



Agrarian Reconstruction and Implementation of the Basic Agrarian Law (UUPA) in Realizing Social Justice in Indonesia

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ARTICLE INFO

Keywords: Agrarian Inequality, Basic Agrarian Law (UUPA), Agrarian Reform, Regulatory Harmonization, Land Governance

Received: 7, October

Revised: 27, October

Accepted: 28, November

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ABSTRACT

This study examines the persistent agrarian inequality in Indonesia rooted in colonial legacies and the incomplete implementation of the 1960 Basic Agrarian Law (UUPA). Using a qualitative approach through regulatory analysis and institutional review, the research identifies structural and sectoral obstacles—such as fragmented regulations, investment dominance, and weak coordination—that hinder equitable land governance. Findings show that these barriers contribute to ongoing land inequality, agrarian conflicts, and emerging challenges related to food security and climate change. The study recommends comprehensive agrarian reconstruction through regulatory harmonization, strengthened institutions, conflict resolution mechanisms, and improved access to land and productive resources. These strategies are proposed to guide policymakers in realizing a fair, inclusive, and sustainable agrarian structure in Indonesia.

INTRODUCTION

Agrarian issues constitute one of the most fundamental structural problems in the trajectory of Indonesia's national development. The agrarian structure formed during the colonial period created a highly unequal pattern of land ownership and control; wherein most productive and strategic agrarian resources were concentrated in the hands of a small political economic elite ranging from the colonial government to plantation companies and local landlords. Meanwhile, the majority of the population, especially smallholder farmers and Indigenous communities, experienced systematic marginalization and limited access to land as their primary source of livelihood. This extractive colonial agrarian model produced deep-rooted historical injustices, structural poverty, social instability, and low welfare outcomes for rural communities.

After independence, agrarian inequality became one of the central agendas of national development. The government recognized that restructuring the agrarian order was essential for realizing social justice and improving the welfare of the people. This recognition led to the formulation of the Basic Agrarian Law (Undang-Undang Pokok Agraria/UUPA) of 1960, a landmark legal framework intended to decolonize Indonesia's agrarian system and establish an agrarian order aligned with the values of Pancasila. The UUPA emphasizes that land and natural resources are controlled by the state and must be utilized for the greatest benefit of the people. It enshrines several fundamental principles, including the social function of land, limitations on excessive ownership, recognition of customary (*ulayat*) rights, and priority allocation of land for the poor and landless.

However, the implementation of the UUPA over the past six decades reveals a significant gap between normative ideals and actual practice. The UUPA, which was designed to serve as the primary reference for agrarian governance, has often been overshadowed by fragmented sectoral regulations, such as those governing forestry, mining, plantations, and spatial planning. This legal fragmentation causes overlapping authority, institutional competition, and the strengthening of a licensing regime that frequently prioritizes large-scale investment interests over the protection of community land rights. In many cases, local communities lose access to land due to the expansion of plantations, infrastructure projects, natural resource exploitation, and the unilateral designation of forest areas without meaningful participation.

As a result, the fundamental objectives of the UUPA to create a just and democratic agrarian structure have not been fully realized. Studies from various institutions indicate that land ownership inequality in Indonesia remains high, while agrarian conflicts continue to increase in frequency, geographical spread, and complexity of actors involved. Many of these conflicts stem from struggles over living space between local communities and corporate actors or state agencies. In numerous regions, Indigenous peoples lose their customary territories, tenant farmers lose their productive land, and rural women face heightened agrarian marginalization due to the lack of gender-sensitive land governance.

In the context of contemporary development, agrarian problems have become even more complex as they intersect with issues of food security, climate change mitigation, energy demands, and national economic growth strategies. The government has introduced various agrarian reform programs including land redistribution and asset legalization as part of broader poverty reduction and welfare improvement initiatives. Yet their implementation has faced persistent challenges, including unclear land objects, bureaucratic bottlenecks, weak land administration data, dominant forest area claims, and limited post-distribution economic empowerment. Much of the agrarian reform that has occurred remains administrative rather than transformative, failing to address the root causes of structural inequality.

