

Deconstruction of the Right to Control the State: An Analysis of Article 33 Paragraph (3) of the 1945 Constitution and Its Implications for the Politics of Indonesian Agrarian Law

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Abstract. *The concept of the Right to Control the State (HMN) contained in Article 33 paragraph (3) of the 1945 Constitution emphasizes the role of the state in controlling the earth, water, and natural resources for the greatest prosperity of the people. However, the interpretation of HMN in constitutional practice often raises constitutional problems, especially when the state acts more as an absolute owner than as a manager who guarantees the distribution of justice. This article aims to critically analyze the concept of HMN through a constitutional deconstruction approach to uncover the shift in meaning between normative texts and the political practice of agrarian law. Using a normative-juridical research method, this paper explores the contradiction between constitutional idealism and the political reality of agrarian law after the 1960 UUPA, especially in land policy, natural resource management, and agrarian reform programs. The results of the analysis show that Indonesia's agrarian law politics tend to be dominated by state interests and capital, thus obscuring the constitutional mandate related to the prosperity of the people. Therefore, a conceptual reconstruction of HMN is needed so that it is not only understood as the legitimacy of state control, but also as a constitutional mechanism to ensure access, equity, and sustainability of agrarian justice.*

Keywords: Agrarian; Constitutional; Control; Deconstruction; Politics.

1. Introduction

Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia emphasizes that the earth, water, and natural resources contained therein are controlled by the state for the greatest prosperity of the people. This norm became the basis for the birth of the concept of *the Right to Control the State* (HMN) which theoretically places the state as the manager and regulator of natural resources for the public interest (Elvis et al., 2023). However, in constitutional practice, HMN is often misinterpreted as a form of absolute ownership by the state. This interpretation creates a tendency to centralize power and obscures the principle that sovereignty over natural resources is actually in the hands of the people. As a result, the constitutional principle of "people's prosperity" is often reduced to legitimacy for state intervention and large economic actors in land and natural resource management (Shohibuddin et al., 2022).

In the context of agrarian law politics, this deviation from the meaning of HMN has serious implications for agrarian resource management policies in Indonesia. The Basic Agrarian Law (UUPA) of 1960, which was originally designed as an instrument of social justice, has been distorted in its implementation due to the dominance of bureaucratic and capital interests (Mustofa & Suratman, 2013). The state uses HMN to grant large-scale land concessions to corporations, while the rights of indigenous peoples, farmers, and local communities are marginalized. This pattern shows a shift in the political orientation of agrarian law from "equal distribution of welfare" to "legitimacy of exploitation". This situation creates structural inequality and widespread agrarian conflicts, while exposing the gap between constitutional idealism and the reality of state policies (Safitri, 2023).

The concept of HMN should not be interpreted as state ownership but as state trusteeship, namely the state as the holder of the people's mandate to regulate and manage resources for the sake of common prosperity. In the framework of trusteeship, the state is not the owner but the manager who is obliged to ensure the distribution of benefits in a fair and sustainable manner. However, legal and public policy practices in Indonesia often place the state as the dominant right holder who can act as if it were the sole owner (Taufiq, 2024). Although the Constitutional Court has repeatedly affirmed HMN's populist orientation in important decisions, such as oil and gas, water, and forestry cases, this progressive interpretation has not been consistently internalized in sectoral regulations and policies.

The gap between the text of the constitution and the practice of controlling natural resources shows that there are conceptual and normative problems in the implementation of HMN. On the one hand, the constitution affirms the principles of social justice and people's prosperity, but on the other hand, agrarian and

natural resource policies still favor the interests of big corporations (Sugi Asadi & Ruhadini, 2024). This paradox indicates an imbalance between legal legitimacy and constitutional morality that should be the basis of national legal politics. HMN, which is ideally an instrument of justice, has turned into a state control mechanism that has the potential to cause structural injustice. Therefore, an in-depth study is needed to uncover the root of this shift in meaning through a more critical and reflective approach to the structure of Indonesian constitutional law.

This research is here to answer these academic needs through a legal deconstruction approach. Deconstruction is used not only to reinterpret Article 33 paragraph (3) of the 1945 Constitution, but also to dismantle the structure of domination of meaning that makes HMN an instrument of power. This approach allows for a rereading of the relationship between the state, people, and natural resources in a constitutional context (Ritonga et al., 2021). By tracing the tension between the text of the constitution, the interpretation of jurisprudence, and agrarian policy, this study aims to reveal how HMN has shifted from a populist mandate to a legal tool for state and capital hegemony. Thus, this analysis is not only descriptive, but also evaluative and transformational.

