



## Preliminary Concept of Alternative Agrarian Reform for Justice: The Social Tenure Domain Model (STDM) Approach to Constructing a Just Society in Indonesia

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### ABSTRACT

*The implementation of agricultural reform comprises the enactment of access and asset reform. In order to ensure compliance with the aforementioned instructions, the Indonesian government issued Presidential Regulation Number 86 of 2018, which stipulates the commencement of agricultural reform as a means to support asset and access reform. The primary goal of access arrangements is to enhance access to finance and various forms of support to enhance welfare outcomes through land utilization. This particular methodology is frequently denoted as community empowerment. The normative juridical research technique, commonly known as library law research, perceives law as a normative system that possesses autonomy, independence, and distinctiveness from society. The methodology necessitates the utilization of a conceptual framework that incorporates a social tenure domain model and a legal perspective. The research findings indicate that the central concept of agrarian reform for justice entails implementing a comprehensive land administration system encompassing diverse land claims and rights through the utilization of the Social Tenure Domain Model (STDM) approach. The concept of the social method pertains to a theoretical framework that centers on the impact of social influences on human behavior. The notion of the STDM explores the interconnection between individuals and land.*

## 1. Introduction

The Indonesian state, positioning itself as an "agrarian country", assigns significant importance to land. The constitutional responsibility of the state to safeguard the protection of land emphasizes its significant importance. The abovementioned principle is explicitly articulated in Article 33, paragraph (3) of the 1945 Republic of Indonesia Law, which asserts that "the state exercises control over the Earth, water, and their resources for the utmost welfare of the

populace."<sup>1</sup> The constitutional mandate stipulates that the state of Indonesia must manage and utilize all aspects of land, including the earth, water, and natural resources, for the utmost benefit and development of the Indonesian populace.<sup>2</sup>

The allocation and dissemination of advantages derived from natural resources, particularly in land, strongly correlate with the provisions outlined in the Decree of the People's Consultative Assembly IX of 2001, which pertains to Agrarian Reform and Natural Resource Management. This represents a notable accomplishment and an explicit declaration made by the People's Consultative Assembly, emphasizing the paramount significance and necessity of the government's dedication to improving natural resource management and implementing agrarian reform. The resolution of this matter necessitates a comprehensive evaluation, nullification, and modification of all legislation and regulations of land and other agrarian assets by the state and government. Additionally, it is imperative to address ongoing agrarian disputes impartially. In regards to that concern, legislation pertaining to agricultural areas in Indonesia is significantly strengthened by the Decree of the People's Consultative Assembly as well.<sup>3</sup>

Agrarian reform, also called land reform, encompasses the translation and implementation of policies addressing land ownership and distribution issues. One prominent aspect of agrarian reform involves the redistribution or partition of land.<sup>4</sup> Agrarian reform implements access and asset management. Asset management may involve the allocation of land to individuals in need and the preservation of property rights pertaining to land that was formerly under community ownership. In addition, the agrarian reform covers four types of land: legalized asset land, land that is the subject of the agrarian reform, state forest, and village-cultivated and acquired land.<sup>5</sup>

Studies on land redistribution confirm that land redistribution can reduce poverty through increased income from agricultural production and access to credit. This implies that land redistribution is the right policy to reduce poverty, so it needs to be improved in the quantity and accuracy of targeting

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1 Prisca Listiningrum, Rizqi Bachtiar, Dararida Fandra Mahira, Rumi Suwardiyati., Juridical Analysis of Policy Concerning Oil Palm Estate Management in Indonesia, *LEGALITY: Jurnal Ilmiah Hukum*, Vol.29 No.1, 2021, page. 16-26

2 Anna Triningsih and Zaka Firma Aditya., Pembaharuan Penguasaan Hak Atas Tanah Dalam Perspektif Konstitusi, *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional*, Vol.8 No.3, 2019, page. 329;

3 Aris Yulia., Pembaharuan Hukum Agraria Nasional Yang Berkeadilan Sosial, *Supremasi Jurnal Hukum*, Vol.1 No.1, 2018, page. 1-7

4 Arditya Wicaksono and Yudha Purbawa., Hutang Negara Dalam Reforma Agraria Studi Implementasi Mandat 9 Juta Hektar Tanah Indonesia, *BHUMI: Jurnal Agraria Dan Pertanahan*, Vol.4 No.1, 2018, page. 24-38

5 Zahril Trinanda Putra, Aristiono Nugroho, and Ahmad Nashih Luthfi., Peran GTRA Dalam Pelaksanaan Reforma Agraria Di Kabupaten Lampung Tengah, *Widya Bhumi*, Vol.1 No.1, 2021, page.65-85.

beneficiaries.<sup>6</sup> In another study, land redistribution will affect customary land because there is a concern that land given to individuals will be sold again to third parties. Hence, the existence of customary land is narrower.<sup>7</sup> In relation to the redistribution of communal land, in Papua, it is noteworthy that the execution of land redistribution fails to adhere to the guidelines outlined in Presidential Regulation Number 86 of 2018. Consequently, about 11,000 plots of land have been converted into state-owned property.<sup>8</sup> This is in line with Arsan Nurrokhman's study that the executive policy issuing Presidential Regulation of the Republic of Indonesia No. 86 of 2018 concerning Agrarian Reform needs to be consistent with several provisions of the Basic Agrarian Law.<sup>9</sup>

