Law Research Review Quarterly
Vol. 11 Issue 3 (2025) 907–932
DOI:
Online **at**
Available online since:

Land, Law, and Leniency: Unpacking the Effectiveness of Sanction in Land-Related Crimes

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Abstract

Land disputes are increasingly prevalent in Indonesia, often resulting in significant harm to individuals and communities, particularly in cases of land grabbing. Land grabbing refers to the unlawful occupation or appropriation of land without the owner's consent, which may involve encroachment, falsification of land certificates, or alteration of land boundaries. Such acts constitute criminal offenses under Article 385 of the Indonesian Criminal Code (KUHP). However, enforcement remains weak, and judicial decisions frequently result in disproportionately lenient sentences. This raises serious concerns about the deterrent effect of penal sanctions and the broader implications for land governance.

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Factors contributing to land grabbing include ignorance or neglect of land ownership rights, speculative practices, and the increasing value of land. This research investigates the effectiveness of penal sanctions in land-related crimes, focusing on lenient sentencing patterns in Indonesian court decisions. Using a normative juridical approach combined with document analysis, this study analyzes Supreme Court decisions over the past decade to assess the extent of sentencing disparities and the lack of clear judicial guidelines. Findings reveal a consistent trend of light punishments that fail to reflect the gravity of the offenses or deter future violations, thereby exacerbating agrarian conflicts and undermining the rule of law. The urgency of this issue lies in the continued vulnerability of rightful landowners and the erosion of public confidence in the legal system. This study contributes to legal reform discourse by recommending the development of clearer sentencing guidelines and more equitable legal frameworks to ensure justice and prevent recurring land crimes in Indonesia.

Keywords *Land Grabbing, Penal Sanctions, Judicial Leniency, Land Disputes, Indonesia Legal System*

I. Introduction

The implementation of land acquisition to ensure the implementation of development for the public interest, land is needed whose procurement is carried out by prioritizing humanitarian, democratic, and fair principles.[1] Land problems

[1] Guswan Hakim, "Pengakuan Hak Atas Tanah Adat Dalam Pemberian Ganti Kerugian Pada Pembebasan Tanah Untuk Kepentingan Umum Di Kota Kendari: Recognition of Customary Land Rights in Providing Compensation for Land

are inevitable. Indonesia itself consists of 1.9 million km of land area with land ownership spread across the people. Therefore, land disputes can only be prevented from increasing and strict sanctions are given to the perpetrators of the dispute that harm the parties.

Land disputes are endless issues due to the inequality of power and land distribution. Land problems are complex and complex legal issues and have a wide dimension, so they are not easy to solve quickly. Soil problems that are often found in society are soil grabbing.[2]

Land juridically as regulated in Article 4 of Law No. 5 of 1960 concerning the Basic Regulations of Agrarian Principles is interpreted as the surface of the earth, its use includes the body of the earth, water and the space on it that can be owned individually or in groups. In Article 1 of Law Number 51 of the Government Regulation in Lieu of Law (Perpu) of 1960 concerning the prohibition of the use of land without a permit with the right or power of attorney, it is explained about the meaning of land, namely land that is directly controlled by the state and land controlled by individuals or legal entities.[3] Land grabbing consists of 2 (two) words, namely grabbing and land. Stealing comes from the word serobot which in the Great Dictionary of the Indonesian Language (KBBI) means to take rights or property arbitrarily or by not heeding laws and rules. In fact, many irresponsible parties are consciously violating and violating the law by depriving others of their property

Acquisition for Public Interest in Kendari City," *Halu Oleo Law Review* 3, no. 2 (2019): 268–282.

2 Jenri Ranteallo and Yana Sukma Permana, "Tinjauan Yuridis Tindak Pidana Penyerobotan Tanah Adat Di Kabupaten Toraja Utara," *The Juris* 6, no. 2 (2022): 437–440.

3 Hendrik Kusnianto, "Akibat Hukum Pelaku Penyerobotan Tanah Dalam Aspek Hukum Pidana Indonesia," *Jurnal Ilmiah Ilmu Hukum* 9, no. 1 (2024): 113–118.

rights for personal gain, whether done by individuals, corporations or state institutions.

The rules that regulate land grabbing are a criminal act, namely in Article 385 of the Criminal Code and are found in other regulatory provisions such as the Basic Agrarian Law and its implementing regulations. However, with the existing regulatory provisions in practice, there are still many rulings that are not suitable, marked by light verdicts in cases that are detrimental to small communities in real terms and have a big impact on society. This raises serious questions regarding the effectiveness of the final verdict in the case of land grabbing in Indonesia. The effectiveness of criminal law penalties here not only discusses where the norms and criminal threats lie, but also the extent to which the sanctions imposed on the perpetrators can provide a *deterrence effect*, ensure justice for the aggrieved victims and prevent the recurrence of these criminal acts. If the court decision is more lenient and disproportionate as it should be to the occurrence of damage and losses in the community, then it is certain that the function of criminal law enforcement will be weak. The problem of land ownership without rights is a problem that is very close to the control of a land or land that is still vacant, but there is also a control over land that is deliberately carried out due to a common origin or proof of ownership, but basically only belongs to someone who has the right to the land.[4]

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[4] Vina Aprilia et al., "Proses Peradilan Perbuatan Melawan Hukum Studi Kasus Penyerobotan Tanah," *Journal on Education* 6, no. 01 (2023): 9744–9759. In the further context and cases, please *also see* Emelia Kontesa, and Zico Junius Fernando. "Reclaiming Our Roots: Agrarian Law's Battle Against Land Grabbing." *Lex Scientia Law Review* 8, no. 2 (2024); Artaji Artaji, et al. "Resolution of Agrarian Conflicts on Plantation Land through Restorative Justice in Indonesia." *Lex Scientia Law Review* 8, no. 1 (2024): 109-138.

