

## From Law to Justice: Ownership Restrictions in the Fight for Agrarian Equity

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## From Law to Justice: Ownership Restrictions in the Fight for Agrarian Equity

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**ABSTRACT.** This study examines the intersection of law and justice in the context of land ownership restrictions under agrarian reform in Indonesia, highlighting the tension between statutory frameworks and the pursuit of social equity. Indonesia's Agrarian Law (Law No. 5 of 1960) and subsequent regulations were designed to redistribute land and promote equitable access, yet ownership restrictions and bureaucratic challenges often perpetuate structural inequalities, limiting the realization of true agrarian justice. This research critically analyzes the legal framework governing land tenure, including limits on private ownership, land certification, and redistribution programs, and evaluates their socio-legal implications for smallholder farmers and rural communities. The novelty of this research lies in its dual lens: it examines not only the legality of ownership restrictions but also their ethical and distributive impact, bridging legal analysis with normative considerations of justice. By situating Indonesian agrarian law within broader debates on social equity, the study identifies gaps between formal legal mechanisms and the lived realities of marginalized populations. The study contributes to both legal scholarship and policy-making by offering insights into how ownership restrictions can be reformed to better align with principles of fairness, equity, and community welfare. Ultimately, it argues that achieving agrarian justice in Indonesia requires both legal compliance and normative reforms that prioritize social justice alongside statutory regulation.

**KEYWORDS.** Agrarian Reform, Land Ownership Restrictions, Agrarian Justice, Indonesian Law, Social Equity

# From Law to Justice: Ownership Restrictions in the Fight for Agrarian Equity

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## Introduction

Land in Indonesia extends beyond its economic value, serving as a fundamental pillar for livelihoods, social cohesion, and national development. Historically, land ownership has been highly concentrated, with a small elite controlling extensive and fertile tracts, while smallholder farmers and rural communities have remained marginalized and limited in their access to productive resources.<sup>1</sup> To address these disparities, the Basic Agrarian Law (*Undang-Undang Pokok Agraria*, UUPA) No. 5 of 1960 was enacted, rooted in Article 33 paragraph (3) of the 1945 Constitution, which mandates that natural resources should serve the public good. The UUPA was intended as a comprehensive *lex generalis*, governing land, water, and other natural resources, emphasizing equitable access, redistribution, and the prevention of monopolistic landholding. Despite its ambitions, the law has faced persistent challenges in implementation. Initial agrarian reform

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<sup>1</sup> Mappa, Nurdin, et al. "Institutional land mastery rotating, pattern of purchase right land tenure." *Scientific Research Journal (SCIRJ)* 7, no. 3 (2018): 78-82. See also McCarthy, John F., and Kathryn Robinson, eds. *Land and development in Indonesia: Searching for the people's sovereignty*. (Singapore: ISEAS-Yusof Ishak Institute, 2016).

programs, especially during the 1960s, met resistance, misunderstanding, and distrust among both landlords and rural communities. Confiscation of landlord lands, without adequately addressing social characteristics and community rights, sometimes exacerbated inequalities rather than alleviating them.<sup>2</sup> These early failures underscore a longstanding tension in Indonesia between legal frameworks and the realization of justice for marginalized populations, particularly in rural areas.

A critical factor in this tension is the complexity and fragmentation of Indonesia's legal framework governing land. While the UUPA was designed as a foundational law, subsequent regulations — including the Forestry Law of 1967 (amended by Law No. 41/1999), the Mining Law of 1967 (amended by Law No. 22/2001), the Irrigation Law of 1974 (revoked by Law No. 7/2004), and other sectoral regulations — introduced overlapping authorities and priorities.<sup>3</sup> These sectoral laws often functioned independently of the UUPA, effectively reducing its central *lex generalis* function to a *lex particularis* in practice. Corporate interests, investment laws, and regional development policies frequently superseded agrarian principles, undermining the law's original objectives. The result has been legal pluralism in which statutory compliance does not necessarily guarantee justice, and formal ownership titles often prevail over customary, community-based claims. The consequences include persistent land disputes, inequitable access, environmental degradation, and the marginalization of smallholder farmers, especially in forested areas and plantation zones, exemplifying the disconnect between legal design and social reality.<sup>4</sup>

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<sup>2</sup> Fitzpatrick, Daniel. "Disputes and pluralism in modern Indonesian land law." *Yale Journal of International Law* 22, no. 1 (1997): 171-212; Hidayanti, Sugina, Indra Koswara, and Yopie Gunawan. "The land legal system in Indonesia and land rights according to the basic agrarian law (UUPA)." *Legal Brief* 11, no. 1 (2021): 366-378; Asyhari, Masyhud. "UUPA: Antara Idealita dan Realita." *Unisia* 16 (1992): 87-94.

<sup>3</sup> Widodo, Slamet. "A critical review of Indonesia's agrarian reform policy." *Journal of Regional and City Planning* 28, no. 3 (2017): 204-218; Andreas, Ricco, Luthfi Kalbu Adi, and Sri Sulastuti. "The Effect of Colonialism on Implementation of Agrarian Reform in Indonesia." *Fiat Justisia: Jurnal Ilmu Hukum* 13, no. 2 (2019): 101-114; Nulhaqim, Soni Akhmad, et al. "Contemporary Social Problem: Agrarian Conflict." *Humanities & Social Sciences Reviews* 8, no. 3 (2020): 1189-1195.

<sup>4</sup> Darmawan, Dalu Agung, et al. "The History of Agrarian Reforms in Indonesia: A Sociological Perspective." *Journal of Law and Sustainable Development* 11, no. 11 (2023): e2196-e2196; Neilson, Jeff. "11. Agrarian transformations and land reform in Indonesia." *Land and Development in Indonesia* (2016): 245-264; Lee Peluso, Nancy, Suraya Afiff, and Noer Fauzi Rachman. "Claiming the grounds for reform: agrarian and environmental movements in Indonesia." *Journal of Agrarian Change* 8, no. 2-3

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Normative gaps further complicate the achievement of agrarian justice. While the UUPA codified land as a social good, it did not adequately address socio-economic, cultural, or political realities on the ground. For instance, customary land rights, known as *hak ulayat*, remain insufficiently recognized in practice, creating conflicts between indigenous communities and corporations or state projects. The recognition of forests, water rights, and natural resources, as reflected in government policies and local practices, often involves ritual, customary, and formal legal measures, which may conflict with state-sanctioned ownership. This tension is compounded by the prioritization of economic growth and corporate interests over equity, resulting in scenarios where legislation designed to protect communities instead marginalizes them. Conflicts in areas such as Malinau (North Kalimantan) or agrarian disputes involving palm oil plantations illustrate how regulatory and normative inconsistencies perpetuate injustice, highlighting the need for a legal system that balances formal rules with social and ethical considerations.<sup>5</sup>

The evolution of agrarian governance in Indonesia further illustrates the challenges of law-to-justice translation. Over the decades, the UUPA and related policies have been interpreted variably by legislative and executive bodies, courts, and local administrations. MPR RI TAP No. IX/MPR/2001 explicitly recognized deficiencies in UUPA implementation and recommended reforms to reconcile corporate, communal, and state interests. However, debates continue over whether the UUPA should remain a *lex generalis*, providing broad normative principles, or become a *lex specialis* addressing specific natural resource management, with a supporting *lex generalis* to oversee broader frameworks. The failure to incorporate scientific, environmental, socio-political, and cultural considerations in early reforms has contributed to recurring conflicts, land conversion for commercial purposes, and challenges in balancing environmental

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(2008): 377-407; Rejekiingsih, Triana, Chatarina Muryani, and Diana Lukitasari. "Study of the History and Dynamics of the Agrarian Policy in Transforming the Indonesia's Agrarian Reform." *Yustisia Jurnal Hukum* 8, no. 2 (2019): 309-329.

