The International Journal of Social Sciences World
TIJOSSW is Available Online at:
https://www.growingscholar.org/journal/index.php/TIJOSSW
Vol. 5 No. 2, July-December 2023, pages: 10~21
DOI: https://doi.org/10.5281/zenodo.8137574
ISSN **2690-5167**
Growingscholar Publisher

Legal Concept of Land Tenure Rights by the State for Society Benefit: Juridical Study of the UUPA

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Received April 29, 2023; Accepted: June 20. 2023; Displayed Online: July 10, 2023; Published: December 30, 2023

Keywords

Juridical Studies;

Legal Concepts;

Community Interests;

UUPA;

Abstract

It aims to know the concept of law on land rights according to the UUPA and land tenure rights and to know the form of implementation of the control of land rights by the state according to the UUPA. The research results show that land tenure over coastal reclamation can only be exercised for the development of land or land areas with an appropriate compensation agreement that does not harm the first owner of the area to be expanded utilizing reclamation, with the permission of the regional government and the agreement of the community at that place in return losses that should be. The area reclaimed is an area that does not harm the community that does not have profitable potential. A policy is taken to utilize the area to expand the development area, taking into account the nature of the land in the area, and it can be controlled by individuals, the government, and anyone who can manage. Suppose the stockpiling or reclamation is carried out on land owned by indigenous peoples. In that case, there has been an agreement between the local indigenous peoples and customary authorities and an appropriate compensation agreement. The implementation of mastery of land rights and agrarian reform must be balanced with political-economic policy choices. State control over land and its land reform will only be successful with being complemented by policies of protection, incentives, and subsidies to build a just and prosperous society as we aspire.

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1. Introduction

State land is land attached to a right, namely ownership rights, usufructuary rights, building use rights, usufructuary rights over state land (Zhou & Liu, 2020; Haning et al., 2022; Anis et al., 2023)). One of the goals to be achieved by the Indonesian Basic Agrarian Law following the mandate and spirit of Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia is to achieve the greatest prosperity for the people.

The right of control granted to the state over the earth, water, and space, including the natural resources contained therein as stipulated in Article 2 paragraph (1) of the BAL, gives authority to the state to (a) regulate and administer the allotment, use, supply, and maintenance the earth, water, and space; b. determine and regulate the legal relations between people and the earth, water, and space; c. determine and regulate legal relations between people and legal actions concerning the earth, water, and space. The arrangement of land rights as a legal relationship that currently exists only regulates the use of land which covers only the surface of the earth (Singer, 2022), where from the utilization of the surface of the earth have emerged institutions of land rights, namely property rights, building use rights, business use rights, usage rights, and management rights (Article 16 of the BAL). According to land tenure rights, land rights are rights to use and manage but not necessarily own. The notion of mastery can be used in a physical sense, as well as in a juridical sense, as well as in private and juridical aspects. According to land tenure rights, land rights are rights to use and manage but not necessarily own. The notion of mastery can be used in a physical sense, as well as in a juridical sense, as well as in private and juridical aspects. According to land tenure rights, land rights are rights to use and manage but not necessarily own. The notion of mastery can be used in a physical sense, as well as in a juridical sense, and in private and juridical aspects.

Property rights can also be interpreted as rights that can be passed down from generation to generation continuously without having to reclaim their rights in case of a transfer of rights (Meinzen et al., 2019). In Article 570 of the Civil Code, property rights are the right to enjoy the use of something material freely and to act freely with that object, as long as it does not conflict with laws or general regulations stipulated by a power that has the right to determine it and does not interfere with the rights of other people.

The definition of property rights in the UUPA is formulated in Article 20 paragraph (1) as hereditary, strongest, and fulfilled rights that people can have over land; in paragraph (2), Property Rights can be transferred and transferred to other parties. Property rights are the strongest and most fulfilled rights explanation of article by article Article 20 of the BAL states the characteristics of property rights that distinguish them from other rights (Wigana, 2019).