Another finding was that the government gave property rights to the community (farmers) in exchange for land distribution. Still, these property rights could only be transferred for ten years with a valid permit. The definition of property rights in the Basic Agrarian Law in Article 6 of the social function section shows that property rights are hereditary rights, the most substantial and attainable rights the community can obtain over land. Land ownership rights have a more significant meaning than other property rights and do not have definite provisions.<sup>10</sup>

The government has set a target of 9 million hectares of Agrarian Reform Object Land (TORA, *Tanah Objek Reforma Agraria*), which must be followed up with asset arrangement and access arrangement. Asset management activities are carried out to ensure legal certainty of land rights through the issuance of certificates. This certification is an effort to realize legal order and orderly land administration. The plot of land is a living asset. It can become the essential capital for the community to improve their welfare by providing access to economic resources (capital, business, production, and markets)<sup>11</sup>

Handling access is implemented in the Agrarian Reform Access Handling (Penanganan Akses Reforma Agraria) activities for landowners whose land has been, has not been, or is being legalized assets/certified based on participation, independence, entrepreneurship, justice, prosperity, and sustainability principles. The process of handling access is carried out by considering the

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6 Ketut Wahyu Dhyatmika, Munawar Ismail, and Putu Mahardika Adi Saputra., The Effect of Land Reform on Poverty: A Study of Provinces in Indonesia, in *Journal of International Conference Proceedings*, Vol.5, 2022, page.509–17

7 Restu Istiningdyah, Sutaryono, and Wahyuni, Kontribusi Kegiatan Redistribusi Tanah Terhadap Kenaikan Pendapatan Masyarakat Pwenerima Redistribusi Tanah Di Provinsi Jawa Tengah, Vol.1 No.1, 2018, page.20–45.

8 Yudhistira Setya Wardhana., Pelaksanaan Program Redistribusi Tanah Di Kawasan Tanah Adat Provinsi Papua, *Kosmik Hukum*, Vol.20 No.1, 2020, page.64

9 Arsan Nurrokhman., Quo Vadis Indonesian Agrarian Reform: Implementation of UUPA in the President Regulation No. 86 of 2018, *BHUMI: Jurnal Agraria Dan Pertanahan*, Vol.5 No.3, 2020, page. 19–24

10 Lina Jamilah and Arif Firmansyah., Legal Basis of Land Reform, in *Proceedings of the 2nd Social and Humaniora Research Symposium*, Vol.409, 2020, page.35–38

11 Trinanda Putra, Nugroho, dan Nashih Luthfi., Peran GTRA Dalam Pelaksanaan Reforma Agraria Di Kabupaten Lampung Tengah.

potential, contribution, and interests of the community and regional conditions.<sup>12</sup>

The execution of Agrarian Reform over a span of six years (2015 – 2020) has shown commendable outcomes, successfully attaining the predetermined objectives and goals. The successful implementation of Agrarian Reform is due to the cooperation and support of all parties, both at the Central Government and the Local Governments, coordinated by the Indonesian Coordinating Ministry for Economic Affairs (Kemenko Perekonomian, *Kementerian Koordinator Bidang Perekonomian Republik Indonesia*). Until the end of 2020, 5.37 million hectares of land legalization or certification had been completed, both transmigration and community-owned land. The redistribution of land originating from ex-cultivation rights, abandoned land, and other state land has been completed in 1.4 million parcels with an area of 966,159 hectares. Meanwhile, the redistribution of Agrarian Reform Object Land originating from the release of Forest Areas reached 383,679 areas, covering an area of 210,835 hectares (5.14%).<sup>13</sup>

There are at least two triggers for agrarian conflicts. First, the lack of appropriate laws and policies for regulating agrarian issues relates to the views on land (land status and ownership) and land rights (methods for obtaining land rights). Second, the indolence and injustice in the land settlement process eventually ended in conflict. In Article 25, Article 22 of the regulation of the Minister of Agrarian and Spatial Planning No. 6 of 2018 concerning The Complete Systematic Land Registration (PTSL, *Pendaftaran Tanah Sistematis Lengkap*), which regulates research on juridical data if the evidence of land ownership is not complete or does not exist at all, it can be supplemented and proven by a written statement regarding ownership and physical possession of a land parcel in good faith by the person concerned. The impact of this article has been the starting point for agrarian conflicts. These regulations try to legalize all land rights following state law. Thus, the primary benchmark is merely government legalization or formal rights.<sup>14</sup>

This paper tries to compile a study on the initial concept of Agrarian Reform for justice through the Social Tenure Domain Model (STDM) approach. This model's formation updates previous studies to lead to a better direction according to its objectives. The STDM provides an alternative model for conducting land administration by recognizing non-formal aspects of land relations. The goal of the STDM is to concentrate on all types of relationships between people and land, regardless of the legality of those relationships. So that the administration of land relations can be used as a source of land data in Indonesia. This data

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12 Direktorat Pemberdayaan Tanah Masyarakat and direktorat Jenderal Penataan Agraria Agraria, *Petunjuk Teknis Penanganan Akses Reforma Agraria Tahun 2023*, Jakarta, Kementerian Agraria dan Tata Ruang, 2023.