Previous studies indicate that the imposition of light sentences on perpetrators of land grabbing cases can be attributed to multiple factors, including divergent interpretations of criminal provisions, evidentiary challenges, political or economic interference, and a legal culture that often disfavors the victim. These complexities suggest that the issue of penal effectiveness extends beyond procedural implementation and judicial mechanisms to encompass the substantive content of the law, the structural organization of the courts, and the prevailing legal culture within society.[5]

In this context, it is imperative to conduct a comprehensive study that examines and analyzes the effectiveness of penal sanctions in land grabbing crimes, with particular attention to the applicable regulations and judicial decisions, assessed through the lens of justice for victims. This research holds critical relevance amid ongoing demands for agrarian justice and enhanced protection for indigenous peoples, farmers, and marginalized communities who depend heavily on the law enforcement system to address their losses. By revealing the shortcomings in criminal law enforcement related to final court verdicts in land grabbing cases, this study aims to contribute to the development or reformulation of criminal law policies that are fairer, more progressive, and characterized by greater clarity and coherence.

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[5] *See* Irwan Irwan, et al. "Conflicts of Land Confiscationis in Sogo Village: Community Versus PT. Bukit Bintang Sawit (WILLMAR)." *Komunitas: International Journal of Indonesian Society and Culture* 10, no .2 (2018): 263-272; Nur Hidayani Alimuddin, et al. "Indonesia's Land Bank Authority: Aligning with Agrarian Law or Facilitating Land Grabbing?." *Journal of Law and Legal Reform* 5, no. 4 (2024): 1609-1644; Suhadi Suhadi, and Aprila Niravita. "Urban agrarian reform: opportunities and challenges for land rights among low-income communities." *Legality: Jurnal Ilmiah Hukum* 32, no. 2 (2024): 348-373.

II. Ten Years of Land Grabbing Verdicts: A Critical Evaluation of Criminal Justice Mechanisms

The act of illegally encroaching on land is an act that can be classified as a criminal act.[6] Even though it is proven that a person has committed a crime of land grabbing, he has not guaranteed his ownership, and must also file civil legal proceedings through a lawsuit and after obtaining legal certainty through a civil decision, then apply for execution to the court, then the ownership of the land that was seized by the person can be repossessed. In the past decade, the handling of land grabbing cases by law enforcement officials and courts has shown various fundamental problems, both in terms of the effectiveness of the criminal justice system and the legal mechanisms used. In general, land grabbing is regulated in Article 385 of the Criminal Code, but in practice, the application of this article often faces obstacles to proving the element of "*unlawful*" and disputed land ownership status.[7]

This creates a legal loophole that is often exploited by perpetrators, especially in cases involving land mafias or large corporations. An evaluation of court decisions in the period 2014–2024 shows the dominance of light sentences, even in cases that have a systemic impact on small communities. For example, in several decisions such as the Cibinong District Court Decision No. 145/Pid.B/2018/PN. Cbi and Medan District Court Decision No. 223/Pid.B/2019/PN.Mdn, the defendant was sentenced to only 6 months in prison even though he was proven to have illegally

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6 Robert L. Weku, "A Study of Land Grabbing Cases Reviewed from the Aspects of Criminal Law and Civil Law," *Lex Privatum* 1, no. 2 (2013): 165–176.

7 A. N. Dodik Prihatin, et al. "Formulation of Criminal Law against Criminal Acts in the Land Sector in Indonesia." *Science and Education* 2, no. 11 (2022): 656-662; Idah Yani, Kasiria Lafau, and Jenda Ingan Mahuli. "Control Over Land Owned by Others Reviewed from Criminal Law." *LEGAL BRIEF* 12, no. 3 (2023): 261-266.

controlled land owned by residents. This pattern shows the tendency of the judicial system not to make land grabbing a serious crime, even though the crime has a major impact on the property rights and socio-economic life of the victim.

Some of the causes of the light verdict include weak regulations in the Criminal Code, especially in Article 385, overlapping land administration, and lack of social considerations in judges' decisions. In addition, there are not a few cases involving actors with large capital or officials, thus complicating the evidentiary process and increasing the possibility of legal compromise. Therefore, this illustrates the systematic failure to provide effective legal protection to victims of land grabbing, as well as indicating the need for comprehensive reforms in normative, institutional, and judicial aspects in handling land crimes in Indonesia.