Property rights are people's "strongest and most fulfilled" rights over land (Butar-Butar, K. E., & Turisno, 2022). Giving this characteristic does not mean that this right is an "absolute" right, unlimited, and cannot be contested as an eigendom right according to its original meaning. Such a nature would conflict with customary law's nature and each right's social function. The words "strongest and fulfilled" are intended to distinguish it from Cultivation Rights, Building Use Rights, Use Rights, and others, namely to show that among the land rights that a person can own, the Property Right is the strongest and fulfilled. Because in the UUPA, all land rights have a social function (Article 6 of the UUPA), this is different from the notion of eigendom rights as formulated in Article 571 of the Civil Code,

Juridical control of land means that there are rights in that control that are regulated by law, and there is authority to control physically; for example, in the case of leasing land, legally, the land is the

right of the land owner, but physically the land is cultivated or used by the tenant of the land within a specified period agreed. Also, in terms of guaranteeing land with the Bank, the Bank as the creditor, is the holder of collateral rights over the land used as collateral, but its physical control or use remains with the owner of the land rights. This control is in the private aspect while the public aspect is regulated in Article 33 paragraph (3) of the 1945 Republic of Indonesia Constitution and Article 2 of the UUPA that Earth and water and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people.

Prosperity is economic terminology (Ahmad et al., 2021); a society is said to be prosperous if the community concerned can meet and be fulfilled both physical and non-physical needs continuously. Positively, a human being can be said to be prosperous if he feels safe and secure, safe if he can live according to his ideals and values, if he feels free to realize his individual and social life following the aspirations and with the possibilities available to him. Negatively, humans are said to be prosperous if they are free from poverty, anxiety about tomorrow, oppression, and unfair treatment.

2. Materials and Methods

This paper uses the scientific method to obtain and process the data that has been obtained. To obtain the data, the author uses library research methods. Furthermore, the data that has been collected is processed using data processing methods consisting of the following.

1. Induction Method
2. Deduction Method; And
3. Comparison Method

These methods are used following the needs of their use to obtain results that can be accounted for scientifically and scientifically.

3. Results and Discussions

The Legal Concept of Land Rights According to the UUPA and Land Tenure Rights by the State for the Interests of the Community

Land in a juridical sense is a definition that the UUPA has limited that land in the sense of the earth's surface paragraph (1), while land rights are rights to certain parts of the earth's surface, which are limited, have two dimensions in length and width. While rights are essentially the power granted by law to someone over something (objects/achievements), giving rise to a legal relationship between the two (subject-object relations). So if someone obtains a land right, then that person has inherent power over the land, which is accompanied by obligations ordered by law, and the acquisition of land rights in principle can be distinguished in:

1. Original acquisition, namely original acquisition, for example, by clearing land (occupation);
2. Derivative acquisition is acquisition due to the transfer of legal rights, buying and selling, exchange, and so on.

In the legal sense, land has a very important role in human life because it can determine the existence and continuity of legal relations and actions, both in terms of the individual and the impact on other people. To prevent land issues from causing conflicts of interest in society, regulating, controlling, and using land is necessary. In other words, it is called land law (Saleh, 2002).

Law as a rule or norm reflects the values that live in society. The values in society are dynamic, meaning that they develop according to the changing times. As a result, the law develops according to

the development of the values that live in society. Likewise, the current concept of land ownership rights by the state does not appear suddenly but is the result of a continuous development process. Land rights, according to the Basic Agrarian Law (UUPA), are the authority of the state which originates from the right to control land by the state as stipulated in Article 2 paragraph (2); The right to control from the state gives authority:

a. Regulating and administering the allotment, use, supply, and maintenance of earth, water, and space;
b. Determine and regulate the legal relations between people and the earth, water, and space;
c. Determine and regulate legal relations between people and legal actions concerning earth, water, and space.

The authority originating from the right to control the state referred to in paragraph (2) of this article is used for the greatest possible prosperity of the people in the sense of nationality, welfare, and independence in society and the legal state of Indonesia, which is independent, sovereign, just and prosperous. The implementation of the rights mentioned above of control from the state can be delegated to autonomous regions and customary law communities only as necessary and not contrary to national interests, according to the provisions of Government Regulations. Article 9, paragraph (2) states that every male and female Indonesian citizen has the same opportunity to obtain a land right to benefit from it for himself and his family.

Various types of land rights contained in Article 16 in conjunction with Article 53 UUPA are grouped into three areas, namely:

1. Land rights that are permanent, that is, these land rights will continue as long as the BAL is still valid or has not been repealed by the new law. These types of land rights are property rights, business use rights, building use rights, land clearing rights, and forest product collection rights;
2. Land rights to be stipulated by law;
3. temporary Land rights will be abolished in a short time because they contain the characteristics of extortion and feudal characteristics and are contrary to the spirit of the UUPA (land lien rights, production sharing business rights, Farmland Rent).

