

# The Legal Strength of SK KINAG in Contemporary Landreform Land Ownership

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**Abstract.** *This study examines the legal force of land ownership derived from the land reform program through the Decree of the Head of the Agrarian Inspection Office (SK KINAG) within the context of contemporary land law. Land reform in Indonesia represents a form of state intervention aimed at restructuring land tenure in a fair manner through redistribution mechanisms. SK KINAG functions as an administrative instrument that legitimizes the determination of land subjects and objects in the implementation of such policies. However, the development of the modern land law system, which emphasizes land registration and certification, has affected the position of SK KINAG within the system of proof of land rights. This research employs a qualitative method with conceptual and statutory approaches, supported by secondary data in the form of legislation, books, and scholarly journals. The analysis is conducted descriptively to assess the current legal validity of SK KINAG. The results indicate that SK KINAG holds administrative and historical value as an initial basis for land control; however, it does not provide strong legal certainty comparable to land title certificates. Therefore, conversion through land registration mechanisms is necessary to obtain more definite legal recognition and effective protection within the modern land law system.*

**Keywords:** Land Ownership; Land Reform; Land Registration; SK KINAG.

## 1. Introduction

Land holds a highly fundamental position in the life of Indonesian society. It is not only viewed as an economic resource but also carries strong social, cultural, and even political dimensions. For most people, land serves as the primary means of livelihood as well as the basis of production in the agricultural sector. On this basis, land is not merely related to the fulfillment of material needs, but also concerns identity, survival, and social stability (Ilham, 2021). In addition, land has a strategic function as a living space where various human activities take place, ranging from settlement and economic activities to infrastructure development. Land is an essential element in state administration as it is directly related to natural resource

management and public welfare. This is in line with the constitutional mandate that places land as a resource to be controlled by the state and utilized for the greatest prosperity of the people (Nurhasanah, 2020). On the other hand, the high value and function of land also make it vulnerable to various forms of unjust control (Hadisiswati, 2014). Land is no longer merely understood as a means of production but has developed into a commodity with high economic value, thereby encouraging competition in its control and utilization (Arif Tanri, 2020). Under such conditions, the state plays an important role in ensuring that land management is carried out fairly and does not create inequalities that harm the wider community. Inequality in land ownership remains a structural issue that continues to be at the core of agrarian problems in Indonesia. From the colonial era to the post-independence period, land distribution has shown an uneven pattern, where a small group controls large areas of land, while the majority of the population, especially farmers, have limited access to land as a source of livelihood. This condition not only creates economic disparities but also triggers ongoing agrarian conflicts (Nurhasanah, 2020).

In response to these conditions, the state, through national agrarian policies, introduced the land reform program aimed at restructuring land tenure and ownership in a more equitable manner. Land reform is designed as a corrective instrument to eliminate excessive land control practices while providing proportional access to communities dependent on the agricultural sector. This policy is rooted in the principle of social justice as mandated in the Basic Agrarian Law of 1960 (Aminah, 2022). In its implementation, land redistribution becomes the core of land reform. The state distributes land designated as land reform objects to eligible subjects, particularly tenant farmers. In this process, various forms of administrative decisions are issued as the legal basis for land control, one of which is the Decree of the Head of the Agrarian Inspection Office (SK KINAG). This document functions as an official determination of land recipients and serves as the initial legal basis for the relationship between the subject and the land object granted through the land reform program (Pratama, 2023).

Historically, SK KINAG has played a strategic role in ensuring orderly administration in the implementation of land redistribution. Its existence serves as evidence that the state has lawfully determined the subjects and objects of land reform. However, with the development of the national land law system, which increasingly emphasizes the importance of land registration and certification as strong evidence of rights, the position of SK KINAG has begun to face challenges. This shift in paradigm creates tension between older administrative evidence and the modern evidentiary system that requires certificates as instruments with full legal force (Fauzi, 2023). The main issue that subsequently arises concerns the status and legal strength of SK KINAG in the contemporary era. This document is often regarded merely as a basis of title rather than conclusive proof of ownership.

As a result, holders of SK KINAG are placed in a vulnerable position, particularly in cases of land disputes or when the land has not been formally registered. This uncertainty is further exacerbated by the lack of uniformity in legal interpretation, both by land administration authorities and judicial institutions, thereby creating legal uncertainty for the public

(Anggraeni, 2021). Based on these issues, this study aims to analyze the legal force of land ownership derived from the land reform program through SK KINAG within the framework of contemporary land law. The analysis focuses on the position of SK KINAG in the evidentiary system of land rights, as well as the extent to which this document can provide legal certainty and protection for its holders.