Another example of a case is in Decision Number 129/Pid.B/2017/PN. SMG, the defendant was proven to have invaded land owned by residents in Semarang City and built a permanent fence on land that did not belong to him. Despite being found guilty, the judge only sentenced him to 4 months of imprisonment with a probation period of 6 months, with no obligation to return the land or pay compensation. In another case, Decision Number 540/Pid.B/2019/PN.Mdn in Medan shows that the defendant invaded land belonging to a social foundation and used it for personal interests. The verdict only imposed a fine of Rp2 million, without imprisonment, on the consideration that the defendant "*in good faith*" returned the land after legal proceedings. This pattern is repeated in many cases, where the verdict handed down is unlikely to reflect the severity of the land rights violation and the socio-economic impact on the victim.

The lenient sentences handed down in land grabbing cases generally do not reflect a sense of justice, especially for victims who have lost their rights to land, residence, or livelihoods. Minor

sentences, such as probation, suspended prison sentences, or even just administrative fines, are often not proportional to the material and psychological losses suffered by the aggrieved party. In many cases, the perpetrators of land grabbing are parties with economic power or power relations, so the light verdict actually shows the inequality of access to justice and causes public distrust of the legal system.

For comparison, there are a number of rulings that show a firm stance and favor the protection of land rights, such as in the case of the Medan District Court decision Number 87/Pid.B/2017/PN Mdn, where the defendant was sentenced to 4 years in prison for being proven to have invaded land owned by residents and damaged the crops on it. In the decision, the judge considered the real loss, bad faith of the perpetrator, and the importance of providing a deterrent effect to prevent the recurrence of similar cases. This firm verdict contrasts with many other cases, for example in the West Java or South Sulawesi areas, where land grabbing is only sentenced to 6 months in prison or probation, even though the perpetrator openly controls land owned by the community without rights and without valid documents.

From this comparison, it appears that the inconsistency of the verdict is a serious problem that threatens the principle of legal justice. In criminal law theory, sanctions are supposed to function as a tool of retribution as well as deterrence, but light sentences fail to perform both functions. When land grabbing is not taken seriously, it not only weakens trust in the legal system, but also opens up opportunities for other perpetrators to repeat similar crimes. Therefore, there is a need for standardization of criminal charges in land cases, with clear guidelines and oriented towards substantive justice, in order to ensure the protection of citizens' property rights and maintain legal integrity in the agrarian sector.

The mechanism for handling cases often does not run optimally. Many reports are stagnant in the investigation stage or not followed up by the prosecutor's office because they are considered civil cases. This happened for example in the case of a land conflict in Karawang in 2020, where a group of individuals claimed farmers' land with administrative evidence that was allegedly falsified. Although it was reported to the police, the case was stopped because there was no certainty of land status by the National Land Agency (BPN). This kind of administrative obstacle shows the inequality between the criminal law system and the administrative land system in Indonesia, which is not integrated and opens up opportunities for smuggling into a form of "legal" crime that is difficult to criminalize.

Furthermore, disparities between decisions also emerge in cases of land grabbing by large companies. In the case of the seizure of customary land in Jambi by oil palm companies (2016), the legal process did not proceed to the criminal court stage, even though indigenous peoples have shown evidence of hereditary control. This shows that power and economic factors also affect the penal mechanism. The absence of firm jurisprudence from the Supreme Court that strengthens criminal enforcement in this case also causes inconsistency of judges in deciding.

Overall, an evaluation of the rulings in land grabbing cases over the past 10 years shows that the criminal sanctions imposed have not been effective in providing a deterrent effect, have not reflected substantive justice, and have not been able to protect the rights of people whose land has been illegally confiscated. Comprehensive reform of land criminal law is needed, including the revision of more relevant criminal articles, strengthening the authority of law enforcement officials in handling land cases, and the establishment of an agrarian justice system that is able to answer the complexity of land rights issues in Indonesia.

According to Article 32 paragraph (5) of Law Number 3 of 2009 concerning the Supreme Court, the 1945 Constitution of the Republic of Indonesia guarantees the independence of judges. Judges have independence in deciding a case, they will assess the extent of the convict's mistakes and their impact on the victim and society based on their own opinions. This would suggest that different judges' conscientious considerations would result in different verdicts or disparities in verdicts, even if the facts and legal charges were the same. So, the judge's decision on cases can be different in other regions. The legislature as a regulator only sets the maximum and minimum threat of punishment so that it becomes a guideline for judges in sentencing convicts.[8] According to Abdurrachman, disparity means the difference in criminal sentencing for convicts in the same case with the same crime. Disparity in judges' decisions for convicted criminals can get a bad image of the court in the eyes of the public, therefore, it is necessary to rationalize so that the public is expected to understand if this happens.[9]

Light sentences in land crime cases, especially land grabbing, are caused by a number of interrelated factors from substantive, procedural, and sociological legal aspects. One of the main factors is the weakness of the criminal law norms themselves, especially Article 385 of the Criminal Code, whose formulation is still very formal and difficult to prove in court, such as the elements of "*against the law*" and "*without rights*". As a result, many judges have difficulty assessing the perpetrator's fault when the status of land ownership is still in civil dispute. The second factor is the tendency of law enforcement officials, including prosecutors and judges, to see land grabbing cases as civil conflicts, not as crimes that are

[8] Maria Ulfa Arifia, Binsar M. Gultom, and Markoni Markoni, "Upaya Meminimalisir Disparitas Putusan Hakim," *Jurnal Syntax Transformation* 4, no. 1 (2023): 15–31.

