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Topic: Human Right Issues of Artificial Intelligence (AI) Gaps and Challenges, and Affected Future Legal Development in Various Countries

Harmonization of National Land Law with the Principles of Agrarian Justice in the Constitution.

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Abstract. The Indonesian government has launched the National Strategy for Access to Justice in order to provide legal access to the poor and marginalized, which emphasizes the urgency to carry out justice reforms in all areas of life that encourage a better change in Indonesia's position to promote law, justice and human rights for the poor and marginalized (the National Strategy for Access to Justice focuses on eight problem areas in Indonesia). One of the national strategies for access to justice is the field of land and natural resources. This study uses a normative juridical approach, namely a type of legal research that emphasizes applicable legal norms with legal analysis carried out systematically using relevant legal principles, theories, and principles. This approach was chosen because the main focus of this study is a legal political analysis of overlapping authorities in land regulation politics within the scope of the redistribution program within the framework of agrarian reform. The objective of normative legal research is to determine the relationship between the applicable legal framework and policies governing land ownership, namely the Basic Agrarian Law, the Forestry Law, and agrarian reform policies, as well as the political principles of law regarding the determination of legal boundaries, the supremacy of law, and legal guarantees for land rights by the people. This harmonization is realized through the application of principles such as nationality, the right to control the state, recognition of customary rights, the social function of land rights, equal rights between men and women, and land reform to achieve social justice in the agrarian sector. From a political perspective, the state plays an active role in enabling citizens to utilize land equitably. The state changes the view of land not as private property, but as a resource that concerns society and social welfare.

Keywords: Agrarian; Harmonization; Program; Redistribution; Reform.

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1. Introduction

In Indonesia, the history of land law development is inseparable from legal politics, from the colonial period to the reform era. Legal politics has been the driving force behind land policies, reflecting the concept of domination and the political distribution of agrarian resources within social strata. However, land regulation serves as a balance between various government authorities with differing mandates. In this regard, agrarian reform serves as a political and legal strategy to address unequal land distribution and restore citizens' land rights. However, the achievement of this policy remains hampered by several state institutions that are not legally aligned with the implementation of land redistribution.

Land redistribution is a key component of the agrarian reform program. This program aims to provide legal access to land for smallholder farmers and indigenous communities. From an administrative perspective, land redistribution falls under the authority of the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN). However, in practice, conflicts often arise in the Ministry of Environment and Forestry's (KLHK) implementation of forest area delimitation. Much of the land targeted for redistribution still holds forest area status, resulting in land certification and distribution to communities being neglected or cancelled due to the complicated, lengthy, and bureaucratic process of delimiting forest areas (Fauzi, Ahmad, 2022).

The National Long Term Development Plan (RPJPN) is an elaboration of the objectives of the establishment of the Indonesian State Government as stated in the Preamble to the 1945 Constitution of the Republic of Indonesia (Firman Muntako, 2009), namely to protect all the people and all of Indonesia's homeland, advance general welfare, improve the nation's life, and participate in implementing world order based on independence, eternal peace, and social justice in the form of a formulation of the vision, mission and direction of National Development.

One form of national development is legal development. Legal development is directed at supporting the realization of sustainable economic growth; regulating issues related to the economy, especially the business world and the industrial world; and creating a climate conducive to investment, especially legal enforcement and protection as stipulated in the RPJPN (Presidential Decree No. 5 of 2010 concerning the 2010-2014 Medium-Term Development Plan). Legal development is implemented through updating legal materials while still paying attention to the diversity of the prevailing legal order and the influence of globalization as an effort to increase legal certainty and protection, law enforcement and human rights (HAM), legal

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awareness, and legal services that are based on justice and truth, order and welfare in the context of organizing a state that is increasingly orderly, regular, smooth, and globally competitive.

The Indonesian government has launched the National Strategy for Access to Justice in order to provide legal access to the poor and marginalized, which emphasizes the urgency to carry out justice reforms in all areas of life that encourage a better position for Indonesia to promote law, justice and human rights for the poor and marginalized (the National Strategy for Access to Justice focuses on eight problem areas in Indonesia). One of the national strategies for access to justice is the area of land and natural resources.

The development of national land law is reflected in the National Legislation Program (Prolegnas). There are 247 draft laws (RUU) and five other bills open for discussion included in the 2010-2014 Prolegnas. Of these, 14 bills relate to land law.

