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Land Disputes in Pakel Village from the Perspective of Agrarian Reform

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Abstract

This study analyzes the land dispute in Pakel Village, Licin District, Banyuwangi Regency, through the lens of agrarian reform following the enactment of Banyuwangi Regency Regional Regulation No. 2 of 2024 concerning the 2024–2044 Regional Spatial Plan. The dispute arises from the classification of the contested area as a plantation zone, which may reinforce the legal standing of the company's Right to Cultivate (Hak Guna Usaha/HGU), despite the existence of historical claims and longstanding community

control over the land. This research aims to assess whether the spatial planning policy incorporates considerations of agrarian justice and equitable land management or instead contributes to the persistence of structural inequalities in land tenure. Employing normative legal research, the study adopts statutory, conceptual, and case approaches, with particular emphasis on Judgment No. 181/Pdt.G/2024/PN Banyuwangi. Data were obtained through literature review, examination of legal documents, and interviews. The findings reveal that, although Regional Regulation No. 2 of 2024 is formally consistent with national spatial planning frameworks, it has not adequately accommodated agrarian reform principles or recognized the historical dimensions of land tenure in Pakel Village. The designation of plantation areas within the disputed territory may strengthen the position of HGU holders while limiting opportunities for local communities to obtain formal recognition of their land rights. Accordingly, this study highlights the need for participatory and equitable mechanisms, including mediation, spatial policy evaluation, and the reinforcement of agrarian reform initiatives in resolving agrarian conflicts in Pakel Village.

Keywords

Land Disputes; Agrarian Reform; RTRW, Right to Cultivate; Pakel Village.

Introduction

Land is a fundamental element in the lives of

Indonesian communities because it plays a strategic role that is inseparable from human survival.¹ For communities, land serves not only as a means of meeting economic needs—such as housing and livelihoods—but also as a social space and a symbol of cultural identity deeply rooted in communal life. In many communities, land even holds historical and emotional value that has been passed down through generations, making its existence inseparable from the social and cultural fabric of the community itself.²

As an agrarian nation, Indonesia views land as a natural resource whose control falls under the authority of the state to be fully utilized for the prosperity of the people. This principle affirms that land must not be arbitrarily controlled by any party without considering the interests of the broader public. Therefore, regulations concerning the control, ownership, use, and utilization of land must be implemented fairly, proportionally, and with a focus on the people's welfare, as mandated by Article 33, paragraph (3) of the 1945 Constitution of the Republic of Indonesia.

Although this normative framework has been constitutionally enshrined, the reality of land management in Indonesia remains plagued by various structural issues. One of the most prominent problems is the proliferation of land disputes occurring in various regions. These disputes are often triggered by disparities in land ownership between the public and certain parties—whether state or private

¹ Boedi Harsono, *Hukum Agraria Indonesia: Sejarah Pembentukan Undang-Undang Pokok Agraria, Isi dan Pelaksanaannya* (Jakarta: Djambatan, 2008), hlm. 3.

² Kerismon, K., dan S. W. Jatmiko, "Kebijakan Inventarisasi Tanah Ulayat atau Adat pada Status Hukum Tanah di Indonesia," *Widya Yuridika* Vol. 8, No. 2 (2025): hlm. 4.

entities—overlapping land and spatial planning regulations, and weak legal certainty regarding land rights.³ Furthermore, land administration processes that are not yet fully systematized contribute to the potential for conflict at the community level.

These issues cannot be separated from the long history of land tenure in Indonesia, which—dating back to the colonial era—has given rise to an unequal structure of land ownership. This pattern of unequal land tenure has persisted into the post-independence era and has ultimately led to protracted agrarian conflicts. In many cases, communities that have long de facto controlled and utilized the land find themselves in a legally vulnerable position when confronted with state policies or claims by other parties.

In response to these conditions, the government has rolled out an agrarian reform policy as an effort to restructure land ownership and use to make them more equitable. Agrarian reform is not merely understood as the distribution or redistribution of land, but also encompasses the restructuring of assets and access, aimed at improving the well-being of the people, particularly vulnerable groups and those who depend on land as a source of livelihood. From this perspective, agrarian reform is viewed as a crucial instrument for achieving social justice in land affairs.⁴

The implementation of agrarian reform cannot be separated from spatial planning policies, as spatial planning

³ Haerani, “Solusi dan Langkah Konkrit dalam Penyelesaian Sengketa Pertanahan di Indonesia,” *Ranah Research* Vol. 7, No. 2 (2024): hlm. 861, <https://doi.org/10.38035/rrj.v7i2.1267>

⁴ L. Novianti, “Evaluation of Land Redistribution Implementation in Agrarian Reform Program,” *Jurnal Ilmiah Teunuleh* Vol. 5, No. 2 (2024): hlm. 97–98, <https://doi.org/10.51612/teunuleh.v5i2.221>

determines the long-term designation and direction of land use. Spatial planning policies that are insensitive to social conditions and the history of land tenure have the potential to spark new conflicts, especially if the planning process does not involve the community as the primary stakeholders. Therefore, synchronization between agrarian reform policies and spatial planning is crucial for creating equitable and sustainable land management.⁵

Previous research conducted by Kayla Mutia Shabina and Yusa Djuyandi (2026), titled “Agrarian Conflicts Between Communities and PT Perkebunan Nusantara as a Potential Source of Social Vulnerability in West Java,” examines agrarian conflicts arising between communities and the state-owned plantation company due to overlapping land tenure and unclear land rights. Anita Kamilah (2023), in her article “Land-Use Conflict Identification Strategy (LUCIS) in Accelerating Agrarian Conflict Resolution to Realize Just Agrarian Reform,” discusses a strategy for identifying land-use conflicts as an effort to accelerate the resolution of agrarian conflicts through a land-use mapping approach linked to agrarian reform. F. Earlene and B. Djaja (2023), in their article “Implications of Agrarian Reform Policy on Land Ownership Inequality through a Human Rights Lens,” highlight the implications of agrarian reform policy on land ownership inequality from the perspective of human rights and social justice. Rosmidah, M. Hosen, and Sasmiar (2023), in their article “Structuring Land Rights Law for Justice and Investment,” examine the legal

⁵ D. Gafuraningtyas, H. Setiadi, dan R. H. S. Koestoer, “Community Preferences for Agrarian Reform in Kampung Reforma Agraria: A Case Study of Mekarsari Village, Banten,” *Bhumi: Jurnal Agraria dan Pertanahan* Vol. 9, No. 2 (2024): hlm. 141–165, <https://doi.org/10.31292/bhumi.v9i2.795>.

framework for land rights to strike a balance between legal certainty, agrarian justice, and investment interests. Gafuraningtyas, Setiadi, and Koestoer (2024), in their article “Spatial Planning Strategies in Agrarian and Land Conflicts,” discuss the relationship between spatial planning and agrarian conflicts, particularly how spatial planning policies can influence land disputes within communities. What distinguishes this study is its specific focus on the land dispute in Pakel Village, based on Court Decision No. 181/Pdt.G/2024/PN Banyuwangi and in relation to Banyuwangi Regional Spatial Plan (RTRW) Regulation No. 2 of 2024. The novelty of this study lies in its analysis of the relationship between agrarian disputes, court rulings, and regional spatial planning policies from the perspective of agrarian reform following the enactment of the Banyuwangi RTRW.

In Banyuwangi Regency, the enactment of Banyuwangi Regency Regional Regulation No. 2 of 2024 on the Regional Spatial Plan is a strategic step in regulating the use of space and land in the region. This Regional Spatial Plan Regulation is expected to provide legal certainty regarding land use designations while also serving as a basis for resolving various land conflicts that arise within the community. However, in practice, the implementation of the Regional Spatial Plan also has the potential to create problems if it is not fully aligned with the actual conditions of long-standing land tenure at the local level.