These conditions highlight the urgent need for agrarian reconstruction. Agrarian reconstruction should not be understood merely as land redistribution, but as a holistic process involving the reformulation of agrarian paradigms, institutions, and policies. It requires harmonizing sectoral regulations, strengthening the social function of land, enhancing the protection of Indigenous rights, redesigning natural resource governance, and resolving agrarian conflicts through distributive, procedural, and restorative justice approaches. Agrarian reconstruction must also be supported by updated land information systems and stronger collaboration among central government, local authorities, academia, and civil society organizations.

From the perspective of sustainable development, agrarian reconstruction plays a crucial role in strengthening food sovereignty, reducing emissions from land-use change, improving farmer welfare, and preserving ecological balance. Relevant theoretical frameworks such as John Rawls' theory of distributive justice, Ribot and Peluso's access theory, and political ecology offer analytical tools for examining how power relations shape community access to agrarian resources.

Thus, an academic study on agrarian reconstruction and the implementation of the UUPA in realizing social justice in Indonesia is essential for evaluating policy effectiveness, identifying structural and institutional barriers, and formulating strategic pathways for comprehensive agrarian transformation. This research is expected to contribute to the enhancement of national agrarian policy, strengthen the legal foundation of agrarian governance, and support the realization of a fair, inclusive, and sustainable agrarian structure for all Indonesians aligned with the 1945 Constitution and the ideals of a welfare state.

Problem Formulation

1. How has the implementation of UUPA No. 5 of 1960 been practiced in agrarian policy in Indonesia so far?
2. What are the challenges and opportunities in the implementation of fair agrarian reform based on the principles of UUPA?
3. What is the ideal form of agrarian legal reconstruction in achieving social justice for all Indonesian people?

THEORETICAL REVIEW

John Rawls's Theory of Justice

John Rawls, in his seminal work *A Theory of Justice* (1971), introduces a conception of justice known as Justice as Fairness. Rawls seeks to formulate principles of social justice that rational individuals would accept in designing a fair and democratic society. His theory is one of the most influential contributions to modern political philosophy, offering a strong normative foundation for discussions on distributive justice, rights, and social institutions.

Gustav Radbruch's Theory of Legal Certainty

Gustav Radbruch (1878-1949) was a prominent German jurist and legal philosopher known for his thoughts on the relationship between law, justice, and certainty. Radbruch argued that law must be understood through three fundamental values: justice, legal certainty, and utility or the purpose of law. These three components are known as the Radbruchian Triad (Radbruchsche Formel).

Lawrence Meir Friedman's Legal System Theory

Lawrence M. Friedman (born 1930) is an American legal scholar and sociologist of law, well-known for his sociological approach to law. Friedman developed the "legal system theory", emphasizing that law cannot be understood merely as written rules, but as part of a complex social system.

METHODOLOGY

The type of research used in this study is normative legal research and empirical legal research. Normative legal research is legal research that positions law as a structured system of norms. The system of norms referred to includes the rules in legislation, legal principles, the legal system of court decisions, agreements, and other legal entities. Empirical (sociological) legal research is legal research that observes characteristics in community behavior in social aspects of life to be described and analyzed in order to obtain a clear picture of the relationship between interests and all values held and believed by the community.

Research Approach

The approach used in this dissertation research is the legislative approach, which is used to study and analyze all laws and regulations related to agrarian reform for secondary data on its primary legal materials.

Conceptual approach, which is an approach that starts from the views in the doctrines that develop within legal science, especially agrarian law, which are related to Agrarian Reform, and analytical approach, which is an approach that studies and analyzes the understanding comprehensively in relation to agrarian reform.

The comparative approach is very important in this study, because with a comparative approach, the regulations and practices in other countries can be examined. This study discusses the concept of legal certainty that must be

implemented to ensure the principles of trust, transparency, and security so that accountability can be carried out properly.