<sup>5</sup> Ginting, Darwin. "Politik Hukum Agraria terhadap Hak Ulayat Masyarakat Hukum Adat di Indonesia." *Jurnal Hukum dan Pembangunan* 42, no. 1 (2012): 29-53; Mulyani, Lilis. "The Unbroken Legacy: Agrarian Reform of Yudhoyono's Era." *Masyarakat Indonesia* 40.2 (2014): 131-144; Ihsan, Arif, and M. Nazir Salim. "Ulayat Land and Agrarian Reform Policy in West Sumatra." *Marcapada: Jurnal Kebijakan Pertanahan* 1, no. 2 (2022): 155-171; Arisaputra, Muhammad Ilham. "Access Reform dalam kerangka Reforma Agraria untuk mewujudkan keadilan sosial." *Jurnal Perspektif* 21, no. 2 (2016): 83-96.

sustainability with food security and community rights. These issues reflect the systemic inadequacy of the UUPA in fully addressing evolving social and economic realities.<sup>6</sup>

Recent policy initiatives, such as Presidential Regulation No. 86/2018 on Agrarian Reform, attempt to reorganize land ownership, use, and management with an emphasis on governance and equitable distribution.<sup>7</sup> Despite these efforts, significant gaps remain in the law's practical application, particularly in ensuring justice for rural communities, indigenous peoples, and marginalized farmers. Issues such as unequal access to land certification, corporate land acquisition, inadequate dispute resolution mechanisms, and environmental impacts demonstrate that legal reform alone is insufficient without normative alignment to social justice principles.<sup>8</sup> Effective agrarian reform requires harmonizing formal law, customary rights, and ethical considerations, ensuring that land management serves public welfare rather than narrow economic interests.<sup>9</sup>

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<sup>6</sup> See 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): 1-26; Anitasari, Rahayu Fery. "Agrarian law: perspective of Indonesian agricultural policies." *South East Asia Journal of Contemporary Business, Economic and Law* 20, no. 4 (2019): 1-4; Suhadi, Suhadi, et al. "The Development of Agricultural Land Conversion: Legal Culture and Comparative Law in Indonesia and Nigeria." *Lex Scientia Law Review* 8, no. 2 (2024); Mahfud, Muh Afif. "Progressive Agrarian Law as a Concept to Attain Social Justice." *Pandecta Research Law Journal* 17, no. 1 (2022): 158-166.

<sup>7</sup> Harianti, Isnin, et al. "Indonesian Agrarian Reform in Legal Perspective: A Critical Analysis of Presidential Regulation No. 86/2018." *Revista de Gestao Social e Ambiental* 18, no. 1 (2024): e07351. See also Wicaksono, MB Adi, IGAK Rachmi Handayani, and Lego Karjoko. "State Policy's Analysis in the Redistribution of Reformed Agrarian Lands from Forest Areas in Indonesia (Study of Presidential Regulation Number 86 Year 2018 Regarding Agrarian Reform)." *3rd International Conference on Globalization of Law and Local Wisdom (ICGLOW 2019)*. Atlantis Press, 2019.

<sup>8</sup> Kadarlia, Yuyun. "Agrarian Reform Improving Welfare and Social Justice in Rural Areas." *Proceeding International Conference on Law, Economy, Social and Sharia (ICLESS)*. Vol. 2. 2024; Ramli, Asmarani, et al. "Embracing Social Justice: Exploring the Journey from Land Reform to Agrarian Reform." *The Fourth International Conference on Innovations Social Sciences Education and Engineering*. Vol. 4. 2024; Larasati, Rindiana, et al. "Construct integrated agrarian reforms based on justice." *International Journal of Innovation, Creativity and Change* 14, no. 2 (2020): 909-928.

<sup>9</sup> See Pandamdari, Endang. "Harapan Sejahtera dan Adil Melalui Peraturan Presiden Nomor 86 Tahun 2018 Tentang Reforma Agraria." *Hukum Pidana dan Pembangunan Hukum* 1, no. 2 (2019); Saputra, Tri Eka. "Penyelesaian Sengketa Pertanahan dalam Perspektif Reforma Agraria." *Vifada Assumption Journal of Law* 1, no. 1 (2023): 1-4; Fauzi, Ahmad. "Reformasi Agraria Dalam Kerangka Otonomi Daerah." *Jurnal Bina Mulia Hukum* 6, no. 2 (2022): 218-233.

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Given these challenges, this study investigates how ownership restrictions under Indonesian agrarian law operate in practice, assessing their legal, social, and ethical implications. By examining historical cases, statutory frameworks, and normative gaps, the research bridges doctrinal legal analysis with considerations of justice and equity. The objectives are threefold: *first*, to critically evaluate the legal foundations of land tenure and ownership restrictions; *second*, to analyze their socio-legal consequences, including documented conflicts and community impacts; and *third*, to explore reform pathways that align statutory law with principles of fairness, social equity, and sustainable resource management. By situating UUPA within Indonesia's broader legal and socio-political landscape, this study provides insights for policymakers, legal practitioners, and scholars on harmonizing law and justice in the pursuit of agrarian equity.

This study employs a doctrinal legal analysis approach, following the perspective of Hutchinson and Duncan, who define legal analysis as the systematic discovery of law, legal principles, and legal reasoning to resolve legal problems.<sup>10</sup> This method enables a structured examination of statutory provisions, judicial interpretations, and normative principles in order to evaluate the alignment between law and justice. The primary legal sources used in this research include the 1945 Constitution of the Republic of Indonesia, Law No. 5 of 1960 concerning the Basic Agrarian Law (UUPA), MPR RI Decree No. IX/MPR/2001 concerning Agrarian Reform and the Management of Natural Resources (TAP MPR RI No. IX/MPR/2001), and Presidential Regulation No. 86 of 2018 regarding Agrarian Reform (Perpres 86/2018). These sources provide the normative foundation for assessing land ownership restrictions, agrarian reform policies, and the legal mechanisms intended to ensure equitable land distribution.

In addition, secondary legal sources are employed to complement the primary analysis. These include academic books, peer-reviewed journal articles, commentaries, and other scholarly texts that provide interpretative insights, historical context, and critical perspectives on the development and implementation of agrarian law in Indonesia. By combining primary and secondary sources, this study offers both doctrinal rigor and a socio-legal understanding of how land tenure regulations interact with broader principles of justice, equity, and public welfare.

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<sup>10</sup> Hutchinson, Terry, and Nigel Duncan. "Defining and describing what we do: doctrinal legal research." *Deakin Law Review* 17, no. 1 (2012): 83-119.

## Forest Area Management and Agrarian Reform in Indonesia

The management and security of forest areas in Indonesia remain highly contested. Challenges emerge when rights over forest areas are transferred to the government, particularly because the reconciliation between provincial spatial plans and the utilization of forest agreements is often incomplete.<sup>11</sup> According to the Indonesian Ministry of Forestry, if integration between provincial spatial planning and forest allocation had not been finalized, governors or local governments should coordinate with the relevant administrative authorities to regulate the distribution of protected areas, including protected and conservation forests. The absence of a fully integrated spatial and forest-use framework creates significant ambiguity in forest boundaries, undermining legal guarantees for the management, utilization, and protection of forest resources.<sup>12</sup>

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<sup>11</sup> Widiatedja, I. Gusti Ngurah Parikesit. "Fragmented Approach to spatial management in Indonesia: When it will be ended?." *Progress in Planning* 83 (2021): 1-52; Brockhaus, Maria, et al. "An overview of forest and land allocation policies in Indonesia: Is the current framework sufficient to meet the needs of REDD+?." *Forest Policy and Economics* 18 (2012): 30-37.