13 Tim Koordinasi Percepatan Pelaksanaan Reforma Agraria Tahun 2020., *Laporan Pelaksanaan Reforma Agraria Dan Penyelesaian Penguasaan Tanah Dalam Kawasan Hutan*, Jakarta, 2020

14 [https://www.kominfo.go.id/content/detail/13688/reforma-agraria-menjamin-pemerataan-sosial-ekonomi-masyarakat-secara-menyeluruh/0/artikel\\_gpr#:~:text=Setidaknya%20ada%20dua%20pemicu%20konflik,mem%20peroleh%20hak%20Dhak%20atas%20tanah.](https://www.kominfo.go.id/content/detail/13688/reforma-agraria-menjamin-pemerataan-sosial-ekonomi-masyarakat-secara-menyeluruh/0/artikel_gpr#:~:text=Setidaknya%20ada%20dua%20pemicu%20konflik,mem%20peroleh%20hak%20Dhak%20atas%20tanah.)

source can integrate land rights and spatial planning systems towards digitizing land and space rights, including the first step towards a positive publication system in Indonesia.

## **2. Research Methods**

This study employs a normative juridical research approach, conceptualizing law as a normative system that operates independently, with its own distinct boundaries and detachment from society. There are several approaches to conducting normative legal research. This approach will provide researchers with information from various aspects of the problem to pursue a solution to this issue. Normative legal study encompasses a wide array of methodologies. This study employs a statutory approach to examine land reform and a conceptual approach using the Social Tenure Domain Model (STDM) for land registration.<sup>15</sup> Apart from the normative juridical method, a comparative legal method is also used in Kenya and Nigeria in order to investigate related issues.

## **3. Result and Discussion**

### **3.1. Land Reform di Indonesia**

In general, the objective of law is to regulate and organize the life of people in a country. It is constructed by establishing certainty, advantage, and justice between state and society.<sup>16</sup> For some people, it is not a matter of who is in power, who rules, and who is governed, but what is important is how the process or effort to achieve prosperity is carried out by the people's sense of justice and the incarnation of national ideals and goals. In realizing a just and prosperous society, a country must pay attention to several main things, namely human resources as members of society who will manage natural resources (earth, water, space, and natural resources contained therein), which is called agrarian in the broadest sense and relations humans with natural resources including realizing justice in getting the opportunity to benefit from the agrarian sector. Human resources in a country are generally proportional to its progress, primarily if it is supported by its natural resources, which are distributed fairly and evenly. On the contrary, these three factors will cause problems if the distribution of ownership and control is not considered and aimed at the welfare of the people.<sup>17</sup> As a result, the government enacted agrarian reform to realize social welfare for equity and land control.

Land reform comes from the English language, consisting of the word "land", which means the land area that is either arable, under permanent crops, or under permanent pastures, and the word "reform", which means a shift in the social institutions. Therefore, Land reform can be interpreted as land reform. However, the implementation of land reform is a complex process that extends beyond mere changes in land ownership or restructuring of land tenure. It

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15 Peter Mahmud Marzuki., *Penelitian Hukum*, Jakarta, Kencana Prenada Media, 2013

16 Albertus Sentot Sudarwanto, Lego Karjoko, I Gusti Ayu Ketut Rachmi Handayani, Arifin Ma'aruf, Henning Glaser., The Policy on Illegal Oil Palm Plantation Reform in Forest Area during Jokowi's Presidency, *Hasanuddin Law Review*, Vol.8 No.2, 2022, page.171-185

17 Agus Trilaksana, Artono, and Uut Kuswendi, *Reformasi Agraria Di Indonesia: Pengelolaan Hutan Berbasis Masyarakat*, Surabaya, Unesa University Press, 2020

requires a comprehensive transformation of the intricate relationship between humans and land, as well as the interpersonal dynamics among individuals in relation to land. Also, it becomes a regulation aimed at mitigating poverty by significantly augmenting the share of agricultural land under the ownership of economically disadvantaged individuals, therefore enhancing their financial resources, influence, or societal standing. The primary objective of this reform is to enhance farmers' income, making it an essential and crucial task.<sup>18</sup>

The development of human life, especially in the fields of science and technology, certainly increases the human need for natural resources.<sup>19</sup> The connection between land and humanity is perpetual. The topic of land holds significant implications for matters pertaining to mortality. The concept of land has a religious significance in the beliefs of several people. This phenomenon may be attributed to the fact that human beings fulfill their basic needs and begin from the earth, and then, upon decease, they return to the earth. On occasion, individuals who possess a deep reverence for the sanctity of their homeland express a desire to be buried on their own soil upon their demise, particularly if they pass away in other lands. Therefore, land management is crucial; even since humans began to live sedentary lives, they have started to think about land management issues together to ensure that their common land can be appropriately managed for the common welfare. In subsequent developments, arrangements regarding control over land ownership have also been realized for centuries by countries worldwide. The reform and renewal of the agrarian structure, especially land, is carried out to improve the welfare of the people, especially farmers who previously did not have cultivated or cultivated land to own land. Therefore, it states that a country that wants to progress and make its people truly prosperous must carry out land reform.<sup>20</sup>

Ideologically, Agrarian Reform was carried out as an implementation of the mandate of Article 33 Paragraph (3) of the 1945 Constitution, which reads: "Earth and water and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people." Furthermore, Article 33 also emphasizes that the country's economy is built and aimed at the greatest prosperity of the people by collectively developing forms of the people's economy. Furthermore, Law Number 5 of 1960 concerning Basic Agrarian Regulations, known as the Basic Agrarian Law, mandated the implementation of land reform to reduce land tenure inequality in Indonesia. This is the primary reference for the policy and implementation of agrarian reform. The regulation on control, ownership, use, and utilization of land outlined in the Basic Agrarian Law is intended to ensure that land is not

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18 Isnaini and Anggreni A. Lubis., *Hukum Agrari: Kajian Komprehensif*, Medan, CV. Pustaka Prima, 2022.