This situation is reflected in a land dispute that occurred in Pakel Village, Banyuwangi Regency, which was subsequently examined and adjudicated through Judgment No. 181/Pdt.G/2024/PN Banyuwangi. The dispute

originated from differing interpretations regarding the status and location of the land between the community and PT Bumisari Maju Sukses. The disputed land originated from a Land Clearing Permit (Hak Barat) dated January 11, 1929, which—pursuant to Ministry of Home Affairs Regulation No. 3 of 1979—was converted into state-controlled land as of September 24, 1980, because it had not been re-registered. The plaintiff argues that the land in Pakel Village is state land. Conversely, PT Bumisari bases its claim to the land on a Certificate of Right to Cultivate (HGU) issued in 1985 and extended via Decision of the Head of the National Land Agency (BPN) No. 155/HGU/BPN/2004, which specifies in its preamble that the location is in the subdistricts of Songgon and Glagah. The issue came to a head on September 12, 2019, when the HGU was subdivided into Numbers 00295, 00296, and 00297; according to the Plaintiff, this subdivision incorporated the territory of Pakel Village into the company's HGU map. Since then, the conflict—which was initially administrative in nature—has escalated into an open dispute and a social conflict, as the HGU certificate has been used as the basis for various litigation proceedings. The Plaintiff has also pursued administrative remedies by filing a petition to revoke the HGU certificate with the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) in 2021; however, this did not result in a resolution that would end the dispute. This dispute is not only related to the formal aspects of land ownership but also touches on fundamental issues regarding agrarian justice and the protection of communities' rights to land that they have controlled and utilized for a long time.

In the local regulation, the provisions regarding Spatial Planning (Article 1, point 14), Cultivation Zones (Article 1, point 95), and Plantation Areas (Article 1, item 106) and (Article 30, paragraph (2)) are relevant to the subject of the dispute because the disputed land falls within an area designated as a plantation area. The designation of this plantation area is normatively consistent with the existence of the Right to Cultivate (HGU), which forms the basis for the company's management of the land. Therefore, the connection between the land dispute and the RTRW Regional Regulation does not lie in the issue of spatial use violations, but rather in the implications of spatial planning on the structure of land tenure. This dispute is essentially a land rights dispute related to the basis of land tenure as regulated in the 1960 Basic Agrarian Law, specifically regarding the Right to Use (HGU) as a land right granted by the state for a specific period. Thus, the designation of plantation areas in the RTRW has the potential to reinforce the legitimacy of land tenure based on HGU, making it relevant to analyze this issue from the perspective of agrarian reform, which emphasizes the restructuring of land tenure.

The dispute has been adjudicated through the general court system. At the first instance, the Banyuwangi District Court, in its Decision No. 181/Pdt.G/2024/PN Banyuwangi, declared the Plaintiff's lawsuit inadmissible (*niet ontvankelijke verklaard*). This decision was subsequently upheld on appeal by the Surabaya High Court through Decision No. 697/PDT/2025/PT SBY. In the absence of further legal action in the form of a cassation appeal, the appellate decision has become final and binding (*inkracht van gewijsde*). Therefore, the dispute concluded at

the appellate level without further examination of the merits of the case.

Thus, the land dispute in Pakel Village is relevant to examine from the perspective of agrarian reform following the enactment of Banyuwangi Regional Spatial Planning Regulation No. 2 of 2024. This regulation, particularly in its provisions regarding Plantation Areas (Article 30), normatively designates the disputed land as an area for plantation cultivation. This designation directly impacts the structure of land tenure, as it reinforces the legitimacy of the Right to Cultivate (HGU), which forms the basis of PT Bumisari Maju Sukses's claim. From an agrarian reform perspective, this situation raises a critical question: has the spatial planning in the RTRW Regional Regulation considered aspects of land reform and justice for the people of Pakel Village, who have traditionally controlled this land? Or does this RTRW Regional Regulation, on the contrary, have the potential to perpetuate structural inequalities in land tenure by locking the disputed land into the HGU regime, without resolving the root of the dispute stemming from the community's historical claims? These are the questions that will be further analyzed in this study, using Decision No. 181/Pdt.G/2024/PN Banyuwangi as a case study.

A. The Dynamics of the Land Dispute in Pakel Village: Between Historical Claims and Formal Legality

The land dispute in Pakel Village, Licin Subdistrict,

Banyuwangi Regency is an example of an agrarian conflict that reflects a clash between the community's historical claims and the formal legal status recognized by the state. This conflict is not only related to issues of land ownership but also involves social, economic, and equity aspects in the control of agrarian resources.

Historically, the community of Pakel Village believes that they have managed the land currently in dispute since the colonial era. This belief is based on the existence of a 1929 Land Clearance Permit (Hak Barat), which at that time served as the basis for land clearing. Over time, the community has sustainably utilized this land for agriculture and plantations that support their daily livelihoods.

However, following independence, changes occurred in the national land law system. After the enactment of Law No. 5 of 1960 on the Basic Provisions of Agrarian Law (UUPA), all land rights originating from the Western legal system were required to be converted into the national legal system. This conversion process was further regulated by Ministry of Home Affairs Regulation No. 3 of 1979, which stipulated that existing rights must be registered and brought into compliance with applicable legal provisions.

Under these provisions, old land rights that have not been converted or registered in accordance with applicable procedures risk losing their legal validity, and the land may be classified as state-controlled land.⁶ In Pakel Village, this has become a crucial issue, as not all land originating from the 1929 permits has clear evidence of conversion into the national legal system.

⁶ Soerjono Soekanto, *Pokok-Pokok Sosiologi Hukum* (Jakarta: RajaGrafindo Persada, 2006), hlm. 112.

Problems arise because not all land originating from these old rights has sufficient evidence of conversion. As a result, some of the land has been categorized as state-controlled land since around 1980. This status grants the state the authority to distribute or grant land rights to other parties, including business entities through the Right to Cultivate (HGU) scheme.

On the other hand, the community has maintained uninterrupted physical control over the land, even across generations. This control is typically supported by village-level administrative evidence, such as a “petok” or “letter C,” as well as recognition from the surrounding community.⁷ From a sociological-legal perspective, this situation reflects the existence of “living law” within the community—a legal system that, although not always formally recognized, retains its force in social practice.

The tension between the community’s historical claims and the formal legal basis held by the company through the HGU lies at the heart of the conflict. The company relies on official certificates issued by the state as the basis for its control, while the community holds fast to the fact of its long-standing management of the land. The situation escalated further when the HGU certificate was subdivided in 2019, triggering an escalation of the conflict on the ground.

⁷ M. Holidi, “Kekuatan Pembuktian Transaksi Tanah Ulayat Menggunakan Letter C di Kalangan Masyarakat Adat dalam Sengketa Perdata,” *Jurnal Darussalam: Pemikiran Hukum Tata Negara dan Perbandingan Hukum* Vol. 5, No. 2 (2025): hlm. 124–126

Table 1. Comparison of the Historical Claims of the Pakel Village Community and the Formal Legal Status of PT Bumisari Maju Sukses (HGU)

Aspect	Claims of the Pakel Village Community	Claims of PT Bumisari Maju Sukses
Primary Legal Basis	Land Clearance Permit (Western Land Rights) 1929; Hereditary possession (physical possession for more than 50 years).	Certificates of Right to Use (HGU) Nos. 1 & 8 (1985); Extension of Decree No. 155/HGU/BPN/2004.
Administrative Status	Village Land Certificate (Letter C/Petok Desa); Property Tax Payment Receipt; Testimony from a traditional elder.	Formal proof of ownership registered with the National Land Agency (BPN); Map of the HGU plot.
Legitimacy of the RTRW	Not accommodated; claimed to be plantation land designated for HGU.	Designated as a plantation area under Banyuwangi Regional Spatial Plan Regulation No. 2/2024 (Article 30, paragraph 2).
Ruling of the Banyuwangi District Court	Weak position: The lawsuit was declared Niet Ontvankelijke Verklaard	Strong position: The validity of the HGU is formally recognized even though the merits

	(NO)/Inadmissible.	of the dispute have not yet been examined.
Alignment with Agrarian Reform	May be subject to redistribution if the land is under state control (abandoned land).	It becomes a structural obstacle if the HGU covers land controlled by the community.

Source: Author's analysis, 2026

The dispute was subsequently brought before the courts, as reflected in Judgment No. 181/Pdt.G/2024/PN Banyuwangi. However, the judgment declaring the lawsuit inadmissible (Niet Ontvankelijke Verklaard/NO) indicates that there were formal deficiencies in the lawsuit filed. This suggests that, in practice, procedural issues often pose obstacles for the public in seeking justice.

In analyzing this conflict, this study employs John Rawls's theory of justice as its theoretical foundation. According to Rawls, justice is "justice as fairness," which places everyone on an equal footing in terms of rights, freedoms, and legal protection. Rawls emphasizes that just laws are not merely oriented toward formal rules but must also benefit those in disadvantaged positions.⁸ Regarding the land dispute in Pakel Village, this theory is relevant because the community—which has traditionally controlled and managed the land for generations—finds itself in a vulnerable position when confronted with the formal legal standing held by the company. Therefore, the resolution of

⁸ John Rawls, *A Theory of Justice*, rev. ed. (Cambridge, MA: Belknap Press of Harvard University Press, 1999), 3-7

land disputes cannot be based solely on administrative evidence and the legal validity of certificates; it must also take into account aspects of substantive justice, equitable access to land, and the protection of community rights within the framework of agrarian reform.