<sup>12</sup> See also Gellert, Paul K., and Andiko. "The quest for legal certainty and the reorganization of power: Struggles over forest law, permits, and rights in Indonesia." *The Journal of Asian Studies* 74, no. 3 (2015): 639-666. Furthermore, the integration between provincial spatial planning (RTRW) and forest allocation is a critical component of Indonesia's forest governance system. Spatial plans determine land use within a province, while forest allocation defines areas designated as protected, conservation, or production forests. When this integration is incomplete, there is significant ambiguity regarding forest boundaries, creating uncertainty over which areas are legally protected and which may be utilized for other purposes, such as agriculture, settlement, or commercial activities. This lack of clarity weakens legal certainty and undermines the principles of sustainable forest management. Legally, this gap has profound implications. Without harmonization, local governments may issue permits or authorize land conversion in ways that conflict with national forest regulations, generating disputes between communities, private actors, and governmental bodies. The absence of integrated spatial and forest-use frameworks hinders the enforcement of forest laws and reduces accountability, creating conditions in which forest exploitation may occur without clear legal consequences. This uncertainty not only jeopardizes conservation objectives but also exposes local populations to conflicts over land and resource rights. From a theoretical perspective, this issue can be examined through the lenses of legal pluralism and environmental governance. Legal pluralism recognizes that multiple overlapping legal systems—including national laws, provincial spatial regulations, and customary land rights—operate simultaneously. Without coordination, these systems may produce inconsistencies, undermining the effectiveness of the law. Environmental governance theory emphasizes that sustainable resource management



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Agrarian reform in Indonesia seeks to address such inequities by emphasizing redistribution of state-owned land, including underutilized or unclaimed lands, for smallholder farmers. The reform framework is generally structured around three core elements: asset management, accessibility agreements, and dispute resolution. These principles align with the 2015–2019 National Agrarian Reform Strategy, which emphasizes strengthening constitutional frameworks, resolving land conflicts, reorganizing land and property structures, legalizing land rights, and empowering communities to access land and capital.

Government initiatives to implement agrarian reform have been ongoing since the issuance of the Presidential Regulation on Agrarian Reform in 2014. The program aims to redistribute agricultural and non-agricultural land, legalize land ownership through certification, and enhance community welfare by enabling access to productive resources. Progress in land certification has been substantial: approximately 5 million certificates were issued in 2017, with targets of 7 million in 2018 and 9 million in 2019.

Despite these efforts, challenges persist in addressing disputes. While agrarian reform legislation provides mechanisms for resolving land conflicts, in practice, conflict resolution has often been deprioritized. The process involves phased working groups and ministerial regulations; however, this approach can result in categorizing stakeholders, limiting dispute resolution effectiveness, and leaving gaps in legal certainty. Consequently, while Indonesia's agrarian reform program demonstrates significant structural and legal initiatives for equitable land redistribution, practical implementation—particularly in forested and contested areas—remains constrained by legal

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requires clear authority, well-defined boundaries, and coordinated institutional responsibilities. In the context of Indonesia, the failure to integrate provincial spatial plans with forest allocation illustrates the practical consequences of governance fragmentation: ambiguity in land use, weakened rule of law, and increased risk of conflict. Effective integration is therefore essential to provide legal certainty, uphold forest protection, and ensure sustainable utilization of natural resources. *See also* Myers, Rodd, et al. "Claiming the forest: Inclusions and exclusions under Indonesia's 'new' forest policies on customary forests." *Land Use Policy* 66 (2017): 205-213; Nuhidayah, Laely, Peter J. Davies, and Shawkat Alam. "Resolving Land-Use Conflicts over Indonesia's Customary Forests." *Contemporary Southeast Asia* 42, no. 3 (2020): 372-397; Astuti, Rini, et al. "Making illegality visible: The governance dilemmas created by visualising illegal palm oil plantations in Central Kalimantan, Indonesia." *Land Use Policy* 114 (2022): 105942; Alisjahbana, Armida S., and Jonah M. Busch. "Forestry, forest fires, and climate change in Indonesia." *Bulletin of Indonesian Economic Studies* 53, no. 2 (2017): 111-136.

ambiguities, administrative inefficiencies, and incomplete integration of spatial and land-use planning frameworks.

## **Legal and Institutional Frameworks of Agrarian Reform in Indonesia**

Agrarian reform in Indonesia is a multidimensional effort aimed at transforming historical land ownership patterns shaped by feudalism and colonial legacies into a more equitable social structure. Article 33 paragraph (3) of the 1945 Constitution provides the normative foundation, emphasizing that natural resources, including land, should be managed for the greatest benefit of the people. This principle is operationalized through Law No. 5 of 1960 concerning the Basic Agrarian Law (UUPA), which regulates land redistribution, tenure security, and utilization. The discourse here is rooted in distributive justice theory, particularly John Rawls' concept of fairness<sup>13</sup>, which asserts that social and economic inequalities are permissible only if they benefit the least advantaged. By prioritizing smallholder farmers and marginalized communities, agrarian reform seeks to correct historical inequities in ownership and access.

TAP MPR RI No. IX/MPR/2001 strengthens this normative discourse by framing agrarian reform as a strategic framework to reduce poverty, expand access to land, and resolve structural disparities in agrarian ownership. The decree prioritizes public interest over private accumulation, reflecting an ideological shift toward socialized agrarianism. It also serves as a guiding legal reference for subsequent policies and legislation, ensuring that reforms maintain alignment with the broader goals of social justice and equitable resource distribution. The discourse here positions land as a social, rather than purely economic, asset, challenging traditional elite-centric ownership models.

Presidential Regulation No. 86 of 2018 (Perpres 86/2018) operationalizes the objectives of TAP MPR RI No. IX/MPR/2001 but with a narrower focus on procedural aspects such as certification, redistribution, and institutionalized dispute resolution. While this regulation strengthens legal certainty by formalizing ownership and creating agrarian reform services, critiques have highlighted that it insufficiently addresses structural

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<sup>13</sup> Rawls, John. "A Theory of Justice." *Applied Ethics*. (London: Routledge, 2017), pp. 21-29.

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inequalities. The tension between normative goals (equity, empowerment) and procedural implementation has become a major point of debate, reflecting a discourse between formal legality and substantive justice.

Redistribution under both the TAP MPR RI and Perpres frameworks targets underutilized state land, excess holdings, and recognition of customary land rights (*hak ulayat*). Redistribution is not merely an economic measure; it is intended to empower rural communities by granting them secure land tenure, enabling access to credit, and promoting investment in agricultural productivity. From the perspective of Amartya Sen's Capability Approach, redistribution enhances the substantive freedom of communities to achieve well-being by providing both the legal entitlement and the practical means to use land productively.<sup>14</sup>

Empowerment is a central dimension of Indonesia's agrarian reform discourse. Redistribution alone cannot guarantee socio-economic equality if beneficiaries lack knowledge, capital, or institutional support.<sup>15</sup> Policies under Perpres 86/2018 aim to integrate community empowerment through access to agrarian credit, technical assistance, and participatory governance structures.<sup>16</sup> This multi-dimensional approach recognizes the relational aspect of inequality: land ownership must be complemented by the capacity to exercise agency and influence social and economic decision-making. In the discourse of legal pluralism, this approach legitimizes both statutory law and customary practices as vehicles for community empowerment.<sup>17</sup>

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<sup>14</sup> See Sen, Amartya. "Capability and well-being." *The Quality of Life* 30, no. 1 (1993): 270-293. See also Sen, Amartya. "The economics of happiness and capability." In Luigino Bruni, Flavio Comim, and Maurizio Pugno (eds). *Capabilities and Happiness* (New York: Oxford University Press, 2008).