2. Research Methods

This research uses a normative juridical approach, namely a type of legal research that emphasizes applicable legal norms with legal analysis conducted systematically using relevant legal principles, theories, and principles. This approach was chosen because the main focus of this research is a legal political analysis of overlapping authority in land regulation politics within the scope of the redistribution program within the framework of agrarian reform. The purpose of normative legal research is to determine the relationship between the applicable legal framework and policies governing the control of land rights, namely the Basic Agrarian Law, the Forestry Law, and agrarian reform policies, as well as legal political principles regarding the determination of legal boundaries, the supremacy of law, and legal guarantees for land rights by the people. The data sources in this research come from secondary data consisting of primary legal materials and secondary legal materials. Primary legal materials include national legislation such as Law Number 5 of 1960 concerning Basic Agrarian Regulations, Law Number 41 of 1999 concerning Forestry, and other implementing regulations related to agrarian reform and the division of authority between institutions. Meanwhile, secondary legal materials include official state documents, academic papers, previous research results, scientific journal articles, and academic views relevant to land law policy issues. The analysis was conducted using systematic, conceptual, and comparative interpretation methods to identify any inconsistencies or overlapping norms and examine their legal policy roots.

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3. Results and Discussion

3.1. Harmonization of the Land Bill with the Principles of Agrarian Justice

Harmonization of national land law with the principle of agrarian justice in the constitution is carried out by applying the principles contained in the Basic Agrarian Law (UUPA) which is based on the constitution, especially Article 33 paragraph (3) of the 1945 Constitution, which emphasizes state control for the greatest prosperity of the people. This harmonization is realized through the application of principles such as nationality, the right of state control, recognition of customary rights, the social function of land rights, equal rights between men and women, and land reform to achieve social justice in the agrarian sector.

The term harmonization comes from the Greek word "harmonia," which means harmoniously and appropriately bound. Philosophically, it can be interpreted as "cooperation between various factors in such a way that these factors produce a noble unity" (Hasan Sadzily, 2010). Etymologically, the term harmonization comes from the root word "harmony," which refers to a process that begins with an effort to achieve or realize a harmonious system. The term "harmony" also means harmony, suitability, compatibility, and a pleasant balance (M Dahlan Al Barry, 2015). This harmonization requires collaboration from various parties, including the government, academics, legal practitioners, and the community to create a fair and just land system.

The legal basis and related constitutional principles are as follows:

- 1) Article 33 paragraph (3) of the 1945 Constitution: Is the constitutional basis for agrarian legal policy in Indonesia, which states that the land, water and natural resources are controlled by the state for the greatest possible prosperity of the people.
- 2) Purpose of UUPA: The Basic Agrarian Law (UUPA) is designed to lay the foundation for national agrarian law which is a tool for bringing prosperity, happiness and justice to the people, especially farming people, in a just and prosperous society.

Meanwhile, the key principles in the UUPA that currently exist and have been implemented as a reference are as follows:

- 1) Principle of Nationality: All Indonesian territories are a unified homeland of all Indonesian people who are united as a nation.

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- 2) State's Right to Control: The state has the right to control and regulate natural resources for the benefit of the nation and the people.
- 3) Recognition of Customary Rights: Respecting and recognizing the rights of indigenous peoples to their land, as long as it does not conflict with national interests and applicable regulations.
- 4) Social Function of Land Rights: Every land right has a social function and must not be misused for interests that are detrimental to society or the state.
- 5) Equal Rights: Ensuring equal land rights between male and female Indonesian citizens.
- 6) Land Reform: Carrying out land reform to create a more equitable distribution of land.

The development of legal harmonization emerged in German legal science in 1902. Legal harmonization was developed in legal science to show that in the world of law, government policy, and the relationship between the two, there is diversity that can lead to disharmony. Rudolf Stammler put forward a concept of legal function, that the purpose or function of law is to harmonize various intentions, goals, and interests between individuals and between individuals and society. He said, "A just law aims at harmonizing individual purposes with that of society." The principles of just law include harmonization between the intentions, goals, and interests of individuals, and the intentions, goals, and interests of the public.

Agrarian law plays a central role as the primary foundation for regulating rights to land and the natural resources contained therein. This legal instrument determines who has the right to control, utilize, and benefit from natural resources. Agrarian law plays a crucial role in regulating land ownership, control, and utilization in Indonesia. This function not only protects individual rights but also safeguards the interests of the state and the wider community. Its goal is to provide equality to landowners in terms of income and opportunities, empower landowners to have equitable land ownership, increase agricultural production and productivity, provide employment for more agricultural workers, and end conflicts related to land ownership.

According to Afan Gaffar, law does not exist in a vacuum, but rather as an entity within an environment where there is a complex relationship between the law and that environment. However, law is a product of various elements such as politics, economics, social issues, culture, values, and religion. Therefore, the legal ecosystem is highly dependent on factors outside the law. Therefore, law is not something supreme. It exists due to political, economic, social, cultural, and other interests. Those most involved in the formation of law are the state's main elites, so the legal orientation is often elitist and always protects and defends their interests.

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Furthermore, another prominent characteristic is its strong conservative nature, and the formulation of rules is often harmonious, making it open to the possibility of change.