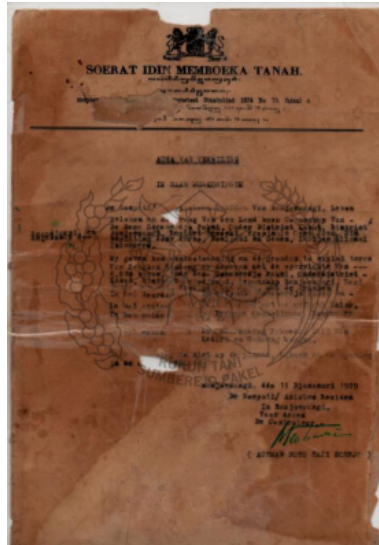
When viewed through the lens of Gustav Radbruch's theory of the purposes of law, this situation reveals an imbalance between the elements of legal certainty and justice. The legality of HGU land titles represents legal certainty, while community control reflects the values of justice and public benefit. When law enforcement focuses solely on formal aspects, the potential for injustice toward the community becomes difficult to avoid.⁹

1. The History of Land Ownership and Roots

The history of land tenure in Pakel Village is inextricably linked to land-clearing permits issued during the colonial era, specifically through the Land-Clearing Permit (Western-Style Land Rights) issued in 1929. At that time, these permits were intended to serve as the basis for certain parties to clear and utilize land, particularly for agricultural and plantation activities.

⁹ M. Al'anam, "Teori Keadilan Perspektif Gustav Radbruch: Hubungan Moral dan Hukum," *Jurnal Humaniora* Vol. 9, No. 1 (2025): hlm. 119–133, <https://doi.org/10.30601/humaniora.v9i1.6393>

Figure 1. Land Clearing Permit (Western Rights)



Source: RTSP Pakel, 2026

The document, later known as the “1929 Deed,” essentially provided the legal basis for clearing a forest area bordering Alas Pakel in the village of Sumberejo Pakel. Under its provisions, the cleared land was intended to be distributed to thousands of farmers, with an allocation of approximately $1\frac{1}{4}$ bahu per person—comprising 1 bahu for agricultural land and $\frac{1}{4}$ bahu for housing construction. In addition, approximately 4,000 bahu of uncultivated land were set aside for residents of nearby villages in need of farmland.¹⁰

News of this land distribution encouraged many farmers in Banyuwangi to clear and cultivate the forest area. However, the situation changed rapidly when the farmers

¹⁰ I. A. Pancarani dan R. Wahyuni, “Perlindungan Hak Kepemilikan Tanah Masyarakat Desa Pakel: Penelusuran *Legal Standing* Akta 1929 dalam Sengketa Tanah dengan PT. Bumi Sari Tunas Agraria,” *Jurnal Tunas Agraria* Vol. 6, No. 2 (2023): hlm. 110–124, <https://doi.org/10.31292/jta.v6i2.225>

began facing various repressive measures from the Dutch colonial government. Several farmers faced obstacles in cultivating the land; some were even arrested and imprisoned. The colonial government at the time also viewed the farmers' land-clearing activities as actions linked to the communist movement or "communist activities."¹¹

After Indonesia gained independence, the government reformed the land law system through the enactment of the Basic Agrarian Law (UUPA) of 1960 as the foundation for the unification of national agrarian law. Nevertheless, the UUPA continued to recognize land rights originating from the colonial era as well as customary law by incorporating them into the national legal system through a rights conversion mechanism. Historical rights such as *eigendom*, *erfpacht*, *gogolan*, and various other forms of rights were given the opportunity to be converted into land rights recognized under the UUPA.¹² According to Boedi Harsono, this conversion policy aimed to create legal certainty and protection for land rights holders, while simultaneously aligning the status of the land with the provisions of national land law. Furthermore, the results of the conversion also serve as the basis for proving rights should disputes or claims from other parties arise in the future regarding the land in question. Provisions regarding the implementation of this conversion were subsequently further regulated in Minister of Home Affairs Regulation No. 3 of 1979

¹¹ Imam Ghazali, "Hikayat Tanah Pakel: Konflik Agraria Petani Pakel Dengan Perkebunan Pakuda 1925-1943," *Mozail: Kajian Ilmu Sejarah* Vol.14, No.1 (2023):hlm 72

¹² A. M. Umami and N. P. S., "Perkembangan Pengaturan Tanah Adat di Indonesia," *Ganec Swara* 19, no. 1 (2025): 371–375, <https://doi.org/10.59896/gara.v19i1.227>

concerning Provisions on Applications for and the Granting of Rights to State Land.¹³

In Pakel Village, the conversion provisions were crucial because land originating from the 1929 Deed needed to be brought into alignment with the national land law system. After independence, the people of Pakel made several attempts to obtain legal recognition for the land they managed. Around the 1960s, the community submitted a petition to the Regent of Banyuwangi to obtain permission to farm in the Sengkan Kandang and Keseran areas, which were included within the territory covered by the 1929 Deed. However, the government did not respond to the petition, so the community did not receive legal certainty regarding the land they occupied.¹⁴

Figure 2. Photo of a Pakel field



Source: Documents from Pakel/Monggabay Residents

Amid the uncertainty surrounding the land's status, some residents of Pakel began utilizing land in the Taman

¹³ Boedi Harsono, *Hukum Agraria Indonesia: Sejarah Pembentukan Undang-Undang Pokok Agraria, Isi dan Pelaksanaannya* (Jakarta: Djambatan, 2008), hlm. 53.

¹⁴ Imam Ghazali, "Hikayat Tanah Pakel: Konflik Agraria Petani Pakel dengan Perkebunan Pakuda 1925–1943," *MozaiK: Kajian Ilmu Sejarah* 14, no. 1 (2023): 74–75.

Glugoh area, which was still included within the boundaries of the 1929 Deed. However, following the events of September 30, 1965, the community no longer dared to manage the land openly due to fears of being accused of being part of the Indonesian Communist Party (PKI). This situation made it increasingly difficult for the community to obtain formal recognition of the land they had long managed.¹⁵

By the 1980s, the land that the community had long managed began to be claimed as part of PT Bumi Sari's plantation area. According to the testimonies of Bagiman and Busaman during the Pakel Village land dispute trial, in 1982 PT Bumi Sari evicted residents who were living on and managing land in the Pongkor area of Taman Glugoh Hamlet. Bagiman explained that the evictions were carried out by the company's security personnel on the grounds that the land would be used for a coffee plantation owned by PT Bumi Sari. The testimonies of these two community leaders confirm that the people of Pakel had long managed the land for generations before the company's claims to the area emerged.

Table 2. Land Tenure in Pakel Village (Pre-Independence – Present)

Time Period	Landowners/Landholding Groups	Area & Description
Before 1925	The Dutch Colonial Government	State Forests
1925–1929	Residents of Pakel Village	Applied to clear

¹⁵ WALHI JATIM, “Sidang Gugatan Perbuatan Melawan Hukum Ketua RTSP,” 13 Maret 2026.

(Before Independence, the Dutch colonial period)	(7 farmer representatives)	the Sengkan Kandang and Keseran forests. Approved on January 11, 1929, with the right to clear 3,000 hectares (Deed of 1929).
The Dutch Colonial Period (before 1945)	N.V. Cultuur Maatschappij Pacouda (Pacouda Plantation Company)	Dominant control over land in Pakel Village, including 30% of the Sengkan Kandang Keseran forest.
1950s–1960s (Post -Independence)	Farmers in Pakel Village	1953: Farmers resumed farming the Sengkan Kandang Keseran land, considering it their property.
1970s	PT Bumi Sari (Plantation)	The '1929 Deed' area, historically farmed by local farmers, was claimed by PT Bumi Sari.

1985	PT Bumi Sari	Held HGU covering only 1,189.81 hectares (Kluncing 190.3 ha + Songgon 999.6 ha). Pakel Village was not included in the HGU area.
1999	Residents of Pakel Village	Residents reoccupied the land within the '1929 Deed' area.
Currently (2024–2026)	Residents of Pakel Village; Perhutani & PT Bumi Sari	Residents: 321.6 hectares (of the village's total 1,309.7 ha). Perhutani & PT Bumi Sari: 988.1 hectares (remaining area).

Source: Author's analysis, 2026

The presence of residents' homes, farmland, and perennial crops that continue to grow to this day serves as evidence of the historical connection between the community and the land they occupy. During the court proceedings, the recollections of the village elders served not

only as witness testimony but also as a crucial element in explaining the history of land tenure by the Pakel community.