The novelty of this research lies in the integration of deconstruction theory with the analysis of constitutional law on HMN. So far, agrarian law studies have focused more on juridical-positive or administrative aspects, without highlighting the ideological and epistemic dimensions of the concept of state control. This article offers a new perspective that reads HMN as a legal construction that needs to be reconstructed in its meaning to be in line with the principles of *constitutional morality* and social justice. By dismantling the power relations in the interpretation of HMN, this study seeks to return the concept to its essence as a collective and egalitarian people's mandate, not an instrument of state domination.

Academically, this research occupies a strategic position in the development of constitutional law, especially in expanding the horizon of constitutional studies to the agrarian legal area. This research fills a conceptual void where HMN is rarely studied as a complex constitutional problem, even though it has direct implications for citizens' economic and social rights. Theoretically, this paper enriches the discourse of Indonesian constitutionalism by emphasizing the importance of deconstructing the concept of a sovereign state into a morally and legally responsible administrative state. Practically, this article is expected to provide a new direction for the formulation of agrarian law politics that is more inclusive, fair, and oriented towards the welfare of the people in accordance with the mandate of the constitution.

2. Research Methods

This study uses a juridical-normative method with a conceptual approach and a legislative approach. The juridical-normative approach was chosen because the focus of this research is on the analysis of the legal norms contained in Article 33 paragraph (3) of the 1945 Constitution, the Basic Agrarian Law (UUPA) of 1960, as well as various derivative regulations that regulate the control and utilization of natural resources by the state. The conceptual approach is used to explore the theoretical construction of the concept of "the right to control the state" and how the concept is deconstructed in the political practice of agrarian law. Meanwhile, the legislative approach serves to assess the suitability between constitutional norms and sectoral regulations in the agrarian sector. Data was collected through a literature study of laws and regulations, Constitutional Court decisions, and relevant legal literature, then analyzed qualitatively using legal interpretation methods and systematic reasoning to find its normative meaning and constitutional implications.

3. Results and Discussion

3.1. The Concept of the Right to Rule the State in a Constitutional Perspective

Article 33 paragraph (3) of the 1945 Constitution is a fundamental norm that emphasizes that the earth, water, and natural resources contained in it are controlled by the state and used for the greatest prosperity of the people. This formulation is not just a political and economic statement, but a constitutional mandate that forms the ideological basis for Indonesia's natural resource management (Ananda, Dedihasriadi, et al., 2025). From the perspective of constitutional law, the phrase "controlled by the state" raises complex conceptual issues because the phrase is not synonymous with ownership but includes the functions of regulation, management, management, and supervision. A misunderstanding of such meaning can lead to distortions, where the state acts as the absolute owner, not as a regulator for the welfare of the people (Tesya Veronika & Atik Winanti, 2021). Therefore, a re-examination of the constitutional meaning of Article 33 paragraph (3) is important to ensure the conformity between norms, practices, and the goals of social justice.

Historically, the birth of Article 33 of the 1945 Constitution cannot be separated from the context of the nation's post-colonial economic struggle. The nation's founders rejected the colonial capitalist model that concentrated the ownership of resources on foreign corporations, so the principle of state control was formulated for the prosperity of the people. Mohammad Hatta in his various speeches emphasized that the state must control important branches of production so that the people do not become objects of free market exploitation. Thus, the right to control the state is intended as a form of national economic

sovereignty and not a monopoly of administrative power (Fadhli et al., 2023). However, in the development of legal politics, this meaning is often reduced to legitimacy for the state to take over all property functions, which ultimately creates a new form of economic centralization under government control.

The normative meaning of the phrase "controlled by the state" has long been a debate among constitutional law academics. Some experts argue that state control must be interpreted in a public sense, namely as the bearer of the people's mandate to regulate and ensure the use of resources for the public interest (Handayani & Angrayni, 2023). This opinion affirms that the state is merely a representation of the people who are constitutionally mandated to act for the sake of collective prosperity. On the other hand, however, there is a positivistic view that interprets "control" as a form of juridical ownership that gives full legitimacy to the government to control and exploit natural resources (Ridwan et al., 2025). The conflict between these two paradigms shows a tension between the idea of constitutionalism based on the people's mandate and the often authoritarian and exploitative practices of power.