Agrarian justice is the management and distribution of agrarian resources (land, water, natural resources, etc.) in a fair, sustainable manner, and for the greatest prosperity of the people, especially farmers. This includes equal access to resources, fair conflict resolution, and governance that reorganizes the unequal agrarian structure inherited from colonial times. Agrarian law regulates control rights over natural resources, such as land, water, and space, as well as the natural resources contained therein. These regulations cover aspects of ownership, use, and utilization of these resources, with the primary legal basis being Law Number 5 of 1960 (UUPA) concerning Basic Agrarian Principles Regulations.

new interpretations with further regulations and please note that the strongest interpretation is the one that comes from the authorities.

Meanwhile a legislation Which Good must fulfill several elements:

- 1) The formulation is arranged systematically and the language is simple.
- 2) As a rule, it is able to achieve the highest possible efficiency and results, both in the form of order and justice.
- 3) As a social phenomenon, it is a manifestation of the outlook on life, legal awareness and sense of justice of society.
- 4) As a legal subsystem, it only reflects one series of orderly systems from the entire existing legal system.

The principle of balance, harmony and alignment between the interests of individuals and society and the interests of the nation and state must also be a concern because it is one of the principles of the material content of every statutory regulation.

Indonesia, as a state based on the rule of law and based on Pancasila and the 1945 Constitution, aims to realize a prosperous, peaceful, and orderly state and national life. It guarantees equality before the law for all citizens and maintains a harmonious, balanced, and consistent relationship between government officials and citizens, as well as between individual interests and the interests of the general public.

Therefore, in the framework of developing national land law, efforts must be made to achieve

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harmonization both horizontally and vertically, so that the legal ideals contained in Pancasila and the Preamble to the 1945 Constitution are truly realized in the form of statutory regulations as an implementation of the UUPA.

3.2. The Relationship between the Political Design of Land Law and the Redistribution Program within the Framework of Agrarian Reform in Indonesia

The implementation of the land redistribution program in Indonesia is part of the agrarian reform agenda and has its own underlying legal policy design. Legal policy, as the legal policy direction chosen by the state, shapes how land regulations are formulated, implemented, and evaluated. In relation to agrarian reform, this design should reflect the spirit of social justice as stipulated in the 1960 Basic Agrarian Law. However, in practice, there are limited institutional, regulatory, and implementation challenges to redistributive governance stemming from an inadequate legal policy design or framework. These ongoing and unresolved conflicts vertically divide and hinder collaboration between state institutions beyond redistributive administrative friction, hindering the provision of land rights to indigenous and landless peasant communities.

1) The Political Paradigm of Land Law within the Framework of Agrarian Reform

Land law policy in Indonesia is an effort to realize agrarian justice, which is part of the constitutional mandate. The Basic Agrarian Law (UUPA) Number 5 of 1960 serves as the foundation of Indonesian legislation, affirming that land is a resource that must be optimally utilized for the prosperity of the people. The concept of agrarian justice extends beyond land distribution to encompass the regulation of rights and obligations that guarantee access, sustainability, and protection for those who have been disadvantaged in land ownership. The government views land as a primary resource that must be prioritized for the welfare of the people, not for the benefit of certain individuals or entities with significant capital (Earlene, Felishella, & Benny Djaja, 2023).

In land law policy, agrarian reform is implemented within a framework of inequality through a land redistribution system to address deep-rooted inequalities in land ownership and control. This redistribution program seeks to allocate a disproportionate portion of controlled land to small-scale farmers and landless individuals. The state plays the primary role in controlling and managing the redistribution process, acting as a facilitator and supervisor, ensuring that the process is fair and transparent. This approach adheres to legal principles that require order and legal certainty in the management of agrarian legal resources.

From a political perspective, the state plays an active role in enabling citizens to utilize land

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equitably. The state shifts the view of land from private property to a resource that impacts society and social welfare. The state has an obligation to curb land monopoly practices that have entrenched social and economic disparities. Agrarian policies are expected to integrate social, economic, and ecological objectives so that land use does not endanger future generations. Thus, in this paradigm, land becomes a means to achieve socioeconomic justice for the people (Rosmidah, M. Hosen, and Sasmiar Sasmiar, 2023).

Land law policy also underlines the importance of adaptive policies shaped by the passage of time and changing community needs.

Agrarian reform is a policy that responds to changes in the social and economic system. The government must be able to formulate policies that are responsive to the context of population growth, agrarian shifts, and advances in land technology. Land management must be based on the principles of justice, openness, and community involvement so that agrarian reform truly creates sustainable value for all levels of society.

2) Institutional Structure in Land Redistribution

The institutional system for implementing land redistribution in Indonesia is centered on the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN), the agency responsible for the entire agrarian management process. This means that ATR/BPN has the authority to determine land for distribution, manage the land, and issue land title certificates to beneficiaries. The role of ATR/BPN is crucial, as it acts as a liaison between agrarian reform policies and their technical implementation on the ground. This agency is also tasked with overseeing land redistribution to ensure it is carried out legally in accordance with laws and regulations and ensures legal certainty over land ownership (Utomo, Setiyo, 2021).