Article 18 of the UUPA states that for the Public Interest, including the Nation and the State and the common interests of the people, land rights can be revoked by providing appropriate compensation and according to the method regulated by law. Land rights originating from the state's right to control land can be granted to individuals, Indonesian citizens, foreign nationals, groups of people collectively, and legal entities, private and public legal entities. The authority possessed by holders of land rights over their land is divided into 2, namely:

1. General Authority
   General authority, that is, the holder of land rights, has the authority to use the land, including the body of the earth and water and the space on it, which is only needed for interests that are directly related to the use of the land within the limits according to the BAL and other legal regulations.
2. Special Authority
   Special powers, that is, holders of land rights, have the authority to use their land following the type of land rights; for example, authority over land with ownership rights can be for agricultural purposes and/or constructing buildings, HGB for constructing buildings, HGU for agriculture, plantations, fisheries, and livestock.

Various types of land rights are contained in Articles 16 to 53 of the UUPA, which are grouped into three areas, namely:

1. Permanent land rights

These land rights will continue as long as the BAL is still valid or has not been revoked by a new law. Example: Property Rights. Cultivation rights, HGB, HP, building rental rights, and forest product collection rights.

2. Land rights to be stipulated by law Land rights to be born later will be stipulated by law.
3. Temporary land rights
   These land rights are temporary; in a short time, they will be abolished because they contain extortion and feudal characteristics and are contrary to the spirit of the UUPA—examples: Liens, Profit Sharing Business Rights, Hitchhiking Rights, and Agricultural Land Lease Rights.

Based on the aspect of the origin of the land, land rights are divided into two groups, namely:

1. Primary land rights are land rights that originate from state land. Example: HM, HGU, HGB on State Land, HP on State Land.
2. Secondary land rights originate from other parties' land. Examples: HGB on Land with Management Rights, HGB on Land with Freehold, HP on Land with Management Rights, HP on Land with Freehold, Building Rental Rights, Pledge Rights, Production Sharing Business Rights, Hitchhiking Rights, and Agricultural Land Lease Rights.

The land is given to and owned by people with the rights the UUPA provides for use and use. According to Wantjik Saleh, by granting land rights, a legal relationship has been established between the person or legal entity, in which legal action can be carried out by those with the rights to the land to other parties.

Article 22, paragraph (2), Article 31, and Article 37 of the UUPA stipulate that one of the land rights is through a Government determination. The government's stipulation is made on land objects whose proof of rights are old rights (both former Western rights and former Customary Rights) and on land objects whose status originates from land directly controlled by the state. The content of the Government stipulation is the granting or determining land to the subject of rights, both individuals and legal entities, with the object of a certain plot of land.

Based on the provisions of Article 23 of Government Regulation Number 24 of 1997, the granting of land rights is included in the proof of new rights category. A stipulation of granting land rights precedes proof of the new rights. In this regard, there is land as the territory of a customary law community unit which is always within the scope of the customary territory or the petulant rights.

The Customary Law Community can formulate rules with the government to make the right to own something significant according to the description (RZ Titahelu, 2014):

1) *Prior Informed Consent* must be obtained from customary law community units before the state or third parties manage natural resources.
2) *State's priority* in managing natural resources outside the territory of the customary law community unit, as well
3) The real benefits that will be directly enjoyed by the customary law community unit concerned are determined through an agreement between the customary law community unit and the management (State or third party). It is in this sense that the economic rights of customary law community units are gradually restored and empowered.

Customary law principles and the values that underlie them in various areas of customary law communities can have similarities, but to uphold customary law rules exist in each area of customary law communities, as well as in the arrangement of Ulayat Rights of Customary Law Communities whose provisions are in Article 3 UUPA which says "By bearing in mind the provisions in Articles 1 and 2 of the implementation of Ulayat Rights and the implementation of similar rights of Customary Law communities, as long as in reality they still exist, it must be such that it is following the national interests and the state that based on national unity and may not conflict with laws and other higher regulations.

Customary rights of the Customary Law community is a series of authorities and obligations of a customary law community related to land that must exist within their territory (Holzinger et al., 2019). In the area of ulayat rights, the land is not known as res nullius because ulayat rights cover all land within the territory of the legal community concerned, whether someone already has rights over them or not.