## **2. Research Methods**

This study is a normative legal research employing a qualitative method, which focuses on the analysis of legal norms, principles, and concepts related to land ownership within the land reform program, particularly through the Decree of the Head of the Agrarian Inspection Office (SK KINAG). The qualitative method is used to gain an in-depth understanding of the legal phenomena involved, especially concerning the position and legal force of SK KINAG within the contemporary land law system (Irwansyah, 2020). This research applies two approaches, namely the conceptual approach and the statutory approach. The conceptual approach is conducted by examining legal concepts related to land rights, legal certainty, and principles of agrarian law in order to obtain a comprehensive understanding of the issues under study. Meanwhile, the statutory approach is carried out by reviewing relevant legislation, such as the Basic Agrarian Law of 1960, regulations concerning land reform, and provisions related to land registration, in order to identify the legal framework governing land ownership and the proof of land rights (Marzuki, 2017).

The data used in this study are secondary data, consisting of primary, secondary, and tertiary legal materials. Primary legal materials include legislation related to agrarian and land matters. Secondary legal materials consist of legal literature, scholarly books, and journals relevant to the research topic, particularly those discussing land reform, legal certainty of land rights, and land administration. Tertiary legal materials are used as supporting sources to provide additional explanations for primary and secondary materials (Ibrahim, 2013). Data collection is conducted through library research, by gathering, reading, and examining various literature related to the research problem. This process is carried out systematically to obtain relevant and accurate data that support the analysis (Mamudji, 2015). The data analysis technique used is descriptive qualitative analysis, which involves systematically processing and examining the collected data and then interpreting it to address the research questions. This analysis is carried out by linking applicable legal provisions with existing empirical conditions, thereby producing a comprehensive conclusion regarding the legal force of SK KINAG within the contemporary land law system (Ali, 2016).

## **3. Results and Discussion**

### **3.1. Land Reform Program in Indonesia**

Within the framework of Indonesian agrarian law, land reform cannot be understood merely as a land distribution policy, but rather as an instrument of legal engineering designed to transform the structure of agrarian control through state intervention (Sidabutar, 2023). Land reform operates simultaneously at both normative and operational levels, aiming to correct disproportionate land ownership configurations through structured and coercive legal mechanisms. It represents a concrete manifestation of the state's regulatory function in

controlling the distribution of agrarian resources. Juridically, the foundation of land reform lies in Law Number 5 of 1960 concerning Basic Agrarian Principles (Undang-Undang Pokok Agraria / UUPA), which shifted the paradigm of land control from an individualistic orientation toward a social function-based approach. The UUPA not only establishes fundamental principles but also provides the state with authority to determine the limits of land ownership, use, and utilization. These provisions are further operationalized through implementing regulations, particularly Government Regulation Number 224 of 1961, which sets out concrete procedures regarding the identification of land reform objects, the determination of subjects, and the mechanisms of land distribution within the land reform framework (Lubis et al., 2024)

Conceptually, land reform is built upon the principles of limitation and redistribution. Limitation is realized through the regulation of maximum land ownership to prevent concentration of control, while redistribution aims to provide access to groups who previously lacked or had insufficient land (Purwono Sungkowo Raharjo, 2022). The state acts not only as a regulator but also as an active agent in determining the allocation of agrarian resources. This principle positions land as an object that is not entirely subject to market mechanisms, but rather under public policy control (Muderana, 1997) The implementation of land reform is carried out through systematic administrative stages based on the classification of objects and subjects. Land reform objects include land under state control, land exceeding maximum ownership limits, and land not directly cultivated by its owners. Meanwhile, land reform subjects are determined based on specific socio-economic criteria, particularly tenant farmers who depend directly on land for their livelihood. This process demonstrates that land reform is not only distributive but also selective in determining beneficiaries (Redistribusi et al., 2015)

At the implementation stage, legal legitimacy for the redistribution process is manifested through the issuance of administrative decisions by authorized officials. The Decree of the Head of the Agrarian Inspection Office (SK KINAG) functions as a formal instrument that validates the legal relationship between land recipients and the redistributed land objects. SK KINAG is not merely an administrative document, but a concrete manifestation of state legal action in transferring land control to specific subjects. The position of SK KINAG within the land reform structure indicates that the redistribution process at that time relied heavily on administrative legitimacy rather than on a formal registration system as developed today. This places SK KINAG as a legal product originating from a different land administration regime, where the determination of rights was primarily based on administrative decisions rather than an integrated land registration system. Consequently, the existence of SK KINAG presents its own challenges, as it must now be reconciled with modern evidentiary systems that require the formalization of rights through land certificates (Sihotang et al., 2022) To understand the position of SK KINAG within the current land law system, it is insufficient to view it merely as an ordinary administrative document. Instead, it must be situated within the historical and systemic context of land reform implementation. An analysis of its legal force must therefore consider the paradigm shift from a determination-based agrarian administration to a registration-based system, which directly affects the validity and binding power of such documents in modern legal practice.

