

The Reality Of The Agrarian Law: Can It Address Indonesia's Land Problems?

R. Mustar Lofi

Magister Hukum, Universitas Islam Indonesia

Correspondent author's email: mustarlofi123@gmail.com

Abstract

The Basic Agrarian Law (UUPA) of 1960 was established as the primary legal framework to govern land ownership, control, and utilization in Indonesia. Its core objectives were to promote social justice, ensure legal certainty for all citizens, and enhance public welfare through equitable and sustainable land governance. However, despite being in force for over six decades, Indonesia still faces persistent and increasingly complex agrarian issues. These include overlapping land certificates, recurring land conflicts, inadequate recognition of indigenous land rights, and the inefficiency of the land administration system. This study aims to explore the central question: To what extent is the UUPA effective in resolving current land-related problems in Indonesia, and how does its legal framework compare to the more advanced land law systems of other nations? This research applies a normative legal method with a comparative approach, analyzing case studies of land disputes in Indonesia and drawing comparisons with the land law practices in Singapore, Malaysia, China, and the Philippines. Findings indicate that the UUPA suffers from significant structural weaknesses, particularly in recognizing customary land rights and establishing a coherent and transparent administrative structure. Therefore, while the UUPA remains a historical milestone in Indonesian land law, this article concludes that substantial reforms are urgently needed to align the law with current social demands, legal complexities, and the pressures of globalization in the 21st century.

Keyword: Agrarian Law, Agrarian Reform, Comparative Law, Land Disputes, Land Law

Introduction

Land issues in Indonesia have long been shaped by historical, socio-economic, and political factors. As an agrarian country, land holds significant economic, cultural, and social value. The enactment of the Basic Agrarian Law (Undang-Undang Pokok Agraria/UUPA) in 1960 was a landmark effort to replace colonial regulations with a unified system that balances national and indigenous land rights under state oversight. However, despite this legal framework, overlapping land rights, legal ambiguities, and frequent agrarian conflicts persist in various regions.¹ The UUPA's aim to accommodate customary (*adat*) rights often clashes with state-sanctioned claims, leading to disputes that threaten tenure security.²

A major challenge lies in the slow and contested land registration process. Although initiatives like the Pendaftaran Tanah Sistematis Lengkap (PTSL) have been launched to accelerate land

¹ Try Widiyono and Md Zubair Kasem Khan, 'Legal Certainty in Land Rights Acquisition in Indonesia's National Land Law' (2023) 19 Law Reform: Jurnal Pembaharuan Hukum 128.

² (Arizona & Cohen, 2024)

documentation, many parcels remain legally insecure.³ The absence of clear legal status fosters conflicts among individuals, communities, and the state. Land, viewed as a source of power and economic leverage, often becomes the object of political and corporate contestation, making resolution efforts complex and protracted.⁴

Compared to neighboring countries, Indonesia's land governance lags in terms of efficiency and inclusiveness. For instance, Malaysia legally recognizes Native Customary Rights (NCR), providing indigenous communities a firmer legal footing in asserting land claims. In contrast, Indonesia struggles to reconcile the pluralistic legal realities within its framework. The failure to effectively integrate customary rights through the UUPA has marginalized many indigenous groups.⁵ Large-scale development projects such as palm oil plantations and mining operations often encroach on customary lands, with limited legal recourse for affected communities, as demonstrated in the case of the Awyu tribe in Papua.⁶

Several initiatives have emerged to address these disparities, such as the Ancestral Domain Registration Agency (BRWA), which works to map and advocate for the recognition of indigenous territories. However, state recognition remains limited, and comprehensive integration into the national land system has yet to be achieved.⁷ Other countries offer instructive models: Malaysia and South Africa demonstrate how legal recognition of customary rights can be harmonized within national systems to ensure justice and promote sustainable land management.⁸

Environmental degradation resulting from land-use change, including deforestation and large-scale agricultural expansion, adds another dimension to Indonesia's land issues. These developments have displaced communities and exacerbated ecological crises, further challenging

³ Ricco Survival Yubaidi, Mazliza Mohamad and Saidatul Nadia Abd Aziz, 'Land Registration Acceleration in Indonesia: Lessons Learnt From Land Registration System in Malaysia' (2022) 13 UUM Journal of Legal Studies 155.

⁴ Putu Gede Arya Sumerta Yasa and others, 'Legal Politics of Land Rights Certification in The Indonesian Context: Between Agrarian Conflicts and Demands for Legal Certainty' (2021) 10 International Journal of Criminology and Sociology 897.

⁵ SSSDP Sembiring and MA Mahfud, 'The Position of Customary (Adat) Lands in the Basic of Agrarian Law' (2023) 5 Law Development Journal 380

<https://jurnal.unissula.ac.id/index.php/ldj/article/view/33207%0Ahttps://jurnal.unissula.ac.id/index.php/ldj/article/download/33207/8842>>.

⁶ By Kate Lamb and Bernadette Christina, 'Papuan Tribe, Palm Oil Firms Battle for Land Rights in Indonesian Top Court' (*Reuters*, 2024) <<https://www.reuters.com/>>.

⁷ Setiawan Widiyoko and Agus Prasetya Wiranto, 'The Strengthening Customary Land Rights : Promoting Agrarian Law Reform in Indonesia' (2024) 11 416.