2. The Validity of PT Bumisari Maju Sukses's HGU Certificate

The land dispute in Pakel Village cannot be separated from the existence of the Cultivation Right (HGU) held by PT Bumisari Maju Sukses, which serves as the legal basis for the company's control and management of the plantation land. According to Eko Sutrisno, the legal counsel for PT Bumi Sari, all requirements for the company's HGU application have been met in accordance with applicable procedures. The HGU originated from the Minister of Home Affairs' Decree No. SK.35/HGU/DA/85 dated December 13, 1985, which granted PT Bumi Sari rights to 1,189.81 hectares of land. These rights are divided into two certificates: HGU Certificate No. 1 Kluncing, covering an area of 1,902,600 square meters, and HGU Certificate No. 8 Songgon, covering an area of 9,995,500 square meters, both valid until December 31, 2009.

In 2004, PT Bumi Sari applied for an HGU extension to the National Land Agency (BPN). According to data from the East Java Regional Office of the BPN, the application was signed by the Village Head of Kluncing, Licin Subdistrict, and the Village Head of Bayu, Songgon Subdistrict, and received a recommendation from the then Regent of Banyuwangi. However, the Village Head of Pakel was found not to have signed the HGU extension application.¹⁶ This fact is significant because the residents of

¹⁶ TIMES Indonesia, "Syarat Pengajuan HGU PT Bumi Sari Dipastikan

Pakel Village contend that part of the land claimed by the company is located within the territory of Kluncing Village, Licin Subdistrict. The exclusion of the Pakel Village government from the HGU extension process subsequently raised questions regarding the alignment of the HGU's location with the administrative boundaries listed in official documents.

Legally speaking, the issue of location is a critical element in the issuance of land rights. In the HGU documents, the areas mentioned are in Songgon and Kluncing subdistricts, whereas the disputed land is, in fact, located in Pakel Village, Licin subdistrict. This discrepancy in the designation of administrative areas creates uncertainty regarding the scope of PT Bumisari Maju Sukses's HGU. This ambiguity regarding the location could impact the legal certainty of land rights, as the subject of the right is an essential element in the issuance of an HGU. If there is a discrepancy between the location stated in administrative documents and the actual conditions on the ground, this could trigger disputes and multiple interpretations regarding the boundaries of the HGU area.

The issue became even more complex when, in 2019, PT Bumisari Maju Sukses split HGU Certificates No. 1 and No. 8 into four new certificates: SHGU Nos. 0295, 0296, 0297, and 0298. In one of these documents—specifically SHGU No. 0296—the village name field was left blank. According to Dianto Bachriadi, such administrative errors indicate that the issuance of land rights documents is often not carried

Lengkap," *TIMES Indonesia*, 18 September 2019, accessed April 30, 2026, <https://timesindonesia.co.id/peristiwa-daerah/229529/syarat-pengajuan-hgu-pt-bumi-sari-dipastikan-lengkap>

out with due care. Although administrative errors do not automatically nullify the legal status of land rights, gaps in data within government documents should be promptly corrected by the rights holders through land administration mechanisms.¹⁷

Dianto also explained that the subdivision of an HGU should follow the provisions of Article 48 of Government Regulation No. 24 of 1997 on Land Registration, which requires a survey certificate and a land register as the basis for the subdivision of rights. Thus, the subdivision of an HGU essentially constitutes the issuance of a new right, which should be based on a new Decree (SK). If the division is carried out without the issuance of a new SK, it may, from an administrative standpoint, result in a legal defect in the issuance of the certificate. In Dianto's view, this situation can be categorized as "Aspal" or "authentic but fake"—that is, a document that is formally authentic because it was issued by an authorized official, yet the issuance procedure does not fully comply with applicable legal provisions.¹⁸

¹⁷ TEKAD GARUDA, "Sidang Perbuatan Melawan Hukum Ketua Rukun Tani Sumbereja Pakel: Saksi Ahli Bongkar Cacat Hukum Surat Hak Guna Usaha (SHGU) Bumisari: Asli tapi Palsu," *WALHI Jawa Timur*, 20 April 2026, accessed may 2, 2026, <https://walhijatim.org/2026/04/20/siaran-pers-tekad-garuda-sidang-perbuatan-melawan-hukum-ketua-rukun-tani-sumbereja-pakel-saksi-ahli-bongkar-cacat-hukum-surat-hak-guna-usaha-shgu-bumisari-asli-tapi-palsu/>

¹⁸ TEKAD GARUDA

Figure 3. Spatial Allocation Map

Source: WALHI JATIM, 2026

Following the division of the HGU in 2019, the residents of Pakel Village observed that the company's claims to the plantation area had expanded to include land that they had controlled and managed for generations. This situation intensified the conflict between the community and the company, as the residents felt that land which had never been explicitly included within the HGU boundaries was suddenly being claimed as part of the company's plantation area.

Furthermore, this dispute also highlights overlapping administrative boundaries between the subdistricts of Songgon and Kluncing and Pakel Village in Licin Subdistrict. The lack of clarity regarding these administrative boundaries has led to legal uncertainty concerning the location of the HGU and the disputed area. In land law, clear boundaries and locations are essential requirements for ensuring legal certainty regarding land rights. Therefore, the administrative overlap in the Pakel Village dispute not only raises technical land issues but also results in weak legal protection for the community that has,

in fact, long held control over the land.

3. Legal Actions and Dispute Resolution

The agrarian conflict in Pakel Village has prompted the community to pursue various legal avenues to defend their land claims, which are based on the 1929 Deed and ancestral possession. One of the administrative steps taken was to file a petition in 2021 with the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) to revoke the Cultivation Rights Certificate (HGU) of PT Bumisari Maju Sukses, as the community contested the basis for the issuance of the HGU for "," which they considered inconsistent with the area under their control.¹⁹ During this dispute, the Banyuwangi BPN also issued a letter affirming that, administratively, the land of Pakel Village falls within the area covered by PT Bumisari's HGU certificate, thereby highlighting a discrepancy between the community's claims and the state's administrative recognition.²⁰

In addition to pursuing administrative channels, the community also brought the dispute to court through a civil lawsuit filed with the Banyuwangi District Court, which was subsequently recorded in Judgment No. 181/Pdt.G/2024/PN Banyuwangi. In that case, the community sought to prove the existence of a historical

¹⁹ Peliknya Konflik Agraria di Desa Pakel, Banyuwangi," *Masterplandes*, 14 Oktober 2024, <https://www.masterplandes.com/agraria/peliknya-konflik-agraria-di-desa-pakel-banyuwangi/>

²⁰ BPN Banyuwangi Sebut Tanah Desa Pakel Masuk Wilayah Sertifikat HGU Bumisari," *tvOne News*, 9 Juli 2024, <https://www.tvonenews.com/daerah/jatim/226198-bpn-banyuwangi-sebut-tanah-desa-pakel-masuk-wilayah-sertifikat-hgu-bumisari>.

connection and de facto control over the land based on the 1929 Deed, as well as the land's management through generations. On the other hand, PT Bumisari Maju Sukses based its claim on formal legal grounds in the form of an HGU certificate issued by the state. This dispute ultimately highlighted the conflict between the community's de facto control and the evidentiary weight of administrative documents, specifically the land rights certificate.

In its ruling, the Banyuwangi District Court declared the plaintiffs' lawsuit inadmissible, or "niet ontvankelijk verklaard" (NO). An NO ruling essentially means that the court did not examine the merits of the case because there were procedural defects in the complaint, whether related to the parties, the subject matter of the dispute, or other procedural aspects. Thus, the ruling does not constitute a rejection of the substance of the community's land rights, but rather indicates that the complaint was deemed not to have met the formal requirements for further review.

An appeal against the Banyuwangi District Court's decision was subsequently filed with the Surabaya High Court. In Decision No. 697/PDT/2025/PT SBY, the Surabaya High Court essentially upheld the previous decision. As a result, the decision became final and binding (*inkracht van gewijsde*) unless further legal action is taken to overturn it.

Nevertheless, a "NO" ruling does not automatically nullify the community's historical ties to or de facto control over the disputed land. From the perspective of civil procedure law, a "NO" ruling still leaves open the possibility for the community to file a new lawsuit, provided that the procedural defects that formed the basis of the previous

ruling have been corrected.