<sup>15</sup> Aminah, Sitti, Djuara P. Lubis, and Djoko Susanto. "Factors affecting peasants' empowerment in West Halmahera District—a case study from Indonesia." *Journal of Agriculture and Rural Development in the Tropics and Subtropics (JARTS)* 116, no. 1 (2015): 11-25; White, Ben, Colum Graham, and Laksmi Savitri. "Agrarian movements and rural populism in Indonesia." *Journal of Agrarian Change* 23, no. 1 (2023): 68-84.

<sup>16</sup> Alfian, Zainul. "Implementasi PERPRES 86/2018 tentang Reforma Agraria di Desa Purworejo Kecamatan Donomulyo Kabupaten Malang." *Jurnal Ilmiah Administrasi Publik* 8, no. 3 (2022): 276-281; Sulistyaningsih, Retno. "Reforma Agraria di Indonesia." *Perspektif* 26, no. 1 (2021): 57-64; Ramadhani, Rahmat, Ida Hanifah, and Farid Wajdi. "Presidential Decree Number 62 of 2023: Distortion Regulation or Acceleration Solution for Agrarian Reform?." *Jurnal Penelitian Hukum De Jure* 24, no. 1 (2024): 31-42.

<sup>17</sup> Noventi, Ike Arni. "Farmer Community Empowerment in Indonesia." *Jurnal Ilmiah Administrasi Publik* 3, no. 3 (2017): 235-241; Rochadi, Af Sigit. "Peasant empowerment through quasi-agrarian reform program, evidence from Indonesia." *Journal of Social and Development Sciences* 9, no. 1 (2018): 50-56; Nuryasinta, Radhityas Kharisma, and Yohana Puspitasari Wardoyo. "Escalation of

Conflict resolution is another core component of agrarian reform, particularly given the historical prevalence of disputes over land.<sup>18</sup> TAP MPR RI No. IX/MPR/2001 emphasizes harmonization of legal frameworks and recognition of customary rights to prevent conflicts. Meanwhile, Perpres 86/2018 establishes procedural mechanisms, such as agrarian reform services, to resolve disputes, though its limited scope often excludes broader community concerns. The discourse here reflects a tension between procedural justice and transformative justice, where resolving individual disputes may not address the underlying structural causes of inequality.<sup>19</sup>

The implementation of agrarian reform also interacts with broader socio-political dynamics.<sup>20</sup> Historical land concentration favored elites, while the majority of rural populations remained marginalized. Redistribution, legal recognition, and empowerment initiatives challenge entrenched power hierarchies, aligning with Marxist-inspired critiques of property concentration. The discourse surrounding reform thus becomes inherently political, negotiating the tension between state authority, private interests, and community rights. TAP MPR RI No. IX/MPR/2001 frames reform as a structural transformation, while Perpres 86/2018 operationalizes these structural changes within institutional capacities.

Environmental considerations intersect with the agrarian discourse, particularly regarding forested and ecologically sensitive areas. Unclear delineation of forest boundaries, overlapping spatial planning, and incomplete integration with provincial plans create legal and practical uncertainties. The discourse integrates sustainable development principles,

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Community Legal Literacy in Resolving Land Disputes in Bumiaji Village, Batu City." *Jurnal Pengabdian Hukum Indonesia* 7, no. 2 (2024): 191-212; Prakasa, Satria Unggul Wicaksana. "Corporate vs Community Head to Head: The Complexity of Land Tenure Conflict in Indonesia." *Indonesian Journal of Advocacy and Legal Services* 4, no. 1 (2022): 224-242.

<sup>18</sup> Widodo, Slamet. "A critical review of Indonesia's agrarian reform policy." *Journal of Regional and City Planning* 28, no. 3 (2017): 204-218.

<sup>19</sup> Permadi, Iwan, and Irham Azizi. "Agrarian Reform: Implementation and Exploration of Land Conflicts in Several Countries (A Bibliometric and Content Analysis of International Research on the Agrarian Reform Concept)." *WSEAS Transactions on Environment and Development* 20 (2024): 820-834; Lucas, Anton, and Carol Warren. "The state, the people, and their mediators: the struggle over agrarian law reform in post-New Order Indonesia." *Indonesia* 76 (2003): 87-126.

<sup>20</sup> McCarthy, John F., et al. "Land reform rationalities and their governance effects in Indonesia: Provoking land politics or addressing adverse formalisation?." *Geoforum* 132 (2022): 92-102; Hardiyanto, Barid. "Politics of land policies in Indonesia in the era of President Susilo Bambang Yudhoyono." *Land Use Policy* 101 (2021): 105134.

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emphasizing that redistribution and empowerment must coexist with environmental stewardship to ensure intergenerational equity.<sup>21</sup> Legal reforms aim to balance productivity with conservation, highlighting the normative expectation that socio-economic justice cannot compromise ecological sustainability.

The discourse on agrarian reform also highlights the role of law as a mediating mechanism between historical inequities and contemporary socio-economic goals. By linking UUPA, TAP MPR RI No. IX/MPR/2001, and Perpres 86/2018, the state constructs a legal architecture that simultaneously addresses redistribution, legal certainty, and empowerment. However, the implementation gap—particularly in monitoring, credit access, and conflict resolution—reveals that law alone is insufficient without integrated institutional support. Theoretical frameworks such as Rawls' fairness, Sen's capabilities, and legal pluralism collectively illuminate the multi-layered challenges of translating normative goals into practical outcomes, as explained on Table 1.

**TABLE 1.** Conceptual Framework Agrarian Reform Indonesia

Layer / Sub-System	Key Elements / Instruments	Purpose / Function	Theoretical / Conceptual Basis
<b>Legal and Institutional Framework</b>	<ul style="list-style-type: none"> <li>- 1945 Constitution (Art. 33(3))</li> <li>- UUPA 1960- TAP MPR RI No. IX/MPR/2001</li> <li>- Perpres 86/2018</li> </ul>	Provide normative and legal foundation for agrarian reform; guide policy alignment and public interest	Rawls' Distributive Justice, Legal Pluralism, Social Justice Theory
<b>Land Redistribution</b>	<ul style="list-style-type: none"> <li>- State land</li> <li>- Excess land</li> <li>- Customary land rights (<i>hak ulayat</i>)</li> </ul>	Correct historical inequalities in land ownership; enable equitable access for marginalized communities	Rawls' Fairness Principle, Structural Justice
<b>Community Empowerment</b>	<ul style="list-style-type: none"> <li>- Access to agrarian credit</li> <li>- Technical support and extension services</li> <li>- Participatory governance</li> </ul>	Enhance agency, capabilities, and capacity to utilize redistributed land effectively	Amartya Sen's Capability Approach, Empowerment Theory

<sup>21</sup> Lee Peluso, Nancy, Suraya Afiff, and Noer Fauzi Rachman. "Claiming the grounds for reform: agrarian and environmental movements in Indonesia." *Journal of Agrarian Change* 8, no. 2-3 (2008): 377-407; Indriyanto, Kristiawan. "Positioning Agrarianism as a Sustainable Environmental Discourse: Culture, Nature and Place." *Ecocycles* 9, no. 2 (2023): 71-77; Dhiaulhaq, Ahmad, and John F. McCarthy. "Indigenous rights and agrarian justice framings in forest land conflicts in Indonesia." *The Asia Pacific Journal of Anthropology* 21, no. 1 (2020): 34-54.