[9] M Melinda, "Disparitas Putusan Hakim Terhadap Tindak Pidana Aborsi," *Jurnal Pendidikan Tambusai* 7, no. 2 (2021): 18096–18101.

detrimental to the public interest, so that the crimes imposed are minimal or symbolic. The third factor is the weak integration between the land administration system (such as data from the National Land Registry) and the criminal law system, so that proof of ownership often cannot be validated quickly and firmly in court.

In addition, external factors such as the influence of power, politics, or economic capital also often affect the course of the legal process. Many cases of light sentences occur because the perpetrators are powerful parties, such as large corporations, officials, or people who have access to political elites and legal institutions. The next factor is the lack of a victim perspective in the criminal justice system, where consideration of victim losses, social impact, and the need for restoration of rights is often ignored in the sentencing process. Judges tend to consider the perpetrator's cooperative attitude, the absence of physical violence, or the "*unclear*" legal status of the land as grounds for imposing a light sentence. Therefore, the whole of these factors shows that light sentences in land criminal cases are not only caused by regulatory weaknesses, but also by legal practices that are still far from the principle of substantive justice.

In analyzing the basis of the judge's consideration in the case of land grabbing, there are several important aspects that are focused, namely the application of the elements of the criminal act, the conformity with applicable legal provisions, and the relevance to special regulations in the field of agrarian or land. In general, the judge refers to Article 385 of the Criminal Code as the main legal basis for prosecuting land grabbing, especially paragraph (1) which states that a person who deliberately and without the right sells, rents, exchanges, or mortgages land belonging to another person, can be punished. However, in practice, the application of this article is often constrained by a narrow interpretation of the elements of "without rights" and "deliberately", which requires strong evidence and valid legal documents on land ownership, so

that if the administrative evidence is weak or there is overlapping ownership, the perpetrator can escape criminal bondage or only be sentenced lightly.

The judge's consideration in deciding the case of land grabbing also often does not fully consider the social and economic losses experienced by the victim, but only focuses on the formal element, namely the existence of written evidence and witnesses. In some cases, judges have judged that since land conflicts can also be processed civilly, criminal repressive approaches should be set aside, leading to the imposition of light sanctions or the transfer of proceedings to non-criminal channels. This reflects the weak harmonization between criminal law and agrarian law, where the rules in Law Number 5 of 1960 concerning the Basic Regulation of Agrarian Principles (UUPA), as well as derivative regulations such as Government Regulation Number 24 of 1997 concerning Land Registration, should be an important reference to assess the legality of the control and transfer of land rights.

Unfortunately, these considerations of agrarian regulations are often not comprehensively integrated into criminal judgments, resulting in inconsistencies in law enforcement. As a result, even though the perpetrator actually committed the offence, but because the criminal element was not narrowly fulfilled according to the Criminal Code, the verdict handed down did not reflect substantive justice for the victim. Therefore, it is important to encourage synchronization between criminal law and agrarian law, as well as equip judges with an interdisciplinary perspective so that in imposing their sentences they are able to thoroughly consider formal, material, and social justice legal aspects in land grabbing cases.

Based on the discussion above, there are several factors that cause land grabbing. The use of land without a permit that has the right or power of attorney or commonly referred to as land grabbing can be interpreted as taking rights or property arbitrarily

or ignoring laws and rules, such as occupying someone else's land that is not their right.[10] This act is illegal and is an unlawful act that can be classified as a criminal act.[11] In the last ten years (2014–2024), Indonesia has experienced a significant surge in the number of cases of land grabbing, both reported by the public to law enforcement officials and those successfully processed to the court decision stage. Based on data collected from the Directorate General of General Legal Administration, the National Land Agency (BPN), and the Directory of Supreme Court Decisions, there are more than 3,000 reports of land grabbing cases that have entered the judicial system. However, of these, only about 700 to 900 cases reach a final verdict in court, while the rest end up in mediation, are stopped due to lack of evidence, or are diverted to the civil route. Of the hundreds of rulings, it was found that more than 60% of the perpetrators were only sentenced to light sentences, namely imprisonment of less than 1 year or fines that were not proportional to the value of the land and the losses caused.

Land grabbing in Indonesia represents a complex form of land-related criminality, driven by a combination of structural and cultural factors. A primary structural cause is the persistent inequality in land tenure and ownership, wherein large tracts of land are disproportionately controlled by a small number of elite groups or corporations. In contrast, marginalized communities frequently face significant barriers in securing formal and legal access to land. This disparity generates socio-economic tensions that, in turn, incentivize certain individuals or groups to engage in the unlawful occupation or acquisition of land. Moreover, the

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[10] `Mangawi Budi, Basri Oner, and Andi Tira, "Analisis Yuridis Putusan Lepas Dari Tuntutan Tindak Pidana Penyerobotan Tanah (Studi Putusan No.75/Pid.B/2021/Pn.Mak)," *CLAVIA: Journal of Law* 21, no. 1 (2023): 46–54.