In practice, this ruling strengthens the company's legal position and has a direct impact on the community, as they no longer have the right to cultivate the disputed land as long as the company's legal status remains recognized. From a social and agrarian perspective, this situation further weakens the community's bargaining position, since the formal legality of the HGU is reinforced by the court's "no case to answer" () ruling, while the community's historical claims have yet to receive substantive recognition. Nevertheless, from a legal standpoint, the "NO" ruling does not automatically preclude the community from pursuing new legal avenues if the procedural deficiencies in the previous lawsuit are rectified, including through non-litigation channels such as agrarian mediation or agrarian reform mechanisms.

B. Implications of Banyuwangi Regional Spatial Plan Regulation No. 2 of 2024 on Land Tenure Structures

Banyuwangi Regency Regional Regulation No. 2 of 2024 on the 2024-2044 Spatial Plan serves not only as a guideline for spatial planning but also has implications for patterns of land tenure and land use. Through the establishment of zoning categories-such as conservation areas, cultivation areas, agricultural areas, industrial areas, tourism areas, and strategic areas the Spatial Master Plan determines the direction of land use while simultaneously influencing which parties gain legitimacy in controlling the territory. In

practice, spatial planning policies can strengthen the position of both the government and business actors in accessing and managing land in specific areas.

These implications also affect the structure of community land tenure. The designation of specific land-use functions can restrict land use by communities if it does not align with the zoning established in the RTRW. Conversely, in areas designated for industry, investment, or plantations, local governments have a stronger legal basis for supporting large-scale business development. This situation has the potential to drive a shift in land tenure from local communities to business entities or corporations, particularly in areas with high economic and investment value.²¹

Considering the land dispute in Pakel Village, Banyuwangi Regional Spatial Plan (RTRW) Regulation No. 2 of 2024 has the potential to strengthen the legitimacy of land tenure based on the Right to Cultivate (HGU), particularly if the area is designated as a plantation zone. This could place communities that have traditionally controlled the land in a weaker position, both administratively and legally. Therefore, the RTRW should not only be understood as a spatial planning instrument but also as having an impact on the fairness of land tenure structures; consequently, its implementation must consider the principles of agrarian reform and the protection of local communities' rights.²²

²¹ Konsorsium Pembaruan Agraria, *Catatan Akhir Tahun 2024: Konflik Agraria dan Tantangan Reforma Agraria di Indonesia*, Jakarta, 2024, hlm. 18–22.

²² Kementerian Agraria dan Tata Ruang/Badan Pertanahan Nasional, *Kajian Penataan Ruang dalam Mendukung Reforma Agraria dan Penyelesaian Konflik Pertanahan*, Jakarta, 2023, hlm. 45–49.

1. Normative Analysis of Local Regulation Provisions

Banyuwangi Regency Local Regulation No. 2 of 2024 on the Regional Spatial Plan (RTRW) is a legal instrument that serves as the basis for regulating land use in Banyuwangi Regency. Considering the land dispute in Pakel Village, the provisions of the RTRW Local Regulation are of significant relevance because they directly pertain to the designation of the function of the area that is the subject of the dispute.

Pursuant to Article 1, point 14, spatial planning is defined as the distribution of land-use designations within a region, encompassing both conservation and development functions.²³ This provision indicates that local governments have the authority to determine the direction of land use within a region based on specific designations. Through spatial planning regulations, the land-use functions of each area in Banyuwangi Regency are designated to ensure orderly land use.

Furthermore, Article 1, point 95, explains that a cultivation area is a region designated for cultivation based on the conditions and potential of natural resources, human resources, and man-made resources.²⁴ This regulation designates cultivation areas as spaces prioritized for economic and production activities, including the agricultural and plantation sectors. From a land-use planning perspective, the designation of cultivation areas serves as the basis for granting permits and land rights to support specific business activities.²⁵

²³ Peraturan Daerah Kabupaten Banyuwangi Nomor 2 Tahun 2024 tentang Rencana Tata Ruang Wilayah Kabupaten Banyuwangi Tahun 2024–2044

²⁴ Peraturan Daerah Kabupaten Banyuwangi Nomor 2 Tahun 2024

²⁵ Undang-Undang Nomor 26 Tahun 2007 tentang Penataan Ruang.

Furthermore, Article 1, item 106 defines plantation areas as areas with the potential to be utilized and developed for plantation commodities, whether on wet or dry land. This provision is reiterated in Article 30, paragraph (2), which states that plantation areas in Banyuwangi Regency cover an area of approximately 53,905 hectares and are spread across several subdistricts, including Licin and Songgon.²⁶

plantation area in the RTRW indirectly gives legitimacy to plantation activities carried out by HGU holding companies. From the perspective of spatial planning law, if an area has been designated as a plantation area, then the use of space for these activities is considered in accordance with the regional spatial plan²⁷. However, problems arise when the determination does not fully consider the historical fact that the people of Pakel Village have long controlled and managed the land for generations.

In addition, the determination of plantation areas in the RTRW has the potential to strengthen the company's legal position compared to the community. This is because the formal legality of the company is supported by the suitability of the spatial function in the RTRW Regional Regulation, while the community in general only has evidence of factual and administrative control of the village. As a result, there is an imbalance between the formal legitimacy owned by the company and the historical legitimacy owned by the community.

In the framework of agrarian reform, this condition shows that spatial planning policies are not fully sensitive to the history of local land tenure. In fact, spatial planning should not only be oriented to the interests of investment and development of the area, but also pay attention to aspects of social justice and protection of people who have long depended on the land for their livelihoods.

2. Synchronization of the Regional Spatial Planning Regulation (RTRW) with National Land Policy

Banyuwangi Regency Regional Regulation Number 2 of

²⁷ Undang-Undang Nomor 26 Tahun 2007 tentang Penataan Ruang.

2024 concerning the Regional Spatial Plan (RTRW) for 2024–2044 basically has a close relationship with national land policy because spatial planning not only regulates the use of territory, but also affects the direction of land control, utilization, and control. From the perspective of agrarian disputes in Pakel Village, synchronization between the RTRW and the national land policy is important to assess whether the determination of plantation areas is in line with the principles of national agrarian law and the goals of agrarian reform in Indonesia.

Normatively, Law Number 5 of 1960 concerning the Basic Regulation of Agrarian Principles (UUPA) places land as a resource that must be used as much as possible for the prosperity of the people. The state is indeed given the authority to control the earth, water, and space, but its implementation must still pay attention to social justice, legal certainty, and protection of people's rights. Therefore, regional spatial planning policies should not only be oriented towards the administrative certainty of land use, but also consider the reality of land tenure that is developing in the community. In relation to the Banyuwangi RTRW Regional Regulation Number 2 of 2024, the determination of part of the area as a plantation area can be understood as part of regulating spatial patterns and controlling area utilization. However, the policy has the potential to cause problems if applied to areas that still have land tenure disputes and historical claims of the community, as happened in Pakel Village. This shows that synchronization with the principles of the UUPA is not sufficiently understood in terms of administrative suitability, but also needs to pay attention to aspects of agrarian justice and the

protection of people's rights to land.

Table 3. Analysis of Synchronization and Normative Tension of RTRW Regional Regulation with the Principles of Agrarian Reform

Regulations / Principles	Normative Content	Implementation in the Banyuwangi RTRW Regional Regulation No. 2/2024	Criticism in the Perspective of Agrarian Reform
UUPA No. 5/1960	Land for the greatest prosperity of the people (Articles 2 & 33 of the 1945 Constitution).	The Regional Regulation prioritizes the function of plantation cultivation for investment.	The orientation of 'prosperity' shifted to 'legitimacy of HGU' without conflict resolution.
Law No. 26/2007 (Spatial Planning)	Community participation in spatial planning.	Formally involving the public, but not specifically the groups affected by the dispute (Pakel Village).	There is no evidence of substantive participation from Pakel Village residents who claim the historical land.
Principles of	Land	The	Regional

Asset Reform	redistribution and legalization of assets for the poor.	determination of plantation areas locks the status of land in the HGU regime.	Regulations have the potential to perpetuate asset inequality by ignoring historical claims.
Access Reform Principles	Access to capital, markets, and assistance for farmers.	Access is closed because the land is controlled by the company's HGU.	The Regional Regulation does not provide an access mechanism for the Pakel people to the land they previously managed.

Source: Author's analysis, 2026

On the other hand, the preparation of the Banyuwangi RTRW Regional Regulation for 2024–2044 is also a form of adjustment to national policies in the field of spatial planning, especially Law Number 26 of 2007 concerning Spatial Planning and its derivative regulations. The Banyuwangi RTRW was prepared to replace the previous regional regulation by adjusting the development of national regulations, including the provisions after the Job Creation

Law, Government Regulation Number 21 of 2021 concerning the Implementation of Spatial Planning, as well as various technical regulations from the Ministry of ATR/BPN. From the formal side, this condition shows that there are efforts to harmonize regional policies with the national spatial planning system. Spatial planning in Law Number 26 of 2007 itself not only aims to create regularity in space utilization, but also to realize safe, comfortable, productive, and sustainable regional space through integration between sectors and control of space utilization conflicts.