Layer / Sub-System	Key Elements / Instruments	Purpose / Function	Theoretical / Conceptual Basis
<b>Conflict Resolution</b>	<ul style="list-style-type: none"> <li>- Agrarian reform services</li> <li>- Dispute settlement mechanisms</li> <li>- Legal recognition of rights</li> </ul>	Resolve land disputes; prevent new conflicts; secure legal certainty	Procedural Justice, Transformative Justice, Legal Pluralism
<b>Socio-Economic Equality</b>	<ul style="list-style-type: none"> <li>- Poverty reduction</li> <li>- Food security</li> <li>- Social cohesion</li> </ul>	Achieve holistic socio-economic equality; ensure sustainable livelihoods and well-being	Substantive Equality, Capability Approach, Sustainable Development

Source: Authors

The Table 1 presents a structured conceptual framework for agrarian reform in Indonesia, integrating legal, institutional, and practical dimensions. At the foundation lies the legal and institutional framework, which includes the 1945 Constitution, UUPA 1960, TAP MPR RI No. IX/MPR/2001, and Perpres 86/2018. These instruments provide normative guidance, ensure alignment with public interest, and define the legal basis for redistribution, empowerment, and dispute resolution. Land redistribution operationalizes these principles by reallocating state land, excess land, and customary land (*hak ulayat*) to historically marginalized communities, reflecting principles of fairness and structural justice.

Community empowerment complements redistribution by providing access to credit, technical support, and participatory governance, enabling beneficiaries to utilize land effectively, consistent with Sen's Capability Approach. Conflict resolution mechanisms, such as agrarian reform services and legal recognition of rights, secure legal certainty and prevent disputes from undermining reform objectives. Together, these layers aim to achieve socio-economic equality, promoting poverty reduction, food security, and social cohesion.<sup>22</sup> The framework illustrates the interdependence of law, policy, and community engagement in translating normative goals into

<sup>22</sup> See also Putri, Natasya Aulia, et al. "Bridging the Gap by Exploring Inequalities in Access to Land and Disparities in Agrarian Law in Indonesia." *Jurnal Ilmu Kenotariatan* 5, no. 1 (2024): 1-16; Idris, Siti Hafsyah, and I. Wayan Kartika Jaya Utama. "Control and Empowerment of Abandoned Land for Agrarian Reform." *Sociological Jurisprudence Journal* 1, no. 2 (2018): 87-94; Izdiyar, Rafa Ayu. "Agroecology as a Foundation in Community Empowerment through Ecological Village Schemes in Bangsal Village of Ogan Komering Ilir District, Indonesia." *Russian Journal of Agricultural and Socio-Economic Sciences* 127, no. 7 (2022): 84-91.

practical outcomes, highlighting both the strategic vision of TAP MPR RI No. IX/MPR/2001 and the operational focus of Perpres 86/2018.

### **Agrarian Reform as a Foundation for Indonesia's National Development**

Agrarian reform has historically been a cornerstone of Indonesia's nation-building and socio-economic development strategy. Its implementation reflects not merely a redistribution of land but a broader socio-political agenda aimed at addressing structural inequalities inherited from colonial and feudal systems. Many scholars argue that the reform sought to harmonize the principles of economic equity with democratic governance, emphasizing land as both a productive resource and a social good.<sup>23</sup> From this perspective, agrarian reform is not merely a technical policy; it embodies a vision for a participatory and equitable society, where land ownership is aligned with public welfare rather than concentrated in the hands of a privileged few.

Legally, the 1945 Constitution of Indonesia, particularly Article 33(3), establishes that natural resources, including land, are under state control and must be utilized for the common good. This constitutional mandate was operationalized through Law No. 5 of 1960 (UUPA), which imposed ownership restrictions to prevent excessive land concentration and to guarantee access for smallholder farmers. Article 7 of UUPA, for example, limits land ownership to prevent monopolization, reflecting the principles of distributive justice as conceptualized by Rawls. By restricting the accumulation of land by a small elite, the law seeks to create equitable access, thereby enabling farmers to participate in the economy and improve livelihoods.

The practical significance of these reforms can be seen in historical programs dating back to 1946 and intensified through the 1960s. These

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<sup>23</sup> Kartodiharjo, Hariadi, and Eko Cahyonob. "Agrarian reform in Indonesia: Analyze concepts and their implementation from a governance perspective." *Jurnal Manajemen Hutan Tropika* 27 (2021): 1-1; Kadarlia, Yuyun. "Agrarian Reform Improving Welfare and Social Justice in Rural Areas." *Proceeding International Conference on Law, Economy, Social and Sharia (ICLESS)*. Vol. 2. 2024; Kharisma, Bintang Ulya, et al. "Agrarian Land Policy on Land in Indonesia Post Regional Autonomy." *Media Keadilan: Jurnal Ilmu Hukum* 11, no. 2 (2020): 129-155; Isnaeni, Diyan, and Abdennour Hamadi. "Land Banking Policy (Critical Evaluation of the Economic and Social Rights of Traditional Legal Communities)." *Journal of Indonesian Legal Studies* 9, no. 2 (2024).

programs included measures for land redistribution, legalization of smallholder land titles, and support for agricultural production. Beyond economic considerations, agrarian reform in Indonesia was intended to foster social cohesion, reduce rural poverty, and strengthen the legitimacy of the state by demonstrating its commitment to justice and equality. By structuring property rights around principles of equity and collective welfare, Indonesia's agrarian reform program represents an integrated approach combining legal, economic, and social dimensions.

Despite its ambitious objectives, implementation faced numerous obstacles, including bureaucratic inefficiencies, political instability, and resistance from entrenched elites. The New Order period, for instance, emphasized economic development and industrialization over social justice, resulting in a partial implementation of the original reform agenda.<sup>24</sup> Nonetheless, the normative framework—embodied in the UUPA—continues to provide a legal foundation for contemporary initiatives, such as Presidential Regulation No. 86 of 2018, which focuses on land redistribution and community empowerment. By connecting legal principles with socio-economic objectives, agrarian reform in Indonesia remains a strategic instrument for national development.

The theoretical underpinnings of agrarian reform can be further analyzed through structural justice theory, which highlights the need to address inequalities in access to critical resources as a prerequisite for equitable development. The redistribution of land, when implemented effectively, can empower rural communities, stimulate agricultural productivity, and promote social stability. Moreover, the reform embodies elements of Amartya Sen's Capability Approach, as it expands individuals' ability to utilize land to achieve economic self-sufficiency, participate in local governance, and improve quality of life.

Finally, agrarian reform in Indonesia demonstrates the interrelation between law, policy, and socio-economic transformation. While legal frameworks provide the normative basis, practical implementation and

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<sup>24</sup> Lucas, Anton, and Carol Warren. "Agrarian reform in the era of reformasi." *Indonesia in transition: Social aspects of reformasi and crisis*. (Singapore: ISEAS, 2000), pp. 220-238; Lucas, Anton, and Carol Warren. *Land for the people: The state and agrarian conflict in Indonesia*. (Ohio: Ohio University Press, 2013); Bachriadi, Dianto. *Between Discourse and Action: Agrarian Reform and Rural Social Movements in Indonesia Post-1965*. Diss. Flinders University, School of International Studies, 2010; Haverfield, Rachel. "Hak ulayat and the state: Land reform in Indonesia." *Indonesia: Law and Society* (1999): 42-73.



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community participation determine the success of these reforms. The historical and contemporary experiences of Indonesia underscore that agrarian reform is a dynamic process, requiring continual adaptation to political, social, and economic realities to fulfill its foundational role in national development.