19 Made Gemet Dananjaya Suta, I Gusti Agung Mas Prabandari and Ni Luh Gede Astariyani., Disclosure of Information on Environmental Documents in Supporting the Role of Public Monitoring, *Yuridika*, Vol.36, No.2, 2021, page.313-332,

20 Trilaksana, Artono, and Kuswendi, *Reformasi Agraria Di Indonesia: Pengelolaan Hutan Berbasis Masyarakat*.

monopolized by a handful of landlords at the expense of economically weak groups whose lives depend on the land, especially food-producing farmers.<sup>21</sup>

Since the rolling reforms, the issue of agrarian reform has regained its place, namely with the National Agrarian Reform Program in 2007 during the reign of President Susilo Bambang Yudhoyono by introducing the concepts of asset reform and access reform.<sup>22</sup> However, the program's implementation could be more straightforward, and the plan's details do not move from the discourse level to the practice level. The policy that was born was the Decree of the People's Consultative Assembly No IX/MPR/2001 concerning Agrarian Reform and Management of Natural Resources, and Presidential Decree No. 34 of 2003 concerning National Policy in the Land Sector, as well as Government Regulation no. 11 of 2010 concerning Control and Utilization of Abandoned Land. This policy is contained in the National Strategy of the Presidential Staff Office and the 2015-2019 National Medium-Term Development Plan. The agrarian reform policy was continued during the Jokowi administration through the *Nawacita* program, one of the National Priority Programs, followed up with Presidential Regulation Number 45 of 2016 concerning the 2017 Government Work Plan. The National Priority Program includes six aspects, namely: (1) strengthening the regulatory framework and resolving agrarian conflicts; (2) arrangement of control and ownership of land as objects of agrarian reform; (3) legal certainty and legalization of land rights as objects of agrarian reform; (4) community empowerment in the utilization and production of land as objects of agrarian reform; (5) allocation of forest resources to be managed by the community; and (6) central and regional agrarian reform implementation institutions. Thus, this policy was emphasized by issuing Presidential Regulation No. 86 of 2018 concerning Agrarian Reform.<sup>23</sup>

The primary responsibility of the state is to effectively carry out the agrarian regulation and management mandate, as specified in the Decree of the People's Consultative Assembly Number IX/MPR/2001 on Agrarian Reform and Natural Resource Management, with the aim of maximizing the well-being of the people. In order to fulfill this directive, the Indonesian government published Presidential Regulation No. 86 of 2018 on Agrarian Reform, which aims to implement asset reform (referred to as Asset Arrangement) and access reform (referred to as Access Arrangement). Asset management refers to reorganizing the control, ownership, usage, and utilization of land to promote fairness in land ownership and governance. In the context of land use, the concept of Arrangement of Access refers to facilitating capital and other forms of

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21 Tim Konsorsium Pembaharuan Agraria., Buku Putih Reforma Agraria Mewujudkan Kemandirian Bangsa, in *Konferensi Nasional Reforma Agraria*, ed. Noer Fauzi Rachman dan Usep Setiawan (Konsorsium Pembaharuan Agraria, 2015), page.129

22 Barid Hardiyanto., *Kebijakan Reforma Agraria Di Era Susilo Bambang Yudhoyono (Dari Formulasi Ke Implementasi)*, Sleman Yogyakarta, STPN Press, 2021

23 Fitra Alvian and Dian Aries Mujiburohman., Implementasi Reforma Agraria Pada Era Pemerintahan Presiden Joko Widodo, *Tunas Agraria*, Vol.5 No.2, 2022, page.111–126,

assistance to enhance societal well-being, sometimes called community empowerment.<sup>24</sup>

The concept of structuring access to agrarian reform is facilitated through several models, namely the Corporate Farming Model, Integrated Farming Model, Urban Farming Model, Cross-sector Collaboration Model, Thematic Area Development Model, Creating Shared Value Model, Micro, Small and Medium Enterprise Development Model. At the same time, the process of organizing agricultural resources is by means of legalizing land via the issuance of certificates.<sup>25</sup>

In achieving the agrarian reform goal, several studies are related to implementing an effective model of agrarian reform. According to Abhijit Banerjee, counseling and other programs must accompany the land redistribution model.<sup>26</sup> Colin's other opinion is that the land distribution model must be supported by laws and regulations that support agricultural production and land distribution in a fair and equitable manner.<sup>27</sup> The implementation of land reform in the Philippines is slightly different in its application, namely with an incentive system and land leasing. In addition, implementing land reform in China by breaking the dual system, reforming land ownership rights, pushing for land transfer reform, and protecting farmers' rights.<sup>28</sup>

### **3.2. Initial Concepts of Alternative Agrarian Reforms with Justice Using the Social Tenure Domain Model (STDM) Approach in Indonesia**

In compiling the initial concept of a just agrarian reform alternative, it is necessary to design an appropriate approach. Agrarian reform in Indonesia is implemented through structuring access to land and the distribution of assets to the land. In structuring land assets in the form of land legalization, attention must be paid to the status of the land. The distribution of land status maps out the proper handling and approach in carrying out land legalization. The preparation of the concept of equitable asset management is divided into two land statuses: the first is customary land, and the second is non-customary land.