In practice, the preparation of the Banyuwangi RTRW involves local governments, DPRD, technical regional apparatus, and adjustments to the regulations of the relevant ministries. The available information also shows that there is coordination with national spatial planning policies and land regulations that are the authority of ATR/BPN. However, no normative explanation has been found that specifically regulates the direct link between RTRW and the settlement of agrarian conflicts or the recognition of areas that still have land tenure disputes. Thus, the synchronization between spatial planning and land policy in the Banyuwangi RTRW Regional Regulation appears more like administrative and sectoral harmonization than as an instrument for resolving agrarian conflicts.

This linkage is even more important when it is associated with the agrarian reform agenda which is a national policy in structuring the land tenure structure. Agrarian reform is basically directed to reduce land tenure inequality through land redistribution, asset legalization, and structuring people's economic access to agrarian resources.

In Banyuwangi Regency itself, the land redistribution and agrarian reform program is still carried out through cross-agency coordination, including by the Banyuwangi Regency Land Office.²⁸ Therefore, the synchronization of RTRW with agrarian reform policies should not only be understood as a mere spatial adjustment, but also as an effort to create a balance between investment interests, legal certainty, and the protection of people's land rights.

However, based on a search of the content of the Banyuwangi RTRW Regional Regulation Number 2 of 2024, no regulation has been found that explicitly places agrarian reform as the main part of the regional spatial planning policy. The connection between spatial planning and agrarian reform is more visible in policy coordination between institutions than in the norms of regional regulations. This condition shows that the synchronization between spatial planning policy and national land policy still tends to be oriented towards regulating the use of space and certainty of permits, while the aspect of resolving land tenure inequality has not received strong attention in the substance of the regulation.

3. Jurisprudence Implications of the Determination of Plantation Areas

The determination of plantation areas in Banyuwangi Regency Regional Regulation Number 2 of 2024 concerning RTRW for 2024-2044 has significant juridical implications for the dynamics of agrarian disputes in Pakel

²⁸ Kantor Pertanahan Kabupaten Banyuwangi, "Penyuluhan Redistribusi Tanah Obyek Reforma Agraria di Kedungasri," accessed May 3, 2026, <https://kab-banyuwangi.atrbpn.go.id/berita/penyuluhan-redistribusi-tanah-obyek-reforma-agraria-di-kedungasri>

Village. When reviewed, spatial planning policies not only function as a guideline for land use, but also affect the legitimacy of land tenure, the legal position of the parties to the dispute, and the direction of resolving agrarian conflicts that have lasted for decades. The designation of the disputed area as a plantation area indirectly strengthens the existence of the Business Use Rights (HGU) owned by PT Bumisari Maju Sukses because the spatial function stipulated in the RTRW is in line with the plantation business activities carried out by the company.

From the point of view of land administration law, the conformity between HGU and RTRW can be the basis for strengthening the legality of land use by rights holders. In land management practices, spatial suitability is one of the important elements in the issuance and evaluation of land rights, including HGU. Therefore, when the area that is the object of dispute is designated as a plantation area in the RTRW, PT Bumisari Maju Sukses's position administratively becomes stronger because its business activities are considered in accordance with the direction of the regional spatial policy. This is also related to the view of companies that consider that the existence of their HGU has obtained a complete legal basis through the process of issuance, extension, and adjustment of land administration that was carried out previously.

On the other hand, this condition has implications for the bargaining position of the people of Pakel Village who have long claimed historical control over the land based on the 1929 Deed and hereditary management. The determination of plantation areas has the potential to narrow the space for recognition of community claims

because the orientation of space utilization in the RTRW emphasizes the economic function of the plantation area rather than the historical aspect of land tenure by residents. From a juridical perspective, the RTRW is not an instrument that determines the ownership of land rights directly, but the existence of the determination of the function of the area can affect the direction of government policies in granting permits, controlling the use of space, and legitimacy of land use in the field. As a result, people who are in areas that have been designated as plantation areas tend to be in a weaker position when dealing with HGU holders who already have formal legality and support for spatial suitability.

Another implication can be seen in the possibility of new conflicts and the increasing complexity of existing conflicts. The determination of plantation areas in the RTRW has the potential to create the perception that local governments are more on the side of investment certainty and the sustainability of plantation businesses than the resolution of community agrarian conflicts. This condition can increase public distrust of government policies, especially if the determination of the area is carried out without adequately considering the history of disputes and land tenure that develops in the field. Regarding Pakel Village, conflicts that previously focused on land tenure disputes between the community and the company can develop into policy conflicts because the community views the RTRW as actually strengthening the company's legitimacy over the disputed areas.

C. Critical Analysis in the Perspective of Agrarian Reform

From the perspective of agrarian reform, spatial planning policy cannot be understood only as an administrative instrument to regulate land use, but must also be judged by its ability to realize justice in land tenure and utilization.²⁹ At this point, the Banyuwangi Regency RTRW Regional Regulation Number 2 of 2024 needs to be critically examined, especially when the determination of plantation areas actually intersects with areas that are still disputed by the people of Pakel Village. If spatial planning policies emphasize the sustainability of existing formal control without accommodating the historical claims of society, then RTRW has the potential to reproduce agrarian inequality instead of reducing it.

The main criticism based on this lies in the relationship between legal certainty and agrarian justice. On the one hand, the state has an interest in maintaining certainty for rights that have been formally recognized, including HGU. But on the other hand, agrarian reform demands recognition of the history of land tenure, the social relationship of the community with its living space, and structural inequality that has lasted for a long time. Therefore, the determination of plantation areas in the RTRW should not be read solely as a technocratic decision, but also as an agrarian political choice that has direct implications for the position of local

²⁹ Bintang Prakoso, Ika Hariyani, and Moh. Ali, "Justice Perspective on Agrarian Reform in Realizing People's Welfare," *Notary* 7, no. 3 (2024): 325–338, <https://doi.org/10.20473/ntr.v7i3.58676>

communities.

Thus, the RTRW should be positioned as an instrument that not only maintains spatial order, but also encourages a fairer distribution of land tenure. In the case of Pakel Village, spatial planning policies need to be accompanied by participatory conflict resolution mechanisms, recognition of the history of community domination, and the possibility of more substantive agrarian reform steps. Without it, spatial planning policies risk becoming a tool for legalization of existing inequality.

1. The Concept of Agrarian Reform: The Arrangement of Asek and Access

Agrarian reform is the restructuring of the ownership, control, and use of agrarian resources (especially land). The goal is to change the structure of society inherited from feudalism and colonialism into a just and equitable society.³⁰ Agrarian reform is not only oriented towards land redistribution, but also aims to realize social justice through the structuring of agrarian control structures that are more balanced between the community and capital holders.³¹

The objectives of agrarian reform contained in the MPR TAP Number IX/MPR/2001 are to reduce poverty, improve public access to economic resources (land), rearrange the gap in the control of ownership, use, land utilization, and

³⁰ Retno Sulistyarningsih, "Reforma Agraria di Indonesia," *Lembaga Penelitian dan Pengabdian Masyarakat (LPPM) Universitas Wijaya Kusuma Surabaya* 26, no. 1 (2021).

³¹ Asmarani Ramli et al., "Embracing Social Justice: Exploring the Journey from Land Reform to Agrarian Reform," dalam *The 4th International Conference on Innovations in Social Sciences Education and Engineering (ICoISSEE-4)* (Bandung, Indonesia, 20 Juli 2024), 15.

agrarian resources, and reduce land and agrarian disputes.

Land reform is related to the rearrangement of land tenure and ownership through a more equitable redistribution of land. Meanwhile, access to resources includes providing support to the community in utilizing land productively, such as access to capital, technology, mentoring, and legal protection.³²

Conceptually, agrarian reform has two main pillars, namely *asset reform* and *access reform*. Asset management is related to the state's efforts to redistribute or rearrange land control and ownership so that people obtain legal certainty over the land they control. The tangible form of asset structuring includes land redistribution and land rights certification³³. The certification not only aims to create an orderly land administration, but also makes land a productive asset that can support the welfare of the community. Meanwhile, access arrangement is the provision of support to agrarian reform subjects to be able to utilize land optimally through access to capital, technology, markets, training, mentoring, and legal protection.³⁴ Thus, agrarian reform does not stop at granting land rights, but also ensures that people have the economic ability to manage the land sustainably.