### **Land Rights and Ownership Restrictions in the Perspective of Agrarian Reform**

The governance of land rights and the imposition of ownership restrictions are central to Indonesia's agrarian reform, functioning as instruments to prevent concentration of land and to protect the public interest. Law No. 5 of 1960 explicitly limits the size of landholdings, while recognizing alternative forms of land rights such as usufruct, rental, or lease arrangements. These measures reflect a legal philosophy that views land not solely as private property but as a communal asset with social obligations, consistent with social justice and public interest theories. Scholars such as Griffin et.al<sup>25</sup> and Wegerif and Guereña<sup>26</sup> emphasize that failure to regulate land concentration undermines both economic productivity and social equity, creating structural barriers for smallholder farmers and perpetuating rural poverty.

Historically, excessive concentration of land in Indonesia created systemic inequities, where a minority of landowners controlled fertile areas while the majority of rural citizens lacked secure access. Agrarian reform sought to dismantle this structure by enforcing redistribution, establishing legal clarity on property rights, and introducing mechanisms for land dispute resolution. These measures are further reinforced by TAP MPR RI No. IX/MPR/2001, which explicitly aims to reduce poverty, increase access to economic resources, and correct inequalities in land ownership and use. The decree also emphasizes conflict reduction by creating formal channels for dispute settlement, aligning with principles of procedural justice.

Ownership restrictions also play a preventive and regulatory role. By limiting excessive accumulation, the state mitigates speculative practices and protects the rights of smallholders, particularly in high-demand agricultural

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<sup>25</sup> Griffin, Keith, Azizur Rahman Khan, and Amy Ickowitz. "Poverty and the Distribution of Land." *Journal of Agrarian Change* 2, no. 3 (2002): 279-330.

<sup>26</sup> Wegerif, Marc CA, and Arantxa Guereña. "Land inequality trends and drivers." *Land* 9, no. 4 (2020): 101.

areas. These policies are closely linked to the concept of distributive fairness, ensuring that land serves productive purposes rather than merely generating wealth for elites. Legal instruments such as Perpres 86/2018 operationalize these principles, focusing on land certification, legal recognition of rights, and institutional mechanisms to empower rural communities. This regulatory framework demonstrates an understanding that equitable access to land is both a right and an economic necessity.

The interaction between land rights and socio-economic development highlights the multidimensional nature of agrarian reform. Beyond legal restrictions, effective land management requires institutional capacity, political will, and community participation. Indonesia's experience shows that without enforcement and oversight, ownership restrictions alone cannot guarantee equitable outcomes.<sup>27</sup> The state must integrate redistributive measures with mechanisms for conflict resolution, extension services, and access to credit, thereby enabling smallholders to fully benefit from land ownership.

Furthermore, the social implications of land control extend to cultural and political dimensions. Secure access to land empowers rural populations, reduces vulnerability to exploitation, and strengthens social cohesion. Conversely, unregulated land markets and elite dominance generate economic marginalization, social unrest, and political instability. In this sense, agrarian reform embodies transformative justice, seeking not only to redistribute resources but also to reshape social relations, rectify historical injustices, and create inclusive structures for governance.

Contemporary challenges—such as land speculation, corporate acquisition of agricultural land, and inconsistent enforcement—demonstrate that ownership restrictions must be coupled with continuous legal, institutional, and policy adaptation. Indonesia's legal framework, from UUPA 1960 to Perpres 86/2018, provides the foundation for such adaptation, but achieving the objectives of agrarian reform requires sustained political commitment, public engagement, and alignment between law and socio-

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<sup>27</sup> Amarusaman, Sacha, Douglas K. Bardsley, and Randy Stringer. "Analysing agricultural policy outcomes in the uplands of Indonesia: A multi-dimensional sustainability assessment." *Sustainable Development* 31, no. 3 (2023): 1937-1950; Faoziyah, Uly, Muhammad Faruk Rosyaridho, and Romauli Panggabean. "Unearthing agricultural land use dynamics in Indonesia: Between food security and policy interventions." *Land* 13, no. 12 (2024): 2030; Abdurrahim, Ali Yansyah, et al. "Actors, Access, Markets, and Values Involved in Oil Palm Expansion and Peatland Degradation in West Kalimantan, Indonesia." *Forest and Society* 9, no. 1 (2025): 376-402.

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economic realities (*see* Table 2). By integrating normative principles with practical mechanisms, Indonesia's approach to land rights and ownership restrictions reflects a holistic vision of justice, equity, and national development.

**TABLE 2.** Indonesian Regulation on Agrarian Reform

Law / Regulation	Key Articles / Provisions	Objectives	Theoretical / Conceptual Basis	Historical Context & Implementation	Challenges / Case Examples
<b>UUPA (Law No. 5 of 1960)</b>	Article 2: State control over land, water, and natural resources; Article 7: Limits on land ownership	Ensure land serves public interest; prevent excessive concentration; redistribute land to smallholders	Rawlsian distributive justice; Capability Approach (Amartya Sen)	Enacted post-independence to dismantle colonial-era feudal landholding patterns; formed the legal foundation for agrarian reform programs in the 1960s	Implementation gaps due to limited administrative capacity; smallholder farmers often lacked clear access to redistributed land; issues with reconciling customary land rights with state law
<b>TAP MPR RI No. IX/MPR/2001</b>	Article 1: Redistribution of land; Article 3: Prioritizing landless farmers; Article 5: Reduce agrarian conflicts	Reduce poverty, increase access to land, correct inequality, minimize conflicts	Transformative justice; Structural justice	Formulated to provide strategic guidance for agrarian reform, focusing on social equity and conflict resolution; aligned with international human rights standards	Lack of adequate monitoring and follow-up; uneven implementation across provinces; some redistribution initiatives stalled due to bureaucratic inertia
<b>Perpres No. 86 of 2018</b>	Articles 4–5: Redistribution and empowerment; Article 17: Agrarian Reform Service for dispute resolution	Operationalize agrarian reform; resolve disputes; empower communities	Procedural justice; Capability Approach	Operationalizes prior agrarian policies; includes institutional mechanisms for land distribution and dispute resolution	Limited institutional capacity; reliance on ministerial norms leads to uneven application; disputes persist, e.g., conflict over forest and idle state land in Papua and Java
<b>Law No. 41 of 1999 (Forestry Law)</b>	Regulates forest areas and integration with provincial spatial planning	Ensure sustainable management of forest land; prevent illegal land use	Environmental justice; Legal pluralism	Amended from the 1967 Forestry Law to address environmental degradation and clarify state control over forests	Conflicts arise when land redistribution intersects with forest areas; overlapping jurisdiction with provincial authorities causes delays in resolving disputes
<b>Law No. 11 of 1967 (Mining Law, amended by Law No. 22 of 2001)</b>	Regulates mining rights and resource exploitation	Protect public interest in natural resource extraction; prevent land misuse	Resource-based equity; Social justice	Introduced during rapid industrialization; intended to balance economic growth with public control	Mining concessions have sometimes overridden agrarian reform objectives, leading to local community displacement (e.g., in

Law / Regulation	Key Articles / Provisions	Objectives	Theoretical / Conceptual Basis	Historical Context & Implementation	Challenges / Case Examples
<b>Constitution of 1945 (Article 33 Paragraph 3)</b>	Mandates state control over land, water, natural resources for public welfare	Foundation for all natural resource law; prioritize public benefit	Social justice; Resource-based equity	Provides constitutional legitimacy for all agrarian laws; reinforces state's duty to manage resources equitably	Kalimantan and Sulawesi)
					Gap between constitutional principle and local implementation; customary rights (adat) sometimes conflict with state-managed redistribution

Source: Authors

The table provides a comprehensive mapping of Indonesia's agrarian reform legal framework, illustrating how key laws and regulations—ranging from the 1945 Constitution and UUPA (1960) to TAP MPR RI No. IX/MPR/2001, Perpres 86/2018, and sectoral laws like the Forestry and Mining Acts—interact to shape land ownership, distribution, and management. Each legal instrument is analyzed through its relevant articles, objectives, and theoretical underpinnings, such as distributive justice, transformative justice, and the capability approach, highlighting how the law seeks to balance public welfare, social equity, and economic development. The historical context and implementation analysis show the evolution of agrarian policy, from post-independence redistribution efforts to contemporary mechanisms for dispute resolution and community empowerment, while the challenges and case examples reveal persistent gaps, including bureaucratic inefficiency, overlapping mandates, and conflicts with customary rights. Overall, the table demonstrates that while the legal framework provides a strong normative and institutional basis for agrarian reform, its effectiveness depends on coordinated implementation, institutional capacity, and alignment with both social justice principles and local socio-economic realities.