In addition to the ATR/BPN, the institutional framework for implementing agrarian reform is integrated with other government agencies involved in natural resources and agriculture. One such agency is the Ministry of Environment and Forestry (KLHK), which has significant responsibility for forest land management and the authority to regulate land use zoning within forest areas. The differences in function and authority between ATR/BPN and KLHK necessitate inter-agency collaboration in meetings to ensure the achievement of the land redistribution program's objectives. The institutional structure, comprising multiple ministries, necessitates a coherent framework to avoid conflicts of authority that could hinder the agrarian reform process.

The institutional task in land redistribution is to strengthen systematization and technical

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capacity, including redefining and redistributing land to enhance accuracy and transparency in the mandated process. The ATR/BPN must implement a verified data collection and verification system to ensure ownership boundaries and land rights for land to be reallocated. This process requires adequate information technology support and competent human resources to professionally manage land data. The institutional framework must ensure proactive community involvement and inclusion in redistribution initiatives so that the needs of affected communities can be fairly addressed.

The institutional framework tasked with land redistribution in Indonesia must be designed to address the various agrarian conflict issues in the country. An effective institution is defined as one with a functioning and integrated cross-sectoral coordination system, a vertical hierarchy, and a flow of information between the ATR/BPN, the Ministry of Environment and Forestry, and other government agencies. This type of institutional arrangement is a key pillar for achieving equitable and sustainable land redistribution. An effective institutional framework further enhances legal certainty and protects the land tenure rights of communities granted land, within the context of national agrarian reform objectives (Suryani, S, 2024).

3) The Problem of Dualism of Territorial Control and Regulatory Inconsistency

The dualism of land ownership between the agrarian and forestry sectors hampers the implementation of agrarian reform in Indonesia. Areas that have been managed by local communities or farmers for their traditional livelihoods are nominally still classified as production forests or conservation areas under the control of the Ministry of Environment and Forestry (KLHK). This status allows the KLHK full authority over the land, thus preventing the Ministry of Agrarian Affairs and Spatial Planning/BPN from fully controlling the land. This situation creates legal ambiguity for communities who manage the land, which in turn erodes land tenure security and exacerbates agrarian conflicts (Umar, Mahmud Hi, & Nurlaila Kadarwati Papuluwa, 2024).

The limited authority of the ATR/BPN over land designated as forest areas hampers the land redistribution process within the agrarian reform program. The release of forest areas from the Ministry of Environment and Forestry (LHK) to the ATR/BPN is a lengthy and complex process involving technical and administrative audits. The process is highly technocratic, and meeting the various prerequisites tends to filter out indigenous communities or smallholder farmers. The forest area release process often lacks community involvement and prioritizes conservation, protection, and environmental preservation, ignoring the socio-economic considerations of communities dependent on the land. Consequently, the process fails to achieve the desired

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agrarian justice outcomes, and vulnerable communities continue to lack legal protection.

This problem is explicitly illustrated in the regions of Papua and Kalimantan. In Papua, indigenous communities have managed forests sustainably for centuries; however, these forests are legally classified as production forests by Government Regulation. This complicates the granting of land certificates to communities who have traditionally managed these lands. Conflicts arise when the government and indigenous communities intend to open these areas for large-scale forestry or plantation activities. Similar problems also occur in several regions of Kalimantan, such as Central Kalimantan and West Kalimantan, where conflicts arise due to the recognition of private land by smallholders, hampered by overlapping forest area mapping and spatial planning zones (Wirawan, Vani, JI Sidokarto, & Sleman Godean, 2021).

Differing policies from relevant ministries exacerbate the dualism within this regional governance framework. The absence of a policy framework that unifies forests and land creates a lack of sovereign jurisdiction and irregularities in policy implementation. Forestry policies focus more on forest maintenance and resource management, while agrarian policies focus more on land ownership and distribution. The fragmented policies of the Ministry of Environment and Forestry and the ATR/BPN tend to create uncontrolled policy confusion within the national land administration system.

4) Lack of Harmonization of Legal Politics Between Sectors

The absence of legal political harmonization between sectors is one of the main obstacles in the implementation of agrarian reform in Indonesia. The existing regulatory system still operates partially and sectorally, with land and forestry policies developed separately without adequate integration. Agrarian reform policies regulated by the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) focus on redistribution and recognition of land rights for communities, while forestry policies regulated by the Ministry of Environment and Forestry (KLHK) emphasize conservation and management of forest areas. This disharmony creates a large gap between the two sectors, resulting in conflicts and overlapping authorities that are difficult to resolve (Bimantara, Adrian, 2024).