RESEARCH RESULTS

This study aims to analyze the implementation of the Basic Agrarian Law (UUPA) and agrarian reconstruction as instruments for achieving social justice in Indonesia. The findings indicate that, despite the enactment of UUPA in 1960, its implementation remains limited and has not substantively addressed land ownership disparities. The study identifies several structural, regulatory, and socio-cultural challenges affecting the effectiveness of agrarian policies.

Persistent Agrarian Structure Inequalities

The findings reveal that land ownership in Indonesia remains highly skewed. Data from the National Land Agency (BPN) and field surveys indicate that most productive land is controlled by large corporations and investors, while smallholder farmers and indigenous communities face limited access to land. This disparity is exacerbated by land monopolization, concentration of ownership among economic elites, and weak redistribution mechanisms mandated by UUPA.

Key factors contributing to this inequality include:

- Overlapping sectoral regulations: Agrarian law often conflicts with forestry, plantation, mining, and spatial planning regulations.
- Weak institutional coordination: Ministries and agencies dealing with land lack effective integration mechanisms, resulting in partial and inconsistent policies.
- Incomplete land data integration: National land databases are not fully accurate, hindering the identification of rightful owners and dispute resolution.

Consequently, the most vulnerable groups, such as smallholder farmers, fishermen, and indigenous peoples, remain disadvantaged, contrary to the distributive justice principles described by John Rawls.

Limited Implementation of UUPA

UUPA encompasses strategic principles, such as recognition of customary rights (hak ulayat), social function of land, limitation of excessive ownership, and land redistribution for the poor. However, this study shows that these principles have not been fully implemented. Main obstacles include:

- Complex and bureaucratic land administration processes, slowing down land redistribution and limiting access to rights.
- Dominance of large-scale investment interests over local community rights, resulting in redistribution benefiting corporations and large-scale development projects.
- Low community participation in agrarian policy formulation, making policies often misaligned with local needs and contexts.

These findings suggest that although UUPA serves as the national legal framework, its implementation still falls short of legal certainty, as emphasized

by Gustav Radbruch. Inconsistent legal processes and inadequate protection of vulnerable groups lead to legal uncertainty and reduced legitimacy of UUPA.

High Incidence of Agrarian Conflicts

The study finds that agrarian conflicts, both horizontal and vertical, remain prevalent. Horizontal conflicts occur between communities or indigenous groups over territorial boundaries and hak ulayat, whereas vertical conflicts arise between communities and the government or corporations. Causes of these conflicts include:

- Overlapping land rights and regulations, such as conflicts between agrarian and plantation or forestry permits.
- Unclear legal recognition of hak ulayat, resulting in indigenous communities losing their rights.
- Expropriation of land for infrastructure or investment, often without adequate compensation or fair community involvement.

Unresolved agrarian conflicts increase legal uncertainty, cause socio-economic losses, and exacerbate structural disparities in land ownership.

Social and Legal Culture Factors

Community legal culture significantly affects the success of agrarian policy implementation. The study shows that communities with limited legal knowledge or low trust in legal authorities often struggle to access their land rights. Furthermore, local customs and social norms play a crucial role in resolving land disputes, suggesting that formal law must adapt to social contexts.

This aligns with Lawrence M. Friedman's legal system theory, which emphasizes that law's effectiveness depends on the interaction among legal structure, legal process, and legal culture. Without support from all three elements, UUPA implementation cannot achieve its intended outcomes.

The Need for Holistic Agrarian Reconstruction

Based on these findings, this study highlights the necessity of holistic agrarian reconstruction. Reconstruction should not merely involve land redistribution but also include:

1. Harmonization of sectoral regulations, to reduce overlaps and clarify institutional authority.
2. Strengthening land institutions, including data transparency and streamlined administrative processes.
3. Economic empowerment of land redistribution beneficiaries, ensuring access to production resources, technology, and markets to improve livelihoods.
4. Protection of indigenous and smallholder rights, through formal legal recognition of hak ulayat and fair compensation mechanisms.
5. Conflict resolution based on restorative justice principles, allowing disputes to be resolved peacefully and sustainably.