Law Number 5 of 1960 concerning the Basic Regulation of Agrarian Principles (UUPA) is the main legal instrument that translates Article 33 paragraph (3) into the agrarian realm. The UUPA explicitly states that the earth, water, and space are controlled by the state as the organization of power of all the people. But in practice, state control over land often creates new inequalities due to bureaucratic dominance over the rights of indigenous peoples and smallholders. The concept of the right to control the state in the UUPA should contain the principle of balance between the interests of the state and the people's rights to land (Rut Agia Aprilliani et al., 2023). Sayangnya, pelaksanaan kebijakan pertanahan kerap menunjukkan penyimpangan, di mana negara bertindak sebagai pemilik tanah kolektif, bukan sebagai pengatur yang menjamin distribusi dan pemanfaatan yang adil bagi seluruh warga negara.

Dinamika politik hukum agraria dari masa ke masa memperlihatkan perubahan makna hak menguasai negara sesuai dengan orientasi kekuasaan. Pada masa Orde Lama, konsep ini digunakan untuk memperkuat kontrol negara terhadap tanah dan sumber daya strategis dalam rangka membangun ekonomi nasional. Namun pada masa Orde Baru, fungsi penguasaan negara bergeser menjadi legitimasi bagi sentralisasi kekuasaan dan pemberian konsesi luas kepada korporasi swasta. Pasca-reformasi, meskipun semangat desentralisasi diperkuat namun praktik penguasaan sumber daya masih menunjukkan pola lama dimana negara berperan sebagai pemegang kendali utama sementara rakyat tetap berada di posisi subordinat (Suci Rahmadani et.al, 2022). This shows that the issue of the right to control the state is not only a positive legal issue, but also reflects the political and economic orientation of the ruling regime.

State control in the context of modern constitutionalism must be read as a fiduciary mandate, namely the responsibility of the state as a trustee of the people's resources. This principle emphasizes that the state should not act as if it were the absolute owner, but rather as a public responsibility bearer who must be accountable for resource management policies to the people. The fiduciary interpretation of the right to control the country is in line with the principles of rule of law and good governance which place accountability and substantive justice above economic interests alone (Jonaidi & Wibisana, 2020). Thus, the conceptual reconstruction of the right to control the state needs to be directed at efforts to strengthen the regulatory function and supervision of the state without denying the rights of individuals and local communities in the control of land and natural resources.

The Constitutional Court (MK) plays an important role in strengthening the constitutional interpretation of the right to control the state. In the Constitutional Court's Decision No. 001-021-022/PUU-I/2003 concerning the Electricity Law, the Constitutional Court emphasized that the phrase "controlled by the state" should not be interpreted narrowly as state ownership of assets, but rather includes four main functions: regulation (*regelendaad*), management (*bestuursdaad*), management (*beheersdaad*), and supervision (*toezichthoudensdaad*) (Dian Handayani & Elisatris Gultom, 2023). This interpretation emphasizes the role of the state as a policy controller and protector of the interests of the people, not the absolute owner of natural resources. This decision is an important milestone in limiting the practice of privatization of strategic sectors, while at the same time emphasizing that all forms of economic policy must be subject to the principle of people's prosperity as the ultimate goal of state control.

Furthermore, the Constitutional Court Decision Number 36/PUU-X/2012 regarding the Oil and Gas Law strengthens the affirmation that the state cannot relinquish its constitutional responsibility in the management of natural resources to private entities or foreign entities. In the ruling, the Constitutional Court considered that the establishment of the Upstream Oil and Gas Business Activities Implementation Agency (BP Migas) was contrary to Article 33 paragraph (3) of the 1945 Constitution because it placed the state only as a passive regulator. The Constitutional Court emphasized that the sovereignty of natural resources must remain in the hands of the state as a representative of the people. The implication of this decision is the reaffirmation of the principle of state control, but with a public accountability mechanism that ensures that the results of management are truly enjoyed by the people. Thus, the Constitutional Court seeks to strike a balance between economic efficiency and the constitutional mandate of social prosperity (Ratnasari, 2023).

Although the Constitutional Court has broadened the constitutional interpretation of the right to control the state, its implementation in public policy is still often deviant. The government often uses the interpretation of state control as a justification for administrative monopoly, rather than as a public regulatory responsibility. This can be seen in the granting of mining, plantation, and forestry concession permits that often ignore the principles of people's prosperity and environmental sustainability (Widyaningrum & Hamidi, 2024). This phenomenon shows the gap between progressive constitutional interpretation and conservative legal political practice. In other words, the state still positions itself as a "ruler" not a "manager", so that the philosophical meaning of Article 33 paragraph (3) of the 1945 Constitution is reduced to the legitimacy of resource exploitation by the economic and bureaucratic elites.