[11] Karli Karli. "Tindak Pidana Memakai Tanah Tanpa Ijin Yang Berhak Atau Kuasanya Menurut Undang-Undang No 51/Prp/1960 Pasal 6 Ayat 1 Dihubungkan Dengan Putusan Nomor 349/Pid. C/2007 Pn Indramayu (Study Kasus Terdakwa Rajab Bin Harun)". *Thesis.* (Jakarta: Sekolah Tinggi Ilmu Hukum IBLAM, 2014).

weakness of Indonesia's land administration system exacerbates this issue. Problems such as overlapping land certificates, the lack of synchronization between the National Land Agency (*Badan Pertanahan Nasional,* BPN) and local government land records, and cumbersome land certification procedures create opportunities for the exploitation of legal loopholes. These systemic deficiencies facilitate acts of document falsification and unlawful claims to land ownership by unscrupulous actors. Collectively, these factors contribute to the persistence and complexity of land grabbing as a legal and social problem in Indonesia.

The next factor is the lack of firm and consistent law enforcement. Many cases of land grabbing are not followed up seriously, even law enforcement officials are sometimes reluctant to process the case criminally because it is considered a civil case, so that the perpetrator does not get a deterrent effect. Corruption and collusion among land officials, village officials, and law enforcement officials also exacerbate this condition, as perpetrators often have political connections or economic power that influence the legal process. Public ignorance of land rights and legal procedures is also a common cause, where people who do not have legal knowledge or official documents become easy victims of more socially and economically powerful parties.

On the other hand, rapid economic growth and infrastructure development also contribute to the increase in land conflicts, where soaring land prices are a high incentive for actors to control land in an unlawful manner. All of these factors show that land grabbing is not only a legal issue, but also a structural problem that requires a comprehensive solution in terms of regulation, law enforcement, land governance, and community legal awareness.

Despite the various weaknesses inherent in the criminal law, it is still necessary for efforts to combat crime.[12] Regarding these problems, it is necessary to know the protection efforts for holders of property rights from a criminal point of view, in order to uphold justice to achieve welfare for the community, especially the aggrieved parties. This is done to find solutions for other parties who also experience the same problem, namely seizure or control by parties who do not have rights.[13] Sanctions for encroachment and destruction are also regulated in Article 2 of Government Regulation in Lieu of Law Number 51 of 1960 concerning the Prohibition of the Use of Land Without A Permit That Has the Right or Its Power of Attorney determines: It is prohibited to use land without a valid permit or its legal attorney. Then based on Article 6, if this provision is violated, it can be punished with imprisonment for a maximum of 3 (three) months and/or a fine of up to Rp. 5,000 (five thousand rupiah).[14]

III. Sentencing Land Grabbing Crimes: Evaluating Criminal Law Effectiveness and Victim Justice

12 Satria Sukananda, "Analisis Hukum Bentuk Penanggulangan Tindak Pidana Penyerobotan Tanah di Indonesia," *Indonesian Journal of Criminal Law and Criminology (IJCLC)* 2, no. 3 (2021): 160–169.

13 Della Rahmaswary, Ngadino Program, and Studi Magister Kenotariatan, "Perlindungan Hukum Penyerobotan Tanah Hak Milik Dalam Aspek Pidana (Studi Kasus Nomor:24/G/2013/Ptun-Bl)," *NOTARIUS* 12, no. 2 (2019): 731–742.

14 Jaminuddin Marbun, Raja Kenasihen Kenasihen, and Anggara Zuhri Harahap, "Tindak Pidana Penyerobatan Tanah Dalam Perspektif Hukum Pidana," *Jurnal Hukum Kaidah: Media Komunikasi Dan Informasi Hukum dan Masyarakat* 20, no. 2 (2021): 242–260.

The act of illegally encroaching on land is an unlawful act, which can be classified as a criminal act.[15] The regulation of the crime of land grabbing is regulated in several provisions of laws and regulations, including Law Number 51 Prp. of 1960 states that the use of land without a valid permit or legal power of attorney is an act that is prohibited and threatened with criminal punishment (Article 2 and Article 6) and is regulated in the Criminal Code in several articles, namely Article 167, Article 242, Article, Article 263, Article 264, Article 266, Article 274, and Article 385 of the Criminal Code.

The effectiveness of criminal law regulations in sentencing cases of land grabbing is an important highlight in the context of justice enforcement in Indonesia. Normatively, Article 385 of the Criminal Code has stipulated that the act of illegally taking or controlling land belonging to another person is a criminal offense. However, regarding occupying other people's land, it can be seen in the government regulation in lieu of Law Number 51 of 1960 concerning the prohibition of the use of land without a permit with the right or power of attorney (Perppu 51/1960). Perppu 51/1960 regulates the prohibition of using land without a valid permit or legal power. The existence of intentional acts committed by a person who encroached on land owned by a person is subject to article 167 of the Criminal Code. Meanwhile, civil law in articles 1365 and 1366 because it can be seen that in the case of land grabbing there is a party who is aggrieved and requires compensation for the losses experienced by that party

However, in practice, the regulation is considered not to have a strong enough legal force to cause a deterrent effect for the perpetrator and real protection for the victim. This is reflected in the large number of lenient sentences handed down by the courts, even in cases that are clearly detrimental to the victim socially,

[15] Hasbuddin Khalid Annastasyia Mukrimah Yusuf, Ma'ruf Hafidz, "Journal of Lex Philosophy (JLP)," *Journal of Lex Philosophy (JLP)* 5, no. 1 (2024): 260–275.

economically, and psychologically. Light sentences such as conditional sentences, fines that are not proportional to the value of the land, or short confinement, seem to ignore the severity of the impact of land grabbing crimes, especially for indigenous peoples, smallholders, and legal landowners who have lost access to their land.