Disharmony in land law policy impacts the effectiveness of agrarian reform policy implementation. Sectoral policies created without cross-agency coordination result in overlapping, conflicting policies that are less responsive to community needs on the ground. For example, in several regions, the ATR/BPN has established a land redistribution program for small communities, but the Ministry of Environment and Forestry has not yet released forest areas with valid status. As a result, the redistribution program cannot run smoothly due to

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administrative barriers that cannot be quickly overcome. This situation illustrates the weak synchronization between institutions responsible for land and forestry.

The case of Sintang Regency, West Kalimantan, illustrates how this political-legal disharmony negatively impacts the community. In this region, indigenous communities have long managed land in an area formally classified as protected forest by the Ministry of Environment and Forestry (KLHK). The agrarian reform program implemented by the ATR/BPN aims to grant the community land rights, but the KLHK has not yet released the forest area. This release process has been slow due to complex administrative procedures and a lack of communication between the two ministries. As a result, communities remain in legal limbo and vulnerable to conflict with forestry companies holding official permits. This case highlights that without harmonization of regulations and policies across sectors, agrarian reform efforts are difficult to achieve optimally (Ilham, Muhamad, 2024).

Improving the political and legal governance of land requires systemic efforts to build strong and sustainable cross-sectoral harmonization. Regulatory and policy development must be directed so that it is not solely oriented towards sectoral interests but also able to create synergy between land and forestry. The inter-institutional approach must be strengthened through effective coordination mechanisms and clear policy integration, so that conflicting interests can be harmonized within a comprehensive framework. Furthermore, the involvement of communities and other stakeholders in policy formulation is equally important to ensure that the resulting policies address real needs on the ground and enhance the legitimacy of agrarian reform implementation.

5) The Impact of Overlapping Authority on Community Rights

The overlapping jurisdictions of the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) and the Ministry of Environment and Forestry (KLHK) have significantly impacted the land rights of indigenous communities, particularly those who have traditionally managed their land for generations. Some indigenous communities in parts of Sumatra and Kalimantan have long lived and used the land for economic activities, but lack formal legal recognition. This occurs because the land in question is designated as production or protected forest, meaning that land title certification applications are stalled at the ATR/BPN until the area is handed over by the KLHK. This lack of legal certainty hinders communities from exercising their ownership rights to the land they have cultivated and preserved for decades (Hamdhani, Ali Fikri, & Shinta Hadiyantina, 2025).

This legal uncertainty over land ownership rights not only threatens the social stability of Harmonization of National Land Law with the ...
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indigenous communities but also weakens their position in facing various external threats, such as pressure from plantation companies, mining companies, or other development projects requiring land. Under these conditions, communities are legally vulnerable because they lack official documents proving land ownership. This uncertainty can lead to horizontal conflicts within communities, as well as vertical conflicts between communities and corporate or government actors. This situation indicates that legal protection for the rights of indigenous communities and smallholder farmers has not been effective because the political design of land law still faces fundamental problems of overlapping authority.

A concrete example can be seen in the Dayak community in Kalimantan, who manage customary forests in their territory. Although this customary land and forest rights have been passed down through generations, they have not been officially recognized because they are located within protected forest areas managed by the Ministry of Environment and Forestry. The community's efforts to obtain land title certificates from the ATR/BPN are hampered by the slow and bureaucratic forest release process. This situation not only creates legal uncertainty but also hinders community access to development programs and government assistance that require land certificates. This case illustrates how overlapping authority between the two main ministries in land management is a major obstacle to fulfilling the rights of communities who have contributed to environmental conservation and natural resource utilization (Prayoga, Agusti, & Moh Indra Bangsawan, 2022).

Addressing this issue requires a comprehensive, interdisciplinary approach to integrated land law governance. Existing policies must be flexible enough to allow the mandates of the ATR/BPN and the Ministry of Environment and Forestry to function synergistically rather than in conflicting competition during the process of recognizing community rights. The institutional process of forest boundary demarcation must incorporate the views and needs of communities that traditionally manage the land, thus strengthening institutional coordination and communication. Securing land rights must go beyond a mere legal framework and must also consider social justice, ecological harmony, and prioritize the well-being of communities that have historically managed the land.

In Indonesia, agrarian reform projects are often hampered by conflicts between the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) and the Ministry of Environment and Forestry (KLHK). This problem stems from complex institutional arrangements, rushed legislative processes, and unresolved regulatory ambiguities.

1) Unsynchronized Legal Basis

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A recurring source of institutional overlap in Indonesia's agrarian reform scheme stems from the unsynchronized legal framework between the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR-BPN) and the Ministry of Environment and Forestry (KLHK). The ATR-BPN's primary foundation is Law No. 5/1960, the Basic Agrarian Law, which establishes a unified framework for land tenure, territorial regulation, and registration across Indonesia. In contrast, the KLHK relies on Law No. 41/1999 concerning Forestry, the law that authorizes the ministry to designate and regulate forest areas and their resources (Alvian, Fitra, & Dian Aries Mujiburohman, 2022). Because the two laws were drafted decades apart without clear cross-references, jurisdictions often reflect structural overlaps, with identical land parcels being claimed concurrently by both agencies, creating friction during implementation.