The arrangement of land assets is carried out by taking an approach from the hybrid adaptation theory school. Hybrid adaptation theory allows society to decide which rights are important and should be recorded. Such a participatory approach creates a sense of ownership of the formalization process. It also allows for flexibility, innovation, and adoption of appropriate technologies for storing land tenure information. This approach leads to the emergence of

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24 Direktorat Pemberdayaan Tanah Masyarakat and Agraria, *Petunjuk Teknis Penanganan Akses Reforma Agraria Tahun 2023*.

25 Ibid.

26 Banerjee, A. V., *Land Reforms: Prospects And Strategies, Available at SSRN 183711*, 1999

27 Colin, J. P., Daoudi, A., Léonard, E., & Bouquet, E., *From Formal Rules To Local Practices: A Comparative Perspective Between Algerian And Mexican Land Reforms, Land Use Policy*, page. 101

28 Zhou, Y., Li, X., & Liu, Y., 2020, *Rural Land System Reforms In China: History, Issues, Measures and Prospects, Land Use Policy*, Vol.91



hybrid tenure arrangements which reflect the common occurrence of tenure being established through a combination of statutory laws, customary practices, or informal negotiations. Bruce, Migot-Adholla, and Atherton suggest a shift from systematic certification programs to an incremental approach focused on meeting contextual needs. This marks a shift from the replacement paradigm to the adaptation paradigm.<sup>29</sup>

The incremental adaptation strategy aims to facilitate modifications to current systems, circumventing regulated tenure structures and instead depending on informal processes at the community level. This approach emphasizes collaboration between involved parties. Royston et al. present a conceptual framework that outlines a systematic approach for progressive tenure extension within local governance. The initial step is acknowledging the importance of land rights, which can be established by traditional customs and practices or administrative procedures aligning with relevant laws and regulations, depending on the most suitable approach in a given context. This phenomenon is commonly referred to as the 'rule of the game', and it is emphasized that a failure to acknowledge these established standards might result in less discerning interventions for individuals with land rights, ultimately leading to a decline in sustainability as people revert to their previous land ownership and administrative practices. Innovative techniques, such as the Social Tenure Domain Model (STDM), can be employed to document the 'rule of the game'.<sup>30</sup>

The use of the Social Tenure Domain Model (STDM) involves the utilization of the Land Administration Domain Model (LADM), a structured and standardized approach for delineating the land tenure connections between land and individuals. The Social Tenure Domain Model (STDM) offers a more flexible method for accurately portraying authentic tenure arrangements that fail to capture the complexities of informal and non-standard tenure relationships, especially in situations where the conventional LADM is rigid and individualized. The STDM acknowledges that the emergence of parties, territorial units, and social tenure relations can vary significantly due to local customs, culture, religion, and attitudes, thereby highlighting the social flexibility inherent in this model. The registration process in the STDM encompasses the official registration of land rights and includes the possibility of informal registration through field observations.<sup>31</sup>

The social aim of the Tenure Domain Model is to concentrate on all kinds of relations between people and land regardless of the legality of those relationships. The development of the STDM can be summarized in three different perspectives: the STDM as a concept (i.e., providing a standard for representing flexible societal-land relations that have 'social tenure relations' to spatial units), the STDM as a model (i.e., the ISO-approved LADM specialization in which any form of rights, responsibilities, or restrictions in the formal system

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29 Simon Hull, Kehinde Babalola, and Jennifer Whittal., Theories of Land Reform and Their Impact on Land Reform Success in Southern Africa, *Land*, Vol.8 No.11, 2019

30 Ibid.

31 Peter Van Oosterom, Christiaan Lemmen, and Clarissa Augustinus, The Social Tenure Domain Model, *GIM International*, Copenhagen, Vol. 23, 2010.

are considered as social tenure relations in the STDM); and the STDM as an information tool (i.e., representing the implementation of the model as a software package that allows the recording and visualization of 'society-soil' relations along with other pertinent data). The STDM connects social tenure relations, parties (individuals or non-individuals), and spatial units (land parcels) where various types of documents, audio, video, photos, and others support social tenure relations.<sup>32</sup>

The STDM is a versatile land administration tool capable of capturing data about land rights and claims of land tenure. This encompasses the comprehensive scope of land administration, encompassing administrative and spatial planning aspects. The conventional land administration system establishes a connection between an individual's name (or location) and a specific plot of land through rights. One alternative strategy within the Spatio-Temporal Data Mining (STDM) framework involves establishing a linkage between personal identifiers, such as an image or fingerprint, and the geographical coordinates associated with the land that an individual occupies. Thus this approach leverages social property relationships. Various social tenure connections and other rights are contingent upon local conditions. Consequently, the STDM offers a scalable foundation for the establishment of a land title registration system that is both efficient and effective.<sup>33</sup>

