# Critical Role of Agrarian Reform in Development National in Indonesia

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***Abstract***

*This research aims to analyze the Critical Role of Agrarian Reform in National Development in Indonesia. This research method is normative; namely, research focused on assessing the application of rules or norms in positive law. By using a statutory approach (statute approach) is an approach that is taken by examining the standards contained in statutory provisions. The primary material sources used in this study are the 1945 Constitution of the Republic of Indonesia (1945 Constitution), Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA), and MPR RI Decree No. IX/MPR/2001 concerning Agrarian Reform and Natural Resource Management (TAP MPR RI No. IX/MPR/2001), and Presidential Regulation of the Republic of Indonesia Number 86 of 2018 concerning Agrarian Reform (Perpres 86/2018). While the secondary legal materials used by the author are publications in the field of law but not official documents, namely: books, journals, and comments. The study results concluded that Agrarian Reform aimed to rearrange the existing order in society so that people could feel justice and equity in the land sector. In carrying out agrarian reform, there are several stages, namely the establishment of a committee at the autonomous regional level, which is tasked with registering land ownership that exceeds the maximum limit and whose goal is people's welfare, legal certainty, and justice. However, in its development, the implementation of agrarian reform experienced obstacles that caused the main objectives of agricultural reform not to be achieved, so a rural reform arrangement was needed to be aimed at the prosperity of the people.*

## 1. Introduction

Agrarian Reform Goals in Ensuring Socio-Economic Equality in Society. The objectives of agrarian reform contained in the TAP MPR RI Number IX/MPR/2001 are reducing poverty, improving people's access to economic resources (land), and rearranging gaps over ownership, use, utilization of land, and other resources. Agricultural resources, and reduce land and agrarian disputes. TAP MPR RI Number IX/MPR/2001 is one of the essential keys in agricultural policy in Indonesia for the following reasons (Hardiyanto 2021):

1. TAP MPR RI Number IX/MPR/2001 as a strategic policy direction that contains changes to the pastoral vision and mission, thus presenting the politics of agricultural law, prioritizing the people.

2. As a legal basis for statutory regulations and subsequent agrarian policies. The application of TAP MPR RI Number IX/MPR/2001 must be considered in formulating policies in the agricultural sector so that it remains the vision and mission that has been changed to be humane in the first point (Sari and Suwanda 2019).

Meanwhile, Presidential Regulation Number 86 of 2018 focuses more on legalizing land, redistributing land, and empowering the community. This seems to deviate from the ideals of agrarian reform itself, in which land ownership disputes are one of the sources of the problem (Escallón 2021). This neglect is increasingly clearly seen in Article 17, number (3) of Presidential Decree 86/2018, which emphasizes that "A Ministerial Regulation regulates further provisions regarding the handling of agrarian disputes and conflicts".

Policy formation is half measures with no further regulation regarding agrarian conflicts in Perpres 86/2018; this is the reason for the absence of norms. Agricultural disputes, the main problems encountered as national problems in the agrarian sector, deserve attention (Rajpar et al. 2019). So that the positive legal norms, when it has been ratified and implemented in society, are not only limited to substantial models. There must already be procedural norms and legal structures to ensure that their implementation goes according to the objectives of establishing the rule of law. Regulating the settlement of rural disputes in Presidential Regulation 86/2018 will guarantee legal certainty and provide justice for those who feel their rights have been aggrieved.

The problem of rural disputes is currently one of the sources of inequality in land ownership. Presidential Decree 86/2018 regulated land settlement in Chapter IV concerning "Handling Agrarian Disputes and Conflicts with and form a tiered Agrarian Reform Task Force." However, this provision is only limited to the parties involved in resolving disputes or conflicts and then delegating further arrangements to Ministerial Regulations.

This shows that Presidential Regulation 86/2018 still needs to solve the problem, and it is necessary to issue a Ministerial Regulation immediately. This

requires the Government to be more careful in formulating its policies, especially in the agrarian sector, to avoid creating inconsistencies or overlapping laws and regulations as a new problem (Sihombing and Hamid 2020). It can be concluded that the main goal in general of agora renewal is to change the structure of society, which was initially a legacy of feudalism and colonialism during the Dutch era, into a more just and equitable social system.

While explicitly aiming for the community to be more independent because of the ownership of these assets, it provides an opportunity for him to cultivate the land so that unemployment can be reduced and people's standard of living can increase (Arthur-Holmes et al. 2022). (Arthur-Holmes, Busia, Vazquez-Brust, & Yakovleva, 2022). On September 24, 1961, the Government began implementing agrarian reform. This started with forming a committee in the Autonomous Region whose task was registering land ownership that exceeded the limit. In subsequent policies prepared by the Government, it is indicated that the regulation of agrarian issues is not aimed at the population but to facilitate foreign investment (Inomjon, Abduraimova, and Sarvar 2021). Solutions to the problem of agrarian reform have obstacles that cause the agrarian reform itself to fail to be completed. These obstacles include:

a. The Government needs to improve in understanding in detail the agricultural problems.
b. There is no commitment to implementing agrarian reform as evidenced by the Draft Agrarian Law, as the implementation of Presidential Decree No. 34/2003 did not "perfect" but instead "changed" the UUPA.
c. The Government's attachment to foreign debt, international agreements, and neo-liberal ideas.
d. Public awareness is still low, making it easy to clash with one another.