A holistic approach also emphasizes the application of Rawlsian distributive justice, Radbruchian legal certainty, and Friedman's legal system

perspective to build fair, transparent, and sustainable agrarian policy implementation mechanisms.

DISCUSSION

Urgency of the Research in Agrarian Law

Research on agrarian reconstruction and the implementation of the Basic Agrarian Law (UUPA) holds significant urgency within the field of agrarian law. The academic and practical importance of this study is outlined as follows:

1. Land Ownership Inequality and Social Function of Agrarian Law

Indonesian agrarian law, as stipulated in UUPA No. 5 of 1960, emphasizes the social function of land and prohibits excessive land ownership. However, empirical evidence shows that land distribution remains highly skewed, with most productive land controlled by large corporations and economic elites. From an agrarian law perspective, this situation reflects non-compliance with the social function of land principle, which is a fundamental normative requirement in UUPA (Articles 6, 18, and 33). This underscores the academic urgency of analyzing mechanisms for land redistribution and the recognition of customary rights (*hak ulayat*) to ensure equitable access for smallholder farmers and indigenous communities.

2. Challenges in UUPA Implementation

The urgency of this research also arises from the gap between legal norms and practical implementation. While UUPA serves as the national legal foundation, its enforcement faces multiple obstacles, including:

- Complex land administration bureaucracy, slowing redistribution and land certification processes.
- Overlapping sectoral regulations, between agrarian law, forestry, plantations, mining, and spatial planning, creating legal uncertainty.
- Low community participation in land policy planning, resulting in the marginalization of vulnerable groups.

From an agrarian law standpoint, this highlights the necessity for reformulating legal and administrative mechanisms to realize distributive justice and legal certainty in practice.

3. Agrarian Disputes as a Legal Phenomenon

Agrarian disputes represent a central issue in agrarian law because they involve protection of land rights, dispute resolution, and legal certainty. The study indicates a high incidence of both horizontal (community-to-community) and vertical (community-to-government/corporate) conflicts.

The academic urgency lies in the need to examine:

1. Weaknesses in formal land dispute resolution mechanisms.
2. Insufficient recognition of indigenous *hak ulayat* under national law.
3. The integration of formal law, customary law, and local dispute resolution practices.
4. Such analysis is essential to design dispute resolution models that are just, efficient, and aligned with national and international legal standards.

4. Legal Certainty in Agrarian Law

Legal certainty is a fundamental principle in agrarian law because it ensures security of land rights, investment stability, and sustainable development. According to Gustav Radbruch's Legal Theory, law must fulfill certainty, justice, and purpose.

The urgency of this research arises from the observation that legal uncertainty in UUPA implementation caused by overlapping regulations and inefficient administrative procedures results in:

- Ambiguity of land ownership status for communities.
- Difficulty in protecting the legal rights of indigenous peoples and smallholder farmers.
- Increased vulnerability to prolonged agrarian disputes.
- This underscores the academic need for clear, procedural, and accessible agrarian legal mechanisms as a foundation for effective agrarian reconstruction.

5. Relevance of Legal Theory to Agrarian Law Development

The research is academically significant due to its integration of legal theory with agrarian law practice:

- John Rawls' Theory of Justice: Land redistribution should prioritize the least advantaged, providing a normative basis for agrarian reform.
- Gustav Radbruch's Legal Certainty Theory: Land law procedures must be clear, consistent, and just to prevent disputes and facilitate policy implementation.
- Lawrence Meir Friedman's Legal System Theory: The effectiveness of agrarian law depends on the interaction among legal structure, legal process, and legal culture.

Thus, this research contributes to developing an agrarian law framework that is normative, contextual, and implementable.

CONCLUSIONS AND RECOMMENDATIONS

Based on the research findings and analysis, the following conclusions can be drawn:

1. Persistent Agrarian Structure Inequalities and Suboptimal Implementation of the UUPA

Land ownership in Indonesia remains highly skewed, with most productive land controlled by large corporations and economic elites, while smallholder farmers and indigenous communities have limited access. This indicates that the social function of land principle mandated by the Basic Agrarian Law (UUPA) has not been fully realized.