In contrast, the STDM also serves as a framework for delineating the intricate connection between individuals and land. Its primary objective is to comprehensively document various types of land rights, social tenure relationships, and instances of overlapping claims or rights about land. The STDM is specifically developed to facilitate the registration of land rights in regions where the conventional or official registration of land rights is not effectively managed. The STDM enables the documentation of unregistered rights and claims, providing a means to determine the parties involved, the location, and the nature of the claims that require adjudication. The primary emphasis is on documented rights (or social tenure connections) instead of registered ones. This entails diligently monitoring and reporting land rights, private land use rights, and actual tenure. In addition, the STDM aims to tackle the issue of imprecise and potentially ambiguous statements of rights by considering the aspects of "who," "what," and "where." Hence, the social tenure domain model encompasses a comprehensive range of rights, including registered and non-formal rights, customary kinds, customary rights, leases, and ownership. In terms of financial aspects, it encompasses various alternatives, including group loans and microcredit.<sup>34</sup>

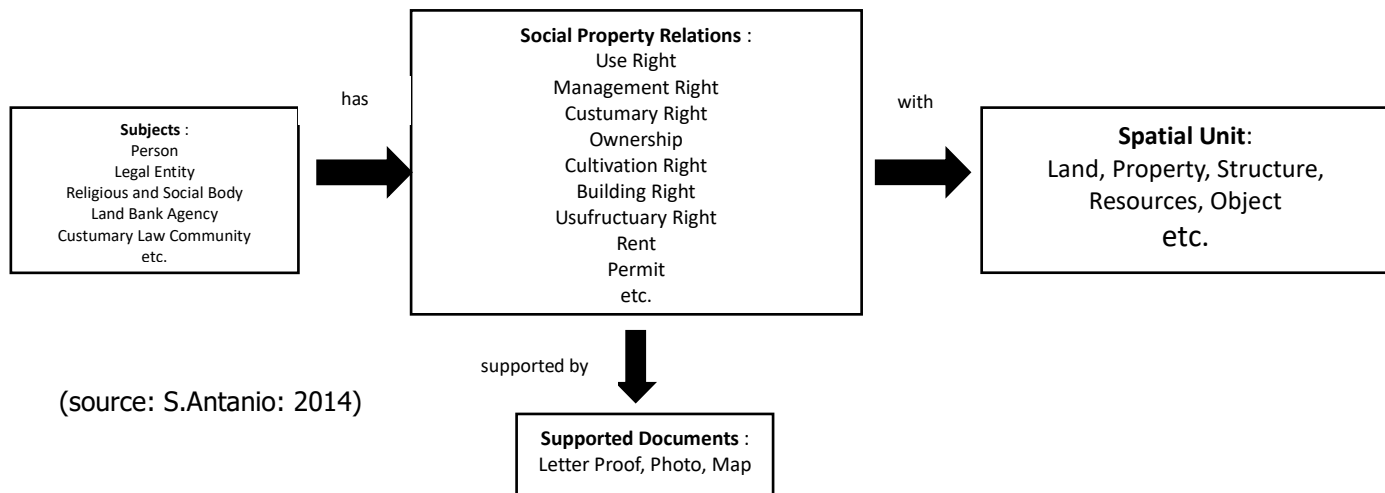
The social conceptual model of STDM in the Indonesian context can be described as follows:

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32 Tom Wilberforce Archer, *Investigating the Impact of Social Tenure Domain Model (STDM) on Tenure Security: A Case Study of Mission STDM Pilot*, (the University of Twente, 2016)

33 Jaap Zevenbergen, Solomon Haile, and Solomon Haile., *Institutional Aspects of Implementing Inclusive Land Information Systems like STDM*, *FIG Congress 2010: Facing the Challenges – Building the Capacity*, No. April, 2010, page.11–16.

34 Ibid.

**Gambar 1**

The subject is the person or organization that plays a role in the transaction of rights. Organizations can be corporations, municipalities, states, tribes, farmers' cooperatives or even church communities, where each organization can be represented by a delegate, director, or head. A spatial unit is an area (or several areas) of land and/or water or one volume (or volume) of space. Spatial units can be described in the text (e.g., 'from this tree to that river'), based on a single point, or represented as a set of unstructured lines. Subsequently, the social property relation is an action, activity, or series of actions that can be performed by a party on or using related resources such as grazing, fishing, or property. Furthermore, responsibility refers to a distinct and binding duty, whether formally or informally established, that necessitates performing a particular action or task, such as the upkeep and preservation of a monument. In contrast, restriction refers to a legal or informal requirement that requires an individual to abstain from engaging in a certain action.<sup>35</sup>

All forms of rights, responsibilities, or restrictions in the formal system are considered social tenure relations in the STDM. It emphasizes the relationship between people and land, regardless of the relationship's degree of formalization and legality. The most basic way to define any form of rights, responsibilities, or restrictions represented through the STDM is a party with a social tenure relationship with a spatial unit supported by formal or informal documentation (see Figure 1). Parties can be people, legal entities, or indigenous peoples; land bank bodies, informal structures, natural resources, or buildings that can be used to represent spatial units; supporting documents that can be scanned as copies of agreements, identity cards, audio or video recordings, or even photos that can be used to support social tenure relations.<sup>36</sup>

In particular cases, the STDM system is used in Kenya to integrate all relevant data into one, generate reports, print certificates, and uploads photos and other

<sup>35</sup> S Antonio, D; Gitau, J; Njogu, STDM Pilot in Uganda – Addressing the Information Requirements of the Urban Poor: – Phase 2: Scaling Up the Use and Application of the Social Tenure Domain Model (STDM), *Kenya*, 2014;

<sup>36</sup> Ibid.