The UUPA recognizes ulayat rights (Dirkareshza et al., 2021), but conditions for its existence and implementation accompany recognition. Ulayat rights are recognized as long as, in fact, they still exist in accordance with Article 3 of the UUPA, and in areas where there are no more customary rights, they will not be revived, and where there have never been customary rights, no new customary rights will be born. Implementation of Ulayat Rights and similar rights of customary law communities, as long as, in reality, they still exist, must be in such a way as to be in accordance with national and state interests, which are based on national unity and may not contradict other laws and regulations. higher." Ulayat rights exist when it is known: 1. there is still a group of people who are members of a certain customary law community, and 2. there is still land which is the territory of the customary law community; 3. there are still customary heads and customary elders who are recognized by their citizens, carry out their daily activities as bearers of the duties of authority of their customary law community."

In addition to customary rights on land, there are also seaside areas called "coastal areas which are transitional areas between land and sea ecosystems that are affected by changes on land and sea" in accordance with Article 1 point 2 of Law No. 27 of 2007 concerning Management of Coastal Zone and Small Islands. The coast is an area that is wider than the coast; the coastal area includes the land area as long as it is still under the influence of the sea and the sea area as far as it is still under the influence of the land. Article 74 Law no. 27 of 2007 concerning the Management of Coastal Areas d Small Islands states: Shall be punished with imprisonment for a maximum of 6 (six) months or a fine of up to 300,000,000.00 (three hundred million rupiah) each person who because of his negligence; a. rehabilitation obligation as referred to in Article 32 paragraph (1), and/or b. Does not carry out the reclamation obligations as referred to in Article 34 paragraph (2) (Yanto, 2014). Reclamation means an effort to expand the land area of the mainland by utilizing areas that were not previously used or useless and is also a provision for one of the activities that can change the physical and function of coastal areas and small islands is a beach reclamation activity (Saleng, 2013).

Reclamation, which means an effort to expand land by utilizing areas that were previously not useful, can also help provide land for various purposes, arrange coastal areas, develop marine tourism, and so on, but "reclamation is a form of human intervention in the balance of the natural coastal environment. which is always in a state of dynamic balance so that it will give birth to ecosystem changes such as changes in current patterns, erosion and coastal sedimentation, and potentially environmental disturbances."

Reclamation can be carried out if it is in accordance with the provisions agreed upon by the government, local government, or anyone who wants to carry out reclamation by taking into account the location and considering technical aspects, environmental aspects, and socio-economic aspects. Beach reclamation activities will impact the area, the environment, and the law regarding ownership, which creates new rights and obligations and eliminates the right to use the area by the community in that area.

The existence of new areas resulting from reclamation will result in problems between the party reclaiming certain coastal areas and those who have been managing the area for a long time. It must be seen which party gave the permit because two parties may arise who own the area, namely the party before the area was reclaimed and after it was reclaimed. It should be regulated with provisions

binding on the parties, without neglecting the rules that have been regulated in the UUPA and the provisions for compensation according to the rules and agreements that determine that no party may be harmed.

The Form of Implementation of Land Rights Ownership by the State According to the UUPA

The relationship between humans and the land, as long as they desire, is still there and will continue to exist. Indonesia is an agricultural country that is also very closely related and has an interest in land, and this will continue without any way to end it. Land Ownership Rights by the State aim to provide legal certainty, and land can be used for the prosperity of the Indonesian people and nation. Based on this interest, the regulations stipulated in several periods of government show the state's legal politics regarding land; the state has issued regulations that regulate and stipulate provisions regarding land ownership rights by the state. We will know and see the politics of state land law from the regulations stipulated from several government periods.

Based on the provisions enacted, we can examine the history and political will of our nation's land law, especially in regulating Land Ownership Rights by the state. The goal is to find justice in the control of land rights by the state for the prosperity of the people and nation of Indonesia. By knowing the legal provisions that were in force, we will know the politics of land law in Indonesia, so it is hoped that we will know which way the government applies the Right of Control policy. Land by the State, and from there, we will be able to determine the basis for improvement in land law, especially in Land Ownership Rights by the State.