### **3.2. The Legal Force of the SK KINAG in Contemporary Times**

The research findings indicate that the Decree of the Head of the Agrarian Inspection Office (Surat Keputusan Kepala Kantor Inspeksi Agraria / SK KINAG) is an administrative legal product derived from actions of state administrative officials in the implementation of land redistribution. The distinctive nature of this document lies in its declarative character, namely designating specific individuals as recipients of land while simultaneously determining the allocated land objects. SK KINAG does not create new rights in a constitutive sense; rather, it validates a legal relationship originating from state policy at the time. The position of SK KINAG does not fall within the same evidentiary regime as land title certificates. Certificates result from a registration process that produces formal legitimacy based on integrated juridical and physical data. In contrast, SK KINAG exists outside this system because it does not undergo a registration mechanism that produces systematic legal recognition. Consequently, the evidentiary strength of SK KINAG is relative and heavily depends on the assessment of its procedural validity as well as the continuity of land control by its holder (Sosial et al., 2024).

This difference gives rise to a normative tension between two models of proof: the administrative-historical model and the formal-registrative model. In judicial practice, certificates tend to be positioned as *prima facie* evidence with strong probative value, while SK KINAG is often treated as supporting evidence that must be reinforced by other forms of proof. As a result, in disputes over the same parcel of land, parties relying solely on SK KINAG are generally in a more vulnerable position compared to those holding certificates (Sosial et al., 2023). This vulnerability is reflected in the increasing number of land disputes involving former landreform lands. Overlapping claims are caused not only by weak administrative systems in the past but also by the absence of integration between historical documents and the current land registration system. This situation creates legal uncertainty and complicates dispute resolution, as judges must assess the validity of documents originating from different legal regimes (Lubis et al., 2024).

From the perspective of positive law, SK KINAG retains juridical value as long as it can be proven to be a valid administrative decision at the time of its issuance. However, such recognition is not absolute, as the modern land law system requires registration as the primary basis for legal legitimacy. SK KINAG alone is insufficient to guarantee legal certainty without being supported by a conversion process into registered land rights (Muderana, 1997). This need for conversion is not merely an administrative procedure but a logical consequence of the shift in land law paradigms toward a system emphasizing certainty through registration. Land based solely on SK KINAG must undergo verification and validation before it can be integrated into the national land registration system. Without such measures, SK KINAG will remain subordinate to certified land rights as stronger legal evidence.

The National Land Agency (Badan Pertanahan Nasional / BPN) plays a central role as the institution bridging historical documents with the current legal system. Through its

administrative authority, BPN evaluates the validity of underlying land claims, including SK KINAG, and determines their eligibility for conversion into registered rights. Systematic land registration programs serve as key instruments in this process, enabling the integration of historical data into a more accountable and structured system (Redistribusi et al., 2015). The legal implications for SK KINAG holders depend largely on their ability to transform the document into a form of right recognized within the registration system. Without certification, the legal position of SK KINAG holders remains uncertain, particularly when confronted with claims supported by stronger formal legitimacy. Consequently, in the contemporary era, SK KINAG cannot be regarded as definitive proof of ownership, but rather as an initial legal basis that requires reinforcement through applicable legal mechanisms in order to obtain effective protection.

#### 4. Conclusion

Land reform is a state legal instrument designed to restructure land tenure through redistribution mechanisms based on administrative actions. In practice, the SK KINAG (Decree of the Land Reform Committee) serves as the basis for legalizing land tenure derived from state policy, possessing a declarative nature that validates the legal relationship between the subject and the object of the land. Within the realm of contemporary land law, the legal standing of SK KINAG is not equivalent to a land certificate, as it does not originate from the land registration process. Consequently, its evidentiary strength is limited and remains dependent on administrative validity and factual possession. This distinction places SK KINAG in a weak position when contested against registered land rights, leading to legal uncertainty and potential disputes. While SK KINAG maintains juridical value, it is insufficient to guarantee legal certainty without conversion into a registration scheme. Accordingly, the transformation into a certificate through mechanisms facilitated by the National Land Agency (BPN) is an urgent necessity to ensure that land rights receive definitive legal protection within the modern land administration system