The two laws each use their own technical vocabulary and definitions, leading to different practical outcomes. The UUPA defines state land as land directly controlled by the state and can be used for land redistribution to the people through agrarian reform. In contrast, the Forestry Law defines forest areas as any parcel of land designated by the government for permanent forest status, regardless of the physical condition of the land cover. Therefore, an area categorized as state land by the ATR/BPN may still be considered a forest area by the Ministry of Environment and Forestry. This difference in classification creates a conflict of authority in determining the status of land subject to agrarian reform, particularly when the land is located in areas lacking spatial or administrative legal clarity (Sulistyaningsih, Retno, 2021).

The unsynchronized legal framework indicates that comprehensive harmonization of Indonesian land and forestry laws has not yet been achieved. Each ministry uses different references, leading to overlapping claims over the same land. Administrative conflicts between state institutions arise, exacerbated by potential disputes between the state and communities benefiting from agrarian reform. Communities that have accessed or managed land based on ATR/BPN policies often face legal uncertainty if the area is still listed as forest area in the Ministry of Environment and Forestry data. This uncertainty directly impacts the guarantee of land rights and the sustainability of its use by the community (Utomo, Setiyo, 2021).

2) Overlapping Authorities in Land Management

Overlapping jurisdictions in Indonesian land policy arise from an ambiguous bureaucratic architecture. The Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) oversees certification, asset legalization, and agrarian reform schemes that support rural equity. Conversely, the Ministry of Environment and Forestry (KLHK) claims management over areas classified as state forests, whether protected, production, or conservation. The law

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removes these forest areas from the general category of land managed by ATR/BPN, but the line between land with land rights and designated forests is rarely visible on maps actually used by technicians. In reality, however, many areas targeted for land redistribution by ATR/BPN often lie within areas still listed by the KLHK as state forests (Rizhaldi, Muhammad Bayu, & Indri Fogar Susilowati, 2023). This creates a conflict of authority that not only hinders the redistribution process but also creates administrative confusion and uncertainty about the legal status of the land.

The lack of clear demarcation of institutional authority between the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) and the Ministry of Environment and Forestry (KLHK) creates a legal loophole in the implementation of agrarian reform. There are no regulations explicitly establishing mechanisms for handling areas that are physically controlled by communities but are still administratively registered as forest areas. For example, the case in Sei Kopas Village, South Labuhanbatu Regency, North Sumatra, shows that approximately 2,000 hectares of land long cultivated by the community for agriculture cannot be certified by the ATR/BPN because it still holds the status of a production forest area managed by the Ministry of Environment and Forestry. The community has occupied this land for decades and has been proposed as part of the Land Object of Agrarian Reform (TORA). The process of releasing forest areas by the Ministry of Environment and Forestry requires a lengthy procedure, preventing the ATR/BPN from processing redistribution quickly. This lack of synchronization demonstrates weak coordination and a lack of data and authority integration between the land and forestry sectors.

Overlapping land management often hinders the rapid progress of agrarian reform. What should be a progressive process ultimately becomes trapped in a repetitive administrative cycle. Communities cultivating land without legal certainty lack the legal power to protect their tenure rights. The absence of certificates or legal documents makes it difficult for residents to access business financing, agricultural subsidy programs, or other government services that require proof of land ownership. Conversely, the Ministry of Environment and Forestry (KLHK) is faced with the reality that many areas still designated as forest areas according to forestry maps have been converted into productive cultivated land or residential areas. This creates an institutional dilemma between maintaining the integrity of forest areas and accommodating the socio-economic realities of the community. This difference in perception further reinforces the urgency of land governance reform based on intersectoral collaboration (Leleng, Becky Arlan, 2021).

The rigid separation of authority without adequate coordination mechanisms has triggered

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dualism in the planning and implementation of national land policies. The ATR/BPN and the Ministry of Environment and Forestry often have incongruent sectoral priorities. As an illustration, the 2020–2024 National Agrarian Reform Priority Program envisioned a 4.5 million hectare land redistribution, the majority of which originated from forest areas that must first be released. However, many of the land targets set by the ATR/BPN could not be realized because they had not been removed from the forest area map by the Ministry of Environment and Forestry. Another example is seen in West Kalimantan, where a large amount of community-owned land could not be legalized because it was still within the forest area map based on Forestry Ministerial Decree No. 733/Menhut-II/2014 (Farda, Nessa Fajriyana, & Yosep Hadi Putra, 2019).