The history of agrarian transformation in Indonesia from the colonial period until now has never been resolved and often causes social upheaval filled with violence. When the Dutch ruled Indonesia, our agrarian structure was based on an agrarian structure with a feudal system that aimed nothing but to protect the interests of the colonial nation. At this time, the domain of the state in controlling the land was the owner (engineer), so the mastery of land rights by the state was absolute; the state was the owner of the "eigenaar" of land rights. So that the supply and allotment of land is the full authority of the government, this is regulated in Agrarische Wet 1980; the purpose of Agrarische Wet was to open up possibilities and provide guarantees to Dutch private entrepreneurs so that they could develop in the Dutch East Indies, which in turn benefited the Dutch East Indies authorities/government. A further arrangement for Agrarische Wet was Agrarische Besluit which brought misery to the Indonesian people or nation on the principle of domeinverklaring. In Article 1 AB, it is stated that all land that other parties cannot prove as eigendom rights is the domain (property) of the state. The *domainverklaring* functions are as follows:

a. As a legal basis for the government representing the state as the owner of the land, to provide the land with western rights.
b. In the field of proving ownership of Article 1 AB in accordance with Article 519 and Article 590 of the Civil Code, there is always someone who owns a plot of land; if an individual or legal entity does not own it, then the state is the owner.

During its development, the agrarian structure of the feudal system was destroyed and replaced by an agrarian structure that was colonialistic in the 1870s (Agrarische Wet), which expanded social upheaval in the countryside. In history, several peasant protest movements have been recorded using the Ratu Adil ideology, including the Haji Rifangi Movement. In Pekalongan (1960); the Mangkuwijoyo movement in Merbung Village, Klaten (1865); the Tirtiwiat movement alias Raden Joko in the village of Bakalan, Kertosuro (1888); the Banten peasant rebellion (1888); the Peasant Revolt of Candi Udik (1892); the Gedabngan incident (1904) and several other events.

After the Netherlands, Indonesia was also colonized by the Japanese; starting from March 8, 1942, to August 15, 1945, the agrarian system was not much different, there were only terms whose

names were changed, and the rights of land owners by the state remained, in essence, the state. as owners of land rights so that our society remains oppressed because it aims to protect the interests of the Japanese government.

On August 8, 1945, the Indonesian nation proclaimed its independence; of course, by bearing an INDEPENDENT country, our country also has the right and freedom to determine the direction of its policies. For this reason, the right to control land by the state in Indonesia is regulated in Article 33 paragraph (3) of the 1945 Constitution (UUD 45), which expressly states: "Earth and water and the natural resources contained therein are controlled by the state and used for as much as -great prosperity of the people" and in the elucidation of Article 33 paragraph (3) paragraph 4 of the 45 Constitution reads: "Earth and water and the natural wealth contained therein are the main points of people's prosperity. Therefore, it must be controlled by the state and used for the greatest prosperity of the people.

Article 33, paragraph (3), is the momentum for the birth of the National Land Policy (Indonesian et al.). The provisions of Article 33 paragraph (3) and its explanation do not explain the meaning of the word "controlled" by the state. This can have a very broad meaning and will return to the previous arrangements. After independence, between 1948 – 1957 between these Governments, there was an upheaval between the Republican Government and plantations on the one hand and farmers on the other who occupied plantation lands belonging to the Dutch Company, which were abandoned as a result of the war.

In view of the existing upheavals, and in order to emphasize the meaning of the state's control of Agrarian Resources, on September 24, 1960, the DPR passed Law Number: 5 of 1960 concerning Basic Agrarian Regulations as the legal basis for carrying out Land Reform in Indonesia. In the general explanation of the UUPA, it is said that our country's structure of lifestyle is still an agrarian pattern; earth, water, and space, as gifts from God Almighty, have a very important function in building a just and prosperous society as we aspire. At the time before the UUPA was enacted as a National Law, it turned out that we had not been able to build a just and prosperous society as we aspired to, and even this goal was hampered. This is because:

1. The arena of agrarian law that was in effect was structured based on the aims and principles of the colonial government, and some others were influenced by it so that it conflicted with the interests of the people and the state in carrying out universal development in the context of completing the current national revolution;
2. The arena, as a result of the colonial government's political-legal agrarian law, had the nature of dualism, namely by enacting regulations from customary law in addition to regulations from and based on Western law, which apart from causing various inter-group problems which completely difficult, also not in accordance with the ideals of the nation;
3. The arena for the indigenous people of colonial agrarian law does not guarantee legal certainty.