Constitutional criticism of state dominance in the control of natural resources also needs to be linked to the principle of constitutional accountability. The state within the framework of the 1945 Constitution is not an entity that stands on the people, but an instrument of the people to realize social justice as stipulated in the Preamble to the 1945 Constitution (Rijal & Ananda, 2025). Therefore, every policy of control and utilization of natural resources must be tested based on the principles of proportionality and public accountability. When the right to control the state is exercised without transparency and public participation, what happens is not the prosperity of the people, but the reproduction of structural inequality. In this context, the conceptual reconstruction of the right to control the state is an urgent need so that control is no longer interpreted as a monopoly, but as a constitutional mandate that is fiduciary and open to public supervision.

It is also important to highlight the relationship between the right to control the state and the rights of indigenous peoples. The 1960 UUPA actually recognizes the existence of customary rights, but this recognition is often subordinate to the claim of state control. This condition creates a constitutional paradox, on the one hand the state recognizes the sovereignty of customary law communities but on the other hand the state limits the implementation of these rights under the pretext of state control. An overly positivistic approach to agrarian law ignores the social and cultural dimensions of land rights (Sari, 2021). Therefore, the conceptual reconstruction of the right to control the state must open up space for agrarian law pluralism, in which the state is not the sole ruler, but rather a coordinator who harmonizes the interests of indigenous peoples, peasants, and national interests in a balanced manner.

Thus, the right to control the state from a constitutional perspective needs to be reconstructed as a system of co-governance relations between the state and the people. The state can no longer be positioned as the sole owner of resources, but as a management institution that functions to regulate, supervise, and ensure the

equitable distribution of benefits. This concept demands a change in the political paradigm of agrarian law from a vertical control model to a participatory model based on social and ecological justice. This kind of reconstruction not only strengthens the legitimacy of the constitution, but also reaffirms the orientation of Article 33 paragraph (3) as a living constitution in Indonesia's socio-economic dynamics. Thus, the right to control the state is no longer an instrument of domination, but an instrument of people's emancipation of natural resources that are their collective right.

3.2. Deconstruction of the Right to Control the State and Its Implications for the Politics of Indonesian Agrarian Law

The approach to deconstruction inspired by Jacques Derrida's thought is positioned here as a critical method for re-examining the textual and practical structures underlying the state's control of natural resources. Deconstruction is not just a hermeneutic method but an analytical strategy to open up the latent dichotomy between the state and the people and uncover the iterability and ambivalence of meaning in the constitutional phrase "ruled by the state". By reading Article 33 paragraph (3) of the 1945 Constitution as a performative and non-final text, this study seeks to reveal how the language of the constitution has been operated historically, politically, and administratively to reproduce certain forms of power. Deconstruction can be a tool for mapping the conceptual weak points that allow for the transfer of the constitutional mandate from the prosperity of the people to the legitimacy of bureaucratic and commercial control (Muhammad Syafri et al., 2025).

From a legal perspective, deconstruction demands special attention to the mechanisms of legal meaning-formation in the repetition of terms, opposition structures, and institutional practices that lock one interpretation as dominant (Asnawi, 2022). The phrase "state-dominated" should be seen not as a stable meaning, but as a semantic space capable of accommodating the opposite interpretation between responsive trusteeship and absolute ownership. By breaking down these binary structures, deconstruction shows that the dominant interpretation is often not the product of purely textual interpretation but the result of the accumulation of administrative practices, economic policies, and capital-state relations. This analysis also emphasizes the iterability aspect of the law, when provisions are recited in sectoral regulations, court rulings, and business contracts, their meaning changes often into an instrument of legitimacy for concessions and substantial privatization. Therefore, deconstruction demands historical-practical reading, not just textual exegesis.

The application of deconstruction to HMN reveals the naturalization process of an interpretation that benefits certain actors. Juridical and administrative practices are able to affirm the idea of the state as an "owner" through the mechanisms of

sectoral legislation, licensing, and long-term contractualization, even though the constitutional text demands a management function for the prosperity of the people (Lapasian, 2023). Deconstruction explains how technocratic narratives (efficiency, investment, development) mask normative questions about who enjoys the results of management, who bears the social and ecological costs, so that formal legitimacy is maintained even when the substance of justice is lost. By dissecting the legal rhetoric and its implementing practices, this analysis shows that the dominance of a particular interpretation is not a coincidence; rather, it is a political product that is institutionalized and reproduced through legal discourse, administrative policy, and patronage relations between bureaucracy and capital.