Existing regulations seem to emphasize more on formal administrative approaches than on substantive justice aspects. Many cases cannot be proceeded to the criminal realm due to overlapping documents, the absence of official certificates, or unresolved civil conflicts, even though in reality the victim has lost rights and access to land. On the other hand, actors both individuals and corporations often take advantage of these regulatory weaknesses to delay legal proceedings, obscure ownership, or even distort the state of the law through the power of capital and political influence. As a result, the legal process not only fails to provide a deterrent effect to the perpetrators, but also hurts the sense of justice of the community who feel that they do not get adequate legal protection.

This condition creates urgency to revise criminal regulations related to land, both through updating norms in the new Criminal Code, strengthening procedural law in proving land cases, and establishing special instruments to ensnare the land mafia. There is also a need to rethink the principle of criminal imposition in land grabbing cases to consider the impact on victims and lead to the restoration of rights, not just symbolic punishment. Without comprehensive legal reform measures, law enforcement in land grabbing cases will continue to be uneven, with victims losing their land, while perpetrators are free from commensurate consequences.

Criminal law regulations in sentencing cases of land grabbing, when critically examined, do show the urgency to be updated, especially when viewed from the perspective of justice for the

aggrieved party. So far, the main provisions used to ensnare the perpetrators of land grabbing still rely on Article 385 of the Criminal Code (KUHP), which is formulated narrowly and has not been responsive to the complexity of agrarian problems in Indonesia. The article focuses more on formal elements such as "without rights" and "with the intention to be unlawfully owned", which in practice are difficult to prove in court, especially if there is a conflict of ownership documents or data differences between land institutions and historical evidence of land tenure. As a result, perpetrators are often sentenced to light sentences, or even escape criminal convictions, because the panel of judges does not find strong unlawful elements within the framework of the available norms.

Law enforcement in cases of land grabbing must also prioritize the values of justice, in addition to legal certainty and utility.[16] This ineffectiveness causes inequality in legal protection, especially for victims who are incidentally small communities, farmers, or indigenous groups whose land is controlled without legal process. In many cases, criminal proceedings have left victims at a disadvantage because they have to re-prove their land rights, which are often constrained by costs, access to official documents, and political or economic power from the opposing party. In addition, the current criminal law has not given sufficient weight to the aspects of restorative justice and the protection of victims' rights. There is no criminal mechanism that explicitly requires the perpetrator to return the land, compensate the victim, or rehabilitate the victim. Therefore, regulations that focus too much on formal legal aspects ultimately do not answer the need for substantive justice felt by the community.

[16] Adi Marsono, Irwan Yulianto, and Ide Prima Hadiyanto. "Tinjauan Yuridis Penegakan Hukum Terhadap Pelaku Tindak Pidana Penyerobotan dan Pengrusakan Tanah." *Jurnal Ilmiah AKSES* 2, no. 1 (2024): 36-47.

Thus, regulatory reform is an urgent need. Criminal regulations in the land sector need to be clarified with norms that are more adaptive to the characteristics of land crime in Indonesia, including expanding criminal elements against land mafia practices, abuse of land administration, and encroachment by corporations. In addition, it is also necessary to regulate criminal sanctions that are rehabilitative, not merely conventional punishment. The drafting of new articles in the national criminal code that has been passed and the establishment of a special law on agrarian crimes can be a long-term solution. This step must be accompanied by special training for law enforcement officials and the establishment of an integrated agrarian justice system so that the aspect of justice is not just a normative ideal, but a reality that can be felt by every citizen whose land is illegally confiscated

IV. Alternative Prevention of Land Grabbing with Enforcement of Regulations related to Criminal Law Sanctions to Increase the Effectiveness of Penalties

Based on discussions related to the effectiveness of criminal law in land grabbing cases, it is still not said to be maximum because there is still a lack of firmness in the applicable regulations. Therefore, there is a need for regulatory reform, such as by imposing sanctions with a deterrent effect on perpetrators. The prevention aspect aims to prevent land acquisition disputes in the future that lead to land grabbing.[17]

[17] Marulak Pardede, "Aspek Hukum Pemberantasan Tindak Pidana Korupsi Oleh Korporasi Dalam Bidang Perpajakan (Legal Aspect of Eradication of Corruption

An alternative to preventing land grabbing that can be pursued effectively is to strengthen and affirm criminal law regulations that specifically regulate sanctions against perpetrators of land crimes. One of the main steps is the renewal of laws and regulations, both through the revision of the Criminal Code (KUHP) and the drafting of a special law on land crimes. In the regulation, it is necessary to formulate firmly and in detail the types of land crimes, such as land ownership without rights, seizure of state land, fraud in the sale and purchase of illegal land, and falsification of property documents. The affirmation of criminal elements in this crime is very important so that there is no legal ambiguity that has been hindering the criminal enforcement process against the perpetrators.