useful information such as personal data. This tool is used for digital record keeping, data analysis, and production of certificates and reports. Plans with the necessary spatial data are scanned, geo-referenced, and then digitized into GIS to extract spatial information for the cadastre.<sup>37</sup> Apart from Kenya, an African country that implements the STDM is Nigeria. The STDM in Nigeria aims to evaluate its implementation in documenting the customary and informal land rights of impoverished rural communities. The objective is to use this data to influence governmental decision-making processes with the purpose of enhancing and facilitating the provision of social amenities. This can be done with the availability of spatial data and attributes for implementing the STDM in Itaji-Ekiti, which is embedded in the STDM database. In order to effectively pursue the Sustainable Development Goals (SDGs), it is essential that land information of this kind be readily accessible for the purpose of land management. In order to enhance the identification process, the STDM database assigns a unique code to each digital spatial unit inside the research region, which is then used to represent these units.<sup>38</sup>

Public dissatisfaction with socio-economic conditions triggers political tensions between the community and the government.<sup>39</sup> Many policies support applying the STDM approach in Indonesia. One of the regulations about implementing the STDM is enacted through Regulation of Minister of Agrarian and Spatial Planning No. 6 of 2018, which addresses Comprehensive Systematic Land Registration. Article 25 of this regulation outlines that the completion of Comprehensive Systematic Land Registration activities is divided into four clusters. Cluster 1 comprises land parcels that satisfy the necessary criteria for issuing Land Rights Certificates, encompassing both their physical attributes and legal characteristics. Cluster 2 comprises land parcels that satisfy the necessary criteria for issuing Land Rights Certificates regarding their physical and juridical attributes. However, it is essential to note that these parcels are currently involved in legal proceedings and/or subject to disputes. Cluster 3 refers to land parcels that cannot be recorded and issued a Certificate of Land Rights because the rights' subject and/or object does not meet the specific requirements outlined in this Ministerial Regulation. On the other hand, Cluster 4 pertains to land parcels that have been registered and certified as Land Rights but have not been mapped based on field conditions or changes in physical data. These parcels must be mapped onto a Complete Systematic Land Registration Map.

In the specified clusters, everything refers to physical data and juridical data. If the physical data and juridical data meet the requirements, a certificate will be issued, and vice versa. In this Complete Systematic Land Registration regulation, it can be seen that the government, with its policies, tries to force

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37 Hull, Babalola, and Whittal., *Theories of Land Reform and Their Impact on Land Reform Success in Southern Africa*

38 Kehinde Hassan Babalola and Simon Antony Hulla., Using a Domain Model of Social Tenure to Record Land Rights: A Case Study of Itaji-Ekiti, Ekiti State, Nigeria, *South African Journal of Geomatics*, Vol.8 No.2, 2022, page.221–37

39 Ladlul Muksinin, Aminah., Environmental Law, Populism, and Welfare State: Discourse on Environmental Law in the 21st Century, *Law Reform*, Vol.17 No.1, 2021, page.61-76

the formalization of existing lands. In addition to Article 25, Article 22 of the regulation of the Minister of Agrarian and Spatial Planning No. 6 of 2018 concerning Complete Systematic Land Registration, which regulates research on juridical data if proof of community land ownership is incomplete or does not exist at all, it can be supplemented and proven by a written statement regarding ownership and/or physical possession of land parcels in good faith by the person concerned. In the social concept of the Tenure Domain Model, if the juridical data does not meet the requirements, it will be documented like the existing data, and only tenure rights (non-formal) will be given, not forced to be formalized into a certificate. Apart from that, even though in Law No. 5 of 1960 concerning Basic Agrarian Regulations, it is stated that agrarian law, which determines customary rights, is the basis for establishing agrarian laws. As is known, even though customary rights exist, apply, and are considered in judge decisions, these rights have never been officially recognized in law. As a result, when implementing agrarian regulations, customary rights should be addressed. Bearing in mind that customary rights are mentioned in the Basic Agrarian Law, which means recognition of these rights, customary rights will be considered if these rights still exist in the legal community concerned. Article 4 of Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights for Flats Units, and Land Registration states that Management rights can originate from state land and communal land; from this article, it can be concluded that communal land is not a land right but is a management right. Even though it is stated in Article 5 paragraph (2) of Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights for Flats Units, and Land Registration that management rights originating from communal land are given to customary law communities. Under the STDM, customary rights are recognized as non-formal rights because they have yet to be regulated in detail to become land rights. So, the core of the STDM is administratively documenting lands that already have land rights and lands that do not yet have land rights (accommodating land tenure and local rights).

In implementing the STDM, several mindsets need to be applied at several levels.<sup>40</sup>

- 3.2.1. More social tenure relations than statutory land rights must be accepted in this country, especially at the higher political and administrative levels. This is best expressed by incorporating it into (national) land policies and supported by provisions in the constitution and/or land-related laws.
- 3.2.2. The relevant land agencies and private practitioners involved need to be willing to adapt their way of working to enable the handling of the social concept of the Tenure Domain Model as compared to conventional land administration approaches, including the recognition of various rights and mechanisms to collect data on non-formal rights.
- 3.2.3. Recognizing the significance of this notion and its advantages for those with limited financial resources, many people, particularly those suffering

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40 Zevenbergen, Haile, and Haile., *Institutional Aspects of Implementing Inclusive Land Information Systems like STDM*.

from poverty, must get used to using land management techniques to take advantage of its benefits.