In relation to the land dispute in Pakel Village, the

³² Oswar Mungkasa, *Reforma Agraria: Sejarah, Konsep dan Implementasi* (Jakarta: Badan Perencanaan Pembangunan Nasional, 2020).

³³ Saheriyanto dan Ahmad Suhaimi, "Pendampingan dan Akses Modal sebagai Strategi *Access Reform* dari Tanah Pelepasan Kawasan Hutan di Kabupaten Barito Kuala," *Jurnal Pertanahan* 2, no. 1 (Juli 2021): 77.

³⁴ Ferdian Setyo Wibowo, Gatot Dwi Hendro Wibowo, dan Widodo Dwi Putro, "Implementasi Pembaruan Agraria dan Pengelolaan Sumber Daya Alam terhadap *Access Reform*," *Kertha Semaya* 10, no. 9 (2022), <https://doi.org/10.24843/KS.2022.v10.i09.p06>

concept of agrarian reform has a very strong relevance. The conflict that occurred shows that there is an inequality between the factual control of land by the community and the formal legality owned by the company through the Right to Use Business (HGU). The people of Pakel Village, who have managed the land for generations, feel that they have a historical and social relationship with the land, but the existence of HGU causes the position of the community to be weak based on formal law.

When associated with the goal of agrarian reform, the dispute in Pakel Village reflects the lack of optimal arrangement of a fair land tenure structure. In this perspective, agrarian reform should be an instrument to resolve conflicts through the restructuring of land tenure, protection of the cultivating communities, and the provision of legal certainty over the land they have long managed. In addition, agrarian reform is also relevant to encourage conflict resolution that is not only oriented towards administrative legality, but also considers the historical, social, and welfare aspects of local communities.

2. Evaluation of Spatial Planning Policies within the Framework of Agrarian Reform

An evaluation of spatial planning policies cannot be limited to assessing their administrative conformity with laws and regulations. More than that, the policy needs to be tested to what extent it can realize justice in the control and use of land for the community. In the framework of agrarian reform, spatial planning is not only an instrument to create development order, legal certainty, and environmental sustainability, but also part of the state's mechanism in

regulating the distribution of access to land and agrarian resources.³⁵ Therefore, the principle of justice is important so that spatial planning policies do not only accommodate economic and investment interests, but also pay attention to the rights of people who have lived for a long time and depend on a certain area.

In the case of Pakel Village, the determination of plantation areas in the Banyuwangi Regency RTRW Regional Regulation Number 2 of 2024 shows that the orientation of spatial planning emphasizes the function of plantation cultivation as part of the direction of regional development. Normatively, these policies can be justified within the framework of controlling space use and regional economic development. However, when viewed from the perspective of agrarian reform, spatial planning should also consider aspects of equitable land tenure and protection of communities that have historical ties with the region. In this sense, spatial justice is not only interpreted as the regularity of land use, but also as an effort to prevent inequality in land tenure that can weaken the position of local communities.³⁶

In addition to the principle of justice, community participation in the RTRW preparation process is an important element in democratic spatial planning. Community participation in the preparation of Banyuwangi Regency Regulation Number 2 of 2024 concerning RTRW

³⁵ Anita Kamilah, "Land-Use Conflict Identification Strategy (LUCIS) in Accelerating Agrarian Conflict Resolution to Realize Just Agrarian Reform," *International Journal of Application on Social Science and Humanities* 1, no. 2 (2023): 1515–1524, <https://doi.org/10.24912/ijassh.v1i2.27734>

³⁶ Rosmidah, M. Hosen, dan Sasmiar, "Penataan Struktur Hukum Hak Atas Tanah dalam Rangka Keadilan dan Investasi," *Recital Review* 5, no. 2 (2023): 209–244, <https://doi.org/10.22437/rr.v5i2.28387>

is in principle realized through a two-way communication mechanism between the government and the community. This participation includes providing input, public consultation, submitting objections, and involvement in the spatial planning process so that the resulting policies are more responsive to the needs of the community and oriented towards fair and sustainable development.³⁷ In this framework, the community is not only positioned as a policy object, but also as a party that has the right to know, provide views, and supervise the direction of spatial arrangement.

More concretely, such participation can be carried out through the identification of regional potentials and problems, participation in public communication forums such as public consultations, focus group discussions, workshops, or seminars, and monitoring the implementation of space utilization in the field.³⁸ This mechanism is important so that the public can submit proposals or objections to the draft spatial policy, as well as report if there are indications of deviations in the use of space from the plan that has been set. Based on transparent governance, public access to spatial information and the process of drafting regional legal products are an important part of the democratic implementation of RTRW.

However, in the preparation of the 2024–2044 Banyuwangi RTRW Regional Regulation, no description was found that expressly showed the involvement of the Pakel Village community in the discussion of the

³⁷ Aditya Nurhamani, " (Nurhamani 2024)," *Environmental Law Building* 8, no. 2 (2024): 189–213, <https://doi.org/10.24970/bhl.v8i2.157>

³⁸ Peraturan Pemerintah (PP) Nomor 21 Tahun 2021 tentang Penyelenggaraan Penataan Ruang

determination of plantation areas in the disputed area. This shows that community participation in the spatial planning process is not yet completely specific to the directly affected groups.

Another important aspect of spatial policy evaluation is sensitivity to the history of local land tenure. In many agrarian conflicts in Indonesia, the main problem often arises because of the difference between formal legality recognized by the state and the factual control that lives in society. Pakel Village is an example of an area that has a long history of land control by the community based on land clearing since the colonial period which is associated with the 1929 Act. The history of this domination has become part of the social identity of the community and is inherited from generation to generation. Therefore, spatial planning policies should not only rely on administrative data on land use, but also consider the historical and sociological dimensions of land tenure at the local level.

If spatial planning is carried out without sensitivity to the history of community land tenure, then the policy has the potential to strengthen existing agrarian conflicts. The designation of plantation areas in disputed areas can be perceived as a form of state legitimacy for corporate control, while the community's historical claims are increasingly difficult to gain recognition in formal policies. In the framework of agrarian reform, such a condition shows that spatial planning has not been fully directed as an instrument to create agrarian justice, but is still more dominant as a tool for controlling development and investment certainty.

3. Crisis Analysis: Does the RTRW Regulation Perpetuate Inequality?

Banyuwangi Regency Regional Regulation Number 2 of 2024 concerning Regional Spatial Planning needs to be understood not only as a product of spatial planning law, but also as a policy that has direct implications for the structure of land tenure. From the perspective of agrarian reform, spatial planning ideally functions as an instrument to rearrange community access to land more equitably, rather than simply regulating the function of the area administratively. Therefore, critical evaluation of the RTRW does not stop at the aspect of formal legal conformity, but it is necessary to ask the extent to which the policy contributes to the reduction or perpetuation of agrarian inequality.³⁹

In relation to Pakel Village, the designation of the disputed area as a plantation area shows the tendency of spatial planning policies that affirm the sustainability of the plantation cultivation function as part of the direction of regional development. Administratively, this determination can be understood as an effort by the local government to maintain consistency in space utilization and support regional economic activities. However, from the perspective of agrarian reform, the policy raises critical questions about the relationship between asset structuring and strengthening the Right to Use Business (HGU). If the spatial arrangement further strengthens the existing legal status of tenure without opening space for settlement of the community's historical claims, then the RTRW has the potential to function as an instrument that strengthens the

³⁹ F. Earlene dan B. Djaja, “ (Djaja 2023),” *Tunas Agraria* 6, no. 2 (2023): 152–170, <https://doi.org/10.31292/jta.v6i2.22>

unequal structure of land tenure.

The most fundamental issue in this case lies in whether spatial planning is really directed at the arrangement of assets for the benefit of the community or is it a means of strengthening the position of HGU holders. In the framework of agrarian reform, asset management should be aimed at a more equitable distribution of land tenure, especially for people who factually have a historical relationship with the land. However, when the disputed territory is included in the plantation area, the policy can be perceived as a form of legitimacy for the formal control of the company, especially if the status of HGU has been recognized by the state first. In such a situation, spatial planning is no longer neutral, but rather part of a policy apparatus that strengthens the position of formal rights holders.

This issue has become increasingly sensitive because the people of Pakel Village base their claims on the history of land tenure associated with the 1929 Deed and hereditary tenure. Under conditions like this, the determination of plantation areas without adequate recognition of the historical claims of the community can be understood as an affirmation of the logic of formal legality. As a result, spatial planning does not function as a tool to correct agrarian inequality, but rather tends to maintain an established structure of control.