The strategic principles of the UUPA, including recognition of customary rights (*hak ulayat*), limitation of excessive land ownership, and land redistribution for the poor, face significant implementation barriers. Contributing factors include complex land administration bureaucracy, overlapping sectoral regulations, and low community participation.

2. Legal Certainty and Legal Culture Are Crucial

The application of legal certainty (Radbruch) and the interaction among legal structure, legal processes, and legal culture (Friedman) are critical to the effectiveness of agrarian reconstruction. Without legal certainty and community support, the UUPA's implementation cannot achieve the intended social justice outcomes.

3. High Incidence of Agrarian Conflicts and The Need for Holistic Agrarian Reconstruction

Both horizontal and vertical agrarian conflicts remain prevalent, caused by legal uncertainty, regulatory overlaps, and unclear land tenure status. These conflicts hinder social justice, create socio-economic instability, and obstruct sustainable development. Agrarian reconstruction should not be limited to land redistribution alone. It requires regulatory harmonization, economic empowerment of land beneficiaries, protection of indigenous and smallholder rights, and participatory conflict resolution mechanisms. This approach aligns with Rawls' principles of distributive justice, Radbruch's legal certainty, and Friedman's legal system theory.

Recommendations

Based on these conclusions, the following recommendations are proposed:

1. Harmonization of Agrarian Regulations, Strengthening Land Administration Institutions and Recognition and Protection of Indigenous and Smallholder Rights.

Coordinate agrarian law with other sectors such as forestry, plantations, mining, and spatial planning to reduce regulatory overlap and strengthen legal certainty for communities and investors. Enhance the capacity of land administration through accurate land data systems, efficient certification procedures, and improved inter-agency coordination to ensure effective UUPA implementation. Enforce legal recognition of hak ulayat and land ownership rights of indigenous communities, including fair compensation in cases of land acquisition for development purposes.

2. Restorative Agrarian Dispute Resolution and Economic Empowerment of Land Redistribution Beneficiaries

Develop participatory, restorative justice-based mechanisms for resolving land disputes to ensure conflicts are resolved peacefully and sustainably. Provide not only land rights but also access to capital, technology, training, and markets to ensure that land redistribution leads to tangible improvements in livelihoods.

3. Legal Education and Awareness and Multi-Theoretical Approach in Agrarian Policy

Enhance public understanding of agrarian law through education and outreach to empower communities to exercise their rights and fulfill their obligations, supporting fair and effective law enforcement. Design agrarian reconstruction policies by integrating Rawls' distributive justice, Radbruch's legal certainty, and Friedman's legal system theory to create policies that are just, effective, and sustainable.

ADVANCED RESEARCH

Based on the findings and limitations of this study, as well as the dynamics of social, economic, and legal developments in Indonesia, some suggestions for further research are Dynamic Analysis of Agrarian Policy Further research needs to examine how agrarian policy and the implementation of the Basic Agrarian Law (UUPA) adapt to socio-economic changes, including urbanization, industrial expansion, and climate change-related issues. This research can identify gaps between existing regulations and new practices of land control and use.

Evaluation of Policy and Regulatory Reforms Future research should monitor the effectiveness of regulations and recent reforms in harmonizing sectoral regulations, protecting the rights of indigenous communities, and improving land administration. This aims to ensure that the agrarian legal framework remains relevant and responsive to societal developments. Overall, further research needs to be adaptive, multidisciplinary, and community-based, taking into account legal and socio-economic dimensions. By leveraging technological innovations, participatory approaches, and comparative analysis, future research can refine the implementation of the Agrarian Law (UUPA) in accordance with the evolving needs of Indonesian society.

ACKNOWLEDGMENT

The author also wishes to extend sincere gratitude to Jordan Panjaitan Law Firm for their guidance, support, and opportunities throughout the research process. Assistance in the form of legal consultations, access to documents, and practical insights on land law significantly contributed to enriching the analysis and conclusions of this study.