The formation of the UUPA provides the possibility of the fulfillment of the functions of earth, water, and space as intended to build a just and prosperous society as we aspire. The formation of the UUPA is none other than to explain the other meaning of the word "controlled by the State" as stipulated in the UUPA. Article 33 Paragraph (3) of the 1945 Constitution (UUD45). Thus the BAL is only the principles and main questions in the outline. Therefore, it is called the Basic Agrarian Law, where the main objectives are:

a. Laying the foundations for drafting national agrarian law, which is a tool to bring about prosperity, equity, and justice for the state and the people, especially the peasantry, in a just and prosperous society;
b. Laying the foundations for establishing unity in land law;

c. Laying the foundations to provide legal certainty regarding land rights for the people as a whole.

Based on the purpose of letter c, Article 2 of this UUPA is an implementing regulation of Article 33 (3) of the 1945 Constitution, which explains the meaning of the right to control natural resources by the state as follows:

(1) According to the basic provisions of Article 33 paragraph (3) of the 1945 Constitution and the matters referred to in Article 1, the earth, water, and space, including the natural resources contained therein, are controlled at the highest level by the state, as the organization of the power of all the people.
(2) The right to control of the state in paragraph (1) of this article gives the authority to:
    a. Regulate and administer the allotment, use, supply, and maintenance of the earth, water, and space;
    b. Determine and regulate legal relations between people and earth, water, and space;
    c. Determine and regulate legal relations between people and legal actions concerning earth, water, and space.
(3) The authority originating from the right to control from the state referred to in paragraph (2) of this article is used to achieve the greatest prosperity of the people in the sense of nationality, prosperity, and independence in society and the legal state of Indonesia which is independent, sovereign, just and prosperous.
(4) The implementation of the above-mentioned control rights from the state can be delegated to autonomous regions and indigenous peoples, if necessary and not contrary to national interests, according to the provisions of Government Regulations.

In general elucidation II/2 of the UUPA, among others, it is stated that:
The Basic Agrarian Law is based on the conviction that in order to achieve what is stipulated in Article 33 paragraph (3) of the Constitution, it is neither necessary nor appropriate that the Indonesian people or the State act as landowners; it is more appropriate if the state, as the power organization of the entire people (the nation) acts as the Governing Body. From this point of view, the meaning of the provisions of Article 2 paragraph (1) states that "Earth, water, and space, including the natural resources contained therein, are controlled by the State at the highest level." In accordance with the basis of the above-mentioned stance, the word "controlled" in this article does not mean "owned," but the meaning of giving authority to the state as the power organization of the Indonesian nation at the highest level:

a. Regulate and administer the designation, use, supply, and maintenance;
b. Determine and regulate the rights that can be owned over (part of) the earth, water, and space;
c. Determine and regulate legal relations between people and legal actions regarding the earth, water, and space.

Everything with the aim of achieving the greatest possible prosperity for the people in the framework of a just and prosperous society (Article 2, paragraphs (2 and 3)).

Based on Article 2 of the UUPA and its explanation, according to the concept of the UUPA, the meaning of "controlled" by the state does not mean "owned," but rather the right that gives the state authority to regulate the three things mentioned above, the contents of state authority originating from the right to control natural resources by the state is solely "public in nature," namely the authority to regulate (regulatory authority) and not the authority to physically control the land and use the land as the authority of private land rights holders. Thus, if the state needs land to build government offices, then this method must first be taken by granting land rights (use rights or management rights) to government agencies that need the land (so it's not just grabbing it and giving it away).

The enactment of UUPA does not automatically run as expected. In practice, there has been resistance from large landowner groups involving various political forces opposing each other against

the implementation of land reform. The agrarian conflict then developed into a political and ideological conflict that peaked in 1965 by causing many victims on the part of the peasants.

In 1966 there was a movement that caused the transfer of power from President Soekarno to President Soeharto, and what we know as the New Order era; in carrying out land reform and the UUPA at this time, we must look at the context and motives of the political ideology behind it as the main factors that are changing the current perspective on agrarian affairs and the various structural problems that accompany it.

The New Order government saw land as other agrarian resources as a source of commodities, not as a source of livelihood for the masses that had to be managed and managed in a fair and equitable manner for the benefit of the people when the New Born Order was faced with a situation of political instability and a severe economic downturn. The high inflation rate, the balance of payments deficit, low foreign exchange reserves, and a lot of foreign debt. Such a situation is then used as a justification for implementing development that is based on political stability and economic growth.