⁸ Chairul Fahmi and others, 'Defining Indigenous in Indonesia and Its Applicability to the International Legal Framework on Indigenous People's Rights' (2023) 8 Journal of Indonesian Legal Studies 1019.

the relevance of the UUPA in addressing modern land dynamics.⁹ This article seeks to analyze whether the UUPA remains effective in managing current land issues and protecting indigenous rights. Using a normative juridical method, this study draws on secondary data including legal documents, legislation, judicial decisions, and comparative literature to evaluate the UUPA's implementation and offer recommendations for agrarian law reform in Indonesia.¹⁰

Problem Formulation

Despite the Basic Agrarian Law (UUPA) of 1960 being designed to unify land governance and protect both state and customary rights, Indonesia continues to face persistent land problems, including overlapping land certificates, weak recognition of indigenous land rights, inefficient administration, and recurring disputes between individuals, corporations, and the state. These challenges are compounded by conflicting sectoral regulations, slow land registration processes, and inadequate mechanisms for dispute resolution, which undermine the UUPA's objectives of social justice and legal certainty. In this context, the central problem is whether the UUPA, in its current form, is capable of effectively addressing Indonesia's complex agrarian issues, and how its implementation compares with land law systems in other countries that have successfully integrated customary rights, streamlined administration, and promoted equitable land distribution.

Methodology

This study uses a normative juridical research method, focusing on legal analysis of relevant legal documents, as well as conducting comparative law between Indonesia and other countries regarding land regulation. The approach aims to examine in-depth the implementation of the Basic Agrarian Law (UUPA) in addressing land issues in Indonesia.¹¹

The data used in this research is secondary data, obtained through literature review of legal documents, legislation, court rulings, and relevant scholarly literature. The data also includes findings from previous studies discussing land issues and comparative agrarian legal systems in other countries. The focus of this research is to identify and analyze the legal issues in the implementation of UUPA, as well as comparing land policies in Indonesia with those

⁹ Muhamad Muhdar, Rikardo Simarmata and Mohamad Nasir, 'Legal Policy Preference for Coal Mining over Other Land Use Alternatives Jeopardizes Sustainability in Indonesia' (2023) 18 *Journal of Land Use Science* 395 <<https://doi.org/10.1080/1747423X.2023.2264845>>.

¹⁰ Soerjono Soekanto and Sri Mahmudji, *Penelitian Hukum Normatif, Suatu Tinjauan Singkat* (Raja Grafindo Persada 2003).

¹¹ *ibid.*

implemented in other countries, such as Malaysia, which is known for having a more efficient land administration system.¹²

The analysis is conducted using a qualitative descriptive approach, which maps and analyzes various legal norms, agrarian law principles, and legal practices applied in the land systems of both Indonesia and other countries. Through this comparison, the research aims to provide recommendations for reforming or improving agrarian law in Indonesia to be more effective in solving the land issues currently faced.¹³

Discussion and Result

The Reality of UUPA Implementation in Indonesia

The Basic Agrarian Law (UUPA) No. 5 of 1960 was enacted as the national agrarian law framework to replace the colonial agrarian system, which was unfair. The main objective of the UUPA is to achieve social justice in the ownership, control, and utilization of land, as well as to create legal certainty for all Indonesian citizens. This is stated in the General Explanation of the UUPA, which emphasizes that national agrarian law should be an instrument to bring prosperity, happiness, and justice to the country and its people, particularly the rural community.¹⁴

The implementation of the UUPA faces various challenges. One of the prominent issues is the high number of land disputes across various regions. Factors such as weak law enforcement, high demand for land, and limited land availability make conflicts of interest over land inevitable.¹⁵ Another critical problem is the overlap of land certificates. This occurs when two or more certificates are issued for the same land parcel, often due to administrative errors or a lack of coordination among relevant authorities. This leads to legal uncertainty and harms the parties who act in good faith.¹⁶

In addition, the recognition of the customary rights of indigenous peoples over ulayat land remains minimal. Although Article 3 of the UUPA recognizes the existence of ulayat rights, in

¹²PM Marzuki, *Penelitian Hukum* (Kencana 2005)

<https://books.google.co.id/books?id=MVlbYgEACAAJ>>.

¹³ Shodiq, *Perbandingan Sitem Hukum*, vol 11 (PT MAFY MEDIA LITERASI INDONESIA 2019)

http://scioteca.caf.com/bitstream/handle/123456789/1091/RED2017-Eng-8ene.pdf?sequence=12&isAllowed=y%0Ahttp://dx.doi.org/10.1016/j.regsciurbeco.2008.06.005%0Ahttps://www.researchgate.net/publication/305320484_SISTEM_PEMBETUNGAN_TERPUSAT_STRATEGI_MELESTARI>.

¹⁴ Siti Nurjannah, 'Undang-Undang Pokok Agraria (UUPA) Sebagai Induk Landreform' (2014) 3 *Al-Daulah* 193.

¹⁵ Mudjiono Mudjiono, 'Alternatif Penyelesaian Sengketa Pertanahan Di Indonesia Melalui Revitalisasi Fungsi Badan Peradilan' (2007) 14 *Jurnal Hukum IUS QUIA IUSTUM* 458.