The next dilemma lies in the tension between legal certainty and agrarian justice. From the state side, legal certainty is important to ensure the stability of the ownership of land rights that have been formally administered, including HGU. This certainty is needed so

that orderly land administration, investment certainty, and orderly use of space can be maintained. However, agrarian justice demands something broader than just a recognition of formal legality. He wants recognition of the history of land tenure, the social relations of the community with their living area, and structural inequality that may have been born from the previous land tenure process.

In the case of Pakel Village, this dilemma is obvious. On the one hand, the company's HGU acquires legitimacy through the legal system and is supported by the determination of space in the RTRW. On the other hand, the community considers that the land has a history of possession that cannot be ignored. If the state emphasizes administrative certainty without resolving the root of agrarian conflicts, then substantive justice becomes marginalized. This means that spatial planning policies do create certainty for formal rights holders, but at the same time can ignore justice for communities that have historical claims and factual control over land.

The position of the people of Pakel Village is getting weaker after the issuance of the RTRW Regional Regulation and a court decision stating that their lawsuit is unacceptable. Juridically, the decision has not addressed the subject matter of the dispute substantively, but practically still has a big impact because the status of the company's HGU continues to run and is recognized in the land administration system. In such conditions, the RTRW Regional Regulation which designates the disputed area as a plantation area can be read as an additional strengthening of the company's formal legitimacy.

The impact is not only legal, but also social and

economic. It has become increasingly difficult, even impossible, for people to work on the land that they have been claiming as part of their living space. At the same time, they are facing lawsuits from plantation companies, so that their position is increasingly vulnerable in agrarian power relations. Thus, this dispute shows that spatial policies, when not accompanied by sensitivity to ongoing agrarian conflicts, can widen social inequality and narrow the living space of local communities⁴⁰.

Based on this description, it can be said that the Banyuwangi RTRW Regional Regulation Number 2 of 2024 has the potential to perpetuate inequality if its implementation emphasizes more space certainty for HGU holders without being accompanied by a fair and participatory agrarian conflict resolution mechanism. In the framework of agrarian reform, spatial planning policies should not only function as an instrument of development control, but also to realize more equitable land tenure justice. Without sensitivity to the history of community land tenure and without substantive resolution of existing conflicts, RTRW risks becoming an institutional tool that strengthens agrarian inequality.

4. Equitable Alternative Solution

The settlement of land disputes in Pakel Village needs to be placed in a framework that does not solely rely on formal legality, but also pays attention to the social, historical, and agrarian justice dimensions. The conflict that has lasted for a long time shows that settlement through litigation alone has

⁴⁰ Anita Kamilah, " *International Journal of Application on Social Science and Humanities* 1, no. 2 (2023), <https://doi.org/10.24912/ijassh.v1i2.27734>

not been able to bring certainty and a sense of justice to all interested parties. Therefore, an alternative approach is needed that is dialogical, participatory, and oriented towards restoring social relations between the community, the state, and land rights holders.

One of the relevant mechanisms is mediation and negotiation between the parties to the dispute. This approach is considered more likely to achieve mutual understanding than the judicial process which tends to produce a dichotomy between the winners and the losers. In Pakel Village, mediation is important because disputes that occur are not only related to the administrative status of land, but also related to the history of land tenure, social identity of the community, and the sustainability of residents' living spaces. Therefore, settlement through multistakeholder dialogue involving local governments, ATR/BPN, HGU holding companies, the community, and independent elements such as academics or professional mediators is a more constructive option. Through this mechanism, the parties can openly outline the basis of their respective claims and seek a more equitable and sustainable common ground.

In addition to mediation, social forestry schemes or agrarian partnerships can be considered as an intermediate solution when formal control of land has not yet been possible to be directly changed. In this scheme, the community can obtain access space and benefits to land through a legally regulated pattern of cooperation without having to directly negate the status of existing rights. This kind of partnership approach is commonly used to reduce conflicts between communities and land permit holders or

rights, while providing opportunities for more inclusive land use. In the case of Pakel Village, this pattern can be a transitional path to reduce social tension while still opening space for the community to access the sources of livelihood that they have been managing.

In addition, the resolution of the conflict in Pakel Village can also be attributed to the land redistribution policy within the framework of agrarian reform. Agrarian reform basically aims to rearrange the structure of land tenure and utilization in order to create equal access and social justice. If in the evaluation process it is found that some areas qualify as Agrarian Reform Object Land, then the redistribution of land to communities that have historical relationships and factual control over the land should be considered. Of course, this policy requires careful study because it relates to the legal status of land, the suitability of spatial planning, and the implications for existing rights. However, in a region with a long history of agrarian conflicts, agrarian reform remains an important instrument to bring about a more substantive and long-term oriented solution.

Based on regional policies, the Banyuwangi Regency Government needs to take an active role as a facilitator of agrarian conflict resolution. This role is not enough to be realized through the implementation of spatial planning policies alone, but also through initiatives to build multistakeholder dialogue spaces involving the community, companies, ATR/BPN, academics, and civil society organizations. Local governments need to ensure that conflict resolution is not only oriented towards investment certainty and administrative certainty, but also on the

protection of the rights of local communities who have long depended on the land. In addition, evaluation of the implementation of RTRW in disputed areas needs to be carried out periodically so that spatial planning policies do not actually strengthen the inequality of land tenure that has existed before.

Table 4. An Alternative Matrix for Equitable Dispute

Alternative Resolution Methods	Implementation	Advantages	Disadvantages
Multi-Party Mediation	Facilitation by the Banyuwangi Regency Government involving KPA, BPN, PT Bumisari, an expert team, and representatives of the Pakel community.	Low cost; builds dialogue; acknowledges the history of domination (living law).	Possible non-negotiable stance from the company or pro-investment local government.
Agrarian Partnership (Access Scheme)	The company retains the HGU while the community is granted access (plasma) to work in agreed zones.	Win-win solution; prevents prolonged social conflict.	Requires the corporation's good faith; prone to exploitation without assistance.
Land Redistribution for Agrarian Reform	BPN reviews whether the HGU land is abandoned land or forest land that should	Provides a final legal solution; restores	Lengthy bureaucratic process; potential

Objects (TORA)	be controlled by the state.	community rights substantively.	lawsuits from the company.
Re-Evaluation of RTRW Regional Regulation (Spatial Correction)	Revision of the Regional Regulation to reclassify the disputed Pakel Village land from plantation area to residential/community agricultural land.	Stops the legal legitimacy of the company's claims in the disputed area.	Difficult because the 2024 Regional Regulation remains valid until 2044 and requires an extraordinary review.

Source: Author's Analysis, 2026

Thus, the settlement of land disputes in Pakel Village needs to be designed through a combination of several approaches, namely inclusive mediation, partnership schemes that provide access to the community, and the possibility of land redistribution within the framework of agrarian reform. All of these steps require an active commitment of local governments to build fair, participatory, and sustainable settlements. This kind of comprehensive approach is important so that agrarian conflicts do not continue to recur and land policies truly function as instruments of social justice.

Conclusion

The designation of plantation areas under Banyuwangi Regency Regional Regulation Number 2 of 2024 concerning the Regional Spatial Plan (RTRW) has not fully reflected the principles of agrarian reform, which place equitable land tenure as a primary objective. From a normative perspective, the regulation has been formulated in accordance with the national spatial planning framework and serves as an instrument for controlling regional land utilization. However, as evidenced by the land dispute in Pakel Village, the designation of the area as a plantation zone tends to reinforce the formal legality of the Right to Cultivate (Hak Guna Usaha or HGU) rather than accommodate the historical patterns of community land tenure that have been maintained across generations. This condition indicates that the synchronization between spatial planning policies and land administration policies remains more oriented toward administrative certainty and investment interests than toward addressing inequalities in land ownership and ensuring the protection of local communities' rights.

Furthermore, Decision Number 181/Pdt.G/2024/PN Banyuwangi, which declared the community's claim inadmissible, demonstrates that litigation-based dispute resolution has not adequately addressed the substantive dimensions of the agrarian conflict in Pakel Village. From the perspective of agrarian reform, dispute settlement should not be confined solely to considerations of formal legality, but should also consider historical, social, and distributive justice dimensions related to land tenure. Therefore, a more participatory and equitable approach is required, including

the strengthening of mediation mechanisms, the evaluation of spatial planning policies in disputed areas, and the harmonization of land administration policies with the objectives of agrarian reform. Such measures are essential to ensure that spatial planning does not function as an instrument that perpetuates agrarian inequality, but rather contributes to the realization of social justice for the people of Pakel Village.

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