3) Inconsistent Policies

The third factor causing overlapping authority in managing agrarian reform in Indonesia is inconsistent policies between state institutions, particularly between the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) and the Ministry of Environment and Forestry (KLHK). This inconsistency is evident in regulatory changes that are not accompanied by adjustments to technical policies within each ministry. For example, Presidential Regulation No. 86 of 2018 concerning Agrarian Reform established the direction and framework for implementing agrarian reform, including prioritizing land derived from the release of forest areas as part of Agrarian Reform Object Land (TORA) (Mawaddah, Nova Yatiar, Sri Zanariyah, & Martina Male, 2021). However, implementation on the ground remains hampered because the KLHK has not promptly adjusted its sectoral regulations to accommodate more flexible forest area release.

One concrete illustration of this policy inconsistency occurs in the TORA program originating from forest areas. Based on data from the Coordinating Ministry for Economic Affairs (2021), of the total target of 4.1 million hectares of TORA, approximately 2.1 million hectares originate from forest areas. However, as of mid-2022, the Ministry of Environment and Forestry's (KLHK) forest area release achievement remains very low compared to the set target. Lengthy bureaucratic processes, overlapping data between forestry and land maps, and the lack of technical revisions to the Minister of Environment and Forestry Regulation No. P.17/MENLHK/SETJEN/KUM.1/5/2018 are the main obstacles (Wicaksono, MB Adi, IGAK Rachmi Handayani, and Lego Karjoko, 2019). On the one hand, the ATR/BPN has identified and mapped TORA lands in various regions, but the certification process cannot proceed because the land's status has not changed from forest areas.

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This inconsistency also creates administrative conflicts and bureaucratic tensions between government agencies. The Ministry of Environment and Forestry (KLHK) continues to maintain areas historically designated as forest, even though these areas have been used for settlements or community cultivation for decades. Conversely, the ATR/BPN (National Land Agency) is attempting to expedite land certification within the framework of agrarian reform to promote equitable access to land and improve community welfare. The lack of alignment of regulations and working methods between agencies can lead to conflicting programs. For example, in the case of forest area release in Sanggau Regency, West Kalimantan, several villages were designated as TORA priorities by the ATR/BPN. However, the release of these areas was delayed because the Ministry of Environment and Forestry had not yet granted approval, even though the community had long lived and worked there. This tension highlights a policy gap that has not been bridged by a unified legal framework.

In the long term, inconsistent policies will hinder the achievement of the primary goal of agrarian reform, namely creating equity in land ownership and use. This lack of integration not only impacts the beneficiaries but also harms the state in terms of program effectiveness and public budget utilization. When state institutions operate within different and even conflicting policy frameworks, efforts to realize agrarian reform as a cross-sectoral program become difficult.

4. Conclusion

Harmonization of national land law with the principle of agrarian justice in the constitution is carried out by applying the principles contained in the Basic Agrarian Law (UUPA) which is based on the constitution, especially Article 33 paragraph (3) of the 1945 Constitution, which emphasizes state control for the greatest prosperity of the people. This harmonization is realized through the application of principles such as nationality, the right to control the state, recognition of customary rights, the social function of land rights, equal rights between men and women, and land reform to achieve social justice in the agrarian sector. From the perspective of land law politics, the state plays an active role in enabling citizens to utilize land equitably. The state changes the view of land not as private property, but as a resource that concerns society and social welfare. The state has an obligation to curb land monopoly practices that have been rooted in social and economic disparities. Agrarian policies are expected to integrate social, economic, and ecological objectives so that land use does not endanger future generations. Thus, in this paradigm, land becomes a means to achieve socio-economic justice for the people.

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5. References

Journals:

Alvian, Fitra, and Dian Aries Mujiburohman. "Implementasi Reforma Agraria Pada Era Pemerintahan Presiden Joko Widodo." *Tunas Agraria* 5.2 (2022): 111-126.

Bimantara, Adrian. "Politik hukum pertanahan dalam upaya penyelesaian sengketa pertanahan di Indonesia." *Jurnal Cahaya Hukum Nusantara* 1.1 (2024): 1-10.

Earlene, Felishella, and Benny Djaja. "Implikasi kebijakan reforma agraria terhadap ketidaksetaraan kepemilikan tanah melalui lensa hak asasi manusia." *Tunas Agraria* 6.2 (2023): 152-170.

Farda, Nessa Fajriyana, and Yosep Hadi Putra. "Problematika Kewenangan Pemerintah Daerah di bidang Pertanahan." *Pagaruyuang Law Journal* 3.1 (2019): 106-120.

Fauzi, Ahmad. "Reformasi Agraria Dalam Kerangka Otonomi Daerah." *Jurnal Bina Mulia Hukum* 6.2 (2022): 218-233.

Hamdhani, Ali Fikri, and Shinta Hadiyantina. "Tanah untuk Pasar: Neoliberalisme Hukum dalam Reforma Agraria Rezim Joko Widodo." *Tunas Agraria* 8.1 (2025): 76-91.