- 3.2.4. It requires the ability of an organization to proficiently implement the STDM at the relevant governmental level, including many aspects such as human resources, equipment, and materials. Expertise is required in land administration and technical implementation for each office where the Tenure Domain Model social software is implemented. The dilemma between community access and the scale required for technical implementation support must be resolved appropriately. Suitable here may be, depending on the scale of operations and availability of resources (financial, expertise, and others), referring to support through mobile teams, institutionalizing Implemented into technical (ICT) units, to returning digital data after data collection into a locally based system (with some reporting mechanism).
- 3.2.5. The impact of the information contained in the STDM with public administration and courts, by the way, that information is considered, and influences decisions made regarding land. This will not be easy when strict 'proof' rules are in place, as opposed to allowing (and weighing) all information as 'free proof.'
- 3.2.6. Updating awareness and culture for social tenure holders, the awareness that they must report changes in their social tenure relationship, and for administrative systems that support the STDM that they process reported changes and keep reporting requirements simple enough to remain accessible to everyone, including people with low incomes.

In the specific context of land registration in Indonesia, it is stipulated in Article 19 of the Basic Agrarian Law and further reinforced by Government Regulation 24 of 1997 that the fundamental objective of land registration is to provide a framework that ensures legal certainty in the land sector. Legal certainty that can be guaranteed includes certainty regarding the location of the boundaries and area of the land, the status of the land and the person entitled to the land, and the granting of a letter in the form of a certificate. Article 9 of Government Regulation No. 24 of 1997 concerning Land Registration states that the objects of land registration include land owned by ownership rights, business use rights, building use rights and use rights, management rights land, *waqf* land, and ownership rights over units. Flats, mortgage rights, and state land, from Article 9 of Government Regulation No. 24 of 1997, it can be seen that land registration regulations in Indonesia only record formal land relations and do not record land registrations that are informal or based on local land relations. This causes the government to try to force the legalization of land relations. This coercion in legalization can be seen in the explanation of Article 24 letter b of Government Regulation No. 24 of 1997 regulating research on juridical data. Suppose that the completion or presentation of evidence of communal land ownership is required. In this case, it is possible to substantiate and validate the claim of physical ownership and/or control over the property by providing a written declaration by the relevant individual, demonstrating their possession of the plot in a trustworthy manner. In the STDM concept, all forms of rights,

responsibilities, or restrictions in the formal system are considered social tenure relationships in the STDM. The STDM emphasizes the relationship between people and land, regardless of the level of formalization and legality of that relationship. The most basic way to define all rights, responsibilities, or restrictions represented through the STDM is that a party has a social tenure relationship with a unit of space supported by formal or informal documentation. These relationships include, for example, ownership, rental, licensing, and other relationships that are the basis for land use.

Apart from that, the STDM will support the land publication system in Indonesia towards a positive publication system. The land publication system is currently stated in Article 32 of Government Regulation No. 24 of 1997. Assuming that a certificate has been lawfully issued for a particular piece of the land in the name of the individual or business organization that obtained the land in a bona fide manner and maintained control over it. Under these circumstances, it can be argued that the counterparty's entitlement to land rights loses its enforceability if, within a period of five years from the issuance of the certificate, they fail to raise a written objection to the certificate holder and to the proper Head of the Land Office, or if they do not initiate legal proceedings before the court pertaining to land control or the issuance of the certificate. Article 32 of this Government Regulation must be linked to Article 64 of Government Regulation No. 18 of 2021, which states that (Paragraph 1) the cancellation of land rights as a result of administrative defects can only occur under specific circumstances. Firstly, (a) it can be done within a period of five years from the issuance of the Land Rights certificate in cases where the land rights have been issued for the first time and have not been transferred, and it can also be done if the land rights have been transferred, but the parties involved did not act in a trustworthy manner in accordance with the provisions of statutory regulations. Secondly, (b) land rights can be canceled due to the existence of overlapping land rights. Then, (Paragraph 2) If the duration of five years specified above is surpassed, the termination will be executed by a judicial mechanism.

It is worth considering an examination of Article 32 within the framework of Government Regulation 24 of 1997. In this case, the publishing system has a primarily negative inclination but with a positive proclivity; however, upon examination of Article 64 above, specifically Paragraph (1) letters (a) and (b), as well as Paragraph (2) of Government Regulation No. 18 of 2021, it becomes evident that a negative publication system is employed. The implementation of the STDM, which aims to map the numerous connections between individuals and their lands, would enable the government to adopt a more comprehensive approach to establishing an effective land registration system that promotes transparency and accountability. In addition to this, the Social Tenure Domain Model (STDM) will provide assistance in the process of land digitization.

#### **4. Conclusion**

The primary notion of Agrarian Reform to achieve justice entails implementing a versatile land administration system that incorporates comprehensive data about diverse property claims and rights, employing the Tenurial Domain Model as a social approach. The Social Tenure Domain Model (STDM) places

significant emphasis on the correlation between persons and their ownership of land, regardless of the degree of formality or legality attributed to this relationship. The Social Tenure Domain Model (STDM) can be described as a basic mechanism for defining and regulating rights, obligations, and limitations within a certain geographic area based on the social link between individuals and their land tenure. This relationship can be supported by either legal or informal evidence. The parties participating in a legal circumstance may include individuals, legal entities, indigenous communities, or land banks. Space units may also be represented by informal structures, natural resources, or buildings. Supporting documents cover a variety of items, such as digital copies of agreements, proof of identity, audio or video recordings, and photographs.

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