¹⁶ Teressyavira Luvianti and Rasji Rasji, 'Perlindungan Hukum Bagi Pemilik Tanah Yang Tumpang Tindih (Overlapping) Kepemilikan (Studi Putusan Mahkamah Agung Nomor 221 PK/PDT/2014)' (2023) 6 *UNES Law Review* 5076.

practice, many indigenous communities have not received formal recognition from the state. This causes them to be vulnerable to eviction and the loss of their rights to land that they have managed for generations.¹⁷ The disharmony between the UUPA and other sectoral regulations, such as the Forestry and Mining Laws, also hinders the implementation of the UUPA. This regulatory overlap creates legal ambiguity that obstructs effective law enforcement and often harms the public.¹⁸

One of the structural weaknesses in UUPA implementation is the absence of a comprehensive national mapping of customary territories. Although Article 3 of the UUPA recognizes hak ulayat (customary land rights), in practice, the lack of legal documentation for indigenous boundaries hinders recognition and protection. Widiyoko and Wiranto (2023) emphasize that integrating customary land mapping into agrarian law is essential to avoid overlapping claims and conflict.¹⁹ The UUPA is often criticized for its bias toward state and corporate interests, particularly in the context of national strategic projects. The Rempang Island land conflict illustrates how indigenous communities are displaced in favor of investment agendas. Hirsch (2019) highlights the lack of Free, Prior, and Informed Consent (FPIC) mechanisms, showing how development projects ignore the procedural rights of affected communities, thus violating both domestic and international norms.²⁰

Although Presidential Regulation No. 86/2018 on Agrarian Reform aimed to revitalize the UUPA's goals, its implementation has been predominantly top-down and overly focused on land legalization rather than redistribution. Nurrokhman (2020) argues that true agrarian reform must address structural inequality and land access rather than merely accelerating certification.²¹

From the perspective of legal pluralism, the UUPA has failed to equitably integrate indigenous legal systems with national law. Damanik (2023) notes that Indonesia applies a weak form of legal pluralism where customary law is subordinated to statutory regulations, leading to marginalization of indigenous communities and creating access barriers to justice in land disputes.

¹⁷ Rosmidah, 'Pengakuan Hukum, Hak Ulayat, Masyarakat Hukum Adat, Hambatan, Implementasinya.' (2010) 2 INOVATIF | Jurnal Ilmu Hukum 92.

¹⁸ Wasis Susetio, 'Disharmoni Peraturan Perundang-Undangan Di Bidang Agraria' (2013) 10 Bidang Agraria Lex Jurnalica 135.

¹⁹ Arsan Nurrokhman Nurrokhman, 'Quo Vadis Indonesian Agrarian Reform: Implementation of UUPA in the President Regulation No. 86 of 2018' (2020) 5 BHUMI: Jurnal Agraria dan Pertanahan 19.

²⁰ Cecilie Hirsch, 'Between Resistance and Negotiation: Indigenous Organisations and the Bolivian State in the Case of TIPNIS' (2019) 46 The Journal of Peasant Studies 811 <<https://doi.org/10.1080/03066150.2017.1394846>>.

²¹ Nurrokhman (n 19).

Another persistent issue is the regulatory overlap between the UUPA and sectoral laws such as forestry and mining legislation. Muchtasar et al. (2024) found that customary lands are frequently designated as state forest areas, preventing local communities from securing legal recognition. This legal contradiction exemplifies how fragmented policies undermine the spirit of agrarian justice.²²

Comparative experiences from countries like South Africa offer valuable insights. Hall (2004) discusses how post-apartheid restitution schemes have allowed displaced communities to reclaim land despite historical dispossession. This model underscores the need for Indonesia to adopt restorative justice principles in updating the UUPA and implementing inclusive land restitution programs.²³

Overlapping land certificates also reveal deep administrative shortcomings in Indonesia's land governance. Hadrian (2024) explains that many landholders still rely on traditional documents like *girik*, which are not formally recognized under current legal systems, leaving them vulnerable to expropriation or duplication by land mafias.

The persistence of land mafias who exploit regulatory loopholes has exacerbated inequality in land control. Fahmi et al. (2023) argue that without comprehensive land law reform and enforcement mechanisms targeting illegal land brokers, the UUPA's objectives of justice and certainty will remain unfulfilled. Stronger protections for vulnerable groups are essential.²⁴

One of the crucial examples of the weak implementation of the UUPA is the high number of land disputes in various regions. Disputes occur both between individuals, between citizens and corporations, and between citizens and the state. The lack of clarity regarding legal ownership often leads to prolonged and unjust conflict resolution processes.²⁵

The overlap of land certificates often occurs due to the absence of an integrated land information system. Citizens may have an official certificate from BPN, but at the same time, the land may also be claimed by another party with similar documentation. This shows administrative

²² Rizal Muchtasar, Sahrina Safiuddin and Wa Ode Zuliarti, 'International Journal of Social Science and Human Research Legal Certainty for Unregistered Land Rights Holders in Lebo Jaya Village , Southeast Sulawesi , Indonesia' (2024) 07 8894.

²³ Ruth Hall, 'A Political Economy of Land Reform in South Africa' (2004) 31 *Review of African Political Economy* 213.

²⁴ Fahmi and others (n 8).