The implementation of Land Reform in Indonesia in the 1960s focused on structuring agricultural lands by providing provisions regarding the maximum limit on the area of agricultural land tenure and carrying out redistribution. There are differences in interests and values that are inconsistent with the philosophy and principles of the UUPA can be found by tracing the provisions of the land laws and regulations that were born as a form of implementing regulations of the UUPA (Ismail and Pertanahan 2007).

Interpretations that deviate from the philosophy or main objective of the LoGA eventually lead to new problems in the land sector itself, the final impact of which is the occurrence of land disputes which are so widespread that they offend human rights. The basic principles in the UUPA have shown several post-reform issues, although these still need improvement. This is because problems still need to be regulated in the basic principles of the UUPA. The formulation of the principles of agrarian reform is still guided by the fundamental principles contained in the UUPA, even in the formulation of agricultural reform in several

aspects; it reinforces the basic principles of the UUPA, which tend to be weak (Mulkan 2021).

The following principles can be concluded from agrarian reform stipulated in TAP MPR RI No. IX/MPR/2001 are as follows (Wicaksono, Handayani, and Karjoko 2019):

a. Prioritizing the integrity of the Unitary State of the Republic of Indonesia;
b. Respect and protection of human rights;
c. Respect for the rule of law;
d. Community welfare;
e. Developing democracy, compliance with the law, optimizing transparency and public participation;
f. Realizing justice in control, ownership, use, exploitation, and conservation of agricultural/natural resources which no longer considers gender;
g. Maintaining sustainability, so that it is beneficial for present and future generations;
h. Carry out social functions, preserve and ecological functions in accordance with local socio-cultural conditions;
i. Increasing coherence and coordination between development sectors and regions in the implementation of agricultural reforms and management of natural resources;
j. Recognize, respect, and protect the rights of indigenous peoples and the nation's cultural diversity related to agriculture/natural resources;
k. Strive for a balance between the rights and obligations of the state, government (central, provincial, district/city and village or equivalent), communities and individuals;
l. Implementation of decentralization in the form of division of authority at the national, provincial, district/city, and village levels or at den level the allocation and management of natural resources.

Ida Nurlinda, in her dissertation research, simplified the principles of agrarian reform from 12 principles into three principles of agrarian reform: justice, democracy, and sustainability. These three principles are the soul of the UUPA, as emphasized in its fundamental principles (Nurlinda 2009). The drafting of the Land Bill, which is based on agricultural philosophy and principles, will make it easier to achieve the goals of the BAL itself so that it can complement and explain clearly the main points that have not been regulated in the BAL and provide restrictions on interpretations that are not following the BAL. Agrarian philosophy and principles. If this can be done well, it will be directly proportional to the welfare that the community will receive because disputes in the land sector can be anticipated so that they do not happen again.

## 2. Research Method

This research is normative; namely, research focused on assessing the application of the rules or norms in positive law. By using a statutory approach (statute approach) is an approach that is carried out by examining the standards contained in statutory provisions. The primary material sources used in this study were the 1945 Constitution of the Republic of Indonesia (1945 Constitution of the Republic of Indonesia), Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA), and MPR RI Decree No. IX/MPR/2001 concerning Agrarian Reform and Management of Natural Resources (TAP MPR RI No. IX/MPR/2001), and Presidential Regulation of the Republic of Indonesia Number 86 of 2018 concerning Agrarian Reform (Perpres 86/2018). While the secondary legal materials used by the author are publications in the field of law but not official documents, namely: books, journals, and comments.

In this study, the author uses a normative and empirical juridical approach.

(a) Normative Juridical Approach The approach is based on the primary legal material by examining theories, concepts, legal principles, and laws and regulations related to this research.
(b) The empirical juridical approach is research by going directly to the field on the object of research to collect primary data from the object of research through observation and interviews with related respondents or sources.

## 3. Results and Discussion

### The Role of Agrarian Reform as a Basis for Making National Agrarian Law.

In the document "Petisi Cisarua" several experts and activists for agrarian reform have warned that if you want to carry out agrarian reform in Indonesia, do not "half-half", but make agrarian reform the basis for (national) economic development for the new Indonesia. 14, agrarian reform, which has succeeded in the experiences of many countries such as Japan, Taiwan, China, South Korea, Egypt, and so on, is what places it as the basis for national economic development, which then makes it an essential basis for national solid industrial growth. In this case, Agrarian Reform can be interpreted as a systematic effort, planned and carried out relatively quickly, within a specific and limited period, to create social welfare and justice and to pave the way for the formation of a 'new' society that is democratic and just; which began with steps to rearrange the control, use, and utilization of land and other natural resources, then followed by a number of other supporting programs to increase the productivity of farmers in particular and the people's economy in general (Bachriadi 2007).