Based on these reasons, the New Order's policy of using the development strategy chosen was a capitalistic economic system that opened up the widest possible private capital, both foreign and domestic, to move the wheels of the national economy apart from state enterprises. We can see this setting from:

1. Provision of land and granting of land rights for companies that make investments according to Law Number: 1 of 1967 concerning Foreign Investment and Law Number: 6 of 1968 concerning Domestic Investment in which provisions state that foreign investors can control land in Indonesia through the facilities of Cultivation Rights, Building Use Rights and Usage Rights between 10 years to 30 years.
2. In another policy in an effort to exploit natural resources with the stipulation of Law Number: 5 of 1976 concerning Forestry Principles, this policy has created controversy because the law, in its considerations, no longer refers to the UUPA as an umbrella law related to agrarian.
3. In the same year, Law Number 11 of 1967 concerning Basic Mining Provisions was issued, and the issuance of the law was aimed at obtaining as much foreign exchange as possible to fund the development of the New Order.

With the enactment of this law, much of the land that was given to investors was held under customary rights, causing the loss of some of the customary lands of customary law communities. In addition to this law, the implementation of development for the public interest is based on Law Number: 61 of 1961 concerning Revocation of Rights to Land and Objects on it" and Presidential Decree Number 55 of 1993 concerning Land Acquisition for the Public Interest (during the reformation era, the Presidential Regulation Number: 36 of 2005 concerning Land Acquisition for the Implementation of Development for the Public Interest has taken place forcibly, for example, the construction of the Jatigede Reservoir,

Based on these provisions, it can be said that the New Order era abandoned the economic development strategy, which emphasized fundamentally overhauling the socio-economic structure and looked more at increasing economic growth in a short time than implementing Land Reform as the foundation for achieving strong and sustainable national industrialization independent. In the events mentioned above, there are several reasons why the New Order froze the UUPA, namely:

1. There is a belief among the political elite, bureaucrats, technocrats, and military groups supporting the New Order that in order to develop the economy and people's welfare, it is absolutely necessary to stabilize, rehabilitate and develop a capitalist-style economy. Because of this, an economic strategy that emphasizes a radical reform of the socio-economic structure and

ignores the role of foreign capital is impossible to implement. This program is also expected to result in the flight of capital abroad.
2. The military group considered that the leftist-sponsored land reform in the 1960s could threaten its existence over control of plantation lands that had been nationalized in 1957.
3. From an economic point of view, such a radical strategy is unprofitable, and it is unrealistic to expect a new government with such limited resources to implement such a radical program.

The turmoil and the reform movement caused President Suharto to fall in mid-1998, which then gave birth to a new government resulting from democratic elections in 1999; in fact, there was little hope of immediately realizing agrarian reform, which he began with the issuance of TAP MPR No.IX of 2001 concerning Agrarian Reform and Natural resource management. Agararial renewal includes a continuous process regarding the realignment of ownership, use, and utilization of agrarian resources carried out in the framework of achieving legal certainty and legal protection as well as justice and prosperity for all Indonesian people (Article 2). At this time, agrarian reform/agrarian reform gained legitimacy,

In implementing the spirit of agrarian reform, there is an irregularity in the policies made by the government relating to land, namely the enactment of Law Number 25 of 2007 concerning investment. In Chapter X, Article 21 and Article 22 state that for investment, Cultivation Rights are valid for 95 years, Building Cultivation Rights are valid for 80 years, and Cultivation Rights are valid for 70 years, not in accordance with the article which regulates the period of Cultivation Rights, Use of buildings and usage rights in the UUPA. This is clearly contrary to the spirit of building a just and prosperous society as we aspire.

4. Conclusion

If the stockpiling or reclamation is carried out on land owned by indigenous peoples, it means that there has been an agreement between the local indigenous peoples and customary authorities, and there has been an appropriate compensation agreement. The implementation of mastery of land rights and agrarian reform cannot be separated from political-economic policy choices. State control over land and its land reform will not be successful without being complemented by policies of protection, incentives, and subsidies for the spirit of building a just and prosperous society as we aspire.

Acknowledgments

The research team would like to thank all parties who have contributed to the implementation of this research.

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