²⁵ Putu Diva Sukmawati, 'Hukum Agraria Dalam Penyelesaian Sengketa Tanah Di Indonesia' (2022) 2 *Jurnal Ilmu Hukum Sui Generis* 89.

weaknesses that threaten legal certainty.²⁶ The customary rights of indigenous peoples are often neglected in development projects, particularly in the plantation and mining sectors. When indigenous land rights are not legally recognized, the communities lose protection and are at risk of eviction without proper compensation. This highlights the failure of the state to fulfill the UUPA's mandate to protect all citizens.²⁷

The implementation of the Basic Agrarian Law (Undang-Undang Pokok Agraria or UUPA) in Indonesia has faced significant challenges since its enactment in 1960. While the UUPA was designed to unify the nation's agrarian laws and recognize customary land rights, its practical application has often fallen short. One major issue is the dominance of state law over customary and religious laws, leading to a form of weak legal pluralism. This imbalance has resulted in the marginalization of indigenous communities and their land rights. Damanik (2023) emphasizes that the inadequate integration of customary and religious law principles into the UUPA has hindered the development of policies that are responsive to local realities, thereby impeding agrarian justice and sustainable land management in Indonesia.²⁸

The government's efforts to implement agrarian reform through policies such as Presidential Regulation No. 86 of 2018 have not fully aligned with the objectives of the UUPA. Nurrokhman (2021) argues that this regulation, while aiming to accommodate various variables, lacks clarity in its purpose and has paradoxically deviated from the UUPA's provisions. The top-down approach of such policies has often reduced the UUPA's goals to mere legalization of land transactions driven by market mechanisms, rather than addressing the underlying issues of land inequality and social justice. This misalignment underscores the need for a more coherent and purpose-driven implementation of agrarian reform policies that truly reflect the spirit of the UUPA.²⁹

The lack of legal certainty for land rights holders, especially those without formal certification, remains a pressing concern.³⁰ Hadrian (2024) highlights that many individuals possess land based on traditional claims or documents like "girik," which are not recognized as valid proof of

²⁶ Kadek Julia Mahadewi and I Gusti Ayu Sri Adinda, 'Bentuk Penyelesaian Sertifikat Tumpang Tindih Hak Milik Atas Tanah Di Tangani Oleh Swa Law Office' (2016) 14 1.

²⁷ Indah Maria Maddalena Simamora and others, 'Perlindungan Hukum Hak Ulayat Masyarakat Hukum Adat Atas Pengambilalihan Tanah Ulayat Oleh Negara' (2023) 3 Jurnal Pendidikan Sejarah dan Riset Sosial Humaniora 353.

²⁸ Pandapotan Damanik, 'Strengthening Land Law Reforms through Legal Pluralism in Indonesia' (2023) 14 Indonesian Journal of Law and Economics Review 6.

²⁹ Nurrokhman (n 19).

³⁰ Muchtasar, Safiuddin and Zuliarti (n 22).

ownership under the UUPA. This situation creates legal ambiguities and potential disputes, as these landholders are vulnerable to claims by others or state appropriation. The challenge lies in formalizing these traditional land rights within the existing legal framework to ensure protection and recognition for all landholders.³¹

The prevalence of land conflicts and the activities of land mafias have been exacerbated by overlapping regulations and the absence of comprehensive land law reform. Akmal et al. (2023) point out that the current land law system is riddled with legal vacuums and gaps, which are exploited by individuals seeking personal gain at the expense of others' rights. The UUPA's implementing regulations have proven insufficient in resolving these issues, necessitating a thorough reform of land laws to provide adequate legal protection for community rights and to align development policies with environmental considerations.³²

Land Disputes in Indonesia

Indonesia faces various complex land-related cases, including customary land disputes, overlapping land certificates, land grabbing, and conflicts arising from development projects. One example of a customary land dispute occurred in Tebing Tinggi, South Sumatra, involving the Suku Anak Dalam community. The conflict emerged due to the absence of valid land ownership documents, making dispute resolution more difficult. Mediation has been one of the efforts undertaken to resolve the disagreements between the disputing parties.³³

Overlapping land certificates represent a serious issue in Indonesia's land affairs. One such case occurred in Ambon, where duplicate certificates were issued following fires or civil unrest in the 1990s. The Supreme Court, through its jurisprudence, emphasized that the National Land Agency (BPN) is responsible for the issuance of duplicate certificates and must revoke the problematic

³¹ ADDIN CSL_CITATION {"citationItems":[{"id":"ITEM-1","itemData":{"abstract":"فيه الحبيضة لة ؤوف ني ؤر الس ؤر اةم . ؤم اذ بلغت المساحة المدروسة 7 الندة للقمر الصناعي 37 و الصف 169 المسار تقع منطق ؤة الدرا ؤة ؤي الج ؤس الة ؤسه للس التقدير ا الكمية . 8051.94 ؤم وش ؤد ؤر ؤة ؤة الت ؤدهور و المة ؤداد النس ؤة ؤي (للت ؤدهور هكتار اةتخدم دليه تدهور الراي ؤةتخر اج بعض النتائج .معادلة ال اصة النس ي النتاج النس ؤي للم اص ؤيه ال نط ؤة و الر ؤعير و القط ؤة و ال ؤصر الص ؤسر اس باة ؤتخدم تقويم الت ؤدهور ومع ؤة ؤت ؤع ز ي ؤاد-1 ؤهكت ؤار . ؤة-قن-1 , 16.5 ؤهكت ؤار . ؤة ؤن 10.21 جدا وبمقدار هناك ز ياد مستمر ي مساحة الراي ذا الت ؤدهور الر ؤديد و الر ؤديد بينت ؤة الت ؤدهور بمق ؤدار ؤة ؤنويا-1 ، ؤهكت ؤة ؤار ؤة ؤن 3.43 بس ؤبيطة ؤة ؤي مس ؤة ؤاحة الراي ؤي تحيس ؤة ؤة الت ؤدهور بمق ؤدار عل ؤة الت ؤو الي م متدهور مما يستدعي رور التتباة بخطر التدهور الم دق بمنطقة الدرا ؤة نتية الت ؤت-1 ؤة ؤهكت ؤار 30.17 كما لوحظ تن ؤاق مس ؤاحة الراي ؤي معتدل ؤة ؤة ؤة ؤي الم ؤة ؤة ؤة ؤنخس ج ؤة ؤة ؤا ان وبمستويا شديد وشديد جدا . كما بينت الدرا ؤة المستمر ال را ي