#### 5. References

##### Journals:

- Aminah, S. (2022). Program Landreform sebagai Upaya Perubahan Kepemilikan Lahan Secara Menyeluruh. *AL-DALIL: Jurnal Ilmu Sosial, Politik, Dan Hukum*, 2(2). <https://ejournal.indrainstitute.id/index.php/al-dalil/article/view/525>
- Anggraeni, D. (2021). Penyelesaian Sengketa Pertanahan dalam Perspektif Hukum Agraria. *Jurnal Hukum Prasada*, 8(2). <https://doi.org/DOI:https://doi.org/10.22225/jhp.8.2.2021>
- Arif Tanri, et. al. (2020). Kepastian Hukum Hak Atas Tanah Melalui Pendaftaran Tanah Sistematis Lengkap. *Notarius*, 13(2), 777–787.
- Fauzi, A. (2023). Tantangan dan Peran Pemerintah dalam Pelaksanaan Landreform di Indonesia. *AL-DALIL: Jurnal Ilmu Sosial, Politik, Dan Hukum*, 3(1). <https://ejournal.indrainstitute.id/index.php/al-dalil/article/view/527>
- Hadisiswati, I. (2014). Kepastian Hukum dan Perlindungan Hukum Hak Atas Tanah. *Ahkam: Jurnal Hukum Islam*, 2(1), 118–146.

- Ilham, M. (2021). Reforma Agraria dan Kepastian Hukum Hak Atas Tanah di Indonesia. *Jurnal Rechts Vinding*, 10(2). <https://doi.org/DOI:https://doi.org/10.33331/rechtsvinding.v10i2>
- Irwansyah. (2020). Penelitian Hukum: Pilihan Metode dan Praktik Penulisan Artikel. *Jurnal Hukum & Pembangunan*, 50(1). <https://doi.org/DOI:https://doi.org/10.21143/jhp.vol50.no1.2488>
- Lubis, M. A., Abdilla, M. F., & Berutu, S. S. (2024). Reformasi Agraria dan Dampaknya terhadap Perekonomian Indonesia pada Era Orde Lama dan Orde Baru. *Analisis Sejarah: Mencari Jalan Sejarah*, 14(2), 47–52. <https://doi.org/10.25077/jas.v14i2.125>
- Muderana, N. (1997). Land Reform dan Revolusi Nasional. In *Perspektif: Vol. 2 (2)* (pp. 33–44).
- Nurhasanah. (2020). Kepastian Hukum Hak Atas Tanah dalam Sistem Pendaftaran Tanah di Indonesia. *Pandecta: Research Law Journal*, 15(1). <https://doi.org/DOI:https://doi.org/10.15294/pandecta.v15i1.13666>
- Pratama, R. (2023). Kebijakan Reforma Agraria dalam Perspektif Keadilan Sosial. *Causa: Jurnal Hukum Dan Kewarganegaraan*, 4(1). <https://ejournal.warunayama.org/index.php/causa/article/view/7290>
- Purwono Sungkowo Raharjo, et. al. (2022). Sistem Pendaftaran Tanah yang Memberikan Kepastian Hukum Hak Atas Tanah. *Jurnal Komunikasi Hukum (JKH)*, 8(2).
- Sidabutar, B. (2023). Kepastian Hukum Kepemilikan Hak Atas Tanah Menurut Sistem Hukum di Indonesia dan Praktik Yudisial. *Jurnal Gagasan Hukum*, 5(1).
- Sihotang, A. H., Sihotang, S., Syamsul, R., Yaris, R., Prasetya, F., Afif Mahfud, M., Avivah, L. N., Sutaryono, S., Andari, D. W. T. A., GAZALI, F. R., BASYID, M. A., Amanda, N. D., Budhiartie, A., Zulkarnain, I., Sulistyaningsih, R., Zamil, Y. S., Sekarwati, S., Pujiwati, Y., & Nurlinda, I. (2022). Pelaksanaan Pendaftaran Tanah Sistematis Lengkap Di Kota Cimahi. *Tunas Agraria*, 39(1), 197–210. <https://eproceeding.itenas.ac.id/index.php/ftsp/article/view/499>
- Sosial, J. I., Adil, Y., & Merata, D. (2024). *Al-Dalil*. 2(1).
- Sosial, J. I., Pemerintah, P., Indonesia, L., Qatrunnada, A., Syarifudin, M., & Adnan, I. M. (2023). *Al-Dalil*. 1(3), 1–12.

#### **Books:**

- Ali, Z. (2016). *Metode Penelitian Hukum*. Sinar Grafika.
- Ibrahim, J. (2013). *Teori dan Metodologi Penelitian Hukum Normatif*. Bayumedia Publishing.
- Mamudji, S. S. dan S. (2015). *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*. Rajawali Pers.
- Marzuki, P. M. (2017). *Penelitian Hukum*. Kencana.
- Redistribusi, S., Negara, T., Landreform, O., Mendukung, D., & Reforma, P. (2015). *Mendukung Program Reforma Agraria Di Kabupaten Land Redistribution of the Object Landreform in Support*. 364–381.