The author acknowledges that without the professional support from Jordan Panjaitan Law Firm, this research would not have achieved the expected depth of analysis. Therefore, the author conveys heartfelt respect and gratitude to all staff and legal consultants at the firm for their dedication and commitment to the advancement of agrarian law scholarship in Indonesia.

REFERENCES

- Azam-Ali, Sayed, et al. "Marginal areas and indigenous people: priorities for research and action." *Science and innovations for food systems transformation* (2021): 261-279.
- Bernstein, Henry. "Agrarian classes in capitalist development." *Capitalism and development*. Routledge, 2002. 54-85.
- Blesa, Juan Garcia. "The Cultural Dimensions of Legal Certainty: A Study on the Use of Intercultural Knowledge in European Law-Application." *European Papers-A Journal on Law and Integration* 2025.2 (2025): 405-434.
- Boli, Eril, and Muh Nur Hidayat. "Agrarian Law Reform in Indonesia: Between Legal Certainty and Social Justice." *Indonesian Civil Law Review* 1.1 (2025): 53-68.

- Escallón, Jose Michael Villarreal. "The historical relationship between agrarian reforms and internal armed conflicts: Relevant factors for the Colombian post-conflict scenario." *Land Use Policy* 101 (2021): 105138.
- Habibi, Muchtar. *Capitalism and agrarian change: Class, production and reproduction in Indonesia*. Routledge, 2022.
- Hasanah, Ulfia, Nia Kurniati, and Maret Priyanta. "LEGAL HARMONIZATION BETWEEN THE OMNIBUS LAW AND BASIC AGRARIAN LAW (UUPA) IN PROTECTING INDIGENOUS RIGHTS." *Cepalo* 9.2 (2025): 95-106.
- 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* 11.1 (2021): 366-378.
- 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.
- Lee Peluso, Nancy, Suraya Afiff, and Noer Fauzi Rachman. "Claiming the grounds for reform: agrarian and environmental movements in Indonesia." *Journal of Agrarian Change* 8.2-3 (2008): 377-407.
- Miptahuddin, Cecep. "The Problem of Ownership of Land Rights is Reviewed Based on the Law and Government Regulations." *Advances In Social Humanities Research* 2.5 (2024): 784-803.
- Mukti Fajar Nur Dewata dan Yulianto Achmad, *Dualisme Penelitian Hukum Normatif dan Empiris*, (Yogyakarta: Pustaka Pelajar, 2015)
- Natadireja, Riezky Ruskandi, Sinta Ningrum, and Ramadhan Pancasilawan. "Dynamics Of Indonesian Agricultural Policy From 1945-2022." *Eduvest-Journal of Universal Studies* 4.7 (2024): 5642-5664.
- Naylor, Rosamond. "Expanding the boundaries of agricultural development." *Food Security* 3.2 (2011): 233-251.
- 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.
- Ratner, Steven R. "Regulatory takings in institutional context: Beyond the fear of fragmented international law." *American Journal of International Law* 102.3 (2008): 475-528.
- Rivera-Williams, Julian. "A Multiple Perspective Analysis on Urban Poverty in Developing Nations: A Case Study on Nigeria, Colonial Implications, and Modern-Day Outcomes." (2025).
- Suarez, Sofia Monsalve. "The human rights framework in contemporary agrarian struggles." *The journal of peasant studies* 40.1 (2013): 239-290.
- Taylor, Marcus. "Climate change, relational vulnerability and human security: rethinking sustainable adaptation in agrarian environments." *Climate and Development* 5.4 (2013): 318-327.
- White, Andy, and Alejandra Martin. "Who owns the world's forests." *Forest Trends*, Washington, DC (2002).

- Widodo, Slamet. "A critical review of indonesia's agrarian reform policy." *Journal of Regional and City Planning* 28.3 (2017): 204-218.
- Yunus, Ahsan, and Nanang Ibrahim. "Institutionalizing Customary Land Rights: Insights from the Hatam Tribe's Ulayat Rights, West Papua." *Amanna Gappa* (2025): 62-71.