ones. Legal resolution mechanisms often involve the judiciary to determine who holds the rightful ownership of the disputed land.³⁴

Land grabbing frequently occurs as a result of abuse of power and agrarian conflicts. One notable case involved the land seizure by PTPN II, which adversely affected the residents of Launch Village, who demanded justice over their land rights. This case highlights the critical need for oversight in land use by large corporations and government entities, as well as the necessity of clearly defining land rights for vulnerable communities. Conflict resolution in such cases often involves mediation between companies and local communities to achieve a fair outcome for both sides.³⁵

Another example is the Batang Toru Hydroelectric Power Plant project in South Tapanuli, North Sumatra, which sparked a land conflict with local residents. Some villagers claimed that their land was taken for the project without fair compensation. The project also resulted in fatalities due to work-related accidents, adding to the complexity of the issue. Large-scale projects like this often create social issues and injustice for affected communities, particularly when land is appropriated without proper notification or adequate compensation.³⁶

In East Kalimantan, land disputes between indigenous communities and mining companies are common. Indigenous groups claim traditional rights to the land based on ancestral customs, while mining companies operate under government-issued permits that often disregard these customary claims. These conflicts frequently escalate and require government or judicial intervention to resolve the competing claims between indigenous communities and corporate entities.³⁷

In Sentani, Papua, the expansion of the Sentani Airport runway has triggered a land conflict with local indigenous communities. Traditional leaders and residents are demanding recognition of their rights to the land used for the project. Resolving this dispute requires acknowledgment of indigenous land rights and mechanisms that involve direct dialogue between the community, the government, and developers to reach an adequate and fair solution for all parties involved.³⁸

In Riau, land conflicts frequently arise between companies and local communities. One such case involves disputes between a plantation company and local residents, as well as between the company and the government over the legal status of land used for plantations. Resolution efforts include involvement from various stakeholders such as the National Land Agency and the Regional Plantation Office; however, the process is often prolonged and inefficient, leading to legal uncertainty for affected communities. This highlights the urgent need for a more effective and equitable legal system to resolve land disputes in Indonesia³⁹.

In Maluku, a land dispute between an indigenous community and the Indonesian Navy (TNI AL) serves as another example of the nation's complex land issues. The local community demands recognition of their rights over land currently occupied by the Navy. The involvement of the military and state authority complicates the conflict further, requiring careful legal procedures to ensure the protection of indigenous rights and the delivery of justice for all stakeholders. Mediation and dialogue are commonly employed to attempt peaceful resolution.⁴⁰

In West Sumatra, land disputes have emerged between communities and plantation companies. Locals claim ancestral rights to land they have managed for generations, while companies assert ownership based on government-issued permits. This conflict illustrates the broader challenges in land governance involving multiple actors, especially regarding the recognition of indigenous

rights and equitable land distribution. Resolving such disputes often depends on collaboration between local governments, companies, and communities to find mutually beneficial outcomes.⁴¹ The diverse and recurring land conflicts across Indonesia – from overlapping certificates and indigenous land claims to disputes driven by development projects reveal deep-rooted structural weaknesses in the national land governance system. These cases highlight the urgent need for institutional reform that ensures land registration accuracy, stronger recognition of customary land rights, and inclusive dispute resolution mechanisms. The involvement of multiple actors government agencies, corporations, indigenous communities, and the judiciary also underscores the complexity of the problem, requiring coordinated and transparent legal frameworks. Before comparing with international practices, it is important to acknowledge that Indonesia's land disputes are not merely legal in nature, but also deeply socio-political. This underlines the need for holistic reform efforts that go beyond administrative fixes and address the unequal power dynamics in land access and control.

Land Regulation in Other Countries

Land Management in Singapore

Singapore is recognized for its efficient and centralized land management system. Through the Housing and Development Board (HDB), the government manages over 80% of the country's housing. This system enables affordable access to decent housing for the population, supported by integrated public facilities. Land policies are centralized, with the state having full control and the authority to allocate land strategically for development purposes. Land acquisition is facilitated by the Land Acquisition Act, which allows the government to procure private land for public use with fair compensation. This has enabled effective urban planning and large-scale infrastructure projects without significant legal resistance. Moreover, Singapore implements a One Map Policy, which integrates spatial data to avoid overlapping land claims.

The success of Singapore's land policy lies not only in strong state control but also in transparency, streamlined administration, and the integration of technology in land registration.

These factors ensure legal certainty, reduce disputes, and create a responsive land governance model that other countries may look to replicate.