## Limited Ownership and Management in Agricultural Development

Land reform in Indonesia has historically been implemented through state-led programs aimed at redistributing agricultural land to address structural inequality and promote national development. The redistribution process, as regulated by Government Decree No. 224 of 1961, sought to consolidate and allocate surplus or state-owned land to smallholder farmers,

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thereby formalizing land rights in accordance with the Basic Agrarian Law (UUPA) of 1960. Land rights in Indonesia, as articulated in the UUPA, include rights to ownership (*hak milik*), cultivation (*hak guna usaha*), building rights (*hak guna bangunan*), and usage rights (*hak pakai*), designed to provide legal security while safeguarding the public interest (Law No. 5/1960, Article 7).

However, historical and structural complexities have created significant challenges for the effective implementation of these reforms. During the Dutch colonial period, land tenure was pluralistic, including Western property law, indigenous customary rights (*adat*), group-based dispute resolution, and state-controlled land. Post-independence, the UUPA attempted to unify these diverse legal regimes under a national framework in accordance with Article 33(3) of the 1945 Constitution, which mandates that land, water, and natural resources be used for the public good. Yet, ambiguities in legal texts, the coexistence of codified and uncoded norms, and the incomplete integration of customary rights have consistently undermined equitable access to land.

One of the main challenges is the disconnect between the normative principles of the UUPA and practical outcomes. Ownership ceilings intended to prevent excessive concentration of land are often circumvented, particularly by capital-rich actors and corporations, which limits smallholder access. Additionally, overlapping regulations across sectors—agriculture, forestry, irrigation, and fisheries—create legal confusion, weakening enforcement and leaving gaps that are exploited for commercial gain. These problems illustrate the limitations of formal legal instruments when implementation mechanisms are weak or inconsistent, highlighting a systemic gap between law and practice.

Structural justice theory offers a critical lens to understand these challenges. Scholars like Wahyuni, et.al<sup>28</sup> and Reki<sup>29</sup> emphasize that legal frameworks must reconcile statutory norms with social realities to ensure fairness. In Indonesia, this means harmonizing codified law, customary practices, and economic policies to prevent elite capture of land and secure equitable participation in agricultural development. The lack of alignment between law and practice not only generates socio-economic inequality but also contributes to social unrest and disputes over land.

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<sup>28</sup> Wahyuni, Sri, Teguh Prasetyo, and Umar Ma'ruf. "Legal Reconstruction of Indigenous Land Registration Regulations Based on Dignified Justice." *Scholars International Journal of Law, Crime and Justice* 6, no. 2 (2023): 101-107.

<sup>29</sup> Reki, Natanael Dwi. "Pembatasan Pemilikan dan Penguasaan Hak atas Tanah dalam Perspektif Reforma Agraria." *Jurnal Hukum Magnum Opus* 1, no. 1 (2018).

The colonial heritage embedded in the UUPA exacerbates these issues. While the law was progressive in intent, it retains remnants of Dutch legal principles that favor capital accumulation and formal ownership structures, often at the expense of community rights. This creates persistent conflicts between commercial objectives and social justice, particularly in rural areas where customary tenure systems remain strong. As a result, the redistribution of land is frequently contested, and smallholders face barriers in formalizing ownership or asserting legal rights over their land.

Another key problem lies in enforcement capacity and institutional coordination. The redistribution of land and formalization of land rights require effective monitoring, registration, and dispute-resolution mechanisms. However, weak administrative capacity at local and regional levels often delays implementation, leads to overlapping claims, and allows informal or illegal transactions to proliferate. Such governance gaps weaken public trust in the system and hinder the achievement of the UUPA's redistributive goals.

Socioeconomic and cultural factors further complicate implementation. Land reform intersects with issues of poverty, rural indebtedness, and traditional landholding practices, making the equitable distribution of land politically sensitive. Communities often resist changes perceived as threatening customary rights or social hierarchies. Moreover, rapid industrialization and urban expansion increase competition for land, adding pressure on regulatory frameworks and highlighting the limitations of existing legal protections for smallholder farmers.

Additionally, legal pluralism—the coexistence of statutory law, customary law, and colonial remnants—creates uncertainty and inconsistent interpretations. Courts and administrative agencies face challenges in reconciling conflicting claims, while policy ambiguity allows actors to exploit loopholes. For example, investor-oriented land rights such as *hak guna usaha* (HGU) can overlap with community-held land, generating disputes that are difficult to resolve without clear procedural mechanisms. These structural and procedural challenges reflect the broader tension between economic development, social justice, and legal certainty in land governance.

In addition, achieving equitable land reform requires integrating justice-oriented legal philosophy with practical governance strategies. Pancasila-based principles and Article 33 of the 1945 Constitution emphasize social welfare and communal benefit, yet these ideals are difficult to operationalize amid legal, administrative, and economic constraints. Structural justice theory underscores that a truly equitable land system must

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address historical inequalities, ensure access for marginalized groups, and enforce legal protections consistently. Without addressing these structural and operational challenges, land reform risks perpetuating inequality, undermining social cohesion, and limiting the transformative potential of agrarian policies.

### **Mastery of Land Rights and Ownership Restrictions in the Perspective of Agrarian Reform**

The mastery of land rights in Indonesia is a central pillar of agrarian reform, aimed at correcting historical inequalities in land ownership and ensuring fair access to agricultural resources. Under Law No. 5 of 1960 (UUPA), ownership rights (*hak milik*) are recognized as the strongest individual right over land, but are subject to restrictions to prevent excessive concentration and protect the public interest (Article 6–7). These restrictions are intended to balance private ownership with social welfare, in line with Article 33(3) of the 1945 Constitution, which mandates that land and natural resources be used for the greatest benefit of society. In practice, land mastery encompasses both legal ownership and effective control over land use, including rights to cultivation (*hak guna usaha*), building (*hak guna bangunan*), and usage (*hak pakai*), which are often allocated to investors and corporations under government-sanctioned programs.<sup>30</sup>

Despite clear legal frameworks, significant challenges undermine the equitable mastery of land. One major issue is the coexistence of multiple legal regimes: codified national law, colonial-era statutes, and customary (*adat*) law. This pluralism often generates legal uncertainty, particularly in rural areas where customary rights persist. Conflicts frequently arise between the statutory allocation of land to investors (via *hak guna usaha*) and traditional claims, resulting in disputes that are difficult to resolve due to gaps in regulatory oversight. For example, Articles 16 and 17 of the UUPA regulate ownership ceilings and restrictions on land holdings, yet enforcement is inconsistent, allowing large-scale land acquisitions to bypass redistribution objectives. This structural weakness reflects a broader tension between capitalist development priorities and the agrarian reform mandate for social justice.<sup>31</sup>

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<sup>30</sup> See Wardani, Widyarini Indriasti. "Ownership Limitation to the Land Rights Based on the Social Justice in Accordance to the Renewal of National Agrarian Rights Act." *International Conference on Law, Economics and Health (ICLEH 2020)*. Atlantis Press, 2020.