Ilham, Muhamad. "Penyelesaian Sengketa Pertanahan Berdasarkan Reforma Agraria yang Berkeadilan Sosial." *National Conference on Law Studies (NCOLS)*. Vol. 6. No. 1. 2024.

Leleng, Becky Arlan. "Kajian Hukum Kewenangan Pemerintah Daerah Dalam Pengelolaan Tanah." *Lex privatum* 9.1 (2021).

Mawaddah, Nova Yatiar, Sri Zanariyah, and Martina Male. "Implementasi Peraturan Presiden Republik Indonesia Nomor 86 Tahun 2018 Tentang Reforma Agraria Terhadap Pelaksanaan Redistribusi Tanah Negara." *Viva Themis: Jurnal Ilmu Hukum dan Humaniora* 4.1 (2021): 72-82.

Prayoga, Agusti, and Moh Indra Bangsawan. "Pengaturan Kepemilikan Tanah sebagai Rangka Objek Penetapan Reforma Agraria." *Prosiding Seminar Nasional Program Doktor Ilmu Hukum*. 2022.

Rizhaldi, Muhammad Bayu, and Indri Fogar Susilowati. "ANALISIS YURIDIS TUMPANG TINDIH KEWENANGAN BPN YOGYAKARTA DAN KERATON DALAM DUA PRINSIP SISTEM PENGELOLAAN TANAH SETELAH BERLAKUNYA UU NO. 13 TAHUN 2012 DARI

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Rosmidah, Rosmidah, M. Hosen, and Sasmiar Sasmiar. "Penataan struktur hukum hak atas tanah dalam rangka keadilan dan investasi." *Recital Review* 5.2 (2023): 209-244.

Sulistyaningsih, Retno. "Reforma Agraria di Indonesia." *Perspektif* 26.1 (2021): 57-64.

Suryani, S. "Hukum Profetik dalam Pancasila Transformasi Nilai Transenden dalam Undang- Undang No 5 Tahun 1960 tentang Undang-Undang Pokok Agraria." *Prosiding Seminar Nasional Program Doktor Ilmu Hukum*. 2024.

Umar, Mahmud Hi, and Nurlaila Kadarwati Papuluwa. "ANALISIS KETIMPANGAN PENGUASAAN DAN PEMILIKAN TANAH PASCA REFORMA AGRARIA DI INDONESIA." *Journal of Syntax Literate* 9.1 (2024).

Utomo, Setiyo. "Perjalanan Reforma Agraria Bagian Dari Amanah Konstitusi Negara." *Veritas et Justitia* 7.1 (2021): 115-138.

Books:

Ali, Achmad, *Menguak Teori Hukum (Legal Theory) dan Teori Peradilan (Judicial Prudence) Termasuk Interpretasi Undang-Undang (Legisprudence)*, Volume I Pemahaman Awal, Penerbit Kencana Predana Media Group Jakarta, 2009.

Harsono, Boedi, *Hukum Agraria Indonesia: Sejarah Pembentukan Undang- Undang Pokok Agraria, Isi dan Pelaksanaannya*, Penerbit Djambatan Jakarta, 2008.

Harsono, Boedi, *Menuju Penyempurnaan Hukum Tanah Nasional*, Penerbit Universitas Trisakti Jakarta, 2007.

Huijbers OSC, Theo, *Filsafat Hukum*. Penerbit Yayasan Kanisius, Yogyakarta, 1991.

Ismail, Nurhasan, *Perkembangan Hukum Pertanahan, Pendekatan Ekonomi Politik*, Penerbit Kerjasama HuMa dan Magister Hukum UGM Yogyakarta, 2007.

Kelsen, Hans, *Teori Umum tentang Hukum dan Negara, terjemahan" General Theory of Law and State" oleh Raisul Muttaqien*, Penerbit Nusa Media, Bandung, 2010.

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THE LAW DEVELOPMENT FOR PUBLIC WELFARE**

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Nurlinda, Ida, *Prinsip-Prinsip Pembaharuan Agraria Perspektif Hukum*, Penerbit PT RajaGrafindo Persada, Jakarta, 2009.

Otje Salman, H.R., Anthon F. Susanto, *Teori Hukum, Mengingat, Mengumpulkan, dan Membuka Kembali*, Penerbit PT Refika Aditama Bandung, 2009.

Prasetyo, Teguh dan Abdul Halim Barkatullah, *Ilmu Hukum & Filsafat Hukum, Studi Pemikiran Ahli Hukum sepanjang Zaman*, Penerbit Pustaka Pelajar, Yogyakarta, 2009.

Regulation:

Presidential Regulation Number 5 of 2010 concerning the 2010-2014 Medium-Term Development Plan, Appendix Book II Chapter VIII concerning Law and State Apparatus.

Law of the Republic of Indonesia Number 17 of 2007 concerning the National Long-Term Development Plan 2005 – 2025.

Law of the Republic of Indonesia Number 5 of 1960 concerning Basic Agrarian Regulations.

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