state) to safeguard and allocate land to certain groups, UUPA gives special protection to marginalized and economically disadvantaged communities. The goal of this is to provide possibilities and a more equal balance for land ownership.	Article 11 and Article 17
4.	Preventing Monopoly and Corporate Domination	UUPA uses cooperatives to promote commercial ventures in the agricultural and industrial sectors, therefore preventing corporate domination in land ownership and administration. Additionally, monopolistic land ownership activities are forbidden under UUPA. This is meant to prevent some organizations from controlling the economy and to promote healthy competition.	Article 12 and Article 13.

UUPA aims to strike a balance between promoting economic growth in the agricultural and industrial sectors and preventing unfavorable social, economic, and political outcomes by fusing traditional and modern social ideals. UUPA allows private land ownership to promote effective and fruitful land use.[27] In addition, UUPA covers the social duty that comes with owning property, promotes the preservation of land, gives economically disadvantaged people priority treatment, oversees large-scale businesses through cooperative structures, and

forbids monopolies.[28] By adhering to these values, UUPA establishes a mutually beneficial link between strong economic development and social justice, which benefits all members of the community.[29]

B. Omnibus Employment Creation Law Land Ownership

The enactment of Law No. 6 of 2023, which supersedes Law No. 2 of 2022 on employment creation, symbolizes a fundamental shift in the economic-political atmosphere. The goal of this regulation is to simplify laws and processes for stimulating investment and economic development.[30] This goes against the fundamental idea expressed in Land rights must serve a societal purpose, according to Law No. 5 of 1960 Concerning Fundamental Agrarian Principles.[24] In this perspective, the employment of land rights ought to give precedence to social welfare and fair access-aspects that might not be the main focus of the Job Creation Law's liberal and capitalist approach.[31] As a result, there are significant changes the land ownership landscape and agrarian policy:

No	Values	Explanation	Article
1	Land-Based Capitalization	the process by which a nation's natural resources and land are managed or directed to support greater economic interests, mostly those of the private sector. In order to make money, it entails managing land and natural resources, especially when it comes to growing plantations, commercial agriculture, and other enterprises. Agrarian capitalization may cause communities to lose control of their land to businesses or private people with the means to manage it extensively for profit.	Articles 136, 137, 138, 139, 140, 141, and 142 of the Constitution
2.	Agrarian Liberalization	attempts to attract private investment, both domestically and internationally, into the land and agriculture industries. This entails the relaxation of laws and norms that formerly prohibited private individuals from owning or managing land. The goals of agrarian liberalization include investment, economic expansion, and efficient use of land, but there are drawbacks as well, such the concentration of land ownership and the marginalization of small-scale farmers.	Articles 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, and 135, as well as Articles 1, 2, and 4 of Government Regulation No. 18/2021.
3.	Special Treatment for Foreign Citizens	Policies that allow foreign citizens to own land or natural resources in a country under different rules than local citizens. This may be part of efforts to attract foreign investment or accommodate specific interests. Special treatment may include foreign citizen land ownership, differing licensing rules, or taxation.	Articles 143, 144, and 145 of the Constitution.
4.	Encouragement of Land Monopolies	Policies or practices that allow one entity or a group of entities to control or dominate a significant portion of land in a region or country. This can occur when rules and regulations support the large-scale accumulation of land by a small number of individuals or companies, leading to land ownership domination or monopolies.	Article 146.

C. According to Pancasila Justice, land ownership regulation adjustments Following the Employment Creation Law

No	Land Ownership Rights	Changes in Regulations from:		Challenges and Issues
		UUPA and Other Regulations	Omnibus Law and Other Regulations	
1.	Rights to Ownership	Article 20 paragraphs (1) and (2)	Article 64, Sections (1) and (2) of Government Regulation No. 18/2021	Legal uncertainty
2.	Land Management Authority	Government Regulation No. 40/1996, General Explanation Number II, point 2 of the UUPA, and Law No. 20/2000, Article 2, paragraph (3)	Government Regulation No. 18/2021, Articles 136, 137, 138, 139, 140, 141, and 142, as well as Articles 1 through 16	Errors in regulations Contradictions with UUPA Principles

3.	Rights to condos of foreign people and foreign legal organizations (WNA and BHA)	Agrarian Law, Article 42, Point 5; Article 7; Article 16; Article 17; Article 24; Article 53, General Explanation Number II.	Articles 143, 144, 145, and 67–73 of Government Regulation No. 18/2021 are also applicable.	Errors caused while granting land rights to foreign immigrants Contrary to the UUPA's tenets
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According to Pancasila Justice, the following amendments have been made to land ownership limits since the Job Creation Law went into effect:

Inconsistency between Article 64 of Government Regulation No. 18/2021 and Article 20 of the UUPA: Between Article 20 of the Basic Agrarian Law (UUPA) and Article 64 of Government Regulation No. 18/2021, there is confusion and the possibility of conflicts over land title, which may have an influence on landowners and the legal system's stability.[32] Because of the ambiguity surrounding the alignment of Government Regulation No. 18/2021 Article 64 and UUPA Article 20, landowners are unsure of their ownership status in the wake of the legal changes.[30]

The parallels and differences between Government Regulation No. 18/2021 and the Employment Law on the Definition and Application of the Right to Manage (HPL). Disagreements in the idea and implementation of the Right to Manage (HPL) between the Job Creation Law and Government Regulation No. 18/2021 generate concern and the possibility of a lawsuit.[33] This relates to differences in the way HPL is stated and implemented, which lead to people being confused about the legal framework and how HPL is applied.[32]

The Job Creation Act and long-standing agricultural policies are clearly in conflict with one another, particularly when it comes to the values of social justice, sovereignty, humanity, and togetherness. The idea of strata title ownership is one example of this incongruity; It violates the Basic Agrarian Law (UUPA) and Government Regulation No. 103/2015 governing foreign ownership of residential property. This disparity shows a gap between the Job Creation Law and present agriculture legislation, which might lead to uncertainty and disagreements about how land ownership restrictions are administered.[34]

V. CONCLUSION

The researcher might make the following deductions after considering the preceding talks and study findings:

There are significant differences in goals and perspectives between UUPA and the Job Creation Law (UU Cipta Kerja) when comparing their Land Ownership Legal Politics. UUPA maintains a careful balance between social justice and economic development in order to protect Indonesian citizens, promote economic growth, and achieve social fairness. The Job Creation Law, on the other hand, brings about considerable changes by adopting a more liberal and capitalist economic-political posture with the primary purpose of boosting investment and economic growth.

It is a violation of the Basic Agrarian Law (UUPA) as well as Government Regulation No. 103/2015, which governs foreign ownership of residential property: a) Legal ambiguity resulting from differences between Article 20 of UUPA and Article 64 of Government Regulation No. 18/2021 concerning rights to land. Landowners may be impacted by this ambiguity, which might also threaten the stability of the law. b) Differences in the definition and implementation of land management rights (HPL) in Government Regulation No. 18/2021 and the Job Creation Law, creating uncertainty and potential for conflict. c) The Job Creation Law's inconsistency with current land laws, especially in regards to issues of social justice, democracy, sovereignty, and unification. One instance is the disagreement between the laws specified in and the idea of condominium rights (Hak Milik Sarusun).

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