Singapore's land management system is renowned for its strategic long-term planning and efficient administration, which have been pivotal in transforming the city-state from a colonial port into a highly liveable global city. Central to this transformation is the Concept Plan, a strategic land use and transportation blueprint guiding Singapore's development over the next 40–50 years, and the Master Plan, which translates these broad strategies into detailed policies for implementation over 10–15 years. These plans are implemented through coordinated efforts among various government agencies, including the Urban Redevelopment Authority (URA), the Housing and Development Board (HDB), and the Singapore Land Authority (SLA). The Land Acquisition Act of 1966 empowered the government to secure land quickly and affordably for essential infrastructure, such as airports, industrial estates, public housing, and schools. This act was instrumental in enabling the state to allocate scarce land resources effectively to support economic growth and meet the needs of Singaporeans.

Public participation in land use decisions in Singapore has traditionally been limited, with the government maintaining a top-down approach to planning. However, there has been a growing recognition of the importance of involving citizens in the planning process to ensure that development aligns with public interests. Legal frameworks have been established to facilitate public engagement, particularly in the creation and preservation of the built environment. For instance, the designation of national monuments and the regulation of assemblies in public spaces are areas where public input is considered. Nevertheless, challenges remain in balancing the state's developmental objectives with the public's desire for greater involvement in land use decisions.

Legal Dualism in Malaysia's Land System

Malaysia's land system combines elements of customary law and English common law. Each state has autonomy in land administration, guided nationally by the National Land Code 1965. In rural and indigenous areas, customary ownership such as Malay Reserved Land and Native Customary Rights (NCR) in Sabah and Sarawak is still widely recognized.

Malaysia's land administration system is fundamentally shaped by a dual legal framework that combines elements of British colonial common law and indigenous customary law, particularly in states like Sabah and Sarawak. The National Land Code 1965 provides a uniform legal basis

for Peninsular Malaysia, but in East Malaysia, customary laws such as Native Customary Rights (NCR) take precedence in regulating indigenous land claims. However, this duality often results in inconsistencies and conflicts, especially when customary lands are not formally registered. These lands are frequently classified as state land, which makes them vulnerable to expropriation. In Sabah and Sarawak, customary tenure exists largely outside the formal legal system, and the burden of proof lies heavily on indigenous communities to validate their historical ties to the land. This legal dichotomy has created a complex landscape where traditional landowners are often disenfranchised in the face of development projects, particularly those backed by state or corporate interests.

Judicial affirmation of indigenous land rights in Malaysia has advanced somewhat through landmark cases, yet the burden remains on claimants to provide extensive evidence, which is often oral or undocumented. The 2007 *Madeli bin Salleh* case reaffirmed that customary land rights can exist without formal registration, as long as continuous use and occupation are proven. Despite this, enforcement remains uneven and slow. Many indigenous communities lack the legal aid or resources to navigate the complex court procedures. As discussed in the comparative study by Arizona and Cohen (2024), Malaysia's partial success in recognizing NCR through litigation shows the importance but also the limits of judicial routes in securing indigenous tenure. Without systemic legislative reform, court victories often do not translate into secure rights on the ground.

Challenges arise from the disconnect between customary land claims and formal legal registration. Many customary lands remain undocumented, making them vulnerable to appropriation or government-backed development. While some indigenous communities have succeeded in asserting their rights through court rulings, the lengthy and costly legal process is a barrier to justice for many. The Malaysian government has initiated efforts to harmonize customary rights with the national legal framework. However, tensions persist, particularly in resource-rich regions, where indigenous land claims clash with development interests. Despite these challenges, the dual system reflects a unique attempt to balance legal certainty and traditional land tenure practices.

Collective Land Management System in China

China operates a unique land system where all land is owned by the state or collective entities. There is no private land ownership; instead, individuals and entities are granted long-term land

use rights typically 70 years for residential land and 50 years for industrial or agricultural land. In rural areas, agricultural land is commonly managed by village collectives, which are authorized to allocate and supervise its use.

China's collective land ownership model stems from its socialist foundation, where land is owned either by the state or by rural collectives, rather than individuals. In urban areas, land is state-owned and allocated via long-term leases, while in rural regions, land is collectively owned by village communities, who allocate usage rights to member households. This system was formalized after the 1978 economic reforms through the Household Responsibility System, which allowed farmers to lease plots from the collective and manage agricultural production independently. Although this reform greatly increased productivity and rural incomes, the legal status of these land use rights remains precarious. The lack of full ownership rights has led to tenure insecurity, especially when local governments requisition land for urban development. As described by Liu et al. (2020), the ambiguity surrounding land conversion rights i.e., changing rural collective land to urban construction land has become a source of conflict and a legal gray area in China's rapid urbanization.

The governance of collective rural land in China often suffers from a lack of transparency and legal protection for individual households within the collective. Although collective ownership theoretically implies shared decision-making, in practice, the management is usually concentrated in the hands of village cadres or local leaders, which can result in elite capture and unaccountable transactions. Villagers frequently report cases where land has been leased or sold to private developers without their informed consent, and compensation—if any—is unequally distributed. According to Zhu and Simarmata (2019), these dynamics reflect the tension between China's collectivist land ideology and the market-oriented reforms that increasingly shape rural land governance. The lack of clearly defined property rights continues to produce power asymmetries between the state, local elites, and rural residents. Legal reform aimed at democratizing collective land decisions is essential to ensure rural communities can equitably benefit from land-based development.