The Agrarian Reform agenda in the history of the Indonesian nation has had a long journey and is in line with the plan for forming the country and state. Since 1946 Indonesia has been running a land reform program. Agrarian

reform as an issue is complex and multidimensional, so its definition is difficult. However, without intending to simplify the complexity of the problem, agrarian reform (agrarian reform), in essence, includes the following matters:

a. A continuous process means that it is carried out within a one-time frame, but if the objectives of agrarian reform have not been achieved, agrarian reform needs to be continuously pursued;
b. About the restructuring of ownership/control and utilization of natural resources (agricultural resources) by the community, especially rural communities;
c. Implemented in the framework of achieving legal certainty and legal protection of land ownership and utilization of natural resources (agricultural resources), as well as realizing social justice for all people.

According to Maria S.W. Sumardjono, there are at least four things that need to be considered as a basis for future policymakers, which include:

a. The basic principles laid down by UUPA need to be emphasized, and their orientation developed so that they can be translated into policies that are conceptual as well as operational in responding to various needs and can lead to dynamic changes;
b. There needs to be a common perception of policymakers regarding various principal matters so as not to delay solutions to existing problems;
c. There is still the impression that there are policymakers who are partial or to meet short-term needs because the order of priority policies that must be issued needs to be clarified.

In general, there are five main elements of the land reform program as mandated by the UUPA (Putra, Djumardin, & Putro, 2023), namely:

a. Prohibition to control agricultural land that exceeds the limit (maximum ownership restrictions);
b. Prohibition of absentee land ownership;
c. Retribution for land that exceeds the maximum limit, land subject to absentee provisions;
d. Rearrangement of agricultural land production sharing agreements;
e. Determination of the minimum limit for owners of agricultural land, accompanied by a prohibition to take actions that result in the division of agricultural land ownership into too small a portion. The implementation of this land reform policy in the past was still very limited and could not fulfill the expected goals (Utami 2013).

Indonesia is an agricultural country with natural wealth, one of which is land. The land is needed and needed by the community as the primary need for housing. In addition, land can also be used for farming, trading, and so on. Therefore, many people compete to own a plot of land. In obtaining it, it is

colored by illegal acts that apply to fulfilling these needs (Sutarsa 2017). This, of course, can lead to several conflicts, such as land disputes. The emergence of legal disputes stems from demands for land rights regarding land status, priority, or ownership with the hope of obtaining an administrative settlement per applicable regulations (Pahlevi, Zaini, and Hapsari 2021).

In overcoming this problem, the tendency to resolve it is through mediation. Mediation is a peaceful way of resolving appropriate and effective disputes. It can open complete access to the parties to obtain a solution acceptable to all parties to achieve justice. In the framework of bureaucratic reform, the Supreme Court has created a vision that is oriented towards the realization of justice in Indonesia; one of the supporting elements is mediation, which is a form of instrument to increase people's access to justice as well as implement the principles of administering justice that are simple, fast, and low-cost (Simanullang and Iftitah 2017).

In terms of mediation settlement, the role of the mediator is significant to settle disputes over land ownership rights between the two parties, amicably following the Regulations of the Supreme Court of the Republic of Indonesia. In addition, the role of the mediator is a neutral party who helps the parties somewhat without coercion in resolving the problem (Pratama 2023). (Pratama, 2023). Hopefully, this will provide positive results for disputes over land ownership rights in Indonesia. In addition, it is expected that a mediator can know how to respond to a condition when the mediation process fails so that a mediator does not experience civil and criminal prosecution from the party who feels aggrieved.

Furthermore, related to this research, it can be seen from previous studies that many studies discussed land ownership dispute rights for reform purposes. First, research conducted by Yudha Chandra Arwana and Ridwan Arifin examines the problem of land disputes through mediation (Jamiat, Saliro, and Samsul 2021). Second, research conducted by (Hajati, Sekarmadji, & Winarsih, 2014), discussed the model of resolving land dispute rights through mediation. The two studies used the same methodology as this study, namely normative research. Both studies also used the statute approach as an approach to research methods. Both discussed mediations using non-judge mediators to resolve land disputes. Therefore, this research has gaps with previous studies examining non-judge mediators' effectiveness in resolving land ownership disputes.

## 4. Conclusion

Whereas the purpose of Agrarian Reform is basically to restructure the existing order in society so that people can feel justice and equity in the land sector. In implementing agrarian reform, there are several stages, namely the establishment of a committee at the autonomous regional level, which is tasked with registering land ownership that exceeds the maximum limit and whose goal is people's welfare, legal certainty, and justice. However, in its development, the

implementation of agrarian reform experienced obstacles that caused the primary goal of agricultural reform not to be achieved, so an agricultural reform regulation was needed that aimed at people's prosperity.

The author recommends that the Government, in drafting laws and regulations, must continue to comply with existing signs in the land sector, especially the basic philosophy and principles contained in the UUPA, make improvements, and evaluate the policies drafted after the UUPA so that the goals from agrarian reform can run as it should and can have a welfare impact on all levels of society, achieving fair certainty.

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