Efforts to prevent land grabbing in Indonesia need to be directed at the affirmation of stricter and more effective criminal law regulations against perpetrators of land crimes. One of the main weaknesses today is the still use of Article 385 of the Criminal Code, which is considered no longer relevant to the development and complexity of today's agrarian conflicts. The article has a vague formulation and does not explain in detail the forms of modern land grabbing, thus opening a wide interpretation gap that is often used by perpetrators to avoid severe criminal punishment. Therefore, the reform of the national criminal law, especially in the context of land crimes, is very important. The new regulation must be able to provide a firm definition of forms of land grabbing, including unauthorized ownership, forced land occupation, falsification of land documents, and manipulation of land administration data.

The affirmation of regulations must also be accompanied by an increase in the threat of criminal sanctions, both in the form of imprisonment and fines that are proportional to the value of the

Criminal Act in Taxation)," *Jurnal Penelitian Hukum De Jure* 20, no. 10 (2020): 335–362.

land and the losses caused. Heavy and definite sanctions can create a deterrent effect and reduce the courage of perpetrators to commit land crimes. In addition, it is also necessary to apply additional sanctions such as the revocation of licensing rights, confiscation of profits from illegally controlled land, and the obligation to compensate victims. Fair and transparent law enforcement must be ensured through strong institutional capacity, including special training for law enforcement officials, strict supervision of potential abuses of authority, and the establishment of special units within the prosecutor's office or police to deal with land crimes.

Furthermore, prevention efforts must also involve synergy between criminal regulations and agrarian policies, so that land conflicts are not only resolved repressively, but also preventively through orderly land administration arrangements, digitization of land documents, and increased legal literacy for the community. With these measures, land grabbing is no longer a crime that is considered trivial, but a serious violation of land rights and social justice, which must be dealt with decisively in order to maintain legal certainty and the protection of citizens' rights.

In addition, the increased threat of criminal sanctions should be an integral part of the updated regulations. The sanctions must be proportionate to the social and economic impact of land grabbing, taking into account the value of the land, the loss of victims, and the potential conflict caused. For example, a minimum prison sentence of 3 years and a maximum of 12 years, as well as high fines, can be imposed as a form of deterrent effect. Not only that, additional sanctions such as revocation of business license rights, confiscation of assets, and the obligation to recover victims' rights are also important to prevent perpetrators from repeating their actions. The effectiveness of penalties will also increase if regulations are equipped with more adaptive investigation and proof mechanisms, such as the recognition of digital evidence and the use of geospatial technology in proving land boundaries.

On the other hand, the regulation must be balanced with the empowerment of law enforcement institutions, including the establishment of special units to deal with land crimes, integrated training for investigators, prosecutors, and judges, and independent monitoring in the law enforcement process. The affirmation of regulations accompanied by strict sanctions will increase the effectiveness of penalization, encourage legal certainty, and provide better protection of land rights, especially for small communities that have been victims of the practice of encroachment. With this approach, criminal law can truly function as a preventive and repressive social engineering tool in tackling land crime as a whole.

V. Conclusion

The study concludes that the current penal approach to land-related crimes in Indonesia, particularly in cases of land grabbing, remains inadequate and fails to achieve substantive justice. Court decisions over the past decade reveal a consistent pattern of lenient sentencing that does not correspond with the severity of harm suffered by victims. This ineffectiveness is rooted in several systemic issues, including the outdated formulation of Article 385 of the Indonesian Criminal Code, evidentiary limitations due to conflicting land documentation, and the entrenched perception among legal practitioners that land disputes are predominantly civil rather than criminal in nature. Such factors have contributed to a legal environment where perpetrators of land crimes often escape proportionate accountability, thereby undermining public trust in the rule of law.

Given these findings, there is an urgent need for comprehensive legal reform. Future policy initiatives should prioritize the drafting of a specialized legal framework on land crimes that reflects the complexities of agrarian conflict in Indonesia. This includes the development of clearer sentencing guidelines, improved coordination between the National Land Agency (BPN) and law enforcement institutions, and the integration of restorative justice principles to ensure the protection of victims' rights. Future research should focus on interdisciplinary analysis combining legal, sociological, and economic perspectives to evaluate the broader impact of land crime sentencing on rural development, social cohesion, and environmental sustainability. Moreover, empirical studies assessing the effectiveness of proposed reforms once implemented will be essential for ensuring a more just and responsive legal system in the context of land governance.

References

Alimuddin, Nur Hidayani,et al. "Indonesia's Land Bank Authority: Aligning with Agrarian Law or Facilitating Land Grabbing?." *Journal of Law and Legal Reform* 5, no. 4 (2024): 1609-1644.

Aprilia, Vina, et al., "Proses Peradilan Perbuatan Melawan Hukum Studi Kasus Penyerobotan Tanah," *Journal on Education* 6, no. 01 (2023): 9744–9759.

Arifia, Maria Ulfa, Binsar M. Gultom, and Markoni Markoni, "Upaya Meminimalisir Disparitas Putusan Hakim," *Jurnal Syntax Transformation* 4, no. 1 (2023): 15–31.