<sup>31</sup> Gold, Martin E., and Russell B. Zuckerman. "Indonesian Land Rights and Development." *Columbia Journal of Asian Law* 28, no. 1 (2014); Setya, Kartika

Another critical challenge is the misalignment between formal legal principles and administrative implementation. Land registration, certification, and dispute resolution are often hampered by bureaucratic inefficiency, overlapping authority among ministries, and insufficient monitoring. These gaps not only delay access for smallholders but also create opportunities for corruption and land speculation. Consequently, the intended redistributive function of agrarian reform is compromised, with wealthier actors disproportionately benefiting from land policies while marginalized farmers remain insecure in their tenure.<sup>32</sup>

The theoretical lens of structural justice provides insight into these dynamics. According to this framework, law should not merely codify property rights but must actively facilitate equitable access and prevent the domination of powerful actors over vulnerable populations. In Indonesia, this principle requires reconciling statutory land law with customary practices, ensuring administrative capacity, and embedding fairness as a guiding principle in land allocation. Failure to do so perpetuates historical inequalities, undermines social cohesion, and limits the potential for inclusive economic development.

Furthermore, the commercialization of land introduces additional complexity. Rights such as *hak guna usaha* (HGU) and *hak guna bangunan* (HGB) often prioritize private or corporate economic interests, potentially sidelining the agrarian reform goal of securing subsistence and productive rights for rural communities. This tension between market-oriented land policies and social justice principles highlights the need for comprehensive regulatory oversight, stronger enforcement of ownership ceilings, and mechanisms to protect customary rights from displacement or exploitation.

Socioeconomic and political factors exacerbate these challenges. Rural communities often lack the legal literacy, financial resources, or institutional support to assert their land rights effectively. Combined with weak law enforcement and selective application of legal provisions, this results in unequal outcomes, with smallholders marginalized and powerful actors consolidating control. Agrarian disputes thus become a recurring feature of

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Winkar, Abdul Aziz Nasihuddin, and Izawati Wook. "Fulfilling Communal Rights through the Implementation of the Second Principle of Pancasila towards the Regulation on Agrarian Reform." *Volksgeist: Jurnal Ilmu Hukum dan Konstitusi* 6, no. 1 (2023); Gellert, Paul K., and Andiko. "The quest for legal certainty and the reorganization of power: Struggles over forest law, permits, and rights in Indonesia." *The Journal of Asian Studies* 74, no. 3 (2015): 639-666.

<sup>32</sup> Bola, Mustafa. "Legal standing of customary land in Indonesia: a comparative study of land administration systems." *Hasanuddin Law Review* 3, no. 2 (2017): 175-190.



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the Indonesian land system, reflecting both structural inequities and deficiencies in legal and administrative capacity.

Additionally, ambiguity in land use regulations further complicates mastery of land rights. Overlapping claims arise from multiple sectoral laws governing agriculture, forestry, fisheries, and conservation, creating a complex regulatory environment. For instance, land allocated for agricultural use may intersect with forest-use restrictions, leading to conflicting enforcement priorities and delays in formalizing land rights. This situation undermines the clarity and predictability of the legal framework, which are essential for both social justice and economic development.

Policy responses, such as the issuance of land certificates and formal recognition of rights, aim to strengthen legal certainty and protect smallholders. However, certification programs are often unevenly implemented, leaving many communities without formal recognition of their land.<sup>33</sup> This gap reduces the effectiveness of the UUPA in achieving its redistributive and equitable objectives, demonstrating the limits of legislation without robust institutional and administrative mechanisms.

From a justice-theoretical perspective, the mastery of land rights in Indonesia illustrates the importance of balancing individual ownership with collective welfare. Structural justice theory emphasizes that laws must be interpreted and implemented in ways that prevent exploitation, ensure access for marginalized groups, and maintain social cohesion. In practice, this requires integrating statutory law with customary practices, enforcing ownership restrictions effectively, and providing transparent mechanisms for dispute resolution. Without these measures, agrarian reform cannot fulfill its intended role of reducing inequality and promoting sustainable agricultural development.

The challenge of land mastery underscores the broader tension between development and social equity in Indonesian agrarian policy. While legal frameworks such as the UUPA provide a foundation for equitable land distribution, historical legacies, administrative weaknesses, and market pressures often undermine their effectiveness. Ensuring that land reform achieves its social justice objectives requires continuous policy refinement,

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<sup>33</sup> Miptahuddin, Cecep. "The Problem of Ownership of Land Rights is Reviewed Based on the Law and Government Regulations." *Advances In Social Humanities Research* 2, no. 5 (2024): 784-803; Permadi, Iwan. "Electronic title certificate as legal evidence: The land registration system and the quest for legal certainty in Indonesia." *Digital Evidence and Electronic Signature Law Review* (2023): 47-61; Faruq, Fahmi Umar, and Achmad Hariri. "Legal Certainty Certificate of Land Rights Under National Law." *Progressive Law Review* 5, no. 2 (2023): 169-180; Kharisma, Bintang Ulya, et al. "Agrarian Land Policy on Land in Indonesia Post Regional Autonomy." *Media Keadilan: Jurnal Ilmu Hukum* 11, no. 2 (2020): 129-155.

effective institutional coordination, and a commitment to integrating principles of fairness into all aspects of land governance. This integration is essential for creating a land tenure system that is both legally sound and socially equitable, capable of supporting sustainable development and rural livelihoods.

## Conclusion

Agrarian reform in Indonesia represents a foundational strategy for promoting social justice, equitable access to land, and national development. Grounded in Law No. 5 of 1960 (UUPA) and Article 33(3) of the 1945 Constitution, the reform aims to restructure historically unequal land ownership, redistribute surplus land to smallholders, and integrate customary and statutory rights. Despite its comprehensive legal framework, the implementation of agrarian reform has faced structural, historical, and administrative challenges, including legal pluralism, weak enforcement, and overlapping regulatory authority. These challenges have hindered the full realization of the reform's redistributive and economic objectives, limiting opportunities for smallholders while enabling more powerful actors to consolidate landholdings.

The mastery of land rights, as both a legal and practical concept, remains central to achieving the goals of agrarian reform. While the UUPA establishes clear ownership categories and usage limitations, enforcement gaps, bureaucratic inefficiencies, and inconsistent recognition of customary claims have perpetuated inequality and generated disputes. Structural justice theory emphasizes that legal systems must actively balance competing interests to ensure fairness, rather than merely codify pre-existing hierarchies. In Indonesia, this requires harmonizing statutory and customary norms, strengthening institutional oversight, and ensuring transparent land administration processes to promote equitable access and social cohesion.

Looking forward, achieving the objectives of agrarian reform necessitates a coordinated policy approach that integrates legal, institutional, and socio-economic dimensions. Strengthening land registration, protecting smallholder rights against commercial encroachment, and formally recognizing customary claims are critical measures. By aligning legal frameworks with practical implementation and social justice principles derived from Pancasila and constitutional mandates, Indonesia can move toward a more inclusive, equitable, and sustainable land governance system.

Ultimately, agrarian reform is not only a legal or economic project but a societal endeavor to rectify historical inequalities, enhance rural livelihoods, and support national development in a just and sustainable manner.

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