China's collective land regime has drawn increasing scrutiny from scholars and international observers concerned about its compatibility with human rights and environmental protection. Mass land acquisitions for infrastructure and industrial zones have frequently been criticized for lacking proper consultation and adequate compensation. These practices not only lead to social

unrest but also undermine ecological resilience, as agricultural or forested lands are rapidly converted. Zhou and Etienne (2022) argue that while collective ownership theoretically provides a buffer against privatization and speculation, in practice it often facilitates opaque land deals by local governments. They suggest that meaningful reform must include the democratization of collective governance structures, legal empowerment of villagers, and clearer land titling mechanisms that safeguard both livelihoods and ecosystems.

Since the 1978 economic reforms, China has implemented the household responsibility system, allowing farmers to manage individual plots under collective ownership. This approach has significantly improved agricultural productivity, although issues of legal clarity and land tenure security remain. In economic zones, local governments often requisition collective land to be converted into state-owned land for investment purposes. While this accelerates development, it has caused social friction due to compensation concerns and inadequate consultation with affected villagers. Consequently, rural land reform remains a central issue in China's development agenda. Overall, China's collective land management offers insights into balancing state-driven development with rural land rights. Despite governance challenges, this model highlights the need for transparent acquisition processes and institutional safeguards to protect the interests of rural communities.

Land Redistribution through Agrarian Reform in the Philippines

The Philippines has long implemented the Comprehensive Agrarian Reform Program (CARP), aimed at redistributing land from large landowners to smallholder farmers. Launched in 1988, CARP addresses historical inequality in land ownership stemming from colonial rule. The program mandates redistribution of private agricultural lands that exceed legal size limits, with the government providing compensation to the original landowners. Despite its progressive aims, the program has faced obstacles such as bureaucratic delays, limited funding, and resistance from elites. Millions of hectares have been redistributed, yet many beneficiaries lack adequate support in terms of technical training, credit access, and infrastructure to make their lands productive.

The Philippines' agrarian reform initiative, known as the Comprehensive Agrarian Reform Program (CARP), was launched in 1988 under Republic Act No. 6657 to address the deeply rooted inequality in land ownership inherited from Spanish and American colonial periods. CARP aimed to redistribute agricultural lands from wealthy landlords to landless farmers, with the

twin goals of promoting social justice and improving agricultural productivity. Over 9 million hectares were earmarked for redistribution, covering both private and public agricultural lands. While the program made significant strides in expanding land access, it has faced persistent challenges – ranging from strong elite resistance, legal loopholes, and bureaucratic inefficiencies. As Borras (2007) emphasizes, landlords often used legal stratagems such as land conversion and stock distribution schemes to avoid redistribution, undermining the reform's transformative potential.

In addition to structural challenges, legal and administrative barriers have also slowed down land redistribution efforts in the Philippines. One of the major issues is the complex and often contentious process of land valuation, especially when landowners refuse to release their land or demand compensation beyond what is stipulated by the government. This has led to many cases being stalled in court for years. Furthermore, the lack of an integrated land system results in overlapping claims among farmers, businesses, and indigenous communities. Ballesteros (2010) notes that the weak land information system and the limited capacity of implementing agencies are key obstacles. Without comprehensive institutional reforms, land redistribution risks becoming a symbolic policy with no tangible impact for farmers.

Despite its limitations, CARP has laid the groundwork for a more equitable land ownership structure in the Philippines and continues to be referenced in agrarian justice discourses across Southeast Asia. The recent push to strengthen agrarian reform under the Comprehensive Agrarian Reform Program Extension with Reforms (CARPER), enacted in 2009, signals continued political will to finish land redistribution. However, scholars argue that genuine reform must move beyond land transfer to encompass institutional transformation, market access, and legal empowerment of farmers. Putzel (1992) underscores that agrarian reform should be embedded in broader strategies for rural democratization and poverty alleviation, not treated merely as a land titling exercise. In this regard, the Philippine experience offers both cautionary lessons and policy innovations for countries like Indonesia seeking to undertake large-scale land redistribution.

The Philippine government has attempted to supplement land redistribution with additional programs such as input subsidies and capacity building. However, evaluations show that land redistribution alone is insufficient empowering farmers economically and legally is crucial to achieving the reform's goals. CARP remains an important case study of how land reform policies

must be accompanied by structural support systems. While the program has reduced landlessness, its limitations point to the need for integrated agrarian and rural development policies.

Land Cases in Other Countries

In Ethiopia, land conflicts are increasingly prevalent, particularly in peri-urban areas due to rapid and unplanned urban expansion. As cities grow aggressively, many residents face unilateral land acquisitions by both government authorities and private investors. Agegnehu et al. (2021) identified various forms of disputes, including boundary conflicts, leasing disagreements, and inheritance-related issues, often stemming from a lack of clear ownership records and weak conflict resolution institutions. Although formal dispute resolution mechanisms exist, many communities prefer informal approaches such as community-based mediation, which are perceived as faster and fairer. The study underscores that poor land administration systems and the absence of digitized records are significant barriers to achieving agrarian justice in rapidly urbanizing zones.