Artaji, Artaji, et al. "Resolution of Agrarian Conflicts on Plantation Land through Restorative Justice in Indonesia." *Lex Scientia Law Review* 8, no. 1 (2024): 109-138.

Budi, Mangawi, Basri Oner, and Andi Tira, "Analisis Yuridis Putusan Lepas Dari Tuntutan Tindak Pidana Penyerobotan

Tanah (Studi Putusan No.75/Pid.B/2021/Pn.Mak)," *CLAVIA: Journal of Law* 21, no. 1 (2023): 46–54.

Hakim, Guswan. "Pengakuan Hak Atas Tanah Adat Dalam Pemberian Ganti Kerugian Pada Pembebasan Tanah Untuk Kepentingan Umum Di Kota Kendari: Recognition of Customary Land Rights in Providing Compensation for Land Acquisition for Public Interest in Kendari City," *Halu Oleo Law Review* 3, no. 2 (2019): 268–282.

Irwan, Irwan, et al. "Conflicts of Land Confiscationis in Sogo Village: Community Versus PT. Bukit Bintang Sawit (WILLMAR)." *Komunitas: International Journal of Indonesian Society and Culture* 10, no .2 (2018): 263-272.

Karli, Karli. "Tindak Pidana Memakai Tanah Tanpa Ijin Yang Berhak Atau Kuasanya Menurut Undang-Undang No 51/Prp/1960 Pasal 6 Ayat 1 Dihubungkan Dengan Putusan Nomor 349/Pid. C/2007 PN Indramayu (Study Kasus Terdakwa Rajab Bin Harun)". *Thesis.* (Jakarta: Sekolah Tinggi Ilmu Hukum IBLAM, 2014).

Khalid, Hasbuddin, Annastasyia Mukrimah Yusuf, Ma'ruf Hafidz, "Journal of Lex Philosophy (JLP)," *Journal of Lex Philosophy (JLP)* 5, no. 1 (2024): 260–275.

Kontesa, Emelia, and Zico Junius Fernando. "Reclaiming Our Roots: Agrarian Law's Battle Against Land Grabbing." *Lex Scientia Law Review* 8, no. 2 (2024).

Kusnianto, Hendrik. "Akibat Hukum Pelaku Penyerobotan Tanah Dalam Aspek Hukum Pidana Indonesia," *Jurnal Ilmiah Ilmu Hukum* 9, no. 1 (2024): 113–118.

Marbun, Jaminuddin, Raja Kenasihen Kenasihen, and Anggara Zuhri Harahap, "Tindak Pidana Penyerobatan Tanah Dalam Perspektif Hukum Pidana," *Jurnal Hukum Kaidah: Media Komunikasi Dan Informasi Hukum dan Masyarakat* 20, no. 2 (2021): 242–260.

Marsono, Adi, Irwan Yulianto, and Ide Prima Hadiyanto. "Tinjauan Yuridis Penegakan Hukum Terhadap Pelaku Tindak Pidana Penyerobotan dan Pengrusakan Tanah." *Jurnal Ilmiah AKSES* 2, no. 1 (2024): 36-47.

Melinda, M. "Disparitas Putusan Hakim Terhadap Tindak Pidana Aborsi," *Jurnal Pendidikan Tambusai* 7, no. 2 (2021): 18096–18101.

Pardede, Marulak, "Aspek Hukum Pemberantasan Tindak Pidana Korupsi Oleh Korporasi Dalam Bidang Perpajakan (Legal Aspect of Eradication of Corruption Criminal Act in Taxation)," *Jurnal Penelitian Hukum De Jure* 20, no. 10 (2020): 335–362.

Prihatin, A. N. Dodik, et al. "Formulation of Criminal Law against Criminal Acts in the Land Sector in Indonesia." *Science and Education* 2, no. 11 (2022): 656-662.

Rahmaswary, Della, Ngadino Program, and Studi Magister Kenotariatan, "Perlindungan Hukum Penyerobotan Tanah Hak Milik Dalam Aspek Pidana (Studi Kasus Nomor:24/G/2013/Ptun-Bl)," *NOTARIUS* 12, no. 2 (2019): 731–742.

Ranteallo, Jenri, and Yana Sukma Permana, "Tinjauan Yuridis Tindak Pidana Penyerobotan Tanah Adat Di Kabupaten Toraja Utara," *The Juris* 6, no. 2 (2022): 437–440.

Suhadi, Suhadi, and Aprila Niravita. "Urban agrarian reform: opportunities and challenges for land rights among low-income communities." *Legality: Jurnal Ilmiah Hukum* 32, no. 2 (2024): 348-373.

Sukananda, Satria. "Analisis Hukum Bentuk Penanggulangan Tindak Pidana Penyerobotan Tanah di Indonesia," *Indonesian Journal of Criminal Law and Criminology (IJCLC)* 2, no. 3 (2021): 160–169.

Weku, Robert L. "A Study of Land Grabbing Cases Reviewed from the Aspects of Criminal Law and Civil Law," *Lex Privatum* 1, no. 2 (2013): 165–176.

Yani, Idah, Kasiria Lafau, and Jenda Ingan Mahuli. "Control Over Land Owned by Others Reviewed from Criminal Law." *LEGAL BRIEF* 12, no. 3 (2023): 261-266.