The deconstruction of the right to control the state also requires a rereading of the logic of the relationship between the state and corporations in natural resource management. In practice, the state often acts as a broker of power that facilitates corporate access to land and resources through permits, concessions, or investment cooperation (Nuriyanto, 2020). This paradigm is contrary to the spirit of the constitution which places the people as holders of economic sovereignty. The deconstructive approach reveals that corporate dominance is not a natural consequence of development, but rather the result of legal and policy constructions that favor the interests of capital (MHD Zakiul Fikri, 2020). Therefore, a critical reading of the right to control the state opens up space to dismantle power relations that deprive the people of access to resources and affirms the need for a more egalitarian restructuring of agrarian law.

In the context of agrarian law reform, the deconstruction of the right to control the state becomes an epistemic tool to shift the paradigm from control to distribution. So far, agrarian law tends to be oriented towards administrative arrangements, not on equal distribution of ownership and access (Putri et al., 2025). The deconstruction of the concept of the right to control the state encourages a reinterpretation that state control should be aimed at ensuring substantive justice, not just economic efficiency. Thus, the land redistribution agenda is not a sectoral policy but a logical consequence of a constitutional interpretation that places the people as the main subject of prosperity. Within this framework, agrarian law must be reformulated to not only regulate ownership, but also ensure community participation in the resource-related decision-making process (Shohibuddin et al., 2022).

This deconstructive analysis also reveals that agrarian policy in Indonesia often experiences dissonance between constitutional rhetoric and economic-political praxis. The state claims to carry out the mandate of Article 33 paragraph (3), but its implementation emphasizes macroeconomic legitimacy more than social empowerment (Ananda, Dedihasriadi, et al., 2025). For example, national strategic projects that sacrifice people's land are often justified in the name of the

public interest. In fact, if traced constitutionally, the right to control the state does not provide absolute legitimacy for the state to get rid of the basic rights of citizens (Disyon & Sibarani, 2023). Therefore, the deconstruction of such practices shows how the language of law is used to cover up structural inequality that is contrary to the ideal of social justice as enshrined in the constitution.

Harmonization of sectoral regulations must be based on the principle that natural resources are commons that must be managed for the prosperity of the people, not as an object of economic exploitation. The principle of ecological justice contained in the 1945 Constitution requires that resource management consider the carrying capacity of the environment and the rights of future generations (Ananda, Dedihasriadi, et al., 2025). In the perspective of deconstruction, the state needs to shed its claim of superiority as the "owner" of resources and position itself as a regulator that maintains a balance between economic needs and ecological sustainability. This reorientation also demands information disclosure, community participation in decision-making, and stronger accountability mechanisms for violations of land and environmental rights (Ananda, Maulana, et al., 2025).

The formulation of a new direction of Indonesian agrarian law politics must depart from criticism of the development paradigm that places land solely as a factor of production (Syafi'i SJ, 2017). The state needs to restore the social meaning of land as affirmed in Article 6 of the 1960 UUPA that all land rights have a social function. In a deconstructive framework, the right to control the state is reinterpreted as a constitutional obligation to ensure fair distribution and sustainability. This means that the state must play the role of a regulator and protector, not an absolute ruler (Triningsih & Aditya, 2019). The new direction of agrarian law politics also demands the integration of agrarian law and environmental law, so that economic development is no longer a legitimate reason to ignore the rights of local communities and the ecological value of land.

In closing, the conceptual recommendation of the deconstruction of the right to control the state is the reorientation of agrarian law in favor of the people and environmental sustainability. The constitutional reading of Article 33 paragraph (3) must be returned to the original spirit of the constitution: social justice for all Indonesian people. Regulatory reform needs to be directed to eliminate the monopoly of state power and open up space for public participation in every natural resource management process. In this context, deconstruction is not just a criticism of the meaning of the law, but an epistemic strategy to reorganize power relations to be more democratic and just. Only in this way can the right to control the state really become a constitutional instrument that protects the people, not a legitimacy for exploitative control.

4. Conclusion

The concept of the *right to control the state* as contained in Article 33 paragraph (3) of the 1945 Constitution needs to be constitutionally reconstructed to be in line with the principles of social justice and ecological sustainability. The deconstruction of the meaning of "control" shows that the state should not act as the absolute owner of natural resources, but rather as the regulator, protector, and guarantor of people's access to land and natural resources. The politics of Indonesian agrarian law have been trapped in the logic of state and corporate domination, thus giving birth to structural inequality and agrarian conflicts. With a deconstructive approach, the new direction of agrarian law politics must affirm the participation of the people, the social function of the land, and the integration of social and ecological justice. This reformulation is a prerequisite for the realization of sovereign, just, and constitutional resource management for the sustainable prosperity of the Indonesian people.

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