India's Forest Rights Act (FRA) of 2006 was a progressive initiative aimed at granting legal recognition to indigenous forest dwellers. However, its implementation has been fraught with difficulties. Chandra (2019) highlights bureaucratic inertia, resistance from forestry institutions, regulatory overlaps, and limited community awareness as key obstacles. Many land claims have been rejected without clear justification or have become entangled in administrative delays. Furthermore, the lack of technical capacity at the local level exacerbates the issue, leaving indigenous communities vulnerable to displacement. The study emphasizes that legal recognition alone is insufficient without effective implementation and inclusive participation mechanisms.

In Kenya, land use conflicts are common between nomadic pastoralists and settled agricultural communities, driven by ecological shifts, urban encroachment, and government policies favoring sedentary farming systems. Wario and Kimani (2022) explore how climate change, declining grazing lands, and restrictive land regulations exacerbate tensions. These disputes, once localized, have escalated into violent clashes due to the state's failure to recognize customary land mobility rights. Nomadic communities are often forced into illegal migration patterns, including into major cities like Nairobi, disrupting their traditional ways of life. The study

advocates for legal pluralism and the integration of customary tenure into national land policy frameworks.

The construction of a highway through the Isiboro Sécure National Park and Indigenous Territory (TIPNIS) in Bolivia exemplifies a clash between national development goals and indigenous territorial rights. Hirsch (2019) analyzes the Bolivian government's push for infrastructure projects in ancestral lands without meaningful consultation with indigenous communities. While the government viewed the road as a strategic project for economic integration, local communities perceived it as a threat to their cultural survival and ecological stewardship. Widespread protests and social mobilization revealed the shortcomings of legal protections when political priorities override participatory principles. The study highlights the importance of Free, Prior, and Informed Consent (FPIC) in development planning.

Since the end of apartheid, South Africa has implemented land reform programs aimed at correcting historical land dispossession. Hall (2004) notes that despite a strong legal framework and political commitment, progress has been slow due to funding constraints, administrative inefficiencies, and conflicts between new beneficiaries and existing landowners. The initial goal of redistributing 30% of commercial farmland within five years was not met. Many restitution claims fail due to the lack of written documentation, as most traditional land rights were orally transmitted. The study calls for alternative proof mechanisms and institutional reform to address land inequality and historical injustice.

From the experiences of countries such as Ethiopia, India, Kenya, Bolivia, the Philippines, and South Africa, Indonesia can derive valuable lessons in addressing its persistent land problems. First, the importance of aligning legal frameworks with the socio-cultural realities of indigenous and rural communities is evident. India's Forest Rights Act and Kenya's efforts to integrate customary land tenure into formal systems highlight the need to recognize and legally validate traditional land claims, something Indonesia struggles with in regions like Papua and Kalimantan. Second, efficient, transparent, and decentralized land administration systems as seen in Ethiopia's mediation mechanisms and South Africa's commitment to post-apartheid restitution can significantly reduce land-related conflicts and promote legal certainty. Indonesia should consider strengthening its local dispute resolution institutions and investing in digital cadastral mapping to avoid overlaps in land titles. Third, as Bolivia's TIPNIS conflict and the Philippines' CARP demonstrate, sustainable and equitable land reform requires more than legal instruments

it must be backed by political will, adequate funding, and participatory planning that includes affected communities. For Indonesia, this means that future agrarian reform must not only modernize the UUPA, but also ensure that land policies are socially inclusive, ecologically conscious, and responsive to the power imbalances that have long characterized land ownership and access.

Conclusion

In assessing six decades of implementation, it is clear that the UUPA still provides an essential legal foundation for agrarian governance in Indonesia even as its effectiveness has been undercut by persistent gaps in practice. The law's core objectives of social justice, legal certainty, and state stewardship retain their normative power, but chronic failures in recognizing customary land rights, the proliferation of overlapping certificates, and slow, fragmented dispute-resolution mechanisms have hindered its capacity to deliver on those promises. In this sense, the UUPA remains relevant as a guiding framework, but without substantial reform it cannot adequately respond to the complexities of rapid urbanization, environmental pressures, and the pluralistic reality of land tenure across Indonesia.

To revitalize the UUPA, Indonesia must modernize its legal architecture and strengthen its institutional infrastructure. First, the law should be amended to explicitly incorporate and protect adat (customary) land rights through clear procedures for claim verification and titling, drawing inspiration from India's Forest Rights Act and Kenya's Community Land Act. Second, harmonization with sectoral statutes particularly in forestry and mining will eliminate conflicting provisions and align land classifications with both social and environmental goals. Third, a comprehensive, digital cadastral mapping system with real-time public access to geospatial data is needed to prevent overlapping titles and foster transparency in land transactions. Fourth, community-based dispute resolution mechanisms such as village land councils or mediation bodies staffed by facilitators fluent in both formal law and local customs should be empowered alongside legal aid programs for marginalized groups. Finally, participatory planning practices, including mandatory Free, Prior, and Informed Consent (FPIC) for development projects affecting communal territories, must be institutionalized; and agrarian reform efforts should be backed by dedicated funding and post-redistribution support covering technical assistance, market access, and credit facilities to ensure that newly titled beneficiaries can sustainably manage their land.

By weaving these reforms into the UUPA's structure, Indonesia can transform its agrarian law into a dynamic instrument capable of delivering on the promise of equitable land access, environmental stewardship, and social welfare in the twenty-first century.

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